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Political Culture, the U. S. Securities and Exchange Commission, and the Internationalization of Securities Trading

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ABSTRACT

For at least three decades, there have been demands from several quarters, both foreign and domestic, for the U. S. Securities and Exchange Commission (SEC) to ease restrictive disclosure requirements upon foreign securities issuers to facilitate their offerings upon American securities exchanges. The SEC has responded by taking initiatives in two arenas, domestic and international. In the domestic arena, it has made a number of efforts to ease regulatory and disclosure requirements for foreign issuers that wish to offer their securities on U. S. exchanges. Internationally, it has forged bilateral and multilateral relationships to enhance internationally mechanisms for market surveillance and information sharing; it has taken an interest in international harmonization of regulatory practices; and it has assumed a leading role in the movement to encourage the development of international accounting standards. These responses are not mutually exclusive; such efforts often overlap. This paper finds that the SEC has responded to internal and external pressures to reduce the regulatory burden on foreign private issuers within the legalistic context of the U. S. culture; it has proceeded deliberately, taking a gradualist approach to change.

Political Culture, the U. S. Securities and Exchange Commission, and the Internationalization of Securities Trading

In the last several years, the internationalization of securities offerings and markets, and the easing of capital movements across borders have advanced rapidly. These trends have occurred in the absence of internationally agreed upon regulatory and disclosure requirements. The speed with which this has occurred has been so great that the pace of efforts at the internationalization of regulatory and disclosure rules often has lagged behind actual developments.

Domestically and internationally, the U. S. Securities and Exchange Commission (SEC) has been pressured to ease restrictive regulatory and disclosure requirements upon foreign securities issuers to facilitate their offerings upon American securities exchanges. It has been argued that if the SEC is too slow to respond to trends towards an integrated, world-wide securities market, and fails to facilitate trading in non-domestic securities quickly enough, U. S. and foreign investors will trade in foreign markets which have more favorable regulatory environments. Cochrane (1994) argued that because U. S. investors are diversifying their portfolios internationally a "once and for all" shift in the composition of the average U. S. equities portfolio is underway. He warns "if we do not make the regulatory changes that will allow U. S. exchanges to fully participate in the growth of international trading, this 'once and for all' shift may undermine

the preeminence among world capital markets that the U. S. capital market now enjoys."

The ability of the Securities and Exchange Commission to respond to foreign and domestic pressures for regulatory change is bound by the American political culture. The Securities and Exchange Commission has moved very deliberately in its efforts to remove regulatory impediments to foreign offerings. The U. S. political culture imposes certain national values upon U. S. institutions and the decision-makers within them that constrain the latitude of their responses.

This paper investigates the relationship between the U. S. political culture and the initiatives of the Securities and Exchange Commission to facilitate foreign securities issuers' efforts to raise capital on U. S. markets. Understanding the relationship between U. S. cultural values and the SEC's actions will help to clarify the Commission's reactions and interactions with its environment, and its efforts to influence the shape of external developments. Subsequent sections of the paper discuss the following topics: the internationalization of securities trading; the United States cultural environment; SEC efforts to ease foreign issuer regulatory requirements; SEC multilateral and bilateral actions; harmonization and the development of international accounting standards.

Internationalization of Securities Trading

In the last two decades, events, such as the end of the Cold War, the collapse of the former Soviet Union, the freedom of the Eastern European Soviet satellite nations, the reunification of Germany, the economic emergence of the Peoples Republic of China, the collapse and reemergence of the Asian markets, have created major international demands for investment capital and significant new investment opportunities. Privatization efforts in economies as diverse as those in Argentina, Russia, and the United Kingdom, for example, have spawned additional demands for investment capital. Furthermore, established multinational corporations, such as Daimler Benz, have reached beyond their home country capital markets to raise capital for financing their growth and development. Meanwhile, technological changes have reduced time and distance constraints; telecommunications and computers link people and markets around the globe (Sutton 1997, 97-98).

Recent trends towards the internationalization of securities markets and easing of capital movements across borders are apparent in the amount of institutional and individual investments in foreign securities and in the number of companies which list their securities in multiple markets.

Foreign sector equity turnover takes a significant market share of total equity turnover on the world's top stock exchanges.

The International Stock Exchange of London, England (ISE), is out front of the competition in the trading of international equity securities. (See Table 1.) Such trading is also important to the New York, Toronto, Montreal, Tokyo and Hong Kong exchanges.

The trend towards an integrated worldwide securities market has been very rapid. If regulatory agencies are too slow to facilitate trading in non-domestic securities, investors will trade in foreign markets that have a more favorable regulatory environment. There is some evidence that this had already begun to happen in the 1980s. London's International Stock Exchange (ISE) traded twice as many foreign equities as the New York stock exchange, seven times more than Tokyo, eight and a half times more than all of Germany's eight exchanges combined, and 33 times more than the Paris Bourse (*Euromoney*, May 1990, p. 62). Such developments did not go unnoticed in the U. S. A.

Political Culture and National Modes of Regulation

The Analytical Model. In *A Framework for Political Analysis*, David Easton (1965) developed a macro analytical model which would "make possible the analysis of political life as a system of behavior." Easton recognized that a national political system functions within its total environment which consists of the extra-societal (i. e., international) environment and the intra-societal (i. e., national) environment. He added that exchanges take place within the political system and between it and its external

environment. Those exchanges take the form of inputs (demands and support) and outputs (decisions and actions). In addition, there are intrasystem generated inputs and outputs which stem from the internal functioning of the system's participants; these may likewise result in externally transmitted decisions and actions. There is also feedback between the political system and its environment as the environment responds to the system's outputs. In this context, Hofstede (1984) posited that a low power distance society, like the United States, impelled a system of checks and balances against the abuse of power, and low uncertainty avoidance led to pragmatism and a willingness to change the rules, whether unwritten or written, if need be. Such societal values are rooted in ecological (i. e., environmental) influences which are modified by external factors (i. e., stimuli) and which have institutional consequences. Institutions reinforce the ecological forces and social values.

Easton's framework for macro-political analysis can be modified for purposes of micro-analysis, and employed to study the political subsystem which is the U. S. Securities and Exchange Commission. (See Figure 1.) The SEC is situated in the U. S. national environment; it is influenced by it and interacts with it; and within the SEC there are interplays between and among its staff members. The United States itself exists in a larger international environment; it is affected by the international environment and interplays with it. Thus, inputs and outputs flow within the SEC, and between it and its total environment and generate reactions

(feedback) which, in turn, contribute to future inputs, both external and internal, domestic and international.

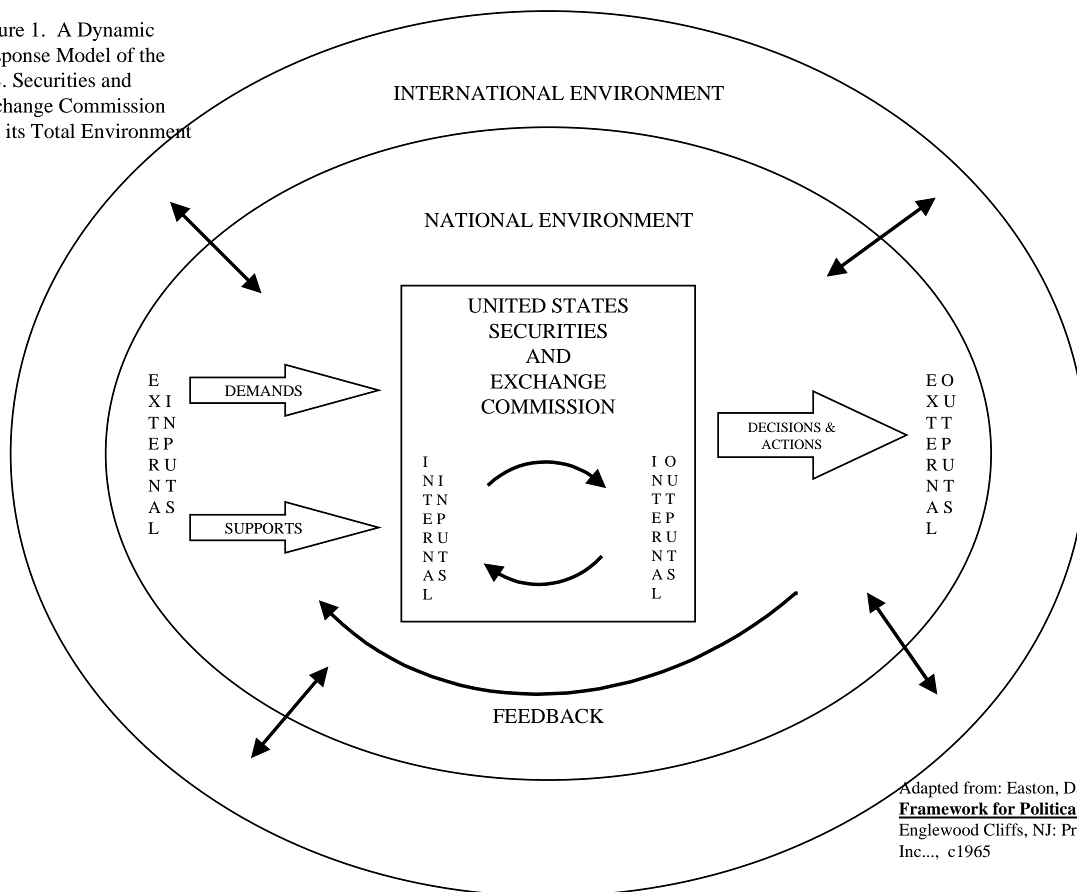

Figure 1. A Dynamic Response Model of the U.S. Securities and Exchange Commission and its Total Environment

Adapted from: Easton, David. **A Framework for Political Analysis.** Englewood Cliffs, NJ: Prentice-Hall, Inc..., c1965

Political systems and the subsystems within them are dynamic; they respond to external and internal stimuli. Confronted by such stimuli, systems evolve and change. Harrison and McKinnon (1986) used change analysis to determine the essential properties of a corporate reporting regulation system. In their framework, the manifestation of social system change is evident in the system's

responses to external and internal stimuli (Easton's inputs). Such responses (Easton's outputs) are generated through interaction among the groups and individuals which comprise the structural elements of the system, and are circumscribed by the interactions between the system and its neighboring systems. These interactions embody the influence of the national cultural environment and are extended to the response events themselves. Collective and individual responses of the system's structural elements are circumscribed by the interactions between the system and its neighboring systems. Thus, national culture conditions the change responses of the national accounting regulatory subsystems which must respond to change stimuli from within the regulatory environment itself and from without, from within the nation and from without.[1]

Brian Girvin (1989) has observed that there is usually a strong association between the continuity of traditional norms and values and the stability of society in modern liberal democratic states like the U. S. A. Consequently, if a mechanism exists for internalizing change without endangering the maintenance of core values, unprecedented change need not threaten the long-term stability of the political system. This mechanism is discernible if individual political cultures are conceptualized in terms of a broadly macro- and a microlevel of organization. "The rules of the game are established at an intermediary level between the macro and micro; what might be characterized as a mesolevel. While the macrolevel is fairly static, that of the meso is open to influence

from the on-going political debate and struggle at the microlevel" (p. 35). It is at the microlevel that 'normal' political activity occurs, and where change is first detected. There is tension between continuity and change at the three levels, but, as long as the core values are not threatened by microlevel changes, the political culture's assimilative powers are quite strong.[2] In the context of the present investigation of the U. S. Securities and Exchange Commission, the changes studied have occurred predominantly at the microlevel.

Applying the Model. It is possible to use the above interpretive model to analyze the responses of the U. S. Securities and Exchange Commission to pressures, both domestic and foreign, to ease the regulatory burden upon foreign issuers who wish to offer their securities on U. S. securities exchange markets. It is important to recognize that such an effort, by its very nature, involves an examination of the institution's actions and values, as perceived and explained by its members. While such explanations may contain certain self-serving elements; nevertheless, it merits recalling that such individuals are the only internal spokespersons for the institution. Consequently, whether one agrees with their reasoning, one is compelled to rely upon their statements and observations of their actions to derive an understanding of the institution's behavior, while keeping in focus and perspective both the internal and external criticisms of the institution.

Frost and Lang (1996) commented that the two principal objectives in investor-oriented markets, like that of the U. S.,

are investor protection and market quality. They noted that the SEC's reporting requirements usually are consistent with pursuing both of these goals. But, "stringent reporting requirements may satisfy the investor protection objective at the cost of reducing investors' investment opportunities or imposing high transactions costs on taking advantage of available opportunities. "They observe that, on the one hand, some commentators argue that the SEC's financial reporting requirements deter foreign issuers from making their securities available in the U. S., while, on the other hand, others counter that the U. S. accounting and disclosure system, in fact, protects investors and guarantees the quality of U. S. capital markets. As one might expect, the latter comments reflect the position of the U. S. SEC and its supporters, while the former reflect the position of its critics.

The SEC is a Congressionally chartered independent commission. It functions within the U. S. political culture. It is a creature of its environment. An investigation of SEC responses to calls for lightening the regulatory burden upon foreign securities issuers, in the political systems context, could clarify why the SEC has moved so deliberately and what prospects are for the future trading of foreign securities on U. S. exchanges. Since accounting and regulatory practices are likely to be affected, this analysis is a matter of interest to accountants, securities issuers and traders, both foreign and domestic, individual and institutional.

The United States Political Environment as Locus for the Securities and Exchange Commission

The Legalistic Environment. From a cultural environmental perspective, the United States has lacked traditional mechanisms of social control and respect for authority which have characterized societies that tend toward high power distance, high uncertainty avoidance, low individualism, and low masculinity (Hofstede). Characteristically, American individualism is associated with a universalistic cash nexus and contractual agreements that are legally binding and enforceable. From a political culture standpoint, the United States has a legal-rational culture that emphasizes highly contractual mechanisms that result in a high rate of litigation (Lipset, 1993 and 1996). As Henderson has observed, "Americans take their constitution seriously....For Americans, individualism means legalistic rights implemented by justiciable law, lawsuits, and lawyers....(I)t is their ethnocentric justiciable law that Americans...are prone to rely upon to adumbrate...the (securities) markets, and to construct a global securities trading regime."

The Securities Act of 1933 was enacted by the U. S. Congress to regulate the initial offering and sale of securities through the mail (interstate commerce); it is not concerned with the trading of securities after their initial distribution. The Securities Exchange Act of 1934 was intended to regulate the trading of securities on secondary markets and to eliminate certain abuses in

the post-initial trading of securities. Securities offerings are registered with the Securities and Exchange Commission (SEC).[3] The 1934 Act specifies conditions for the annual consolidated registration and report. To carry out the regulatory functions of the Securities acts, Congress established, in the 1934 Act, the Securities and Exchange Commission (SEC) (Skousen 1987). The intent of the Securities Acts is to protect the U. S. investing public from fraudulent and manipulative securities offerings and to provide for "full and fair" disclosure of all relevant material information about the issuance and trading of securities.[4]

The Domestic Political Environment. Congress oversees the operations of the SEC through budget appropriations and periodic public hearings on issues that appear to have wide public interest. The principal Congressional SEC oversight committees are the House Committee on Energy and Commerce and the Senate Committee on Banking and Finance. The respective House subcommittee is the Subcommittee on Telecommunications and Finance; the Senate subcommittee is the Subcommittee on Securities. In recent years, these Congressional committees and subcommittees held hearings on the structure of U. S. securities markets. In 1975, Congress expanded the SEC's authority to regulate market structure. The deliberative process leading up to passage of the resulting National Market System Amendments provides graphic illustration of the interplay between the SEC and its external domestic environment. Initially, the Congressional oversight committees preferred to grant the SEC more authority than the SEC wanted to

have to promote "competition" among marketplaces through development of a national market system for securities trading. The Commission preferred to rely on a mix of disclosure and incremental rule-making to promote "competition," rather than to acquiesce in Congressional demands that it micromanage the design of the national market system. In the end, the SEC largely prevailed, as the 1975 Amendments established goals for a national market system without directing the SEC to micromanage its structure.[5]

Since passage of the 1975 Amendments, the SEC has output steps affecting market structure, such as allowing exchange members to serve as dealers in stocks newly listed after April 26, 1979, and encouraging market transparency through the development and refinement of intermarket linkages, including the Intermarket Trading System, the Consolidated Transactions Tape, and Consolidated Quotations System (Bronfman, Lehn and Schwartz 1994).

Both the United States Congress and the SEC take the position that, in theory, foreign securities that are issued or traded on United States exchanges should be subject to the same regulations and full-disclosure provisions as domestic firms. However, practical considerations have led the SEC to use two sets of forms: one for domestic firms and another for foreign firms. These forms have been revised over the years. According to current practices, foreign issuers, in general, are required to file periodic financial statements with the SEC that are prepared in accordance with United States Generally Accepted Accounting Principles (GAAP),

or in accordance with a comprehensive body of accounting principles that have been reconciled with United States GAAP.

To gain an understanding of the SEC's functioning within its environment, in July 1995, March 1997, and October 2000, the author conducted a series of background interviews of SEC personnel.[6] Those discussions highlighted the symbiotic relationship between the external environment and the operations of the SEC. In the American system of separation of powers between the Legislative, Executive and Judicial Branches, with its resultant checks and balances, the SEC Chairman and Commissioners are nominated by the President and confirmed by the Senate. Congressional Oversight Committees write the SEC Chairman who routes their inquiries to the appropriate SEC division(s). And the Chairman annually testifies before Congress. Thus, the SEC is very responsive to Congress; it reviews proposed regulatory legislation.

Members of Congress, Congressional staff, the news media, especially *The Wall Street Journal*, foreign and domestic institutional and individual investors, industry and interest groups, such as The Business Round Table, The American Bar Association, The American Banking Association, The Financial Executives Institute, and The American Institute of Certified Public Accountants (AICPA) subject the regulatory organization to pressure. In addition, the New York Stock Exchange pressures Congress, and Congress then pressures the SEC.[7]

There are a number of formal and informal channels for interaction between the SEC and its external environment. SEC

policy makers are regular readers of the financial press; they consider what is written there when formulating policies. The SEC is contacted daily by mail, phone, fax, and electronic mail. Its staff meets regularly with interested groups and compliance officers. For example, the SEC has observers on projects of the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and the Auditing Standards Committee. Thus, the SEC staff is very aware of the pressures from the external environment. However, to note that awareness is not to say that the SEC responds positively to all such pressures. For example, in the early 1990s, The New York Stock Exchange's former Chairman, William H. Donaldson, engaged in a multi-year battle to compel the SEC to allow 'world-class' foreign issuers to register their securities for public offering, listing on a stock exchange, or quotation on NASDAQ, without a quantitative reconciliation to U. S. GAAP. In place of reconciliation, a written explanation of the material differences between the foreign issuer's home-country accounting practices and U. S. GAAP would be permitted (Torres, December 21, 1990; Salwen, May 31, 1991; Power, January 7, 1992; Siconolfi and Salwen, May 13, 1992). In testimony before the House Telecommunications and Finance Subcommittee, former SEC Chairman Breeden expressed little desire to alter accounting rules to accommodate the NYSE's plan. He commented: "Without this protection, investors might select a foreign company's stock...only to discover later that differences in accounting or auditing standards made the foreign stock look better." He added that to

let foreign companies list on U. S. exchanges without the same disclosures as U. S. companies "would seriously disadvantage U. S. firms in their home market" (Salwen, May 31, 1991).

The Internal Environment. In addition to interactions with the external environments, there are interactions within and between the SEC staff itself which affect the policy-making dynamics, resulting in consensus or dissensus. A well publicized example of the later was former Commissioner Philip Lochner, Jr.'s open disagreement with former Chairman Breeden's rejection of former NYSE Chairman Donaldson's suggestion that the SEC allow the NYSE to list 200 to 300 world class companies without subjecting them to U. S. accounting and disclosure requirements (Salwen, May 9, 1991). The SEC continues to reject the NYSE's suggested approach (Roberts, 1994).[8]

Undeterred, James L. Cochrane (1994), NYSE Senior Vice President and Chief Economist, argued it was necessary to find a compromise whereby a world class issuer, like Nestle, "can move out of an over-the-counter electronic pink sheet market, which has no volume reporting and no real time quotes, to a listed market-NYSE, NASDAQ or AMEX-which has more effective overall regulation, without requiring U. S. GAAP reconciliation."

U. S. securities regulation is a blend of federal oversight and reliance upon Self-Regulatory Organizations (SRO's), such as the National Association of Securities Dealers (NASD), and the New York Stock Exchange (NYSE). U. S. SRO's write and enforce their own rules which are designed to "prevent fraudulent acts and

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities" (Quoted in Bronfman, Lehn and Schwartz). The SEC conducts inspections of SRO's and their rules. The SRO's must comply with the Securities Acts, maintain open and efficient markets, and abide by their own rules. The SEC may write SRO's to request that they investigate a particular matter. Or the SEC may take a very active role in reforming an SRO, as it did in the Nasdaq scandal stemming from the National Association of Securities Dealers' (NASD's) failure to investigate what the SEC regarded as "clear indications of possible violations" by Nasdaq market makers who, among other complaints, enriched themselves with artificially wide spreads between their buying and selling prices (Taylor, August 29, 1996; Taylor and Lohse, June 18 and August 9, 1996).

Since the mid-1980's, the SEC's operational environment has changed due to advances in electronic technologies, the internationalization of securities markets, the creation and dissemination of financial derivatives, and the like. The SEC must be responsive to market forces and changes, such as the October 1987 Crash. The SEC relies upon teams of accountants and lawyers to implement its selective review system. The teams consider financial ratios and whether the registrant was reviewed within the last three years. The ultimate consideration, in deciding whether to litigate, is "Can the SEC prevail in the court of law?" When

dealing with public companies, negotiation is affected by the probability of prevailing in court.

The SEC is attuned to its need to operate within U. S. Securities Laws. In discussions with foreign regulators, the SEC seeks to avoid the appearance of arbitrary or despotic decisions. Insistence upon adherence to U. S. Securities Laws, the SEC staff members interviewed maintained, helps to dispel notions of arbitrariness. Thus, the U. S.'s national legalistic culture directly impacts the SEC's interaction with foreign regulators.

The political systems model facilitates understanding of the Securities and Exchange Commission's responses to such national and international pressures. Confronted by external and internal pressures to ease the regulatory burden for foreign companies wishing to list on U. S. exchanges, the SEC has responded by taking initiatives in two arenas, domestic and international. In the domestic arena, it has undertaken efforts to ease regulatory and disclosure requirements for foreign issuers. Internationally, it has forged bilateral and multilateral relationships; it has taken an interest in international harmonization of regulatory practices; and it has assumed a leading role in the movement to encourage the development of international accounting standards. These responses are not mutually exclusive; such efforts often overlap.

SEC Domestic Efforts to Ease Foreign Issuer Regulatory Requirements

In response to international and national globalization pressures, in the 1980s and 1990s, to make it more attractive for foreign issues to list on United States stock markets, the Securities and Exchange Commission responded by undertaking a number of initiatives. Among them are: (1) the development of the Integrated Disclosure System (IDS); (2) the Multijurisdictional Disclosure System (MJDS) between the U. S. and Canada; (3) Rule 144-A provisions to ease private placements, and Regulation S safe harbor protection for securities offered for sale offshore; and (4) the adoption of the simplification initiative in April, 1994.

The Integrated Disclosure System. Pressured by demands in the late 1970s and early 1980s for regulatory simplification, and with the anti-regulatory sentiments of the Reagan Administration, the SEC proposed easing reporting requirements for domestic companies. Foreign companies wanted similar changes for themselves. The SEC responded to the foreign feedback to its domestic proposals in November 1981, by proposing to streamline reporting requirements for foreign issuers wishing to sell securities on U. S. exchanges (*Wall Street Journal*, November 21, 1981).

The three major options available to foreign issuers for entering U. S. capital markets are: public listing, public offering, and private placements. A public listing is an alternative available to a foreign issuer as a first step to a

public offering; it requires a registration with the SEC on a Form 20-F. A public offering occurs when a foreign issuers decides to list on a U. S. exchange market to raise funds; the offering requires a registration with the SEC, typically on a Form F-1 (Decker 1994). Private placements are not public offerings; as such, they are generally not regulated by the SEC.

In December, 1982, the Commission adopted the integrated disclosure system (IDS). Forms F-1, F-2 and F-3 were presented as short-forms for foreign private issues analogous to Forms S-1, S-2, and S-3 for domestic issues.[9] Form 20-F parallels its domestic equivalent Form 10-K, but requires less narrative disclosure.[10]

The Commission indicated that Form 20-F was the basis for the integrated disclosure system. Its format was altered substantially to facilitate its use in the integrated system and to conform some of its language with corresponding provisions of Regulation S-X or to clarify the existing requirements. According to its terms, a foreign private issuer must include for itself and its consolidated subsidiaries and, where appropriate, its predecessors: (1) audited balance sheets for the end of the two most recent fiscal years; and (2) audited statements of income and changes in financial position for each of the three fiscal years preceding the most recent date the audited balance sheet was filed.[11]

By retaining the provisions of Form 20-F regarding industry segment reporting, executive compensation, and non-requirement of adherence to U.S. GAAP, the integrated disclosure system continued to demand less disclosure from foreign private issuers than from

U.S. firms. Use of forms F-2 and F-3 results in a significant reduction of the disclosure filing burden due to their provisions for incorporation by reference. Thus, there is a reduction in the number of schedules which must be presented. However, the same information must be prepared; thus, there is no reduction in accounting computational work. But, the information need not be duplicated everywhere it is called for; rather reference is made to where it is reported elsewhere in the documentation filed by the registrant with the SEC. In taking these steps, the Commission's actions were consistent with its internal values; it balanced the policies of (1) protecting U.S. investors by requiring substantially the same disclosure from domestic and foreign issuers, with (2) promoting the public interest by encouraging foreign issuers to register their securities with the Commission.

This policy action demonstrates the pressures placed by the national and international environments upon the SEC to ease its regulatory rules and the SEC's response - efforts to simplify registration requirements for both domestic and foreign securities issuers.

<u>Overlapping Arenas</u>. An example of the overlap between the domestic and international arenas in which the SEC operates was its adoption, on September 28, 1999, of changes in its Form 20-F non-financial statement disclosure requirements to conform them more closely to the International Disclosure Standards endorsed by the International Organization of Securities Commissions (IOSCO) in September 1998 (Securities Act Release No, 7745). The SEC intended

the changes to harmonize disclosure requirements on selected topics among the securities regulations of various jurisdictions. Amended Form 20-F contains a revised definition of "foreign private issuer"; and a new Item 8 specifying for foreign filers the form, content and age of financial statement requirements. Items 17 and 18 of Form 20-F have been retained without substantive change. Except for the age of financial statements in a registration statement, the financial reporting requirements for foreign registrants does not change. In its final release, the SEC commented:

> We believe IOSCO's disclosure standards represent a strong international consensus on fundamental disclosure topics, and that they can be used to produce offering and listing documents that will contain the same high level of information we traditionally have required. Today we are revising our existing foreign issuer integrated disclosure system to incorporate fully the international disclosure standards....

Thus, the SEC modified the integrated disclosure system for foreign private issuers in response to IOSCO's proposals to change the international disclosure environment. It bears recalling that the SEC, as an IOSCO member, was itself closely involved in the formulation those disclosure standards.

The Multijurisdictional Disclosure System. In an effort to find ways to encourage Canadian and United Kingdom (U.K.) companies to

offer their securities on U. S. exchanges, in March, 1985, (Release No. 33-6568) the Commission proposed two conceptual approaches: the reciprocal approach and the common prospectus approach. The UK and Canada were chosen because issuers from these countries use the U.S. capital markets frequently and their disclosure requirements are more similar to those of the U.S. than those of other countries (Ingersoll, February 28, 1985).

The reciprocal approach would consist of an agreement by the three countries that a prospectus accepted in one issuer's domicile which meets certain minimum standards would be accepted for offerings in each of the participating countries. The common prospectus approach would consist of the development of a common prospectus which would be simultaneously filed with each of the country's respective securities administrations. The foreign issuer would be subject to the same liability provisions of the U.S. securities laws as apply to domestic issuers, including the liability for false or misleading statements contained in the prospectus (Alkafaji and Kirsch 1988).[12]

On June 21, 1991, the U. S. Securities and Exchange Commission adopted the first multijurisdictional disclosure system (MJDS) with Canada. Biddle and Saudagaran (1991) have described the MJDS as "a hybrid between the reciprocal approach and the common prospectus approach." The terms of the MJDS permit eligible Canadian companies to provide disclosure documents prepared according to Canadian Securities regulatory requirements to satisfy U. S. securities regulation and reporting requirements. Concurrently, the

Canadian Securities Administrators (CSA) adopted a parallel multijurisdictional disclosure system for use by U. S. issuers in Canada (Release No. 6902). The SEC hoped that the MJDS would encourage Canadian issuers to list on U. S. exchanges. A *Wall Street Journal* staff reporter suggested that the MJDS agreement would "open the door for similar agreements with other countries, allowing foreign companies to offer securities without complying with what they see as burdensome reporting rules" (May 31, 1991). But the MJDS with Canada remains a unique arrangement. Negotiations with the U. K. have not borne fruit. Yet, the SEC responded successfully to pressures to harmonize with Canada, and it responded to feedback from its MJDS experiences by removing further impediments to transnational U. S. - Canadian capital formation.[13]

Rule 144A and Regulation S. Responding to demands from institutional investors, and recognizing that institutional investors do not require the same degree of protection as small investors, the SEC issued Rule 144A, effective April 30, 1990. Rule 144A provides a non-exclusive safe harbor exemption from the 1933 Securities Act registration requirements for resales to eligible institutions, that is, those that own and invest at least $100 million in securities of non-affiliated investors, of restricted securities that, when issued, were not of the same class as securities listed on U. S. exchanges. The intention of the Rule 144A exemption was to lower the cost of raising capital by means of

restricted offerings (i. e., private placements) to eligible institutional investors, and to improve liquidity in the secondary market (Release No. 33-6862). The SEC provided the exemption because large institutional investors generally are considered capable of performing their own due diligence and can adequately assess investments without the information provided by public registration.[14]

Also in 1990, the SEC adopted Regulation S to clarify the extraterritorial application of the registration provisions of the 1933 Securities Act. The SEC recognized that for U. S. companies raising capital abroad, a principal issue is the reach across national boundaries of Section 5 registration requirements. Regulation S provides that generally any offer or sale of securities that occurs within the U. S. is subject to Section 5 of the Securities Act and those that occur outside the U. S. are not. Additionally, the Regulation provides two "safe harbors"; one applies to offers and sales by issuers, securities professionals involved in distribution, their respective affiliates, and the like, the "issuer safe harbor"; the other applies to resales by other persons, the "resale safe harbor." Regulation S adopted a territorial approach to Section 5. The Commission noted:

...The registration of securities is intended to protect the U.S. capital markets and investors purchasing in the U. S. market, whether U. S. or foreign nationals. Principles of comity and the reasonable expectations of participants in the global markets

justify reliance on laws applicable in jurisdictions outside the United States to define requirements for transactions effected offshore. The territorial approach recognizes the primacy of the laws in which a market is located. As investors choose their markets, they choose the laws and regulations in such markets. (Release No. 33-6863)

Several companies have sold securities at a discount to foreign buyers, who later sold the shares in the U. S. at higher prices, before they were eligible to be resold in the U. S. This was not the way the SEC intended the Regulation S safe harbor provisions be used. The SEC has responded to this unfavorable feedback by imposing new rules. Companies selling shares under Regulation S, or making other private placements, must now disclose the securities offerings to investors. Regulations S offerings must be disclosed within 15 days of the offshore sales, long before they are eligible for resale on U. S. markets. Private placements must be disclosed in interim financial reports (Anderson October 10, 1996). This example illustrates that an SEC output may generate a response, in this case an undesirable one, which, as a result of feedback, may serve as an external input (demand for change to eliminate the abuse) which stimulates the SEC to respond with further policy output.

Rule changes such as Rule 144A and the MJDS gave rise to concerns that disclosure standards would be diluted and U. S. companies placed at a competitive disadvantage in their own capital markets. Testifying before Congress in 1991, former SEC Chairman

Richard Breeden acknowledged that the Commission was struggling with the conflict between its mandate to protect U. S. investors and its stated objective of internationalizing capital markets. He reiterated the SEC's insistence that foreign issuers making public offerings in the U. S. provide the same basic disclosures as U. S. firms. He commented: "The Commission has been concerned that allowing foreign companies to list securities for trading on US securities exchanges without providing the same disclosures that US firms are required to make would seriously disadvantage US firms in their own market" (Carr 1991).

The Simplification Initiative. Nevertheless, in November, 1993, the SEC proposed a number of initiatives designed to streamline the registration and reporting processes for foreign companies seeking to list on U. S. exchanges. Months later, on April 19, 1994, Arthur Levitt, SEC Chairman, when announcing adoption of this latest series of disclosure rules for foreign issuers, observed: "As our experience with foreign issuers grows, we will continue to discover ways to assist them with the transition to our disclosure system, and therefore our markets, while not compromising in any way our mandate to protect the American investor." Also in 1994, Richard Kosnik, while Associate Director, SEC Division of Corporate Finance, indicated that the SEC had learned from experience and had identified several areas that presented problems to foreign issuers. In response to those issues, the Commission adopted the initiatives discussed below.

The final rule and amendments to rules and forms adopted

(Release Nos. 33-7053; 34-33918) simplify registration and reporting requirements for foreign companies by: (1) extending to foreign issuers the benefits of short-form and shelf registration to the same extent available to domestic companies using Form S-3;[15] (2) streamlining financial statement reconciliation and financial schedule requirements, including acceptance of Cash Flow Statements prepared in accordance with International Accounting Standard No. 7, as amended; and (3) expanding safe harbor protection for analyst reports with respect to sizeable foreign companies publicly traded offshore.[16]

In addition, on December 13, 1994, the SEC adopted three rules. Two of them dealt with foreign private issuers; the third extended to domestic U. S. issuers accommodations recently adopted for foreign issuers.

The first rule amended Regulation S-X and Form 20-F to allow foreign private issuers (1) flexibility in the selection of the reporting currency used in SEC filings to permit stating primary financial statements using any currency in which reports to a majority of its nonaffiliated securityholders are made; and (2) streamlined financial reconciliation requirements for foreign private issuers with operations in countries with hyperinflationary economies (Release Nos. 33-7117; 34-35093).[17]

The second rule amended Form 20-F to eliminate the requirement to reconcile certain differences attributable to the determination of the method of accounting for a business combination, and the amortization period of goodwill and negative goodwill, provided the

financial statements of the foreign private issuer comply with IAS 22, "Business Combinations," as amended, regarding these matters (Release Nos. 33-7119; 34-35095).

The third rule extended the SEC accommodations for foreign issuers to domestic U. S. issuers that are required to provide financial statements for significant foreign equity investees or acquired foreign businesses; domestic registrants are granted the option to provide such financials on a basis that complies with Item 17 of Form 20-F which does not require the disclosures prescribed by U. S. GAAP and Regulation S-X. In addition, the rules incorporate the 30 percent threshold for providing such reconciling information for domestic issuers as was earlier adopted for foreign issuers (Release Nos. 33-7118; 34-35094).[18]

The changes introduced by the simplification initiative are striking and potentially long reaching in their consequences. "(F)or the first time, the SEC has acknowledged non-U. S. standards as appropriate for U. S. investor protection" (*Stamford Advocate*, May 17, 1994). In addition, efforts to facilitate the entry of foreign issuers into the U. S. public capital markets have led directly to proposals to streamline for U. S. domestic issuers the registration and disclosure steps.

External pressures to amend U. S. disclosure requirements for foreign private issuers stimulated internal SEC response, which in turn generated external outcomes. In reaction to feedback regarding its efforts to address foreign issuer needs, the SEC took action to satisfy domestic issuers. This move well illustrates the dynamic

of the political systems framework.

Accommodations. The SEC's separate integrated disclosure system for foreign private issuers includes a number of accommodations to foreign practices and policies, including: (1) interim reporting based on the foreign issuer's home country and stock exchange practices rather than the quarterly reports required of U. S. issuers; (2) exemption from the proxy rules and insider reporting and short swing profit recovery provisions; (3) aggregate executive compensation disclosure rather than individual executive disclosure, if that is permitted in the foreign issuer's home country; (4) acceptance of three International Accounting Standards: IAS 7, Cash Flow Statements; IAS 22, Business Combinations; and IAS 21, Operations in Hyperinflationary Economies; (5) updating offering document financial statements principally on a semi-annual, rather than a quarterly basis; and (6) an exemption from Exchange Act registration for foreign private issuers that have not engaged in a U. S. public offering or whose securities are not traded on a national exchange or the Nasdaq Stock Market. The accommodations, one might call them concessions, reduce the foreign issuer's reporting burden compared to the typical U. S. issuer's burden. Thus, annually, foreign issuers are permitted to file fewer reports and disclose less information on management compensation; they are exempt from proxy rules and insider trading provisions. Disclosure requirements imposed upon domestic issuers in the name of investor protection are reduced or waived for foreign issuers in order to facilitate their access to

U. S. securities markets. The SEC implies that these accommodations help to account for the dramatic increase in foreign private issuers to over 1,200 as of December 31, 1999 (Current Accounting and Disclosure Issues June 30, 2000).

One-on-One Initiatives

While the SEC has taken a number of formal actions to ease the entry of foreign issuers into U. S. capital markets, Robert Bayless, Chief Accountant of the SEC's Division of Corporation Finance, has indicated that it also operates "administratively and informally" to encourage foreign issuers to come to the United States markets. It encourages foreign issuers to contact its staff. It has established special procedures specifically to assist foreign issuers. A prospective registrant may submit draft disclosure materials confidentially, receive staff comments, and resolve matters before the public offering takes place.

It is true that the SEC just does not compromise its core issues--the primacy of investor protection and the need for reconciliation to U. S. GAAP—but we have found that through a direct dialogue we are able to help foreign companies address the issues, to resolve them in a practical and effective way. I think that they have found in almost all cases that they are able to offer their securities with much less difficulty or delay than they had initially anticipated (Bayless March 1996).

In background interviews in July, 1995, and March, 1997, SEC staff members told the author of their work with individual foreign registrants to familiarize them with the U. S. registration system and to facilitate their understanding of it. They offered the opinion that the SEC is flexible, and responsive (despite its full disclosure system), and that foreign corporations are increasingly perceiving it as so. The SEC staff tries to help potential foreign registrants cut through the red tape. Decker (1994) and McConnell (1994) provided independent confirmation of this. Decker, Partner, Coopers and Lybrand, New York City, observed: "The SEC wants the process to work. They do not want foreign companies avoiding the U. S. markets because the regulatory process is too complicated and burdensome to deal with. They will work with you. They are cooperative and trying to do everything they can to make the process as painless as possible." Noting that the availability of data is one of the main obstacles foreign issuers confront in preparing a registration statement, McConnell, Managing Director, Bear Sterns & Co., New York City, stated: "My experience with the SEC is that it is very flexible regarding missing historical information."

The example of Daimler-Benz, in the opinion of the SEC staff, got a lot of press at the time it became the first German company to list in the U. S. Widely reported in 1993 were Daimler-Benz's disclosure of $2.45 billion in hidden reserves, and the concessions the SEC allegedly made to Daimler-Benz, such as allowing it to

present its financial data for the first time without correspondence to U. S. accounting principles, and regarding its treatment of goodwill. Former SEC Chairman Breeden maintained that the SEC gave up nothing in negotiations with the German company (Aeppel, March 25, 1993; Whitney and Roth, March 29, 1993; and Raghavan and Harlan, March 31, 1993). In background interviews with the author in March, 1997, SEC staff members argued that they regarded Daimler-Benz as one in a long line of foreign issuers seeking to register on U. S. exchanges. The SEC made no significant concessions to Daimler; it was required to reconcile to U. S. GAAP. The staff pointed out that where the reconciliation occurs, the format of the statements or the footnotes is not material; what matters is the disclosure of the required information.

While it is true that the entry of Daimler-Benz into the U. S. securities market did not cause a flood of German companies onto U. S. exchanges, a handful have followed, including Deutsche Telekom. In addition, Veba AG, and Hoechst AG were expected to seek listing on the New York Stock Exchange (Steinmetz 1997).

Nevertheless, the efforts of the SEC to ease the regulatory burden for foreign private issuers have borne fruit. In 1990, 434 foreign issuers were reporting in the U. S. As of March 13, 1997, there were 914 reporting foreign issuers from 48 countries. (See Table 2.) Of the foreign private issuers, 386 were Canada based companies; 87 United Kingdom based; 74 Israel based; 30 Mexico based; over 100 were from emerging market countries; but

only eight were Germany based. In 2000, there are more than 1,200 foreign registrants, from 57 countries (*2000 Annual Report*).

Table 2. Reporting Foreign Issuers As of March 13, 1997: Summary Information

COUNTRY	NUMBER OF REPORTING COMPANIES	COUNTRY	NUMBER OF REPORTING COMPANIES
Canada	386	Brazil	5
United Kingdom	87	Finland	5
Israel	74	Hong Kong	5
Mexico	30	Liberia	5
Netherlands	29	Cayman Islands	4
Australia	27	Colombia	4
Bermuda	24	Denmark	4
Chile	21	Korea	4
Japan	21	New Zealand	4
France	19	Portugal	4
Argentina	13	Venezuela	4
Italy	13	Peru	3
Ireland	12	Singapore	3
Sweden	12	Belgium	2
British Virgin Islands	11	Panama	2
Indonesia	10	Philippines	2
Germany	8	Belize	1
Luxembourg	8	Botswana	1
Spain	8	Ghana	1
Netherlands Antilles	7	Papua New Guinea	1
Norway	7	Russia	1
South Africa	7	Switzerland	1
Bahamas	6	Taiwan	1
China	6	Zambia	1
TOTAL			914

Source: United States Securities and Exchange Commission. Division of Corporation Finance. 1997. Monthly Statistical Report. (February (sic)): 33.

Multilateral and Bilateral Actions

The SEC has sought to develop ways to improve international mechanisms for effective market surveillance and information sharing, and for international cooperation in the investigation and prosecution of cross-border fraudulent and market manipulative activities. Internationalization of securities trading has resulted in a greatly increased need to obtain foreign based information to protect U. S. markets and investors from cross-border fraud and other potential violations of U. S. securities laws.

Since 1977, the U. S. has used international agreements for the procurement of information and evidence as an alternative means to hostile litigation for discovery in criminal cases. The U. S. has entered into at least 15 bilateral treaties to provide mutual assistance in criminal matters. The SEC itself has negotiated its own Memoranda of Understanding with foreign regulatory authorities to facilitate assistance in criminal, civil and administrative matters (Mann, Mari and Lavdas 1994). MOUs are formal agreements between the U. S. SEC and foreign governments or securities agencies for sharing information.

In response to the changing international securities trading environment, the SEC created the Office of International Affairs to bolster international teamwork in enforcement by setting up information sharing accords with other nations and directing enforcement activities under those agreements. In 1989, the SEC

signed the first Memoranda of Understanding (MOUs) with French and Dutch regulators. These agreements facilitated the exchange of information on insider trading, fraud, corporate disclosure and other potentially illegal activities. The SEC negotiated these and subsequent MOUs for sharing information and facilitating cooperation in SEC and foreign agency investigations and judicial proceedings, and to formalize methods to request and provide information in connection with SEC and foreign agency efforts to administer and enforce their respective securities laws. MOUs have certain advantages over treaties: they take less time to negotiate, do not require ratification and usually are nonbinding agreements between regulators interested in facilitating mutual assistance (Mann, Mari and Lavdas 1994). At the time the first MOUs were signed, SEC Chairman Richard Breeden observed that the international nature of securities markets had "heightened the need for constant coordination among regulators" (Salwen, December 19, 1989). Prior to the establishment of such agreements, the SEC could request foreign corporations supply information but was essentially powerless to obtain it if foreign corporations refused to voluntarily cooperate by turning over records or documents. Thus, the SEC was often hamstrung in its enforcement efforts. Memoranda of Understanding were seen as an appropriate response to the SEC's growing need to monitor international securities trading and to enforce U. S. securities regulations on foreign issuers.

Over the past decade, the SEC has forged bilateral and multilateral relationships with foreign regulators. It has entered

into at least thirty Memoranda of Understanding (MOUs), and other less formal agreements, to establish channels for sharing information and providing comprehensive enforcement assistance in nearly all facets of the securities markets. MOUs have improved the SEC's ability to detect and prosecute violations of U. S. securities laws where information is needed from abroad. Among the first nations with which the U. S. SEC concluded MOUs were Canada, Japan, Switzerland, and the United Kingdom. In recent years, MOUs have been signed with Australia, October 1993; China, April 1994; Hong Kong, October 1995; Russia, December 1995; and Israel and Egypt, February, 1996 (*1994 Annual Report*, 20-21, and *1996 Annual Report*, 29-30).

Table 3 summarizes the international requests for assistance made and received by the SEC between fiscal years 1990 and 1999. It indicates that most SEC requests were for enforcement assistance; these increased from 173 to 336, or approximately 98 percent. Foreign requests to the SEC for enforcement assistance increased approximately 460 percent, and for technical assistance almost 650 percent. While SEC requests increased during this time frame, foreign requests have increased even more dramatically. This demonstrates that foreign regulators are as aware as the SEC of the need for international cooperation to ensure transparent markets and investor protection in an era of global securities trading, and illustrates the interplay between the international and U. S. domestic regulatory environments. It also shows that political cultural values of the U. S. can influence the outcome of

international interactions such that the U. S. may achieve not only domestic market transparency but also greater international market transparency.

Table 3. International Requests for Assistance Made to and Received by the U. S. Securities and Exchange Commission

	Fiscal Year						
Type of Request	1990	1991	1992	1993	1994	1996	1999
SEC Requests to Foreign Governments							
Enforcement Assistance	173	145	191	213	223	230	336
Enforcement Referrals	2	6	7	1	2	N/A	N/A
Technical Assistance	2	0	2	6	1	N/A	N/A
Totals	177	151	200	220	226	N/AN/A	
the SEC							
Enforcement Assistance	98	160	184	232	296	342	550
Enforcement Referrals	2	7	11	16	10	N/A	N/A
Technical Assistance	30	44	58	59	78	136	244
Totals	130	211	253	307	384	N/A	N/A

N/A = not available

Source: United States Securities and Exchange Commission. *1994 Annual Report*, p. 22; 1996 data from *1996 Annual Report*, pp. 28 and 30; 1999 data from *1999 Annual Report*, pp. 17 and 19.

In addition to negotiation of MOUs, the SEC provides technical assistance to emerging securities markets in order to help them develop regulatory infrastructures to promote investor confidence. And, the SEC, through its involvement in international organizations, avails itself of the opportunity to promote its viewpoints on important issues that affect the American securities markets and its own regulatory program, and to assist in the development of an international consensus on these issues. For

example, in 1999, the SEC participated in the work of The International Organization of Securities Commissions, the Council of Securities Regulators of the Americas, the Organization for Economic Cooperation and Development, and the like (1999 Annual Report, 13-16). Thus, the SEC not only responded to external environmental pressures, it sought to take proactive measures (outputs) to influence external actors.

The SEC and Harmonization

Securities and Exchange Commission efforts to participate in global harmonization of accounting standards and securities regulation serve to indicate various ways in which the SEC has interacted with the international environment and responded to pressures from it.

The SEC's Philosophy. An SEC policy statement on regulation of international securities markets, issued on November 15, 1988, is a good exposition of the legalistic values, expressed as policy goals, that have guided the SEC's harmonization efforts for many years. In it, the SEC noted that "Mutually acceptable international accounting standards are a critical goal because they will reduce the unnecessary regulatory burdens resulting from current disparities between the various national accounting standards." It encouraged securities regulators and accounting professionals throughout the world to continue efforts to harmonize international accounting standards with the twin aims of increasing comparability and reducing costs. However, the SEC expressed its concern that harmonization of accounting standards is merely one piece in the process of developing an effective regulatory

structure for an international securities market system. The features of such a system would include:

1) Efficient structures for dissemination of quotation, price, and volume information, order routing and execution, clearance, settlement, and payment, as well as strong capital adequacy standards;
2) Sound disclosure systems, including accounting principles, auditing standards, auditor independence standards, registration and prospectus provisions, and listing standards which offer investor protection while balancing costs and benefits for market participants; and
3) Fair and honest markets, achieved through regulation of questionable sales practices, prohibitions against fraudulent conduct, and extensive cooperation.

To achieve these objectives, national securities regulators will need to work closely with their foreign counterparts and seek to develop international approaches to world securities market problems, including bilateral and multilateral relationships. Throughout the policy statement, the SEC expressed its concerns for investor protection, whatever steps are taken to further internationalization of securities markets. The SEC stated categorically: "The goal in addressing international disclosure and registration problems should be to minimize regulatory impediments without compromising investor protection." The SEC was announcing its preference for legalistic control, uniformity, caution in regulation of disclosure, and transparency.

Interaction with International Organizations. The SEC's approach to harmonization has involved active observation of, and

participation with, international organizations, such as the International Accounting Standards Committee (IASC) and the International Organization of Securities Commissioners (IOSCO). Since its founding, the IASC's underlying objectives have been to issue international accounting standards to be used to present audited financial statements, and to promote their acceptance and observation worldwide.

From October 7 to 9, 1992, the IASC Board met in Chicago. Walter Schuetze, then SEC Chief Accountant, spoke to the IASC Board. He stated that he supported the efforts of the IASC to "harmonize" financial accounting and reporting standards; investors world-wide would benefit from them. He outlined four regulatory options available to regulators who confront different accounting standards in different countries: (1) host country regulations; (2) multijurisdictional disclosure; (3) mutual recognition of foreign regulations; and (4) international financial accounting "esperanto" promulgated by the IASC. The "esperanto" approach "holds out the most promise for international investors and creditors and, perhaps, issuers." Schuetze indicated that if the IASC promulgated standards which were both relevant and reliable, simple and practical, it may force national standards to converge along the lines of international standards (*IASC Insight*, December 1992).

As noted above, in April 1994, the Securities and Exchange Commission, issued proposals that reflected a willingness to compromise on certain accounting matters. *IASC Insight* (June 1994) commented that this was "(p)erhaps to the surprise of some." The

proposals touched upon (1) the amortization of goodwill; (2) the distinction between acquisitions (purchases) and unitings of interests (poolings) in business combinations; and (3) foreign subsidiaries operating in the currency of a highly inflationary economy. For each, the SEC proposed that a foreign private issuer that conformed with the relevant parts of International Accounting Standards need not amend the treatment for the purpose of U. S. GAAP reconciliation. Also, the SEC confirmed that it would accept cash flow statements presented by foreign issuers in conformity with IAS 7. (See Endnote 13.) *IASC Insight* (June 1994) commented:

> ...The proposal is significant...because it focuses on three issues that have caused problems for foreign issuers in the United States - and, in each case, US GAAP and International Accounting Standards are different. It would have been much easier for the SEC to propose the acceptance of those requirements in International Accounting Standards that are the same as US GAAP - but that would not have helped foreign issuers.[19]

The U. S. SEC is a member of the International Organization of Securities Commissions (IOSCO); it is committed to support IOSCO initiatives. IOSCO is a non-profit organization, incorporated under a private act sanctioned by the Quebec National Assembly; it is an association of securities regulatory organizations. Established in 1974 as an Inter-American regional securities organization, IOSCO's membership has expanded to over 100 members, representing most of the world's securities regulators, from post-industrial to emerging markets. IOSCO functions through: (1) an

Executive Committee, which oversees and makes decisions for the organization; (2) a Technical Committee, which studies issues in post-industrial securities markets; and (3) an Emerging Markets Committee, which is composed of regulatory authorities from newer or less developed markets. The SEC is a member of both the Executive and Technical Committees; both committees meet periodically throughout the year. The Executive Committee's responsibilities include annual budget approval and recommendations regarding new member admissions. The SEC is an active participant in the work of IOSCO's Technical Committee, composed of representatives of sixteen regulatory agencies that regulate some of the world's larger and more developed securities markets, and its Working Party No. 1 on Multinational Disclosure and Accounting (Mann 1996).

For a number of years, the SEC worked with members of IOSCO to develop a set of international standards for non-financial statement disclosures to be used in cross border offerings and listings. The purpose of such disclosure standards is to facilitate cross border capital raising and listing by enabling companies to comply with one set of non-financial disclosure requirements for offerings in several jurisdictions. In September 1998, the SEC modified its Form 20-F non-financial disclosure requirements to conform closely to the IOSCO endorsed International Disclosure Standards.

As noted, the SEC has been closely involved with IOSCO's Technical Committee. The Technical Committee's objective is to

review major regulatory issues dealing with international securities transactions and to coordinate practical responses to these issues. The Technical Committee's work is divided among specialized Working Groups which deal on a continuous basis with the Committee's five major functional subject areas. The subject areas are: Multinational Disclosure and Accounting; Regulation of Secondary Markets; Regulation of Market Intermediaries; Enforcement and the Exchange of Information; and Investment Management (IOSCO *Annual Report* 1995 and 1996, and www.iosco.org, April 23, 1997).

SEC Chairman Arthur Levitt is one of the two United States members of the Technical Committee. The Committee has stated that "a primary impediment to international offerings of securities is that different countries have different accounting standards." IOSCO has concluded that increased harmonization should be pursued vigorously through the IASC.

The Core Standards Work Program. On July 9, 1995, the Board of the IASC and the Technical Committee of the International Organization of Securities Commissions (IOSCO) issued a joint press release to announce:

> ...The Board has developed a work plan that the Technical Committee agrees will result, upon successful completion, in IAS (International Accounting Standards) comprising a comprehensive core set of standards. Completion of comprehensive core standards that are acceptable to the Technical Committee will allow the Technical Committee to recommend endorsement of IAS for cross-border capital raising and listing purposes in all global markets....

The target date for completion was mid-1999.

Confronted by increasingly strong demand for International Accounting Standards which international companies could use for reporting purposes in future additional stock offerings, and encouraged by IOSCO members, including the European members, the Canadian members, and the U. S. SEC, in an April 3, 1996 press release, the IASC announced the acceleration of its work program. March 1998 became its new target date for completion of the core set of standards covered by its agreement with IOSCO.[20] (Subsequently, the IASC announced postponement of the completion of its core standards project to November 1998 (*Journal of Accountancy*, January 1998, 16-17).

In an April 11, 1996 press release, the U. S. SEC indicated it was "pleased that the IASC has undertaken a plan to accelerate its development efforts...." The SEC "supports the IASC's objective to develop, as expeditiously as possible, accounting standards that could be used for preparing financial statements used in cross-border offerings." It noted that there are three key elements to the IASC's program and the SEC's acceptance of the results: (1) a core set of comprehensive, generally accepted accounting pronouncements; (2) high quality standards which result in comparability, transparency, and full disclosure; and (3) rigorously interpreted and applied standards. Once the IASC completed its project, accomplishing these key elements, "it is the Commission's *intention to consider* allowing the utilization of the resulting standards by foreign issuers offering securities in the

U. S (italics added)." Thus, the SEC did not agree to automatically accept the IASC's core body of standards, but expressed its "intention to consider" their use.

In a December 10, 1996 address to the 24th Annual National Conference on Current SEC Developments of the American Institute of Public Accountants, SEC Chairman Arthur Levitt drove this point home forcefully. He commented:

> ...acceptance of IASC standards is not a foregone conclusion. The decision regarding acceptance of IASC standards will be made after the core standards are completed, based on the substance of those standards....
>
> ...international standards must produce financial reporting with the same credibility and integrity produced by US standards. They need not reproduce the words of US GAAP--but they must yield the same results, in terms of credibility and integrity.
>
> Nor are we about to jettison US GAAP in favor of international standards. US GAAP will remain an integral component of our capital markets.... (pp. 3 - 4)

From Levitt's remarks it can be seen that while the SEC is confronted with domestic and international pressures to adopt the IASC's core standards upon their completion, it makes no guarantee that it will do so. There remained a tension between the SEC's national environmentally imposed legal mandate to protect investor interests and a search for the appropriate responses to domestic and international pressures to harmonize. In the interplay between

the national and international environmental pressures upon it, the Securities and Exchange Commission's responses are conditioned by the U. S. culturally imposed, legalistic values. The SEC cannot ignore its mandate to protect investors' interests in adequate reporting and disclosure, nor its enforcement role; thus, it tends to take rather deliberate action in response to external and internal stimuli to change.[21]

From July 9, 1995 through late 1998, the IASC worked diligently to complete the core standards program. In a news release dated December 17, 1998, the IASC announced that, on the previous day, its Board had approved IAS 39, Financial Instruments: Recognition and Measurement. This completed the last major project of the work program agreed with IOSCO in 1995.

Former IASC Chairman, Stig Enevoldsen, commented: "By finalising our core standards, we have lived up to the commitment we made to IOSCO in 1995. It is now up to IOSCO to carry out a timely review of the core standards, so that IOSCO can consider endorsing International Accounting Standards for cross-border capital raising and listing in all global markets." (www.iasc.org.uk/news/cen8_59.htm)

During the period the IASC worked on developing its core standards, there was considerable correspondence of a highly technical nature between IOSCO's Working Party Number 1, collectively, and by its individual member organizations, such as the U. S. Securities and Exchange Commission, and the IASC's Secretary General, Sir Bryan Carlsberg. The letters dealt with

various aspects of IASC Exposure Drafts and included suggestions for their modification and improvement. The SEC staff sent 14 separate letters on 8 different proposed standards: IAS 1, Presentation of Financial Statements (Revised 1997) (3 letters); IAS 12, Income Taxes (Revised 1996) (1 letter); IAS 14, Segment Reporting (Revised 1997) (3 letters); IAS 17, Leases (Revised 1997) (1 letter); IAS 19, Employee Benefits (Revised 1998) (1 letter); IAS 32, Financial Instruments: Disclosure and Presentation (1 letter); IAS 38, Intangible Assets (2 letters); and IAS 39, Financial Instruments: Recognition and Measurement (2 letters). (See Appendix D, of IOSCO Technical Committee's IASC STANDARDS - ASSESSMENT REPORT, for a list of these letters. They are available in the Public Reference Room, U. S. Securities and Exchange Commission, Washington, D. C. File No. S7-04-00.)

Besides directly corresponding with the IASC, the SEC staff was intimately involved in the deliberations of IOSCO Technical Committee's Working Party Number 1. It frequently chaired the Working Party; it typically sent three or four representatives to its meetings. IOSCO letters to the IASC often bear the signature of a SEC staff person. In addition, a SEC staff member regularly attended IASC Board meetings, and Standing Interpretations Committee (SIC) meetings. Thus, the SEC interacted extensively with its extenal enviroment throughout this process, both receiving inputs from it and generating outputs to it in an endeavour to impact and influence the ultimate outcome, the IASC core standards.

IOSCO's Endorsement. On May 17, 2000, in a press release, IOSCO announced the completion of its assessment of the IASC's core standards. It recommended that its members "allow multinational issuers to use 30 IASC standards, as supplemented by reconciliation, disclosure and interpretation where necessary to address outstanding substantive issues at a national or regional level."

During his October 2000 interviews of SEC staff members, the author was reminded of the qualified nature of the IOSCO endorsement. In order to receive the support of the SEC and other Working Party members, among them some Western Europeans, IOSCO had to agree to the supplemental treatments. These enable the individual IOSCO members to choose to require one or more of them in implementing the IASC core standards in their jurisdictions. This induces a measure of flexibility in their application, and may encourage individual IOSCO members to recommend endorsing IASs in their respective jurisdictions. An additional factor inducing the SEC to support IOSCO's qualified endorsement was the decision of the IASC itself to reorganize along lines agreeable to the SEC.[22]

The SEC's International Accounting Standards Concept Release. In February, 2000, the SEC issued Concept Release: International Accounting Standards. The purpose of the Concept Release was to request input on "whether the IASC standards: 1. constitute a comprehensive, generally accepted basis of accounting; 2. are of high quality; and 3. can be rigorously interpreted and applied. In the release, the SEC requested comment upon 26 questions which it

grouped into two categories: (1) criteria for assessment of the IASC standards; and (2) possible approaches to recognition of the IASC standards for cross-border offerings and listings. In the first category, are 20 questions, three of which deal with the standards' comprehensiveness; four relate to the standards' quality; and 13 deal with the ability to rigorously interpret and apply the standards. The questions dealing with interpretation and application are subdivided into those that deal with: users' experience to date with the international standards; the need for an international financial reporting infrastructure; the role of the standard-setter in interpreting the standards; the role of the auditor in their application; and the role of the regulator in their interpretation and enforcement. Comments were due on or before May 23, 2000.

The questions the SEC asked in the comment release reflect the regulatory agency's legalistic commitment to: (1) high quality standards that "deliver transparent, consistent, comparable, relevant and reliable financial information"; (2) audits that subject financial statement information to "independent and objective scrutiny, increasing the(ir) reliability"; (3) the regulatory oversight "essential to the success of a high quality financial reporting framework." Thus, the SEC's questions deal not only with the IASC's standards quality, but also with audit and enforcement issues, as well as whether reconcilliations to U. S. GAAP should be required of foreign issuers who report on the basis of IASC GAAP.

The SEC received 93 comment letters, totaling more than 700 pages. Responses to the Concept Release run the gamit from statements indicating that IASs are high quality ones which require no reconciliation to U. S. GAAP, to the opposite extreme, that they are of lesser quality to U. S. GAAP standards requiring full reconciliation. Many commentors express opinions somewhere between these extremes. Several commentors note that there is a philosophical difference between IASs and U. S. Statements of Financial Accounting Standards (SFASs). IASs are conceptual in nature, allowing considerable preparer latitude for judgement in their implementation; SFASs are highly specific, rule-based documents that greatly restrict preparer judgement. The commentors who support the SFAS rule-based approach tend to suggest that the SEC require some sort of reconciliation (this includes the U. S. Financial Accounting Standards Board). Those who support the IAS concept-based approach argue that reconciliation is unnecessary, that, in fact, little significant information is contained therein which could not be gotten through a careful reading of the issuer's published statements. U. S. commentors usually fall in the rule-based/reconciliation group; non-U. S. commentors more often fall in the conceptual/non-reconciliation group. A number of commentors challenge the appropriateness of the SEC questions dealing with auditing and infrastructure issues to the evaluation of the core standards. (The 48 comment letters filed electronically are available on-line at www.sec.gov/rules/s70400.htm; hard copies of all comment letters are available in the SEC's Public Reference

Room, File No. s7-04-00.)

The SEC is presently compiling the comments and preparing to analyze them in connection with its review of the IASC core standards. Since the SEC is still within the review period, and has not yet taken its official position, SEC staff members would make no comment on the record about the core standards to the author when he visited the SEC early in October, 2000. Nevertheless, based on those discussions, it is apparent to the author that the SEC is likely to react positively to the core standards. While it is unclear at this point what form that reaction will take in substance, a general outline does emerge. To the author, it appears likely that the SEC will parse the IASs into groups: (1) IASs that are acceptable, requiring no reconciliation to U. S. GAAP, as they are of comparable, or better, quality to their U. S. counterparts; (2) IASs that are acceptable, requiring some reconciliation; and (3) IASs whose alternative treatments are acceptable, requiring use of the alternative treatments. (This would be a middle ground between (1) the SEC's present acceptance of three IASs, without reconcilliation, in combination with U. S. GAAP or reconciled foreign GAAP reports, and (2) the presently acceptable reporting according to IAS GAAP with full reconciliation to U. S. GAAP.) There is yet a fourth possibility; some IASs may not be found acceptable. This possibility, however, was not raised by the SEC staff.

In support of these observations, the author reminds the reader of the SEC's deep involvement in the work of Working Party

No. 1 of IOSCO's Technical Committee as it cooperated with the IASC in the three and one half year effort to develop the core standards. Also, in May 2000, IOSCO's Board of Presidents unanimously endorsed the core standards; the SEC has a representative on the Board. The SEC has a major investment in the development of the core standards; it is unlikely to do an about face and reject the work of the IASC.
Furthermore, given the strong measure of support for U. S. commentors for reconciliation, the SEC is unlikely to ignore their demands entirely. Thus, it is probable that the SEC will retain some measure of reconciliation in its response to the IASC's core standards.

Conclusion

The trend to globalization of securities offerings has not gone unnoticed by U.S. traders and regulators. Domestically and internationally the SEC has been pressured to ease the regulatory burden for foreign private issuers wishing to list on U. S. exchanges, and to participate in the international harmonization of accounting regulations and disclosure requirements. U. S. investors and securities traders have argued that U. S. securities markets would lose their competitive edge to non-U. S. markets which have less stringent regulatory, registration and reporting requirements. Thus, there would be an outflow of investment capital to foreign markets to the detriment of U. S. securities

markets. Foreign issuers have complained about the U. S. SEC's stringent regulatory and disclosure requirements and the prohibitive costs of complex reconciliations to U. S. GAAP.

In the political systems interpretive framework, the SEC subculture within the larger legalistic U. S. political culture has been subjected to external and internal stimuli (pressures). The SEC has responded to these stimuli by changing its regulatory requirements for foreign private issuers, by participating in international harmonization efforts and by negotiating Memoranda of Understanding, by accepting foreign financial statements prepared in accordance with some International Accounting Standards Committee standards, and by working on a one-on-one basis with foreign issuers seeking entry to U. S. securities markets.

In an individualistic, legalistic political culture like that of the
U. S., individuals are expected to take care of themselves. In order for them to be able to do so, they rely upon laws, rules and regulations to level the playing field. When investing, a level playing field is secured through full and fair disclosure of information, i. e., transparency. This is achieved through regulation of publicly traded corporations and the information they are required to disclose.

The SEC's responses to external stimuli have been circumscribed by its legal mandate to protect the U. S. investing public. Over the past decades, SEC spokespersons repeatedly have voiced their concern about the need to protect U. S. investors

while undertaking efforts to internationalize capital markets. So often is this need mentioned, that it is difficult to argue that the SEC is giving mere lip service to its mandate. Rather, it is an explanation for the deliberate approach the SEC has adopted to easing the regulatory burden for foreign private issuers. Furthermore, recent SEC initiatives to permit adherence to international accounting standards are even more striking in that they represent major shifts away from insistence upon strict adherence to, or reconciliation to, U. S. GAAP. Thus, the SEC has interacted with the harmonization efforts of the IASC in a positive manner, validating the quality of the standard setting work of that body. This is highly significant as, by doing so, the SEC has acknowledged for the first time that non-U. S. standards provide sufficient transparency and are appropriate protection for U. S. investors.

Still, it bears recalling that the SEC has made no iron clad commitment to endorse the IASC's core standards output; it will "consider" it once completed. it is a fair bet the SEC will endorse the output of the work program if it is convinced that it has resulted in high quality core standards, and provides sufficient investor protection. Since the IOSCO Board has endorsed unanimously the IASC's core standards output, and the U. S. SEC has a membership position on that Board, the SEC is under considerable pressure to follow suit.

SEC adoption of the output of the IASC's core standards is likely to simplify foreign issuer offerings of securites on U. S.

exchanges, eliminating at least some of the current costs of compliance with, or reconciliation to, U. S. GAAP. The accounting and regulatory compliance burdens of foreign private issuers would be reduced; this could well result in a significant influx of foreign issuers onto U. S. exchanges. This study suggests that the SEC will respond to external and internal pressures to accept, in some manner, the IASC's core standards which promise to achieve these ends.

This study has employed a systems model to investigate political culture's impact upon the U. S. Securities and Exchange Commission's responses to globalization of securities offerings. It has employed an extrinsic observational approach to analysis of the changes observed. It is subject to the limitation that causal factors have been inferred, rather than directly observed and empirically documented. Follow up research could employ the model to explicate internal decision making processes through direct participation and observation.

The political cultural interpretive framework used in this study aids in understanding the modus operandi of the U. S. Securities and Exchange Commission. It shows that the SEC is a creature of its cultural milieu; its actions are influenced by the legalist framework which is central to the larger U. S. culture. In response to its legal mandate to guarantee full information disclosure and to protect investors, its policy moves are often

very deliberate. Yet, the pragmatism of its cultural value system enables it to take rather effective action when confronted by external challenges, such as the fear of loss of market share in foreign equity trading to foreign securities markets. The analytical model makes possible the location of the SEC in its environment and the derivation of a conceptual picture of how the SEC is influenced by it, and interacts with and responds to it. The model could be used to study regulatory agencies in other countries and cultural areas.

Endnotes

1. To argue that development progresses from nascent industrial to advanced industrial states is not to suggest that it occurs in uniform or universally applicable stages. "It is not that modernity 'emerges' from tradition as leaves emerge from the buds of a plant, but it spreads from place to place" (Weinstein and McIntyre 1986, 69). In its progression, it interacts with and challenges ancient traditions and cultures. As a result those ancient traditions and cultures adapt. "Cultures make their choices according to their ethos and idiom and determine how best they can adapt and absorb innovations" (Dube 1988, 508). Individual states progress at different paces over time and with respect to each other. Traditions and cultures are intervening forces that have considerable power to influence both the pace and direction of development.

2. "To effect assimilation there must be a meshing of the new with the existing structures in such a way as to allow changes to penetrate the system while retaining the core values of the society....The mesolevel provides an intermediary level where decisive shifts at the microlevel can be recognized by the political culture....the mesolevel transmits to the macrolevel the outcomes of crucial conflicts at the microlevel...." (p. 48) Microlevel changes can be accomplished in a single generation; significant changes at the macrolevel require a long historical period.

3. American securities exchanges registered according to the U. S. Securities Act of 1993 include the New York Stock Exchange (NYSE), the American Stock Exchange (Amex), various regional exchanges and the options markets. The National Association of Securities Dealers Automated Quotation System (Nasdaq) is registered under the Securities Exchange Act of 1934 as amended by the 1938 Maloney Act which authorized the registration of national securities associations of broker/dealers. In 1995, issues of foreign securities and American Depository Receipts traded respectively: NYSE 75 and 166; Nasdaq 249 and 112; and Amex 56 and 7. Nasdaq. *The Stock Market 1996 Fact Book & Company Directory*. (Washington, DC: The Nasdaq Stock Market, Inc., c1996), p. 31.

4. Haseltine, citing *SEC v. Capital Gains Research Bureau* (375 U. S. 180 (1963), 186) and *Ernst & Ernst v. Hochfelder* (425 U. S. 185 (1976), 195), has offered the following:
   The US Supreme Court has noted that the "fundamental purpose" of the federal securities law is to "substitute a philosophy of full disclosure for the philosophy of *caveat emptor* and thus to achieve a high standard of business ethics in the securities industry". According to the Court,

the Securities Act of 1933 ("the 1933 Act") was "designed to provide investors with full disclosure of material information concerning public offerings of securities...to protect investors against fraud and...to promote ethical standards of honesty and fair dealing". Similarly, the Securities Exchange Act of 1934 ("the 1934 Act") was intended "to protect investors against manipulation of stock prices...and to impose regular reporting requirements on companies whose stock is listed on national securities exchanges".

5. The National Market System Amendments established five goals, including (1) fair competition among brokers and dealers, among exchange markets, and between exchanges and other marketplaces; (2) efficient executions of securities transactions; (3) securities quotation and transaction information readily available to brokers, dealers, and investors; (4) best trade execution opportunities; and (5) execution of customer orders without dealer intervention. In addition, Congress called for communication and data processing facilities to link markets for qualified securities (Bronfman, Lehn and Schwartz 1994).

6. A background interview has certain unwritten rules. The interviewer may publicize the information received but not identify its source(s). Identification of the source requires the prior permission of the interviewee(s). Thus, backgrounder information is given on a non-attribution basis.

7. The SEC is subjected to conflicting and contradictory pressures. It cannot possibly satisfy all external and/or internal demands. For example, while some are encouraging the SEC to adopt international accounting standards in order to encourage non-U. S. world class companies to list on U. S. exchanges (Freund 1997), others argue that the "SEC should defend U. S. GAAP against international standards" (Ketz and Miller 1997), or that international standards "threaten U. S. companies" (Berton, 1997).

8. The SEC was subjected to considerable, and conflicting, pressures in support of, and in opposition to, the NYSE's position. For Editorials in support, see: Jarrell, G. C. SEC Crimps Big Board's Future. *Wall Street Journal*. (June 19, 1992): A10; Freund, W. C. Another SEC Curb on Stock Exchanges. *Wall Street Journal*. (September 2, 1992): A10; and Freund, W. C. That Trade Obstacle, the SEC. *Wall Street Journal*. (August 27, 1993): A3. For evidence of the opposition, see NASD Chairman Criticizes Foreign Listing Proposal. *Wall Street Journal*. (April 5, 1991): C16. For several years there has been great competition between the NYSE and Nasdaq to secure foreign issuer listings. See: Jonathan Karp, "U. S. Markets Battle to List Foreign Firms," *Wall Street Journal*. (July 8, 1997): C1 and C17; and John A. Byrne, "Foreign Listings Showdown: Exchanges Chase the Same Dream," *Traders*. (February 1997): 56-58.

9. With the integrated disclosure system, Form F-3 may be used by a foreign issuer who has filed with the SEC for at least three years and has at least $300 million of float. Form F-3 is suitable for all securities offerings except exchange offers. The registering company must not have defaulted since the end of its most recent fiscal year on any dividend payments or sinking fund installments, or on any debt or long-term lease payments. Form F-3 incorporates by reference the latest Form 20-F of the foreign issuer. The prospectus is limited to information not previously reported; it need not include Form 20-F.

   A foreign issuer may use Form F-2 if it has filed with the SEC for three years or if it has filed one Form 20-F with the SEC. All Securities Act transactions except exchange offers are covered. The foreign issuer must have at least $300 million of worldwide float. Form F-2 incorporates by reference the issuer's latest Form 20-F which, nevertheless, must accompany the prospectus. The default conditions are the same for Form F-2 as for Form F-3.

   Foreign issuers who do not qualify to use Forms F-2 or F-3 must use Form F-1; they may not incorporate the Form 20-F information by reference. All Form 20-F information must be included in the F-1 prospectus.

10. The Commission justified its proposal of short-forms for foreign private issues, a significant departure from past practice, with the following reasons:

    (1) Adoption of Form 20-F, Release No. 34-16371, substantially increased the amount of disclosure contained in the annual reports of foreign issuers making feasible an integrated system;

    (2) The developing disclosure practices and accounting principles in many foreign countries and the harmonization of divergent practices by international guidelines were encouraging. The Commission recognized supportively the efforts of the European Community (EC), the International Accounting Standards Committee (IASC), the Organization for Economic Cooperation and Development (OECD), and the United Nations (UN) to formulate guidelines and international disclosure standards. These efforts and the disclosure practices of foreign issuers indicated that "the disparity between the accounting and disclosure practices of the United States and many other countries is narrowing"; and

    (3) In attempting to design an integrated disclosure system that parallels the disclosure system for U.S. issuers but also takes into consideration the different circumstances of foreign registrants, the Commission was seeking a way to administer the federal securities laws in a manner that would not unfairly discriminate against or favor foreign issuers.

11. The filing may be made within six months after the end of the registrant's fiscal year. Interim financial information relating to revenues and income that is more current than the financial statement required, if prepared and disclosed to shareholders or made public according to foreign laws or regulations of stock exchange requirements,

should be included in the filing and reconsidered according to the provisions of either Item 17 or Item 18 of Form 20-F. Generally, a foreign private issuer may state its primary financial statements only in the currency of the country in which the issuer is incorporated or organized. The currency used should be disclosed prominently on the face of the financial statements. (Foreign issuers are not bound by SFAS No. 52.) Foreign private issuers which operate in hyperinflationary economies, and which have not recast or supplemented their financial statements to include constant currency or current cost information, should present supplementary information to quantify the effects of changing prices upon their financial condition and results of operations. A brief textual presentation of management's views is required; no specific numerical financial data need be presented. The financial statements may be prepared according to a comprehensive body of accounting principles other than U.S. generally accepted accounting principles (GAAP) provided a reconciliation to U.S. GAAP and the provisions of Regulation S-X as specified in Item 18 of Form 20-F is also filed. Alternatively, the financial statements may be prepared according to U.S. GAAP.

A non-Canadian foreign private issuer should indicate the aggregate of benefits paid to or accrued on behalf of all directors and executive officers as a group unless it discloses to its security holders or makes public information for individually named directors and officers; in that case such information should also be disclosed. U.S. firms are required to make public all such information. (See Release No. 33-6486 for revised provisions affecting officers of domestic corporations.)

12. Certain advantages and disadvantages were foreseen by the Commission for each approach. The reciprocal approach would be simpler to implement, less costly and time consuming to registrants because only the issuer's domicile would review the offering. However, it could eliminate incentive for harmonization of disclosure standards of participatory countries, and provide investors less information than the common prospectus approach.

    The common prospectus approach would mean all participating countries would have the same standards of disclosure, and greater comparability of information between countries. The major disadvantage would be the difficulties associated with reaching agreement by the participating countries on disclosure standards. Multiple review may result in complications for the issuer and coordination problems for the three countries; these drawbacks would likely result in higher issuer costs.

13. Based on its experience with the MJDS with Canada (i. e., feedback), and seeking the further removal of impediments to transnational capital formation, on April 28, 1993, the SEC proposed revisions to its MJDS rules and forms. Included were proposals for (1) modifications to the

eligibility requirements regarding use of Forms F-9 and F-10 to eliminate the market capitalization thresholds (of Cn $180 million and Cn $360 million respectively) and to establish the public float threshold at U. S. $75 million; (2) recognition of investment grade ratings of securities rating organizations acceptable to Canadian securities regulators for purposes of Forms F-9 and 40-F filings; and (3) continuation of the requirement that financial statements presented in Forms F-10 and 40-F filings include a reconciliation to U. S. generally accepted accounting principles (Release Nos. 33-6997; 34-30032).

In June 1993, the SEC adopted the amendment to retain the financial statement reconciliation requirement. (Release Nos. 33-7004; 34-32531) Subsequently, the SEC adopted the amendments regarding Forms F-9 and F-10 eligibility requirements, and the recognition of ratings of securities by Canadian regulators.

Through March 31, 1995, there had been 92 filings by 65 Canadian issuers using the MJDS; a total of $18.54 billion of securities had been registered in the United States. Fourteen of these MJDS registrations involved non-underwritten rights offerings and fifteen involved exchange offers (Division of Corporate Finance, 37).

14. An indication of the significance of these revised 144A rules is the magnitude of such placements. As of March 31, 1995, over $114.4 billion of debt securities (including convertible debt) and over $20.7 billion of common and preferred equity securities have been sold in Rule 144a placements (Division of Corporate Finance, 24).

15. Expanded short-form and shelf registration benefits are evident in the reduction of the public float threshold for use of Form F-3 and full shelf disclosure from $300 million to $75 million, and the reporting history requirement from 36 months to 12 months. The foreign company must have filed at least one annual report prior to its first use of Form F-3 in order to ensure that information regarding the issuer is available to the market.

A number of measures were adopted to streamline financial statement reconciliation, including (1) acceptance of Cash Flow Statements prepared in accordance with International Accounting Standard No. 7, as amended. (The presentation of cash flow information should be consistent for all periods presented in the filing); (2) permission to first-time registrants to reconcile the required financial statements and selected financial data for the two most recently completed fiscal years and any required interim periods; and to the reconciliation pursuant to Item 17 of Form 20-F for all offerings of non-convertible investment grade securities regardless of the registration form used by the foreign private issuer; (3) elimination of the requirement to reconcile separate financial statements of acquired businesses and equity investees under the 30% significance level; (4) accommodation to an issuer that uses pro

rata consolidation for a joint venture to provide summarized condensed financial information on its joint venture interest, including cash flow information; and (5) elimination of six financial schedules.

16. In addition, the SEC provides a new safe harbor for certain company announcements regarding exempt offerings or unregistered offshore offerings; and permission to broker-dealers issuing research reports to rely upon the simpler conditions of the Rule 139 safe harbor with respect to certain foreign issuers that have had securities listed or quoted on a designated offshore securities market for at least 12 months.

17. The SEC eliminated the Form 20-F Item 17 and 18 requirement that a foreign issuer quantify the effects on financial statements of its use of a translation methodology other than SFAS No. 52 for operations in a hyperinflationary environment, provided that the method used conforms with IAS 21, as amended in 1993, and is consistently applied in all periods. IAS 21 requires that the financial statements of operations in a hyperinflationary environment be restated for the effects of changing prices and then translated to the reporting currency

18. Other accommodations address the age of financial statements, and the nature of reconciling information. The rule also eliminates financial schedules on short-term borrowings, and on supplementary income statement information that both domestic and foreign issuers were previously required to include in annual reports and registration statements filed with the SEC.

19. In the June, 1995, issue of *IASC Insight* (p. 17), an interview with Columbia University's Trevor Harris appears. Harris pointed out that the SEC's subsequent recognition of IAS 7 "(f)rom a signalling point of view...was good, but in terms of substance, it's not going to make much difference" as the IASC Standard "is essentially the same as US GAAP."

Harris was more impressed by the SEC's endorsement of IAS 21 on the effects of changes in foreign exchange rates, and IAS 22 dealing with business combinations. Harris stated, "In those cases, there are significant differences from US GAAP. Here's a situation where the SEC has decided two IASs are equally as good as US GAAP from an investor's perspective...."

Harris acknowledged that the SEC, by joining the International Organization of Securities Commissions in endorsing IASC Standards could, thereby, indicate its acceptance of IASs. Harris opined, "I think part of the difficulty of the SEC doing that is that it is concerned about what that could mean to US registrants, as opposed to non-US registrants."

Harris touched upon the crux of the balancing act that the SEC confronts. The SEC must consider the impact of its actions to encourage

international harmonization upon U. S. registrants and investors in U. S. securities. While seeking to maintain a level playing field for domestic and non- domestic issuers, the SEC is mandated to protect investor interests.

20. The IASC's assignment of top priority to completion of its package of 'core' standards for cross-border listings has sparked criticism that it is ignoring other important groups, such as smaller enterprises, enterprises is developing countries, and public sector (not-for-profit) enterprises. *IASC Insight* (June 1997, pp. 1 and 4) indicates that once the IASC Board finishes the IOSCO program, it will consider whether a separate project is needed to look into the entire body of International Accounting Standards from the standpoint of smaller enterprises.

21. The SEC's responses to the demands to ease the regulatory burden upon foreign issuers had been sufficiently dramatic to prompt Decker (1994) to state: "there has never been a better time for non - U. S. companies to register with the SEC. This was not always the case. Five years ago and beyond, there was a very different kind of environment at the SEC that essentially warned, 'if you want to play in our ball park, you play by our rules; if it's difficult, that's too bad.'...Now it's a whole different game. The SEC wants the process to work...."

22. In December 1999, the IASC Board approved the restructured organization recommended in its report, *Recommendations on Shaping IASC for the Future*.

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