

2003

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Recommended Citation

Amy McFarlane, *In the Business of Development: Development Policy in the First Two Years of the Bush Administration*, 21 BERKELEY J. INT'L LAW. 521 (2003).

Available at: <http://scholarship.law.berkeley.edu/bjil/vol21/iss3/4>

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In the Business of Development: Development Policy in the First Two Years of the Bush Administration

By
Amy McFarlane*

I. PREFACE

This article discusses the ways in which President George W. Bush's administration has, in the first two years of its tenure, worked to alter existing models of U.S. development spending to allow for increased U.S. discretion over the substance and quality of development programs. It additionally discusses the modes of aid—namely, bilateral commitments and informal partnership arrangements—that the administration has favored. This discussion ultimately suggests that the current administration has designed its actions and policies to ensure that U.S. interests—both public and private—are significant beneficiaries of American development spending. By privileging bilateral aid and partnership arrangements over cooperative, multilateral models of development spending, the administration threatens to radically reshape previous models of American development spending in the image of the corporate form.

II. INTRODUCTION

On March 14, 2002, President George W. Bush, addressing the Inter-American Development Bank, pledged that the United States would increase its economic assistance to developing countries by fifty percent over the next three budget cycles.¹ This commitment, if fully funded by Congress, will produce a \$5 billion annual increase over current levels of U.S. foreign aid expenditures by 2006.² It represents the first significant expansion of aid spending by the United States in a decade.³

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1. Press Release, U.S. Agency for International Development, Millennium Challenge Account Update: Fact Sheet (June 3, 2002), at http://www.usaid.gov/press/releases/2002/fs_mca.htm (last visited Feb. 23, 2003).

2. *Id.*

3. See Carol Lancaster, *Foreign Economic Aid*, FOREIGN POLICY IN FOCUS (Dec. 2000), at <http://www.foreignpolicy-infocus.org/briefs/vol5/v5n42economic.html> (last visited Apr. 10, 2003).

President Bush explicitly tied this pledge of stepped-up U.S. foreign aid funding to the development aims articulated in the U.N. Millennium Declaration, which was adopted as a General Assembly resolution following the U.N. Millennium Summit in September 2000.⁴ Among other things, the Declaration calls for “more generous development assistance” and “enhanced debt relief” for less developed countries, and determines to “halve, by the year 2015, the proportion of the world’s people whose income is less than one dollar a day and the proportion of people who suffer from hunger.”⁵ Bush, announcing the pledge, declared, “America supports the international development goals in the U.N. Millennium Declaration, and believes that these goals are a shared responsibility of developed and developing countries.”⁶ To signal the affinity between his proposed program and the Millennium Declaration, Bush announced that the additional aid funds would be channeled through a government-administered trust called the Millennium Challenge Account (MCA).⁷

While Bush emphasized the nexus between his MCA program and the Millennium Declaration goals, he simultaneously distinguished this foreign aid program from past U.S. development aid funding. The program conditions the receipt of funds upon the recipient’s ability to produce measurable results such as adopting good governance, investing in health care and education, and maintaining free markets.⁸ Bush declared that the Secretary of State and the Secretary of the Treasury would be jointly responsible for the “develop[ment of] a set of clear and concrete and objective criteria for measuring progress.”⁹ The MCA program thus explicitly demands certain returns from aid recipients. Bush remarked that, in exchange for development assistance, the United States “expect[s] nations to adopt the reforms and policies that make development effective and lasting,” and additionally expects recipient nations to demonstrate that the receipt of U.S. funds served as the direct cause of some measurable progress.¹⁰

Although many in the development community criticized the outcomes-based approach of the MCA, the proposed massive increase in aid spending nevertheless surprised those who believed that a Republican administration would never advocate an increase in the U.S. foreign aid budget. Some leaders of non-governmental organizations proclaimed that the announcement represented “‘a breakthrough,’” declaring that “‘George W. Bush recognizes that

4. G.A. Res. 55/2, 8th plen. mtg., U.N. Doc. A/55/L.2 (2000) [hereinafter Millennium Declaration].

5. *Id.* at ¶¶ 15, 19.

6. President’s Remarks to Inter-American Development Bank, 38 WEEKLY COMP. PRES. DOC. 419, 421 (Mar. 14, 2002).

7. *Id.*

8. *Id.* at 422.

9. *Id.*

10. *Id.* There is significant evidence that outcomes-based approaches to development spending and grants-in-aid do not result in more efficient allocation of funds by recipient nations; in fact, many have argued that outcomes-based approaches result in extremely inefficient allocation, as recipients use funds primarily for projects that will result in demonstrable “progress,” and will thus guarantee future funding. This article discusses this issue more fully later; see text accompanying notes 123-127.

poverty and hunger are the real axis of evil, and he's talking real money.'"¹¹ Others, such as economist Jeffrey Sachs, tempered their praise, but expressed hope that the proposal signaled the administration's intent to implement the goals outlined in the Millennium Declaration. Sachs stated that he was "very gratified that the president spoke about the millennium goals," and he hoped that the unveiling of the plan was "going to be the start of a considerable deepening of the U.S. commitment [to development goals]." Sachs further remarked, "It's a real sea change."¹²

To a certain extent, the MCA proposal evinces the administration's commitment to development goals, such as promoting economic growth and reducing poverty in developing countries. However, certain elements of the MCA—for example, the mode of administration of the program and the attachment of progress standards to the receipt of the funds—suggest that the current administration has so far adopted a strictly bilateral approach to grants of foreign economic aid. The administration's rejection of key multilateral environmental accords demonstrates that it has so far eschewed collaboration with the international community on sustainable development programs.¹³ Instead, it has adopted a rather insular approach to tackling development issues.

This article discusses the ways in which the Bush administration's policies pertaining to global development issues—from debt relief to economic aid to sustainable development initiatives—reflect the view that the United States can most adequately address problems of global poverty through bilateral engagement. As such, the administration's policy proposals have taken shape in isolation from a broader international discourse. This "go-it-alone" strategy has serious implications, as it indicates that future U.S. participation in, and funding of, various development projects will depend upon the goodwill of the administration, rather than upon concrete obligations arising from U.S. participation in multilateral accords. Though the United States historically insisted on retention of discretionary control over the funds it provided for foreign development, the Clinton administration demonstrated a nominal willingness to engage in multilateral commitments. The Bush administration's resistance to taking part in an international dialogue regarding appropriate development policy indicates a retreat from Clinton's more multilateral approach, and a retrenchment to the long history of American avoidance of multilateral commitments regarding foreign aid and sustainable development concerns.

In addition to addressing the overarching problems generated by the administration's aversion to multilateral development commitments, this article specifically takes issue with the administration's decision to transfigure the mechanisms by which the United States distributes and monitors its Official Development Assistance (ODA). The administration has announced, pursuant

11. Paul Blustein, *Bush Seeks Foreign Aid Boost; Plan Counters Overseas Critics*, WASH. POST, Mar. 15, 2002, at A1 (quoting the Rev. David Beckmann, president of Bread for the World).

12. *Id.* (quoting economist Jeffrey Sachs, then a Harvard University professor).

13. See *infra* Section V; see also Greg Kahn, *The Fate of the Kyoto Protocol Under the Bush Administration*, 21 BERKELEY J. INT'L L. 548 (2003).

to its new Global Development Alliance initiative, its plans to administer a significant amount of its ODA through "partnership" arrangements with nongovernmental organizations, private foundations, and private corporations. The inclusion of private corporations in these partnerships may skew American ODA distribution toward those developing countries that show promise as markets for U.S. firms while denying aid to countries that are equally needy but less attractive to corporate interests. This article examines the potential of the Global Development Alliance program to privilege business interests over humanitarian interests in the allocation of American foreign aid.

The first part of this article briefly discusses a recent chapter in America's history of ambivalence toward multilateral engagement, looking both at the American failure to uphold commitments made at the 1992 United Nations Conference on Environment and Development, and the difficulties faced by the Clinton administration in securing funding for its development proposals. The article then addresses the various measures affecting development that the Bush administration has taken, tracing the progress of Bush's policy decisions from his campaign proposals to the announcement of the Millennium Challenge Account. It then considers the nature and extent of U.S. participation in the Monterrey Financing for Development Conference and the Johannesburg World Summit on Sustainable Development. Finally, it evaluates the consequences of the administration's reluctance to participate in multilateral commitments and its consideration of corporate interests in decisions regarding foreign aid allocation.

III.

THE LEGACY OF U.S. DEVELOPMENT POLICY INDEPENDENCE: FROM RIO TO THE MILLENNIUM

In 1992, the international community gathered in Rio de Janeiro to participate in the United Nations Conference on Environment and Development, commonly referred to as the "Rio Summit." Attended by a U.S. delegation led by President George H.W. Bush, the Rio Summit has been identified as a watershed event within environmental and development communities, perhaps because it "represented the first embrace of the concept of sustainable development at the level of global diplomacy and international law."¹⁴ Rio recognized sustainable development—defined by Paul Stanton Kibel as "the need to balance environmental priorities with economic development priorities . . . in a manner that does not jeopardize the interests of future generations"¹⁵—as a common international goal, resulting in the presentation of two binding conventions and three major agreements that covered a range of environmental issues pertaining to global development. The United Nations Framework Convention on Climate Change, which aimed to return carbon dioxide emissions to 1990 levels by the year 2000, entered into force in 1994 after ratification by 186 countries, including the

14. Paul Stanton Kibel, *UNCED's Uncertain Legacy: An Introduction to the Issue*, 32 GOLDEN GATE U. L. REV. 345, 346 (2002).

15. *Id.*

United States. The Convention on Biological Diversity, which sought to protect endangered species and ecosystems and promote sustainable use of natural resources, entered into force in 1993 after the accession of 172 countries. President Clinton signed the Convention, but it has never been ratified by the Senate and consequently is not binding upon the United States.¹⁶ In addition to these conventions, the United States expressed support for the Rio Declaration on Environment and Development, which defined the basic common obligations of individual countries to encourage sustainable development in the Statement of Forest Principles; and Agenda 21, which provided guidance for action in many areas pertaining to sustainable development.

While the Rio Summit indicated a commitment on the part of the United States to engage in a multilateral discourse regarding sustainable development, subsequent U.S. action on the agreements reached in Rio indicated a rejection of multilateralism. The Clinton administration's failure to make significant progress toward the implementation of basic principles of sustainable development is a broad issue far beyond the scope of this article; however, in order to provide some context by which to better understand the current administration's development policy, this article briefly touches on a few measures taken by the United States in the wake of the Rio Summit and discusses the general tenor of the Clinton administration's policy decisions concerning development during its last two years.

The transition from the George H.W. Bush administration to the Clinton administration took place soon after the Rio Summit, and early signs indicated that Clinton intended to make sustainable development a central issue in his foreign policy initiatives. In 1993, Clinton convened the President's Council on Sustainable Development (PCSD), and instructed it to formulate policy recommendations detailing "steps the United States could take to realize sustainable development."¹⁷ The membership of the PCSD was made up of roughly equal numbers of individuals from industry, government, and NGOs.¹⁸ From 1993 to 1999, the PCSD delivered three reports to President Clinton.¹⁹ These reports presented a broad array of policy recommendations intended to promote domes-

16. See Jim Fuller, *U.S. Pledges Continued Support for Climate Change Convention*, U.S. DEP'T OF STATE INT'L INFO. PROGRAMS, July 19, 2001, at <http://usinfo.state.gov/topical/global/climate/01071903.htm> (last visited Apr. 10, 2003).

17. PRESIDENT'S COUNCIL ON SUSTAINABLE DEVELOPMENT, *THE ROAD TO SUSTAINABLE DEVELOPMENT: A SNAPSHOT OF ACTIVITIES IN THE UNITED STATES* (Mar. 1997), at <http://clinton4.nara.gov/PCSD/Publications/Snapshot.html> (last visited Apr. 10, 2003).

18. See *id.*

19. See PRESIDENT'S COUNCIL ON SUSTAINABLE DEVELOPMENT, *SUSTAINABLE AMERICA: A NEW CONSENSUS FOR PROSPERITY, OPPORTUNITY, AND A HEALTHY ENVIRONMENT FOR THE FUTURE* (Feb. 1996), at http://clinton4.nara.gov/PCSD/Publications/TF_Reports/amer-top.html (last visited Apr. 10, 2003); PRESIDENT'S COUNCIL ON SUSTAINABLE DEVELOPMENT, *BUILDING ON CONSENSUS: A PROGRESS REPORT ON SUSTAINABLE AMERICA* (Jan. 1997), at http://clinton4.nara.gov/PCSD/Publications/Progress_Report.html (last visited Apr. 10, 2003); PRESIDENT'S COUNCIL ON SUSTAINABLE DEVELOPMENT, *TOWARDS A SUSTAINABLE AMERICA: ADVANCING PROSPERITY, OPPORTUNITY, AND A HEALTHY ENVIRONMENT FOR THE 21ST CENTURY* (May 1999) [hereinafter PCSD Final Report], at <http://clinton4.nara.gov/media/pdf/tsa.pdf> (last visited Apr. 10, 2003).

tic sustainable development in areas ranging from transportation efficiency to extended product liability.

The PCSD also created an International Leadership Task Force to address sustainable development opportunities outside of the U.S. In the PCSD's final report to President Clinton, issued in 1999, this task force suggested a basic framework to guide international action by the administration, stressing the need for a collaborative (that is, multilateral and multi-stakeholder) approach to sustainable development initiatives.²⁰ Additionally, the task force underscored the importance of American participation in international efforts to regulate the terms of cross-border investment, and urged the Clinton administration to encourage the promulgation of agreements such as the (now defunct) Multilateral Agreement on Investment and the Clean Development Mechanism proposal included in the Kyoto Protocol.²¹

Although the PCSD produced guidance on steps for achieving sustainable development at both domestic and international levels, the administration chose not to pursue the goals identified by the Council. Despite showings of initial enthusiasm within the administration for the Council's development agendas, sustainable development expert John Dernbach noted in 1997 that Clinton's White House had so far expressed "little effort or interest in implementing [the] recommendations" of the panel; this observation remained valid at the close of the president's term.²²

The reasons for Clinton's flagging commitment to sustainable development were primarily political. At the domestic level, President Clinton was unable to reconcile U.S. environmental laws with the prospective sustainable development framework established at Rio. Perhaps realizing that it would be politically difficult, if not impossible, to procure Congressional approval of mandatory environmental standards in areas such as greenhouse gas emissions, Clinton chose instead to pursue "voluntary programs with industry, including electric utilities and the transportation and buildings sectors," implementing proposals such as the Climate Change Technology Initiative. This plan provided \$6.3 billion in spending and tax incentives over five years to encourage the "use of energy efficient technologies in building, industrial processes, vehicles, and power generation."²³ While this strategy effected some degree of positive change, the United States ultimately did not reduce emissions to 1990 levels by the year 2000, thereby failing to meet its voluntary commitment under the U.N. Frame-

20. See PCSD Final Report, at 95.

21. *Id.* at 93-95.

22. John Dernbach, *U.S. Adherence to Its Agenda 21 Commitments: A Five-Year Review*, 27 ENVIRON. L. REP. 10504 (1997). Indeed, in 2002, Dernbach stated before the Senate Committee on Environment & Public Works and the Committee on Foreign Relations, "As a whole, the condition of America's natural resources and ecosystems has not improved, and appears to have deteriorated slightly, over the past decade." *Hearing Concerning Review of Implementation of Environmental Treaties before the Senate Comm. on Env't and Public Works and Comm. on Foreign Relations*, 107th Cong. (2002) (statement of John C. Dernbach, Professor of Law, Widener University).

23. Amy Royden, *U.S. Climate Change Policy Under President Clinton: A Look Back*, 32 GOLDEN GATE U. L. REV. 415, 416 (2002).

work Convention on Climate Change.²⁴ Furthermore, the administration was unable to secure Senate ratification of the Kyoto Protocol.²⁵

Compounding the White House's failures at home, the Clinton administration made scant progress toward U.S. encouragement of sustainable development on the international front. Faced with a Republican Congressional leadership, Clinton saw his foreign aid budget reduced from \$14.1 billion to \$13.7 billion, in pre-inflation dollars, from 1993 to 1999.²⁶ These budget cuts led to staffing cuts at the U.S. Agency for International Development (USAID), where over 1,200 direct-hire employees—a full third of the USAID staff—were eliminated from 1990 to 2000, leaving a dearth of mid-level experts at the agency.²⁷ Lastly, Clinton had to stave off Senate Foreign Relations Committee Chairman Jesse Helms's (R-N.C.) attempt to bridle USAID by merging it into the State Department.²⁸ Though Helms purportedly aimed to cut government waste and improve overall efficiency, the merger would have placed U.S. aid efforts, which are often motivated by humanitarian concerns requiring long-term engagement, under the administrative purview of the State Department, which is generally concerned with achieving short-term political goals.²⁹

In this context of severe domestic turbulence in the area of foreign economic assistance, it is unsurprising that Clinton failed to secure adequate financing to carry out U.S. commitments that arose from the Rio Summit. The Summit's Agenda 21 agreement called for significant official development assistance (ODA) from its signatories, noting that ODA "is a main source of external funding, and substantial new and additional funding for sustainable development and implementation of Agenda 21 will be required."³⁰ The agreement adopted the U.N. target for ODA financing of 0.7 percent of gross domestic product for all developed nations, and summoned all developed countries to make a good-faith effort to achieve that target in short order.³¹ In 2000, however, the U.S. spent just 0.1 percent of its gross domestic product on ODA, for net aid totaling approximately \$9.5 billion.³² The U.S. not only failed to meet

24. *Id.* at 416.

25. President Bush recently officially announced that his administration will not seek ratification of the Kyoto Protocol. For more on the Protocol, see Greg Kahn, *The Fate of the Kyoto Protocol Under the Bush Administration*, 21 BERKELEY J. INT'L L. 548 (2003).

26. Philip Shenon, *Departing Foreign Aid Chief Says Cuts Are Dangerous*, N.Y. TIMES, July 6, 1999, at A4.

27. Ben Barber, *Andrew Natsios: Getting USAID on Its Feet*, FOREIGN SERV. J., Sept. 2002, at 23.

28. *Id.*

29. See CAROL LANCASTER, *TRANSFORMING FOREIGN AID: UNITED STATES ASSISTANCE IN THE 21ST CENTURY* 41 (2000). Interestingly, Secretary of State Warren Christopher and Vice President Al Gore were the first proponents of the idea to merge USAID into State; after they abandoned the idea, Senator Helms embraced it as his own, and attempted to coerce the administration to adopt it by, for example, refusing to schedule hearings for Clinton's diplomatic appointees. See *id.*

30. U.N. Conference on Environment and Development, Agenda 21, U.N. Doc. A.CONF/151/26 (Vol. III), para. 33.13.

31. *Id.*

32. Organisation for Economic Co-operation and Development, Net Official Development Assistance Flows in 2000, Table 1, at <http://www.oecd.org/pdf/M00005000/M00005137.pdf> (last visited Mar. 7, 2003).

the U.N. target of 0.7 percent of GDP, but its ODA expenditure was well below the developed country average ODA commitment of 0.39 percent of GDP.³³ Indeed, as in previous years, the U.S. gave the least ODA as a percentage of GDP of any developed country in the world.

Though the Clinton administration failed to carry out the majority of U.S. commitments under the agreements reached at the Rio Summit, President Clinton did have two notable victories with respect to development issues toward the end of his presidency. At the 1999 Group of Seven conference in Cologne, Germany, Clinton agreed to join in the G-7 effort to radically cut the debt burden of the world's poorest countries. The program, slated to effectively forgive \$15-\$20 billion of official development assistance debt, called for allocating costs equitably among the G-7 nations. In September 1999, Clinton extended the commitment made in Cologne by pledging to forgive 100 percent of debt for the most indebted nations.³⁴ While the debt-forgiveness program remains to be fully implemented,³⁵ Clinton secured full financing for the early stage of the program, signing legislation that provided \$435 million for heavily indebted poor countries in November 2000.³⁶

In addition to the progress made in the realm of international debt forgiveness, the Clinton administration also succeeded in establishing more liberalized trade with Africa. In 1997, Clinton submitted the African Growth and Opportunity Act to Congress. After a somewhat delayed Congressional passage, Clinton signed the act into law in 2000. The Trade and Development Act of 2000, which included the African Growth and Opportunity Act, expanded the existing Generalized System of Preferences to allow for duty-free import of a broad range of items from sub-Saharan Africa, most significantly textiles and apparel.³⁷ Although some commentators have noted that the Act's failure to reduce tariffs and increase quotas on farm commodities³⁸ made it a "pale shadow of what their supporters had originally hoped to achieve in the way of opening the U.S. market much wider to exports from poor regions," the bill does promise to increase capital flows to sub-Saharan Africa, thus potentially stimulating economic growth and providing for some degree of economic development.³⁹

33. *Id.*

34. David E. Sanger, *Clinton Widens Plan for Poor Debtor Nations*, N.Y. TIMES, Sept. 30, 1999, at A1.

35. *Id.*

36. F.T. McCarthy, *Can Debt Relief Make a Difference? Debt relief for the world's poorest: Efforts to forgive poor countries their debts are speeding up, but it is not yet obvious whether they will be a lasting success*, THE ECONOMIST, Nov. 18, 2000, available at 2000 WL 8144429. The debt relief financing from the U.S. was pooled with other funds from developed nations. When World Bank and IMF processing of the debt relief program is completed, officials estimate that the pooled funds will represent a \$30 billion commitment to debt relief. *Id.*

37. See Press Release, United States Trade Representative, Office of the Press Secretary, Details of the Trade and Development Act of 2000 (May 19, 2000), available at 2000 WL 20194354.

38. Jim Lobe, *Clinton Signs Africa-Caribbean Trade Bill*, INTER PRESS SERV., May 18, 2000, available at 2000 WL 4091238.

39. See Eric Schmitt, *House Supports Trade Benefits to Aid Africa*, N.Y. TIMES, July 17, 1999, at A1.

These accomplishments in the development arena were important, but could not outweigh the U.S. failure to meet goals set at the Rio Summit. Thus, the Clinton legacy in this area has been heavily criticized.⁴⁰ J. Brian Atwood, head of USAID under Clinton and a Clinton appointee, decried the administration's unwillingness to "put up enough of a fight against the Republican leadership in Congress to restore money cut from the budget." However, though Clinton's official record on progress toward fostering development was spotty, his administration nonetheless took a very integrated approach to addressing development questions, framing the issues as global in scope and respecting the need for multilateral cooperation. This attitude did not pass on to Clinton's successor.

IV.

USAID AS VENTURE CAPITALIST: FROM INAUGURATION TO THE MILLENNIUM CHALLENGE

When George W. Bush took office in January 2001, few thought that his administration would be receptive to taking steps toward improving U.S. participation in development initiatives. During his campaign for the presidency, Bush infamously announced that, "[w]hile Africa may be important, it doesn't fit into the national strategic interests as far as I can see them."⁴¹ To those in both the domestic and international communities already suspicious of Bush's foreign policy naiveté, this statement inspired dismay. That sense was compounded when, on his first full day as President, Bush reinstated restrictions on federal aid to overseas groups that provide any abortion counseling, even as a part of more general family planning services, or "otherwise help women obtain abortions," reviving rules that had been in place under the Reagan and George H.W. Bush administrations.⁴² Although Secretary of State Colin Powell attempted to assuage anxieties produced by these events, stating "Africa will be important" to U.S. policy and claiming that the President meant only that "[t]here are no particular threats coming to us from Africa and no need for troops,"⁴³ domestic and international skepticism as to Bush's commitment to development remained. For example, *African Business* magazine asked, "After the Clinton smile, will it be the Bush snarl?," and predicted that "U.S.-Africa relations [were] about to take an abrupt turn for the worse."⁴⁴

In May 2001, Andrew Natsios, Bush's appointee to head USAID, presented the 2002 USAID budget request to Congress and announced his intent to reor-

40. See, e.g., David Hunter, *Looking for U.S. Leadership*, Foreign Policy in Focus, at <http://www.foreignpolicy-infocus.org/papers/environment/leadership.html> (last visited Feb. 28, 2003).

41. Ian Fisher, *Africans Ask if Washington's Sun Will Shine on Them*, N.Y. TIMES, Feb. 8, 2001, at A3.

42. Frank Bruni & Marc Lacey, *Bush Acts to Halt Overseas Spending Tied to Abortion*, N.Y. TIMES, Jan. 23, 2001, at A1.

43. Interview by Cokie Roberts & Sam Donaldson with Colin Powell, U.S. Secretary of State (Feb. 5, 2001), at <http://usinfo.state.gov/topical/global/hiv/01020506.htm> (last visited Mar. 7, 2003).

44. Fisher, *supra* note 41, at A3.

ganize USAID around “four pillars.”⁴⁵ Three of these pillars were sectoral, or “program pillars”: Economic Growth and Agriculture, focused on “economic opportunity, agricultural development, education and training, and effective management of natural resources”⁴⁶; Global Health, devoted to “maternal and child health, nutrition, family planning, HIV/AIDS, and programs that address other infectious disease”⁴⁷; and Conflict Prevention and Development Relief, charged with “promoting and assisting the growth of democracy” and providing emergency relief for international disasters.⁴⁸ The sectoral pillars announced by Natsios represented a general managerial restructuring of existing programs rather than a radical change in agency policy.

The fourth pillar, however, signaled a more dramatic shift in agency philosophy toward free-market approaches to development aid. Natsios introduced the fourth pillar, the “Global Development Alliance,” as “USAID’s new model for doing business.”⁴⁹ Business was indeed an apt metaphor. Natsios told Congress that USAID “want[ed] to fill the role of a strategic alliance investor, a role akin to that of a venture capital partner, to address important development needs” in order to assure a greater rate of benefit return on the investment of U.S. development aid.⁵⁰ As such, Natsios announced that USAID would pursue a variety of partnerships with entities such as “religious institutions, non-governmental organizations, private foundations, universities, [and] corporations.”⁵¹ Although this mode of “doing business” was not entirely unprecedented—as Natsios noted, the Global Alliance on Vaccines and Immunizations previously coordinated efforts between USAID, the U.N., the Gates Foundation, and the Rockefeller Foundation—the inclusion of private-sector companies as potential “partners” in institutionalized development spending was quite novel.⁵² Natsios embraced the notion that corporate participation in these partnerships might arise out of a business interest in expanding global markets for particular products. He noted that the Global Development Alliance would work precisely because “U.S. organizations and companies want to and already do help less fortunate people worldwide, out of American compassion and out of the desire to create new markets.”⁵³

The Global Development Alliance proposal clearly aimed to blur the line between official development assistance, which comes from states or state-funded intergovernmental entities, and foreign private investment. Interestingly, soon after Natsios outlined the Global Development Alliance initiative before Congress, he proposed to drop the term “sustainable development” from the

45. USAID Administrator Andrew Natsios, Testimony Before the House Appropriations Committee Subcommittee on Foreign Operations (May 17, 2001) (transcript available at http://www.usaid.gov/press/spe_test/testimony/2001/ty010517.html (last visited Mar. 1, 2003)).

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

department's official lexicon. In an address to the Advisory Committee on Voluntary Foreign Aid, Natsios announced that he was "not going to use the term 'sustainable development'" because it was "an arcane term that only NGOs and PVOs, AID staff, and U.N. agencies know."⁵⁴ He continued:

The word 'development' in the United States means raising money for private charity. That's what the word means. . . . If you explain that we do economic growth, we do agriculture, we do environmental programs . . . people intuitively know what we do. I am going to focus our attention more on what we do[.]⁵⁵

While Natsios' desire to focus public attention on the substance of USAID programs is admirable—public understanding of what USAID does is crucial to the foment of public support for overseas development spending—perhaps his wish to purge "sustainable development" from official terminology comes more from the administration's view that development aid should be run as a business than from concerns regarding the global sustainability consequences of the enterprise. In any case, the announcement of the Global Development Alliance initiative, with its emphasis on fostering increased private capital flows via public-private partnerships, indicated that USAID would increasingly rely on market solutions to solve development problems.

Ironically, even as the administration promoted the notion of development via market creation and expansion, it refused to accommodate appeals to the U.S. to open its markets to commodities from developing nations. Imploring developed nations to couple debt relief initiatives with liberalized trading, World Bank President James Wolfensohn pointed out that it is "simply hypocritical to give debt relief with one hand and then deny poor countries the ability to export their way out of poverty with the other."⁵⁶ In President Bush's address to the World Bank a few days later, Bush recognized the need to open markets, noting that "one of the most important objectives" of the Genoa G-7 meeting would be to "secure [a] strong endorsement for a launch of a new round of global trade,"⁵⁷ but did not specifically address the issue of American barriers to imports from developing countries.⁵⁸ Instead of taking proactive domestic measures to ensure reciprocal market access and encourage development—by, for example, advocating lower American tariffs on textiles or agricultural commodities—Bush suggested that the development banks should issue grants instead of loans, and

54. USAID Administrator Andrew Natsios, "USAID's New Approach to Development," Key-note Address to the Advisory Committee on Voluntary Foreign Aid (May 31, 2001) (transcript available at http://www.usaid.gov/press/spe_test/speeches/2001/sp010531.html (last visited Mar. 1, 2003)).

55. *Id.*

56. Frank Bruni & David E. Sanger, *Bush Urges Shift to Direct Grants for Poor Nations*, N.Y. TIMES, July 18, 2001, at A1.

57. President's Remarks at the World Bank, 37 WEEKLY COMP. PRES. DOC. 1048, 1049 (July 17, 2001).

58. In remarks made following Bush's address to the World Bank, National Security Adviser Condoleezza Rice stated that the need for free global markets to help the developing world must be balanced with domestic agriculture concerns; as she said, "it's also important to protect American farmers." Bruni & Sanger, *supra* note 56, at A1.

should consider forgiving existing loans. In his view, "up to 50 percent of the funds provided by the development banks to the poorest countries [should] be provided as grants for education, health, nutrition, water supply, sanitation and other human needs."⁵⁹ Critics noted the following flaw in this scheme: Because the World Bank funds loans and grants with income generated by the repayment of existing loans, cancellation of existing loans would lead to a shortfall in funds; absent stepped-up funding from contributing nations, the Bank cannot simultaneously forgive outstanding loans and issue grants rather than loans.⁶⁰

The "Four Pillars" approach to aid, when coupled with Bush's remarks to the World Bank, reveal much about the development-related goals set by the Bush administration. First, the administration established that it intended to tap private sector capital to expand the reach and impact of its programs. Though such public-private partnerships in development aid might skew the commitment of at least some aid funds toward recipients thought by the private sector to be potential future product markets, the administration regarded this as an unproblematic and intended consequence of the Global Alliance for Development initiative. Second and more importantly, the administration's early actions indicated that it planned to incorporate business models into its own development practices; it expressed that USAID should work as a venture capitalist, with development funds directly tied to "clear and measurable results."⁶¹ Finally, Bush picked up the Clinton administration's proposals regarding debt relief; however, instead of pledging a stepped-up American commitment to the relief effort, he recommended that the development banks simply issue grants rather than loans while simultaneously forgiving existing loans, even though this could in turn be financially ruinous for the banks.

Following the events of September 11, 2001, and during the subsequent war in Afghanistan, there was, unsurprisingly, a lull in the administration's discussion of broad development-oriented initiatives. On October 4, President Bush announced that the U.S. would provide \$320 million in humanitarian assistance to Afghanistan; USAID worked with NGOs and intergovernmental organizations in providing relief to the people of Afghanistan.

The attacks of September 11 also occasioned a significant rhetorical shift regarding U.S. development spending. Prior to September 11, the administration treated fiscal commitments to development assistance as non-obligatory, and suggested that aid efforts were driven by an American moral impulse. Addressing the World Bank in July of 2001, President Bush noted, "The needs [of the developing world] are many and undeniable . . . they are a challenge to our conscience and to complacency."⁶² While Bush stated in this speech that a "world where some live in comfort and plenty, while half of the human race

59. President's Remarks at the World Bank, *supra* note 57.

60. *Id.*

61. See Natsios, Testimony Before the House Appropriations Committee Subcommittee on Foreign Operations, *supra* note 45; President's Remarks at the World Bank, *supra* note 57, at 1050.

62. President's Remarks at the World Bank, *supra* note 57, at 1050.

lives on less than \$2 a day, is neither just, nor stable,"⁶³ he nevertheless described American development funding as voluntary contributions, spurred by conscience, rather than as obligatory expenditures, necessitated by national interests.

After September 11, the administration began to treat U.S. development commitments as mandatory spending designed to forestall the spread of terrorism. In his address to the Inter-American Development Bank in March 2002, Bush stated that although "[b]eing poor doesn't make you a murderer . . . when governments fail to meet the most basic needs of their people, these failed states can become havens for terror."⁶⁴ He continued:

In Afghanistan, persistent poverty and war and chaos created conditions that allowed a terrorist regime to seize power. And in many other states around the world, poverty prevents governments from controlling their borders, policing their territory, and enforcing their laws. Development provides the resources to build hope and prosperity, and security.⁶⁵

As global development became part of a broad strategy of precluding anti-American sentiment and encouraging the rule of law, the administration began to regard development expenditures as obligatory from a unilateral strategic perspective. To the administration, it was apparent that the United States would have to engage with the developing world at a more significant level so as to quell the chaos and resentment bred by dire poverty overseas; the White House imagined that development would bring prosperity and order, and would in turn prevent acts of global terrorism. Development became a tool in the employ of national security interests; the administration viewed engagement with global socioeconomics as crucial for domestic protection. The Millennium Challenge Account, discussed in the next section, allowed for such engagement while simultaneously ensuring that the United States would retain ultimate discretion over its fiscal expenditures for development.

V.

THE MILLENNIUM CHALLENGE ACCOUNT: RETAINING CONTROL OVER U.S. FUNDS

Since taking office, President Bush has stressed that his administration aims to make development aid more efficient. Indeed, a defining characteristic of the Bush administration's development policy to date has been its concern for the effective use of aid funds—as evinced by quantifiable outcomes produced by that aid—in recipient nations. The Millennium Challenge Account (MCA) proposal, discussed briefly at the outset of this article, reflects this concern by emphasizing the accountability of aid recipients and the use of outcomes-based performance metrics. This section of the article discusses the motives underlying the MCA and focuses on the ways in which the bilateral nature of the MCA

63. *Id.*

64. President's Remarks to Inter-American Development Bank, *supra* note 6, at 420.

65. *Id.*

allows for unilateral American control over aid allocation and monitoring, thereby guaranteeing that the MCA will direct U.S. funds toward programs that promise to produce easily quantifiable results.

The humanitarian goals that underpin the MCA were formulated at a multi-lateral level before Bush came into office. At the U.N. Millennium Summit, held in September 2000, U.N. member states agreed to a set of goals designed to eradicate extreme poverty and hunger, promote education, improve health, ensure environmental sustainability, and encourage global cooperation in development efforts; all member states pledged to reach these goals by 2015.⁶⁶ To foster progress towards these goals, U.N. Secretary General Kofi Annan in December 2000 appointed an advisory panel, led by former Mexican President Ernesto Zedillo, to formulate concrete steps that the international community should take in order to achieve the Millennium Goals by 2015.⁶⁷ When this panel submitted its report to the Secretary General, it stated that, in order to meet the development targets, the developed world would have to commit an additional \$50 billion a year toward official development assistance.⁶⁸ To attempt to meet this level of stepped-up commitment, officials from some European states began to build a consensus for increased aid spending in the developed world.

Bush administration officials, however, generally rejected European overtures; in the months following September 11, the U.S. primarily focused its attentions on the war in Afghanistan and national security concerns. Gordon Brown, the British Chancellor of the Exchequer, had made public appeals for stepped-up development aid, proposing that developed nations should double their overseas development assistance to meet the U.N. Millennium Goals.⁶⁹ Mr. Brown imagined that the increased economic assistance to developing countries could produce an effect in the developing world similar to that seen in Europe following World War II. He proposed that “‘the international community . . . establish a new international fund leveraged up to \$50 billion a year.’”⁷⁰ In December 2001, Brown met with Treasury Secretary Paul H. O’Neill to request that the United States commit to the aid increase, which would, if fully funded, amount to a doubling of global foreign aid.⁷¹ Seizing on post-September 11 rhetoric, Brown stated, “what happens to the poorest person in the poorest country can affect the richest person in the richest country,” and

66. Millennium Declaration, *supra* note 4, at ¶ 19.

67. Press Release, High Level Panel on Financing for Development, Kofi Annan Appoints Former Mexican President Zedillo to Head Panel on World’s Development Financing Needs, at <http://www.un.org/esa/ffd/PRZedillo1200.htm> (last visited Mar. 7, 2003).

68. *Report of High-Level International Intergovernmental Consideration of Financing for Development*, High Level Panel on Financing for Development, 55th Sess., Agenda Item 101, at 20, U.N. Doc. A/55/1000 (2001); see also *PRE-BUDGET REPORT SPEECH—Brown Sets out his Vision to Build “a Stronger Fairer Britain,”* FIN. TIMES, Nov. 28 2001, available at 2001 WL 30142489.

69. Paul Blustein, *Another Plea for More Aid to Poor, U.S. Hesitant as IMF, World Bank Urge Bigger Contributions*, WASH. POST, Nov. 19, 2001, at A18.

70. *PRE-BUDGET REPORT SPEECH*, *supra* note 68.

71. Joseph Kahn, *Britain Urges U.S. to Expand Worldwide Antipoverty Programs*, N.Y. TIMES, Dec. 17, 2001, at A7.

urged O'Neill to participate in the effort.⁷² Although Canada, several European countries, and the U.N. supported Brown's plan, O'Neill rebuffed Brown; a Treasury spokesperson stated that O'Neill wanted to see clear outcomes from existing aid programs before extending additional aid, saying that "[t]he entire [American] nation will become more supportive of foreign aid when we see results."⁷³ This response to the Brown proposal echoed comments made by O'Neill at a World Bank meeting in Ottawa, Canada, a month earlier, where he said that the Bank should be "rigorous in measuring the results" of aid, as "[o]ver the last 50 years the world has spent an awful large amount of money in the name of development without a great degree of success."⁷⁴

The administration's fixation on improving the quality, assessed in terms of tangible outcomes rather than the quantity, of foreign development assistance continued through January 2002, as President Bush submitted budget requests for World Bank funds to Congress. The administration announced on January 12 that President Bush intended to "ask Congress to base future increases in aid to poor countries on evidence that the aid is actually bringing progress in such areas as education, trade and the environment."⁷⁵ Bush's 2003 budget recommended that aid funding of \$850 million be contributed to the World Bank, with future increases to \$950 million in 2004 and \$1.05 billion in 2005 contingent upon the Bank's creation of indices to "sho[w] that its aid was productive."⁷⁶ For example, John B. Taylor, Under Secretary for International Affairs, stated that the United States wanted to see figures showing that education performance improved in developing nations. He suggested that some relevant indicators might include "the number of additional students in school," and that the administration might want to "look at the quality, if possible, of that educational project, possibly based on some testing."⁷⁷ The proposals overlooked the fact that pinning performance standards to aid funding in developing countries might be inappropriate given the severe lack of institutional and capital resources in some of those countries. Indeed, even some of those within the administration recognized that perhaps performance standards, such as standardized testing for schoolchildren in developing countries, might not be entirely appropriate conditions to place on aid funding. A senior State Department official, speaking anonymously, stated that the search for short-term performance outcomes might be unrealistic given the long-term nature of development programs, saying, "There does have to be an appropriate time line . . . A number of these goals are goals for 2015."⁷⁸

The administration's refusal to commit to multilateral development aid regimes without a guarantee of performance-based results again surfaced during

72. *Id.*

73. *Id.* (quoting Treasury Spokeswoman Michelle Davis).

74. Adam Clymer, *Bush Seeks Aid for World Bank, Conditionally*, N.Y. TIMES, Jan. 12, 2002, at Sec. 1, p. 10.

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

preparations for the International Conference on Financing for Development in Monterrey, Mexico ("Monterrey Conference"). In January 2002, an American delegation attended the Fourth Substantive Session of the Preparatory Committee for the Monterrey Conference. The delegation fought to have language regarding specific funding commitment targets deleted from the Monterrey Communiqué.⁷⁹ In John Negroponte's initial address to the Preparatory Committee, mention of increasing overseas development assistance was conspicuously absent;⁸⁰ nearly every other delegation to the meeting had underscored the importance of stepped-up ODA to developing nations. As other delegations pressed for the inclusion of specific funding targets for increasing foreign aid in the Communiqué, the U.S. delegation steadfastly held that it would not permit inclusion of such language. At one point during the negotiations, the U.S. apparently "threatened to cancel plans to have President Bush attend" the conference at all.⁸¹ Faced with the Bush administration's intransigence, the Preparatory Committee eventually agreed to remove specific funding target language, choosing instead to call on developed countries to make "concrete efforts" to increase aid.⁸²

Given the administration's refusal to make concrete commitments to increase U.S. development aid, as well as the administration's overwhelming interest in ensuring that U.S. development aid produce easily quantifiable results in recipient countries, the President's implementation of the Millennium Challenge Account (MCA) program, which retains domestic control over aid spending, makes good sense. As mentioned earlier, this program calls for a \$5 billion increase in development assistance over the next three budget cycles, increasing U.S. overseas development assistance from its current level of approximately \$10 billion to \$15 billion by 2006.⁸³ The program proposes distributing aid to states that are committed to providing good governance, as evidenced by those states's efforts to "roof[t] out corruption, uphol[d] human rights, and adher[e] to the rule of law."⁸⁴ It expects recipients to reinvest in health and education in their countries, and calls upon states to implement economic policies that ensure free markets and support for entrepreneurship.⁸⁵ Most significantly, it premises the receipt of aid upon the achievement of "clear and concrete and objective" performance standards to be formulated by the Secretary of the Treasury and the Secretary of State.⁸⁶ As USAID notes, "[b]uilding capacity for quality data de-

79. Joseph Kahn, *U.S. Rejects Bid to Double Foreign Aid to Poor Lands*, N.Y. TIMES, Jan. 28, 2002, at A11.

80. Press Release, Ambassador John D. Negroponte, Statement to the Fourth Session of the Preparatory Committee for the International Conference on Financing for Development (Jan. 14, 2002), at http://www.un.int/usa/02_001.htm (last visited Mar. 2, 2003).

81. Kahn, *supra* note 76, at A11.

82. Monterrey Consensus (advanced final unedited version) Fourth Session of the Preparatory Committee, International Conference on Financing for Development, U.N. Doc. A/AC.257/32, Jan. 27, 2002, at Para. 34.

83. See President's Remarks to Inter-American Development Bank, *supra* note 6, at 421; Millennium Challenge Account Update: Fact Sheet, *supra* note 1.

84. Millennium Challenge Account Update: Fact Sheet, *supra* note 1.

85. *Id.*

86. President's Remarks to Inter-American Development Bank, *supra* note 6, at 422.

velopment and continuous country and project performance monitoring will be important components of the MCA and will be incorporated into its implementation.”⁸⁷

Whether, as some news commentators said, the announcement of the MCA was “in essence a pre-emptive strike before [the Monterrey Conference] on global aid to the poor,”⁸⁸ or whether it was, as President Bush indicated, part of an attempt to improve conditions in the developing world so as to forestall future attacks on the United States, the MCA proposal reaffirmed two basic stances of the Bush administration. First, the Bush administration opposes resolution of development issues in a multinational, multi-stakeholder forum. Second, the administration strives to avoid what it sees as the “old approach” to development aid—the practice of “writing checks without regard to results.”⁸⁹ Instead, the administration seems set on creating a unilateral, domestic monitoring mechanism that will ensure that the investment of American funds in developing countries produces tangible, direct outcomes.

VI.

MONTERREY AND JOHANNESBURG: U.S. (NON)ENGAGEMENT AT THE MULTILATERAL LEVEL

A. *Monterrey: Decidedly Not a “Pledging Session”*

President Bush’s remarks at the Monterrey Conference, held in March 2003, focused on the expansion of U.S. development assistance represented by the MCA and avoided discussion of U.S. resistance to engage in the multilateral effort to increase global aid by \$50 billion. Just prior to the opening of the Monterrey Conference, Alan Larson, Under Secretary for Economic, Business, and Agricultural Affairs, delivered a background briefing for the conference in which he cast aside concerns that the MCA funds would be insufficient to meet the U.N. Millennium Goals. He stated, “I don’t think anyone knows whether the correct amount or the needed amount of development assistance is any particular number. There simply isn’t the analytic base for doing that.”⁹⁰ He later remarked, “Monterrey is not going to be a pledging session.”⁹¹ Thus, the United States relied on the MCA proposal to effectively preclude any negotiation or meaningful discussion regarding U.S. aid funding levels at the conference.

87. Millennium Challenge Account Update: Fact Sheet, *supra* note 1.

88. Elisabeth Bumiller, *Bush Plans to Raise Foreign Aid and Tie It to Reforms*, N.Y. TIMES, Mar. 14, 2002, at A8. Following Bush’s announcement of the MCA, C. Fred Bergsten, of the Institute for International Economics, said: “[Bush] had to step forward and assert leadership. It takes him down to Monterrey in a much more positive vein. Otherwise he would have gone down there as the target of criticism and attacks from everybody else.” *Id.*

89. President’s Remarks to Inter-American Development Bank, *supra* note 6, at 422.

90. Alan P. Larson, Under Secretary for Economic, Business, and Agricultural Affairs, Briefing on International Conference on Financing for Development (Mar. 15, 2002) (transcript available at <http://www.state.gov/rls/rm/2002/8795.htm> (last visited Mar. 7, 2003)).

91. *UN Development Conference Opens Monday, Prospects for Results Seem Dim*, AGENCE FRANCE-PRESSE, Mar. 17, 2002, available at 2002 WL 2364315.

In addition to the administration's refusal to talk about additional aid commitments, the American delegation rejected many proposals made by other delegations at the conference to amend the declaration in order to expand financing for development. For instance, it rejected a proposal spearheaded by Britain and Germany for a global tax on activities such as currency transfers, carbon emissions, and airline travel.⁹² The German delegation presented a feasibility study on the taxation of foreign exchange transactions, suggesting that the implementation of a 0.01 percent tax on such transfers (a "Tobin Tax") could provide stability for exchange markets and discourage speculation while providing an intergovernmental organization, such as the U.N., with increased funds for development aid.⁹³ President Vicente Fox of Mexico embraced these proposals, stating that they could be used to "provid[e] money for development and [could also encourage] a more efficient use of scarce resources."⁹⁴ Patrick Cronin, an assistant administrator at USAID, said that, for the United States, the issue of a global tax "was a non-starter—the United States would never go for such a tax."⁹⁵ By the end of the Monterrey Conference, the U.S. delegation, supported by the Japanese delegation, had successfully removed the global tax language from the official conference declaration.⁹⁶

The final document generated by the Monterrey Conference did not include any call for developed countries to make additional development funding commitments. By the close of the Conference, the U.S. delegation had successfully eliminated all language suggesting additional U.S. commitments. The Monterrey Consensus encouraged developing countries to establish accountable, non-corrupt governance, ensure that aid funds were used for investment in basic economic and social structures, and open and stabilize markets to attract and enhance inflows of private capital.⁹⁷ The document called on developed countries to "work towards the objective of duty-free and quota-free access for all least-developed countries' exports,"⁹⁸ and "urge[d] developed countries . . . to make concrete efforts towards the target of 0.7 percent of gross national product (GNP) as ODA [overseas development assistance]."⁹⁹ Finally, the Monterrey Consensus advocated a general holistic and internationally-cooperative approach to development; however, specific standards for international partnership were not established.

92. Ben Barber, *White House Spurns Renewed Calls for World Tax*, WASH. TIMES, Mar. 20, 2002, at 1.

93. Paul Bernd Spahn, Summary of the Study on the Feasibility of a Tax on Foreign Exchange Transactions, presented by the Federal (German) Ministry for Economic Cooperation and Development, Panel on Feasibility of A Currency Transaction Tax, Mar. 19, 2002, at <http://www.un.org/esa/ffd/sideevents/se-19ger-BMZ%20Summary%20of%20Spahn%20study.pdf> (last visited Apr. 16, 2003).

94. See Barber, *supra* note 92, at 1.

95. *Id.*

96. *Id.*

97. REPORT OF THE INTERNATIONAL CONFERENCE ON FINANCING FOR DEVELOPMENT, at 8, U.N. Doc. A/CONF.198/11, U.N. Sales No. E.02.II.A.7 (2002) [hereinafter *Monterrey Consensus*].

98. *Id.*

99. *Id.* at 9-10.

Following the Conference, many commentators and NGOs criticized the American delegation's behavior. Some stated that the United States used the conference as a forum in which to announce its unilateral aid proposals. Others suggested that, from the start, the United States had no intent to engage in negotiation for expanded multilateral commitments.¹⁰⁰ The Bretton Woods Project, an NGO devoted to monitoring policy developments within the Bretton Woods organizations, issued the following statement: "[T]he 'Monterrey Consensus' is considered a failure, if not a set-back, by many participants to the Conference, including some Southern and European governments," because the Consensus "failed to offer new mechanisms to mobilise new financial resources to achieve the Millennium Development Goals."¹⁰¹

Though certain NGOs at the Conference welcomed the additional development funding promised by the administration's Millennium Challenge Account proposal, even these groups roundly criticized the implementation plans for the MCA. The Bretton Woods Project noted that there was no guarantee that funding would not be "allocated following highly political criteria in the U.S. crusade against terrorism."¹⁰² NGOs such as the Globalization Challenge Initiative expressed concern that, because the MCA was "clearly designed to boost private foreign investment," it would ultimately fund projects that would allow "the money [to] go back to U.S. corporations."¹⁰³ Other Conference policy commentators took issue with the administration's retention of sole discretion in the monitoring of MCA-funded projects. The Global Policy Forum, which evaluates U.N. policy, noted, "It is correct to demand that resources are used effectively to achieve their intended purposes, but the monitoring mechanisms should be independent rather than unilaterally imposed by donors."¹⁰⁴

The administration's failure, or refusal, to reach new multilateral concessions regarding development financing at Monterrey highlights the administration's preference for unilateral, domestically-administered and controlled development finance. The administration could have forestalled much of the criticism aimed at the MCA during the Monterrey Conference by ceding control of monitoring the funding to an intergovernmental or multinational agency. But control over such monitoring—and, presumably, the attendant ability to de-fund "underperforming" projects or condition funds on the acceptance of certain services from the American private sector—is vital to the administration's vision of the United States as a venture capitalist that organizes development as a business. The next section discusses how this conceptualization of development

100. See, e.g., Emira Woods, *The Power of Influence: FfD, The United States and ODA, Women's Environment and Development Organization*, at http://www.wedo.org/ffd/ffd_power.htm (last visited Feb. 28, 2003).

101. Bretton Woods Project, *Development Finance Summit a Fiasco, Say Campaigners* (Mar. 25, 2002), at <http://www.brettonwoodsproject.org/topic/reform/r2726ffd.html> (last visited Apr. 10, 2003).

102. *Id.*

103. *Id.*

104. Global Policy Forum, *Statement on the Monterrey Conference and the Bush Administration Proposal for Increased Aid to Poor Countries* (Mar. 20, 2002), at <http://www.globalpolicy.org/socecon/ffd/conference/2002/0320afract.htm> (last visited Apr. 10, 2003).

spending threatens to skew the selection and funding of development projects and enables the United States to further isolate itself from participation in inter-governmental or multilateral development projects. Indeed, the administration's embrace of market solutions for both short- and long-run development issues renders multilateral engagement on development superfluous. Further, it reflects the belief that private-public partnerships can effectively and entirely supplant multilateral cooperation on development.

B. Preparations for Johannesburg: The "Signature Proposals" and Industry Participation

Following the Monterrey Conference, the Bush administration began preparing for the next major international development conference, the World Summit on Sustainable Development ("Johannesburg Summit"), which was to occur in Johannesburg, South Africa in September, 2002. The intergovernmental planners of the Johannesburg Summit designed the conference to chart the progress that the international community had made since the Rio Summit in 1992, and also saw it as a forum in which to generate new ideas and partnerships in promotion of sustainable development. Stakeholder circles generally believed that developed countries had made little or no progress toward the goals outlined in the Rio Summit's Agenda 21; many called for Johannesburg to be action-oriented, rather than merely another discussion of broad sustainable development principles. Some dubbed Johannesburg the "down-to-Earth Summit."¹⁰⁵

The administration seized on its preparatory work for the Summit as an opportunity to promote the Global Development Alliance, the fourth pillar of its 2001 international development policy. While the administration remained steadfastly opposed to domestic implementation of some of the key environmental proposals outlined at the Rio Summit, this stance did not prevent the White House from claiming that it supports sustainable development. The administration portrayed its commitment to general sustainable development goals by promoting the Global Development Alliance as a mechanism for fostering positive change in the developing world. In early August, the administration released the "Working for a Sustainable World" report, which detailed the efforts made by U.S. government agencies to implement sustainable development programs abroad.¹⁰⁶ This report provided an overview of a broad range of existing programs funded (at least in part) by the United States.¹⁰⁷ Additionally, the report reiterated the administration's "determination to leverage resources to support sustainable development from the private, non-profit, and academic communities."¹⁰⁸

105. Laurie Goering, *U.S. Defends Record on Poverty at Summit*, CHI. TRIB. Aug. 30, 2002, at 1.

106. WORKING FOR A SUSTAINABLE WORLD: U.S. GOVERNMENT INITIATIVES TO PROMOTE SUSTAINABLE DEVELOPMENT, SUMMARY REPORT (Aug. 2002), at http://www.dec.org/pdf_docs/pnacq002.pdf (last visited Apr. 10, 2003).

107. *See id.* at 18.

108. *Id.* at 2.

The administration announced four "signature" development initiatives immediately prior to the World Summit. The administration conceived of all the initiatives as broad-ranging public-private partnerships. In all cases, the initiatives include major industry groups as "partners." The Congo Basin Forest Partnership, which seeks to "promote economic development . . . and natural resource conservation" by fostering "national parks and protected areas" and "well-managed forestry concessions," includes governments such as those of the Congo Basin states and Japan, NGOs such as the World Wildlife Fund and the Society of American Foresters, and business concerns such as the American Forest and Paper Association and the International Tropical Timber Organization as partners.¹⁰⁹ The Clean Energy Initiative, which aims to "increase access to modern energy services" and to provide cleaner fuel sources, includes partners such as the U.S. Energy Association and the Business Council for Sustainable Energy.¹¹⁰ "[L]ocal and national governments, associations of private water services companies, corporations, foundations, NGOs, and slum dwellers organizations" will jointly participate in the Water for the Poor Initiative, which the administration intends to expand access to safe drinking water.¹¹¹ Finally, the Initiative to Cut Hunger in Africa, designed to "boost agricultural productivity and trade in Africa," includes "global and African industry partners"; of the \$90 million U.S. commitment to this project in 2003, \$53 million is earmarked "to harness science and technology for African farmers," while the remaining \$37 million "is to unleash the power of markets for smallholder agriculture."¹¹²

The initiatives, though different in purpose, were fundamentally similar in that each one sought to remedy a very broad problem through heavy reliance on industry partnership, and in that each initiative completely depended upon such partnership. For example, a mere \$90 million cannot remedy issues of low agricultural productivity in Africa; the U.S. funding of the Initiative to Cut Hunger in Africa will produce no result without the prominent participation of private industry.

The administration's focus on the creation of public-private partnerships did not conflict with the intergovernmentally-established goals of the Johannesburg Summit. Yet although the international community's vision for the summit coincided with the Bush administration's proposals for public-private partnerships, this community intended these partnerships as a supplement to more traditional forms of aid. Indeed, the Summit website proclaims that the partnerships were "meant to supplement and not to supplant actions and commitments by

109. UNITED STATES AGENCY FOR DEVELOPMENT, WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT: CONGO BASIN FOREST PARTNERSHIP (Aug. 23, 2002), at <http://www.usaid.gov/about/wssd/congo.html> (last visited Apr. 10, 2003).

110. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, CLEAN ENERGY INITIATIVE: POWERING SUSTAINABLE DEVELOPMENT FROM VILLAGE TO METROPOLIS (Aug. 23, 2002), at <http://www.usaid.gov/about/wssd/energy.html> (last visited Apr. 10, 2003).

111. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, WATER FOR THE POOR INITIATIVE (Aug. 23, 2002), at <http://www.usaid.gov/about/wssd/water.html> (last visited Apr. 10, 2003).

112. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, INITIATIVE TO CUT HUNGER IN AFRICA (Aug. 23, 2002), at <http://www.usaid.gov/about/wssd/africa.html> (last visited Apr. 10, 2003).

governments.”¹¹³ A few months before the Johannesburg Summit, Kofi Annan noted that, “[a]t Johannesburg, Governments will agree on a common plan of action. But the most creative agents of change may well be partnerships—among governments, private businesses, nonprofit organizations, scholars, and concerned citizens[.]”¹¹⁴ Many in the international community saw that, by drawing various stakeholders together, such partnerships could potentially increase the funding base for development projects; the inclusion of private industry in the partnerships could also potentially allow for technology transfer to less-developed countries, thus producing long-term improvements in developing states.

The Johannesburg Summit was intended, in part, to provide a forum for the announcement and launch of partnerships sponsored by a wide range of governmental and non-governmental actors. At the fourth meeting of the Johannesburg preparatory committee, the vice-chairs of the meeting formulated a set of “guiding standards” to govern these partnerships. These standards recognized that the partnerships were to be “of a voluntary, ‘self-organizing’ nature . . . based on mutual respect and shared responsibility of the partners involved, taking into account the Rio Declaration Principles and the values expressed in the Millennium Declaration.”¹¹⁵ Further, the standards noted that partnerships should “have a multi-stakeholder approach and preferably involve a range of significant actors in a given area of work.”¹¹⁶ Finally, the partnerships should set timelines of goals, and should engage in public self-reporting of progress made with regard to those goals.¹¹⁷ As noted, however, the partnerships were meant to supplement pre-existing governmental action.

At the Summit, participants submitted over 220 proposals for partnerships; these partnerships represented commitments of over \$235 million in resources.¹¹⁸ The partnerships ranged from a bicycle recycling program proposed by the Dutch government to a desert rainwater harvesting initiative proposed by the Australian Association of Yoga in Daily Life to a children’s health initiative proposed by the World Health Organization. Some commentators noted that these partnerships represented the only significant development made at the con-

113. JOHANNESBURG SUMMIT BASIC INFORMATION, FREQUENTLY ASKED QUESTIONS ABOUT THE JOHANNESBURG SUMMIT: “TYPE 2” PARTNERSHIP INITIATIVES, at http://www.johannesburgsummit.org/html/basic_info/faqs_partnerships.html (last visited Apr. 10, 2003).

114. UN Secretary General Kofi Annan (delivered by Mrs. Nane Annan), American Museum of Natural History’s Annual “Environmental Lecture” (May 14, 2002) (transcript available at http://www.johannesburgsummit.org/html/media_info/speeches/sg_speech_amnh.pdf (last visited Mar. 2, 2003)).

115. Jan Kara & Diane Quarless, Guiding Principles for Partnerships for Sustainable Development (‘type 2 outcomes’) to be Elaborated by Interested Parties in the Context of the World Summit on Sustainable Development: Explanatory Note (June 7, 2002) at http://www.johannesburgsummit.org/html/documents/prepcom4docs/bali_documents/annex_partnership.pdf (last visited Apr. 10, 2003).

116. *Id.* at 2.

117. *Id.* at 2-3.

118. UNITED NATIONS, JOHANNESBURG SUMMIT 2002: KEY OUTCOMES OF THE SUMMIT (Sept. 2002), available at http://www.johannesburgsummit.org/html/documents/2009_keyoutcomes_commitments.doc (last visited Apr. 10, 2003).

ference. Though the official conference report did include additional commitments regarding, for example, sanitation, these commitments did not officially bind U.N. members; aside from these newly-developed goals, the conference report largely reiterated the already-existing principles of the Rio Summit and the Millennium Goals.

Criticizing the Summit for focusing on the partnership agreements at the expense of the generation of specific binding commitments, the Corporate Europe Observatory noted that “governments and the UN leadership did their best to pretend that the summit results[,], such as non-binding targets for reversing the degradation of biodiversity and for improving access to water and sanitation[,], made [the Summit] a success.”¹¹⁹ NGO Summit attendees accused world leaders of “greenwashing” the “corporate co-optation of UN agencies”¹²⁰ while commentators such as the *Financial Times* noted that “civil servants and corporate executives” engaged in negotiations regarding “energy policy, globalisation [sic] and good governance” prior to the arrival of the “political masters” at the Summit.¹²¹

The criticism of the summit reflects an intense and legitimate controversy over whether the inclusion of corporate interests in development programming is appropriate. Certainly, some of the industry partners that the United States has designated in its various initiatives—such as the inclusion of the American Forest and Paper Association, which represents over 80 percent of American paper manufacturers and engages in trade and regulatory lobbying,¹²² as a partner in the Congo Basin Forest Partnership—raise questions about the motivations underlying these partnerships. The formation of “partnerships” between state actors, intergovernmental groups, and NGOs is not a novel concept; indeed, such multi-stakeholder cooperation has been a well-established and respected method by which to administer development programs. The inclusion of particular domestic trade interests as partners in development initiatives, however, threatens to skew the goals and implementation methods of U.S. development spending. It is not difficult to imagine, for example, that the American Forest and Paper Association could effectively lobby for changes in the administration of the forest initiative that would suit its particular business-related interest.¹²³

119. Corporate Europe Observatory, *WSSD: A Little More Talk, a Little Less Action* (Nov. 2002), at <http://www.globalpolicy.org/reform/business/2002/sdtalk.htm> (last visited Apr. 10, 2003).

120. *Id.*

121. James Lamont & John Mason, *Bid to Break Earth Summit Logjam*, *FIN. TIMES*, Aug. 26 2002, at 1.

122. See American Forest & Paper Association, About AF&PA, at http://www.afandpa.org/Template.cfm?section=about_AFandPA (last visited Mar. 7, 2003); see also American Forest & Paper Association, Trade & Industry Lobby Groups Directory Entry, at http://dcpages.ari.net/Government/Politics/Interest_Groups (claiming that the “AF&PA is consistently able to achieve positive results on legislative, regulatory, administrative and trade actions for important issues affecting the industry by bringing the industry together and working closely with policy makers at the national and state level as well as with foreign governments.”).

123. For example, if wood and paper production facilities were established as part of the “well-managed forestry concessions” of the Congo Basin Forest Partnership, the AF&PA could pressure the administration to advocate trade measures—such as favorable conditions for the export of U.S. wood and paper supplies, or quota restrictions on the U.S. import of foreign-produced paper and

Although the aims of the signature initiatives proposed by the United States are laudable inasmuch as the initiatives seek to remedy significant issues faced by developing countries, the means by which the administration plans to achieve these aims are questionable. The partnership arrangements give rise to at least two serious concerns. First, if private corporations are involved in the selection of development projects, they may tend to select projects that promise the greatest commercial benefit for their industry, notwithstanding humanitarian concerns; they may also tend to favor donee countries that are politically stable and have sound economic policies.¹²⁴ When faced with choosing between two equally needy countries, one of which has a “good policy environment” and the other of which is politically unstable, businesses will likely argue for aid grants to the former country over the latter, so as to better protect their investment. As policy analyst Jens Martens notes, it is objectionable from a humanitarian perspective to deny “poor people living in poor countries under ‘poor’ political conditions” access to funding for development. Further, Martens suggests that effective development assistance does not depend primarily on the quality of the recipient country’s policies, but rather on “external conditions and the vulnerability of these countries to exogenous shocks.”¹²⁵ Business interests, however, may view any amount of political uncertainty in a recipient country as a threat to their commercial investment, and may avoid participation in partnership initiatives within that country. If the Bush administration administers a large amount of American ODA through government partnerships with businesses, developing countries that have managed to establish a stable domestic sociopolitical environment may attract American development aid, while developing countries that are equally, or more, needy but lack sufficient domestic sociopolitical controls will be left behind.

Second, private industry partnerships may increase the likelihood that the program will condition aid funds on the purchase of goods or services that are produced by the U.S. government’s corporate partners. Because such tying arrangements force donee countries to accept development inputs from donor countries, these arrangements discourage commercial development, particularly the growth of similar industries in the donee country. Tying a developing country’s receipt of bilateral aid to the purchase of particular commodities in the donor country thus propagates a relationship of dependence between the donee country and the donor country. Further, tied aid guarantees that at least some amount of the capital provided to a developing country will flow back to industry in the donor country, allowing the donor country to support its domestic commercial interests under the guise of development assistance. Though it may seem that tied aid promotes efficiency by securing a supply of development

wood—that would benefit domestic paper and wood production groups; the fact that the AF&PA had been a part of the Forest Partnership from the beginning would certainly not be a detriment to achieving these policy aims.

124. See Jens Martens, *Rethinking ODA: Towards a Renewal of Official Development Assistance*, at 10, Global Policy Forum (Apr. 2001) at <http://weed-online.org/ffd/rethink-oda-e.pdf> (last visited Apr. 10, 2003).

125. *Id.*

inputs (such as cement for a building project) from the outset of a project, studies produced by the NGO ActionAid have shown that tied aid is in fact economically inefficient;¹²⁶ these studies assert that, rather than decreasing the overall cost of development projects, tied aid “increases the cost of many goods and services by between 15-30 percent.”¹²⁷ If private industry partnerships such as those proposed by the Bush administration result in a greater proportion of U.S. development aid as tied aid, these partnerships could reduce the net benefit of the aid to donee countries.

The broad introduction of private industry partners in development initiatives suggests that the initiatives will be selected and implemented with an eye to business interests which, as suggested above, may not always complement, or be compatible with, the development needs of a particular country. Beyond fundamental concerns regarding the ways in the administration’s proposals introduce corporate and industry concerns as institutionally sanctioned central participants in official development assistance programs, the partnerships proposed by the administration suggest that the administration has chosen to align itself with private interests in its approach to development problems, rather than engaging in a broad multilateral plan. As discussed previously, the administration has, in its ODA policy, also chosen unilateral commitments over meaningful participation in multilateral development efforts.

The administration’s general reluctance to participate in binding multilateral schemes and its interest in solely controlling the monitoring of American-funded projects to ensure that American funding produces measurable results suggests that the administration uses partnerships as a form of “limited multilateralism.” Because the partnerships proposed by the administration include a number of governmental and other stakeholders, they are, to a certain extent, “multilateral” or “multi-stakeholder” projects. However, participation in the partnerships is voluntary rather than obligatory in nature, and administrative discretion is left to the partnership group itself; the “partners” are handpicked, and the partnerships determine and monitor the programs they want to carry out. Thus, these partnerships are not multilateral in the sense that they arise out of a broad, intergovernmentally-shared notion of particular development desiderata and involve mandatory cooperation between states with potentially adverse positions.

For states that are already fully engaged multilaterally, the partnerships will undoubtedly serve as a valuable complement to other governmental obligations. The United States, however, could potentially use the partnerships as a means of avoiding meaningful multilateral participation. Using partnership arrangements, the United States could design and implement development programs but still retain a great deal of control over programs (as well as financing) by picking and choosing partners in a manner that would serve domestic public and private interests while still appearing facially “multilateral.” If the programs enjoy any

126. See Jeffery Chinnock, *In Whose Benefit?: The Case for Untying Aid*, at 4, Action Aid (Apr. 1998), at http://www.actionaid.org/resources/pdf/tiedaid_bene.pdf (last visited Apr. 16, 2003).

127. *Id.*

degree of success, the administration might foreseeably argue that public-private partnerships are more effective and efficient than multilaterally-administered development initiatives. This could potentially serve as a justification for shifting American resources away from multilateral institutions, such as the Bretton Woods organizations, in order to increase the resources available for partnership initiatives. Partnerships, intended to supplement intergovernmental obligations, could ultimately be used as a substitute for U.S. government commitments to multilateral organizations.

Although these problems may not materialize, or may not be problems at all, one must consider how the administration's incorporation of business models and private sector partners into its development programming might ultimately affect short-run funding choices and long-run allocation of government resources. On the one hand, it is hard to fault programs that will produce material good for the developing world. On the other hand, one wonders if the administration's embrace of partnerships—and the sanctioning of public-private partnerships in international arenas—will pave the way for absolute unilateralism in the disbursement of U.S. funding for development.

VII. CONCLUSION

In the first two years of the Bush administration, White House officials have placed great emphasis on retention of control over U.S. foreign aid and development expenditures. Because the administration has been so intent on maintenance of discretion over U.S. funds in these arenas, it has designed its initiatives as either straightforwardly bilateral commitments, as with the Millennium Challenge Account, or informal, voluntary multilateral commitments, as with the global partnership initiatives introduced by the U.S. delegation at Johannesburg.

As many commentators have pointed out, U.S. reluctance to engage in multilateral aid or development regimes is not novel; Congress has continuously resisted funding intergovernmental commitments and previous administrations have refused to advocate U.S. participation in multilateral development initiatives. In light of this legacy, it is not surprising that the current administration has declined to engage at the multilateral level in its approach to development issues. Indeed, perhaps one can see the administration's pursuit of bilateralism and informal multilateralism as an ingenious mechanism by which to fund development initiatives without triggering fierce and vocal Congressional opposition to the expenditures.

Nevertheless, the administration's refusal to regularly participate in, and solidly commit to, cooperative, multilateral development initiatives weakens those initiatives. By retaining unilateral control over the disbursement of monies and monitoring of programs, the administration ensures that it will be able to withdraw or redirect development funding at will, and enables itself to hand-pick the programs and partnerships that it funds. While this may placate those domestic voices that would like to eradicate U.S. development spending abroad,

it threatens to create a development policy largely driven by domestic business concerns. The development initiatives that grant the United States dominion over its own funding may pave the road for eventual complete disengagement from multilateral development programs. That disengagement poses a severe danger to those developing countries that are attractive to neither U.S. national interests nor U.S. corporations. Many have recognized that developed countries should coordinate efforts to tackle development issues globally.

The administration's decision to avoid assuming additional multilateral development commitments, and its concomitant decision to generate novel bilateral aid schemes that seek to include domestic business interests as "partners," may reshape development assistance in the image of private foreign direct investment. This new model for development carries the potential to reduce the benefit that American aid confers upon some recipient nations, and threatens to preclude less stable developing countries from receiving American development assistance at all. Thus, the Bush administration may use its development policy to serve business, rather than humanitarian ends, which will ultimately harm the inhabitants of poor countries.