Id

(1) ~~[illegible]~~

(2) FY 64 Program

Mr. Solomon Silver, Asst. Director/PE July 25, 1963

John A. Hoskins, Legal Advisor

Availability of MSP Repayments for Counterinsurgency Contingency Fund

You have posed the question of whether the Mission might be able to secure 100,000,000 piasters from the MSP piaster repayments now in the U.S. Treasury for use as a general Mission contingency fund with emphasis on financing the counterinsurgency program. There are several obstacles to the implementation of this suggestion. First is that, as was pointed out in a memorandum by Mr. Menke dated May 23, 1962, the repayments of mutual security loans are available in the priorities set forth by Section 612 of the Foreign Assistance Act of 1961, as amended. These priorities are as follows:

"1. The local currencies are available first for use under authority of Section 105 (d) of the Mutual Educational and Cultural Exchange Act of 1961 or any other act relating to educational and cultural exchange.

"2. Next, they are available for sale by the United States Treasury to United States Government agencies in exchange for dollars otherwise appropriated for payment of agency obligations outside the United States, with the dollars so received being deposited into miscellaneous receipts of the Treasury.

"3. To the extent such currencies are in excess of United States Government requirements for payments of obligations outside the United States, as those requirements are determined by the President, they may be used in furtherance of the purposes of economic assistance (FAA, Part I), in such amounts as may be specified from time to time in appropriation acts.

Disregarding the first priority, which currently presents no problem in Vietnam, these funds are available for sale to the Agency in exchange for appropriated dollars, but they must be used to meet Agency obligations outside the United States. It is first questionable whether any of these available piaster funds would remain if the U.S. Disbursing Officer in Saigon were permitted to purchase these piasters to meet local obligations instead of purchasing them, as at present, from local banks. Even assuming, however, that some piasters would remain, there might be a legal problem in purchasing these piasters <u>in advance</u> of obligations instead of to meet obligations already incurred. A contingency fund would be meaningless if the obligations were already in existence. The third priority for use of these piasters would be available only when they would be in excess of U.S. requirements to meet foreign obligations which, in the present situation, is unlikely to occur in the near future.

As also pointed out in the Menke memorandum, however, these piasters could also be utilized under Section 614(a) of the FAA, which permits the President to authorize the use of not to exceed U.S. $100,000,000 ($50,000,000 for any one country) value of foreign currencies accruing under the Act without regard to the

Act's limitations. This would mean that were the piasters available and were the President so willing, he could authorize the use of these piasters in furtherance of any of the purposes of the Act, whenever he determines it to be important to the security of the United States. It might well be that in this fiscal year a counterinsurgency or other type of contingency fund might be determined by the President to be of sufficient importance to the security of the United States as to justify a Presidential waiver (as the authorization is generally called) under Section 614.

There is one other difficulty, however, which might still prevent even the use of these funds under a Section 614 waiver. The U.S. treasury has stated that it is holding the present piaster repayments in a blocked account until such time as an acceptable exchange rate is agreed upon or the GVN decides or is required to pay the total amount in dollars. The three loan agreements involved provide for provisional acceptance of repayments whenever there is no mutual agreement on the applicable exchange rate. If the exchange rate is not agreed upon thereafter, the Agency is required to return the piasters to Vietnam and payment is made in United States dollars. If these piaster funds were made available for use by the Mission, either under Section 612 or Section 614, the question would necessarily arise as to how they could be returned to Vietnam should the two countries be unable to concur on what exchange rate should apply. If an acceptable exchange rate were to be agreed upon in the near future, this difficulty would be obviated. In the absence of such an agreement, it might be that the Treasury would, nevertheless, be willing to make these funds available, with the understanding that it might later be necessary to purchase additional piaster funds should the contingency subsequently arise which would compel their return to Vietnam in exchange for dollar repayment.

While it would appear that there are many difficulties in the way of securing such a contingency fund from this source, it would not be impossible to work it out although the full concurrence and assistance of Washington would obviously be necessary. It should also be noted that use of these funds in Vietnam, as contemplated here, would be additive to the AID program and might raise the objections based on inflationary grounds which were previously discussed by Alek Rosental.

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