The International Association for the Promotion and Protection of Private Foreign Investments' Overture to the Middle East (1975/76&77)

<u>Source references:</u>
Source 1: APPI, Discussion-Paper for the Montreal Meeting, June 6, 1975, Deutsche Bank Archives, V01/4417.
Source 2: Exchange of Letters Between Hermann J. Abs (Chairman of the Supervisory Board, Deutsche Bank AG) and Sir Frank Kenyon Roberts (former UK high diplomat, after retirement Adviser on International Affairs to Unilever and to Lloyds Bank), July 22 and 28 and August 5, 1975, Deutsche Bank Archives, V01/4419.
Source 3: Two Untitled Memoranda on Conversations with Potential New APPI Members from the MENA Region, Deutsche Bank Archives, February 2, 1976, V01/4421.
Source 4: Excerpts of the Protocols of the APPI Meetings in Cairo (April 1, 1977) and Jeddah (December 7, 1977), Deutsche Bank Archives, V01/4421.

<u>Sources:</u>
Source 1:

I.
In the London meeting of April 1974 it was decided that while a total, publicised dissolution of APPI would have a damaging effect on private investment abroad, the Association should be transferred into a Discussion Group which would meet approximately once a year. The Group should work informally without a full-time secretary and without a budget.

The reason for this change was inter alia that organisations like ICC International Chamber of Commerce and BIAC have increasingly been engaged in the subjects already dealt with by APPI.[1]

Topics to be discussed from time to time within this informal Discussion Group should be extended – beyond the original APPI scope of promotion and protection of private investment – to other important problems <u>which international business has come and will come to face in less developing [sic] as well as developed countries</u> abroad and at home, including problems connected with multinational corporations.

II.
At the time of the aforementioned decision the oil embargo of October 1973 and the steep increase in oil prices had already been felt by oil dependent developed as well as developing countries. But, the revolutionary impact of the new oil prices on the economy and balances of payment the individual countries and on world economy and world payments structure had just begun to be realised.

Two further points of impact caused by the policies of the oil producing countries the importance of which has not yet been assessed to its full extent are the following:

[1] The International Chamber of Commerce (ICC) is the world's largest business interest association. The Business and Industry Advisory Committee to the OECD (BIAC) is the officially recognized business advocacy body to the Organization for Economic Co-operation and Development.

1) The need for restructuring the whole foreign aid system – both concerning public and private as well as direct investment so as to concentrate all efforts in this field for the benefit of the non-oil producing, heavily oil dependent LDC's [sic].

2) The impact on and the treatment and security of direct, portfolio and loan investments of oil producing countries in LDC's [sic] and industrialised countries.

These most urgent and important problems which are largely interrelated should be discussed within the APPI Group to-day and, if necessary, during further sessions, so as to come to a consensus what private business could contribute to their solution and what governments should be asked to undertake.

III.
Beyond this, the question arises whether the main oil producing countries should be represented in APPI (as members or observers) the reason being that these countries are rapidly becoming major capital exporters.

The purpose of these countries becoming attached to APPI is mainly twofold:

a) To give them proper guidance for their investment policies so as to avoid serious political, financial and monetary consequences for both individual countries and the world economy which could be detrimental to their own interests and that of the outside world.

b) To make them familiar with and to convince them to subscribe to the existing international rules pertaining to the treatment of foreign investment, a subject in which they are bound to take serious interest since their already voluminous capital exports continue to grow considerably in the years to come.

If APPI succeeds to arouse interest of the main oil producing countries in its activities and objectives and in causing them to accept APPI guidance as to a) and b), a sound and balanced basis could be formed to channel surplus oil funds in the right directions and to make use of these founds in a constructive and productive way. This will ensure in particular that the present disequilibria in international payments caused by the important oil price increases will be alleviated which again would create a climate of confidence in which countries receiving surplus oil funds in one form or the other would not be tempted on their foreign obligations and to expropriate investments made by the oil producing countries.

IV.
To go one step further:
Considering the revolutionary changes caused by the policies of the oil producing countries and their interest to receive a fair, long lasting and secured return of their investments, it is worthwhile to examine whether APPI should be reactivated on a more institutionalized basis than a Discussion Group, equipped with a small secretariat and financed by the members including representatives of oil producing countries.

The objective of such a reactivated APPI should be adapted to the new, economic and payment's [sic] situation in the world with the emphasis on dialogues with the representatives of these countries on the aforementioned topics.

The present members of APPI – as leading international business-men – would be particularly suited for such a dialogue because they represent the backbone of world economy, world trade and western technology without which progress and growth cannot be guaranteed and upon which oil producing countries are dependent – even more than the rest of the world.

V.
In case APPI-members feel that the proposal along the afore-mentioned lines is worth wile to pursue, the first step should be to approach suitable representatives of the main oil producing countries (Iran, Saudi Arabia, Venezuela, Kuwait) in order to find out whether they would be inclined to join the APPI Group.

DrKr. [Dr. Paul Krebs, personal assistant to Hermann J. Abs]

Source 2:

<u>Letter from Hermann J. Abs to Sir Frank K. Roberts, July 22, 1975</u>

Many thanks for your kind letter of July 8, 1975, concerning our APPI Meeting in MONTREAL.

Three weeks ago, I had the opportunity together with Dr. Krebs to talk with Dr. Hans Peter LINSS, Member of the Board of BAYERISCHE LANDESBANK GIRO-ZENTRALE-Munich (formerly Direktor of Deutsche Bank AG), on how to proceed concerning the envisaged contacts with important private personalities of the Near and Middle East. You will remember that I mentioned in Montreal that Dr. Linss who is very much interested in the work of APPI entertains very intimate relationships with important personalities in these countries the reason being that he lived and worked in this area for many years in the past. Dr. Linss is as convinced as we are that an approach to selected nationals of these countries on the subject of getting them interested in APPI (and, hopefully, becoming members of the organization) could well be successful.

In the first instance, in line with the results of our Montreal Meeting, I intend to embark on soundings with the following nationals of four countries, namely: EGYPT, SAUDI-ARABIA, KUWEIT and IRAN.

EGYPT
OSMAN AHMED OMAN who is Minister for Housing & Reconstruction in Cairo but, at the same time Chairman of ARAB CONTRACTORS, the largest construction firm in the Near East. The Egyptian part of the company is of course nationalized whereas the firm's activities in countries like Lybia, Saudi-Arabia, Kuweit and the Gulf Emirates are under private control. ARAB CONSTRUCTORS have, inter alia, carried through the Assuan Dam constructions as well as the works connected with the widening of the Suez Canal in the sixties.

SAUDI-ARABIA
AHMED JUFFALI Mr. JUFFALI is the most well-known private entrepreneur in Saudi-Arabia and is strongly Western orientated. His company inter alia represents in Saudi-Arabia SIEMENS, VOLKSWAGENWERKE, DAIMLER-BENZ, DEMAG and WERNER-& PFLEIDERER.

Another possible contact in SAUDI-ARABIA would be AHMED ALIREZA, the proprietor of an important commercial company which also is a constructing firm and shipping agency. The Chief of the company is at the moment the Saudi-Arabian Ambassador in Paris. The company of Mr. Ahmed Alireza represents inter alia American automobile-corporations.

In KUWEIT Mr. AL-SAGGAR appears to be a suitable contact-man. He is Deputy Chairman of the EUROPEAN-ARABIAN BANK situated in Brussels. He is also President of the Chamber of Commerce in Kuweit which is a very influential position. The family Al-Saggar belongs to the most important Kuweiti families.

As to IRAN
I came to the following conclusion: Since nothing of importance could be done successfully without the blessing of the Shah-in-Shah I suggest to have a talk with the Minister of the Court ALAM who, to my opinion, is the right person who can indicate to us which private Iranian citizen should be approached.

I am preparing – together with Dr. Krebs – a short memorandum on APPI and its objectives which could be handed over to those who turn out to be interested in joining forces with our organization. Of course, they will also receive a list of the APPI Members. I am writing you on this subject in this lengthy form because, as you remember, it was agreed in Montreal that I would inform and consult with you on the steps to be taken in the matter by getting oil countries and their friends interested in APPI.

Should the planned contacts be successful generally, I would then proceed to contact personalities of the other countries enumerated in our Montreal Meeting. Meanwhile, Dr. Gerd TACKE suggested to include – besides OPEC countries – a country like Brazil. He realizes of course that Brazil as capital exporter is still in the early stage of development but he is right in saying that Brazilian capital exports are growing visibly, mostly concentrated in Latin America and Africa.

With best personal regards,
Very sincerely yours,

Hermann J. Abs

Letter from Frank K. Roberts to Hermann J. Abs (July 28, 1975)

Dear Dr Abs,
Many thanks for your letter of July 22nd about the action recommended at the APPI meeting in Montreal, which crossed my letter to you of July 21st. I am most grateful to you for keeping me so closely informed, I am in complete agreement with the suggestions in your letter and I am sure that the way you propose to approach the Iranian problem is correct – without the Shah nothing can be done in Iran.

I don't myself know Osman Oman but he has a very high reputation throughout the Middle East and is just the kind of man we would like to interest in our work. On Saudi Arabia you will no doubt take into account the names mentioned by John Blair, to which I referred in my letter of July 22nd.[2] I quite understand Tacke's recommendation about Brazil, but wonder whether this

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[2] John Blair was an international lawyer for Shell who seems to have been quite influential in the drafting of contemporary international investment law and law of the seas. Filip Batselé, "Foreign Investors of the World,

should not await the result of your soundings in the Middle East. If Brazil, why not Venezuela? If Latin-America, why not, say, Indonesia or Malaysia in S.E. Asia, or Nigeria in Africa? All these (and others) should, I think, be brought in, but the question of timing is important. The Middle East countries are after all by far the biggest investors abroad at present and it therefore seems logical to begin with them.
[handwritten]: With all good wishes, yours sincerely, Frank Roberts

<u>Letter from Frank K. Roberts to Hermann J. Abs, August 5, 1975</u>

CONFIDENTIAL

Dear Dr. Abs,
Since I wrote to you on July 28th I have had an opportunity to discuss our plans for widening the membership of APPI with Sir Donald Maitland in the Foreign and Commonwealth Office. I had not been able to speak to him before as he had been attending an important Commonwealth Economic Conference in Ottawa dealing, inter alia, with many of the topics which interest us in APPI. As you probably know, he is to succeed Sir Michael Palliser as the British Ambassador to the European Communities in October. He has served a great deal in the Middle East and is one of the best Arabists in our Foreign Service.

I told Sir Donald about APPI and about the decision reached at our meeting in Montreal that the Governors would take a suitable opportunity to explain what we were now proposing, in confidence, to our own Governments. I then told him of the plan on which you were now working, I made it clear that we were not asking for official support or approval, but we thought that our Government would wish to know in confidence what we were doing and we should naturally be interested in their reactions. I also spoke to him about the individuals with whom we were thinking of getting in touch and he promised me further comments on the names you have mentioned and possibly other names shortly.

Sir Donald's reaction was entirely positive. He thought that we were acting on very much the right lines and hoped that we would be successful. He could not· of course judge whether the nationals of the countries we were now approaching would yet be ready to join a [sic] institution like APPI, but he did feel very strongly that the general climate of opinion was moving in this direction, with a definite desire on both sides towards co-operation rather than confrontation. He entirely agreed that the Iranians should be approached through the Shah in the way you are proposing and that while we should approach individual Arabs, one would have to ascertain that anyone we approached was acceptable to his Government. He further agreed that it was essential to bring Egypt into the picture as we are proposing, and that Osman Oman would be a very suitable representative if we could get him.

Sir Donald then made the comment that it might be easier for the nationals of the countries we are approaching to respond favourably if it were made clear that we are not only approaching nationals of OPEC countries. He suggested, for example, that a simultaneous approach, or at least an indication that we should shortly be making such an approach, to a Latin American country should be helpful – if only one such country were to be approached obviously it should be Brazil. But why not include what are at present the three most promising Latin American countries, Brazil, Mexico and – admittedly another OPEC country – Venezuela? Later on no

Unite! The International Association for the Promotion and Protection of Private Foreign Investments (APPI) 1958–1968," *European Journal of International Law* 34:2 (2023), 415–447.

doubt we would think of countries such as Malaysia, and Indonesia, and yet another OPEC country, Nigeria.
Sir Donald was most interested in our approach and specifically asked me to keep the Foreign and Commonwealth Office informed of progress. He will himself be in Brussels in October, but I have the right contacts after he leaves.

I should have made clear· at the outset that Sir Donald himself volunteered that for our approach to be successful it should be kept very confidential, and he will certainly co-operate in insuring that this particular objective we have in mind is not prejudiced.

[handwritten]: With all good wishes, yours sincerely, Frank Roberts

Source 3:
Two Untitled Memoranda on Conversations with Potential New APPI Members from the MENA Region, Deutsche Bank Archives, V01/4421

Untitled memorandum, February 2, 1976[3]

Concerns: Meeting on Friday, 30 January 1976, in HAMBURG with Dr. Abol Gasem KHERADJOU, Managing Director and Chief Executive Officer of the INDUSTRIAL AND MINING DEVELOPMENT BANK OF IRAN

History and tasks of the APPI, including the program adopted in Montreal to win private representatives of certain developing countries (OPEC and others) for the APPI goals, were presented in detail to Dr. KHERADJOU. In addition, handover of the memorandum drawn up especially for this program.

Also reference to the talks I had with the two deputy ministers Dr ASHRAFI and BAHADARI in Teheran in September 1975. Dr KHERADJOU fully endorsed the APPI's view that the poorer developing countries in particular need capital and know-how from private sources in industrialized countries in addition to public foreign aid in order to become economically self-sufficient over time. Furthermore, Dr K. acknowledged that, particularly in the OPEC countries, the capital strength of the private economy would gradually increase to such an extent that private foreign investment would also become possible to a growing extent. However, private foreign investment was even more dependent on a favorable investment climate in the host countries than capital aid from public funds.

Finally, Dr KHERADJOU agreed that the new capital exporters, including Iran, should prioritize foreign investments whose revenues are suitable for securing a long-term income, which – especially after the depletion of oil reserves – would ensure the steady development of their economy even after this point in time. Joint investments with industrial companies, for example in the field of exploiting raw materials in developing countries, would also contribute to this.

Dr KHERADJOU recognized that it would be useful to keep in touch with suitable private groups in the industrialized countries, whose members have special knowledge and experience in the field of the investment climate in the world and, conversely, were interested in receiving and discussing the concerns and wishes of public and private capital exporters in the Third and

[3] Translated from the German original by Nicolas Hafner.

Fourth World. Certainly, in the case of Iran, for example, the German-Iranian Intergovernmental Committee and the German-Iranian Investment and Claims Agreement were the official platform for dealing with the problems Iranian public foreign investments in Germany. The same applies to investments in other countries. Nevertheless, he felt it was right – at first glance – for well-known Iranian representatives of the private sector to use the APPI as an international dialogue forum for investment issues; this would also be of interest to the Iranian government.

My reference to my discussions with Dr ASHRAFI in particular, who did not see any Iranian interest in joining the APPI in view of the fact that Iranian foreign investments mainly originated from public funds and in view of the German-Iranian Agreement and the Intergovernmental Committee, was answered by Dr K. with the fact that neither Dr ASHRAFI nor Minister BAHADARI understood too much about international investment issues.
He considers only a few people in Iran capable of dealing with the issue properly, e.g.

Shari Emami JAFFAR
Chairman of the INDUSTRIAL AND MINING DEVELOPMENT BANK OF IRAN
Minister of Economy and Finance ANSARI
Prime Minister HOWEIDA
the Shah-in-Shah.

Dr KHERADJOU suggested (I agreed to this suggestion) that he inform his chairman Emami JAFFAR about our conversation, who in turn should contact the above-mentioned persons.

Dr K. told me that he was extremely interested in the question I had raised and that in principle – subject to his Chairman's approval – he was prepared to join the APPI in one form or another, but on two conditions:

1) that the APPI refrains from doing "publicity" (which I considered to be the traditional policy of the APPI) –

2) that no persons from his country other than himself should be sent to the APPI with whom he was not on good terms. In this context, he mentioned the President of the Chamber of Commerce ZIAI (Mr DICKE had mentioned this gentleman, among others).

   Furthermore, he did not consider Dr Kodadad FARMANNFARMAIAN to be a very suitable person (which is probably true).

   In contrast, Dr K. reported that he was still on good terms with Mehdi SAMII, who is currently President of the AGRICULTURAL DEVELOPMENT BANK. Mr SAMII, even if he did not hold a prominent position at the moment, was absolutely persona grata with the Iranian government.

I registered this opinion with interest and told Dr K. that when welcoming representatives from OPEC countries, only a maximum of two personalities per country were envisaged anyway. So far, we had not approached anyone in Iran from the private sphere other than him (only our former APPI correspondent, Mr TALEGHANI, had been informed by me in September last year that I had spoken to government representatives about the APPI program).[4]

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[4] Up until the decision at the 1975 Montreal meeting, APPI's membership was limited to businessmen from Western capital-exporting countries. However, in the early 1960s it established an informal network of "correspondents," consisting of like-minded businesspeople based in promising capital-importing countries. These

Dr KHERADJOU confirmed to me that our approach of first talking to government representatives about the APPI issue was absolutely correct. He also very much welcomed the fact that Mr ABs would approach Dr ANSARI at the earliest opportunity.

Dr K. asked me whether those international investors who aim to make large and quick profits in developing countries in order to then leave the host countries again would not criticize an organization like the APPI. I replied that it was precisely our endeavor to improve the investment climate in the world in general in such a way that companies with a principally good reputation would be prepared to significantly increase their foreign investments in developing countries and thus make it easier for them to build up their economies, so that the more speculative investors would be pushed back. Of course, such speculative ventures would not welcome an organization like the APPI, but so far, the APPI had not been hindered in its activities from this side either.

Finally, Dr KHERADJOU addressed the important issue of multinationals, which in his opinion were increasingly coming under the spotlight of criticism, not least because most of them refused to accept foreign capital as shareholders. In his opinion, a way must be found to allow local capital from the key developing countries to participate in the local subsidiaries of the multinationals.

I referred to the proposals of the former Chairman of GENERAL MOTORS, who had also presented a plan for the internationalization of multinationals. Furthermore, I told Dr K. that the APPI had already addressed the problems of multinationals in the past, recognizing that their policies, which had been criticized in many respects in developing countries, had provided reasons for the deterioration of the investment climate in the world. There were a number of representatives of multinationals in the APPI who were partly in favor of and partly against the admission of local capital and it would certainly be welcomed if the issue of multinationals were taken up by the developing countries being admitted [to APPI]. The APPI was also keen to discuss the issue of multinationals as it relates to investment policy and the investment climate.

An interesting remark made by Dr KHERADJOU at the fringe of our discussion was that due to the constant establishment of new companies in the industrial sector, there was a shortage of people in Iran with the necessary knowledge and experience to serve properly as board members. So far, only a small number of Iranian personalities were suitable as board members, with the result that they were overburdened and thus unable to fulfil their duties thoroughly and in accordance with the law. In view of this dilemma, the INDUSTRIAL AND MINING DEVELOPMENT BANK OF IRAN had decided to set up training programs in which candidates for the Supervisory Board are thoroughly prepared for their tasks.

With regard to joining the APPI, Dr KHERADJOU will give us final confirmation in the next few weeks, whereby I mentioned that Mr Abs (or I too) were quite prepared to come to Tehran in the event that further clarification about the APPI and its objectives was desired.

Signed,
Dr. Paul Krebs

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would report on the latest economic and legal developments in their home countries, focusing on the investment climate. In 1969, APPI had established ties with over 25 correspondents, including from the MENA region. A list of correspondents in 1968 can be obtained from the author.

Untitled memorandum, February 2, 1976

Re: APPI – Short report on a talk in LONDON on March 2, 1976 with Dr. A.M. HEGAZY, Former Prime Minister of Egypt and at present Chief of an Accountants and Management Consultants firm in Cairo

I explained to Dr. HEGAZY the background, objectives and present status of APPI and gave him the pink APPI Memorandum which was circulated to all APPI members last year, enumerating the main reasons why it would be advisable to Egyptian business to be represented in APPI. Dr. Hegazy was very much interested in this subject. In this instance, he drew my attention in particular to the "liberalization policy" which the Egyptian Government is now pursuing and which will, he believes, contribute to bringing new private investment capital to his country. Such policy had, he said, its origin already before the start of the last war with Israel and is now an essential part of government philosophy. In this connection, Dr. Hegazy pointed to the Egyptian Investment Law which permits foreign investments (even with 100% ownership) in all branches of the economy with the exception of some "critical" sectors. Precondition for accepting foreign investments is however – amongst other things – that they must be economically feasible. For instance, Egypt would welcome so-called tripartite arrangements by which wester industries and oil-producing countries join in industrial ventures to be set up in Egypt. Foreign investments, if acceptable by the appropriate Egyptian Government Agencies, were enjoying a number of privileges (incentives), e.g. tax holidays for 5 to 8 years. Furthermore, Dr. Hegazy said that the Egyptian Government is prepared to give foreign investors a first hand in acquitting offices and housing facilities for their new ventures.

After having thought over my proposal thoroughly, Dr. Hegazy told me the following day that he in principle is prepared to join APPI in one or the other form. He asked for further details pertaining to the organization which I promised to send.

Frankfurt/M., March 12, 1976
Dr. Kr. [Dr Paul Krebs, personal assistant to Hermann J. Abs]

Source 4:
Excerpts of the Protocols of the APPI Meetings in Cairo (April 1, 1977) and Jeddah (December 7, 1977), Deutsche Bank Archives, V01/4421

PROTOCOL of the APPI Meeting in CAIRO on April 1, 1977

Chairman: Mr. Hermann J. Abs
AGENDA and LIST OF PARTICIPANTS are attached (Annex 1 and 2)

Mr. Abs, President of APPI, welcomed the participants, amongst them the new members Sheikh Ahmed Juffali, Managing Director of E.A. Juffali Bros., Jeddah, Saudi Arabia. He expressed his great pleasure that with Sheikh Juffali an outstanding representative of private enterprise in Saudi Arabia had been won, a country that shows more and more interest in foreign investments.

Mr. Abs thanked particularly Dr. Hegazy for his invitation to APPI to come to Cairo and for the arrangements which he and his company had made in connection with this invitation. Mr. Abs informed the attendants that at a later stage the Governor of the Central Bank of Egypt, H.E. Mohammed Fatha Ibrahim, together with a few of his associates would take part in the meeting.

[…]

Mr. Abs reiterated APPI's wish to acquire new, active members, in particular from the United States where Mr. Krome George, Chairman of ALCOA, is doing his best to suggest suitable candidates. Also, APPI still would very much hope, that representatives of private enterprise from the Third World could be won as members, in particular from the Latin-American and Asian areas. As to Latin-America, personalities from Brasil, Venezuela and Mexico should be approached. With the approval of the members present Mr. Abs on the occasion of his next trip to Brasil would have talks with business friends on this subject. After that Mexico and Venezuela would be approached.

Unfortunately, efforts of APPI to find a suitable candidate from Iran were not successful so far. In this country it is necessary to obtain the agreement of the Shah. Mr. Abs will again endeavor to raise this question in Iran.

Sheikh Ahmed Juffali is ready to make efforts to find a suitable representative from Kuweit and to introduce a candidate at the next meeting.

[…]

The exchange of information and views on the development of the investment climate and on measures taken in certain countries against foreign capital can be summed up as follows:

[countries discussed: Nigeria, Ghana, Zaire, Egypt, Saudi Arabia]

EGYPT
The Five-Year-Plan (1976-1980) based on the new liberal policy of the government provides that a substantial part of future investments should be made by private enterprise both local and foreign. Only investments in basic and heavy industries should be retained by the State. This means that processing industries should in substance fall under the responsibility of private enterprise.

First priorities for investment are industry, transport and communications, followed by housing, agriculture including irrigation and draining. Efforts are to be made also in the field of tourism. There is overall agreement in official Egyptian circles that a reasonable, continuous economic development largely depends on sustained progress in the infrastructural sectors.

[…]

The basic investment code for Arabic and other foreign capital and for the "Free-zones" is contained in the Law 43/74 and in the Implementation Decree No. 91/75. The General Authority for Arab and Foreign Investment and the Free Zone is responsible for deciding on foreign investment applications. Projects by which the foreign exchange balance of the country will be improved as well ·as projects of high technical standards, in particular in the sectors of industry, mining, tourism and soil preparation, are first priority.

[…]

As to special incentives for investing in Egypt, the most important ones are the duty-free import of equipment and tax privileges for a period of 5 respectively 8 years. Pre-condition is however that profits are not taxed abroad.

The “public” Free Zones of Alexandria, Port Said and Suez have already developed favorably. As soon as the infrastructure in these parts has improved further, they will be in the position to give stronger support to the industrialization of Egypt.

In order to enjoy the above-mentioned free zone benefits, companies need not be domiciled within the areas of the Free Zones. In other words, government can decide that individual industrial sites or even individual floors of a building are declared free zones with all the respective benefits and privileges.

Transfers of profits pertaining to foreign owned capital stock is principle restricted. The limit is the amount of foreign income deriving from exports of the company concerned needed for the import of raw material and other pre-processing products. As it came out in the discussion there are still transfer problems to be solved, such as in cases where companies with foreign ownership earn substantial profits deriving from exports. Such and similar difficulties were explained by the Egyptian representatives with the serious foreign exchange situation in Egypt, with the effect that until this situation has not improved substantially, profits must for the time being be re-invested in the country.

[…]

SAUDI ARABIA

The second Five-Year-Plan came into force in July 1975. The Plan is based on a substantial industrial development program designed in particular to diversify industrial output in order to reduce dependence of the economy on crude oil. Apart from mining, great emphasis is to be laid on petro-chemical development. The Plan therefore contains the building of five petro-chemical combines as well as several fertilizer plants. A broad exploration program in the sector of raw materials is designed to add to the diversification process. The Plan also calls for expansion of industrial infrastructure.

Private enterprise, according to the policy of the government, is given prime importance, except for projects surpassing private capacities. A liberal foreign trade and a generous investment policy is supposed to encourage foreign investment in the form of joint ventures. The incentives are – inter alia – non-interest or low-interest bearing loans, free transfer of profits and retransfer of capital, free convertibility of currencies, no limitations of participation percentages.

As to ARAMCO, this company will be asked to co-operate in the field of carrying out industrial projects. For instance, ARAMCO has been enlisted to take the responsibility in developing an integrated power network and a gas project.

One of the most difficult problems in Saudi-Arabia is the lack of expert staff in industry and administration. One has to rely substantially on foreign man-power. For this reason the Saudi-Arabian government wishes to enlist foreign enterprise entertaining joint ventures in the country to do their best in educating and training employees.

Oil production in Saudi-Arabia has again expanded last year. Following this trend two new pipelines are planned. No additional commitments in the field of tanker construction are envisaged however because of worldwide surplus tanker capacities.

Saudi-Arabian foreign aid meanwhile has grown considerably. In 1975, a figure of nearly 6 billion US$ has been reached. The Saudi-Development Fund so far has financed development projects in Arabian countries, Africa, Asia and Latin America. Investments of Saudi-Arabian private enterprise, for example in Africa, are not excluded principally. So far, however, there are only a few projects fit for realization.

REPORT on the APPI Meeting in JEDDAH on December 7, 1977

Chairman: Mr. Hermann J. Abs
Agenda and List of Participants (annex 1 and 2)

[…]

On behalf of all attending APPI members Mr. ABS thanked very cordially Sheikh JUFFALI for the friendly invitation to come to Jeddah and for the magnanimous hospitality which he extended, together with his family, to them. He emphasized that meeting in an Arab country proved the extreme interest in a closer relationship between industrialized countries and the Arabic nations which are on the way of fast economic development. In this connection the Chairman mentioned as a very good sign that Sheikh JUFFALI meanwhile won the interest as a new APPI member of an outstanding Kuwait personality whom Mr. ABS will approach in due course.

[…]

Continuation of the Dialogue between industrialized and developing countries within the UN:
It is regrettable that the industrialized countries have so far not come up with a joint concept for this Dialogue. It would be disadvantageous in particular for private business in all countries if politicians for the sake of compromise would create facts which hinder the international division of labour. During the discussions on the treatment of private foreign investments at the North-South Conference governments of a number of industrialised nations, for instance the USA, were inclined to "water down" the relevant principles of international law. Should this end up in a decisive trend, private investors would be discouraged which would not serve the purposes and interests of the western nations or of the developing countries. That some LDCs do not want to commit themselves by entering into bilateral protective agreements with industrialized countries is another element of insecurity (amongst them are capital exporting LDCs who feel that their investments in western countries are not endangered by nationalizations or other unfair treatment).

The "Group of 77" has still managed – during UN discussions etc. – to appear as a uniform bloc. However, the establishment of group attitudes changing from time to time according to individual issues is progressing more and more. Notably, a division between surplus- and deficit-LDCs is coming to the forefront.

ln view of the fact that the various delegations in large international conferences like the UN, UNCTAD etc. tend to "talk out of the window" instead of discussing the topics objectively, frank, confidential exchanges of views within restricted circles such as APPI between representatives of capital exporting and capital importing countries are most important for the purpose of arriving at conclusions satisfactory to both sides.

[…]

Investment of “PETRO-DOLLARS”:
The oil exporting countries directly and indirectly finance an important part of investments in industrialized as well as developing countries. The international banking system is the vehicle for these financings. Instead of using the method of short and medium-term credits it would be desirable and necessary if the oil-producing countries would engage themselves more through direct investments, i.e. participations in industrial projects. By this means the insufficient capital base of medium-sized enterprises could be enlarged – whether they are located in industrialized or developing countries. Contrary to opinions frequently expressed there are sufficient projects for attractive investments, in particular in developing countries. It would be desirable to intensify efforts to carry through so-called cooperation projects by which the Arab side would produce the necessary capital funds and the industrial partners the technology required by the project concerned.

Confidence of investors in the political and economic future:
The most important factor for the hesitance of investors to place their capital in foreign countries, in particular in LDCs, is the lack of confidence in governments, a topic which consumed a large part of the APPI deliberations. There is no doubt that the North-South discussions which were strongly influenced by political considerations have a negative effect on the atmosphere. But this is only one element amongst others, such as the critical attitude in many countries towards private business and the economical and social environment necessary for the success of private activities. There are also important other reasons discouraging investors to place their capital abroad: The human element involved in such activities as well as the “technical” shortcomings like the growing, inflexible bureaucratic machineries.

[…]

Blurb:
After World War II, Western companies with foreign investments acquired in an imperial legal framework faced a series of challenges. First, empires such as France or the United Kingdom, in an attempt to keep control over their colonies, made changes to the laws governing their overseas territories, granting more rights to local political bodies and establishing local courts with considerable jurisdiction. In the eyes of companies, these developments had the potential to threaten their interests, as they mistrusted local courts and governments. Second, and related, many governments sought to take control over important infrastructure that belonged to private corporations. Examples from the MENA region include the attempt by Iran to nationalize the Anglo-Iranian Oil Company (AIOC) in 1951, or Egypt’s nationalization of the Suez Canal in 1956. Lastly, companies were also still recovering from World War II, when governments expropriated foreign investments without compensation in large numbers. Thus, in order to better protect their investments under international law, a group of companies from the mining and petroleum sector together with large banks created the International Association for the Promotion and Protection of Private Foreign Investments (APPI) in 1959.
APPI was initially created as a transnational business association consisting of three main bodies: the directing committee (high-level business executives), the consultative committee (legal experts linked to the executives) and a secretariat. Its goal was to study and promote different schemes that could improve the international legal investment protection regime.

These included concluding a multilateral investment treaty, setting up an institution for investor-state arbitration and establishing a multilateral investment insurance agency. The multilateral treaty was to be concluded amongst states and would guarantee companies certain rights, such as full, immediate etc. compensation in the case of expropriation. Investor-state arbitration provides a forum for companies to sue countries for the infringement of rights granted under a treaty, domestic law or contract, usually without having to exhaust local remedies first. This is only possible if the country in which the investor is based has allowed for dispute settlement before such an arbitral body in the treaty, law or contract. Lastly, a multilateral investment guaranty agency insures investors against non-commercial risks such as expropriation or war against an annual premium.

Beyond coordination and lobbying works, APPI also provided an extensive information service to its member companies through monthly bulletins and intervened on behalf of companies in expropriation cases. The 1960s were APPI's heydays, when it extensively lobbied International Organizations such as the Organisation for Economic Co-operation and Development (OECD), the World Bank and the United Nations, and Western governments to implement all three proposals. The lobbying happened on at least two levels: the business executives, through their personal networks, possessed access to the highest ranks of government, whereas the legal experts often exchanged with their counterparts in the administration (Batselé & Hafner, "What Investors Want from Whom: International Organizations and the International Association for the Promotion and the Protection of Private Foreign Investments (APPI) 1958–1974," 2024).

Out of the three projects, only the investor-state arbitration tribunal materialized in its intended form and within a reasonable time period. In 1965, the treaty establishing the International Centre for Settlement of Investment Disputes (ICSID) entered into force (St John, *The Rise of Investor-State Arbitration: Politics, Law, and Unintended Consequences*, 2018). More than two decades later, the World Bank set up the Multilateral Investment Guarantee Agency (MIGA) in April 1988, whereas the multilateral investment convention never rose beyond the endorsement of the OECD Council in a 1967 resolution. Further, despite these efforts, the 1970s witnessed a wave of nationalisations, so that by the end of the decade, all oil production in the Middle East had been nationalized in some way. However, APPI and its allies succeeded in disseminating their ideas, their legal imagination, e.g. bringing the language of investors' rights (rather than duties) into the UN system (Nicolás M. Perrone, *Investment Treaties and the Legal Imagination: How Foreign Investors Play by Their Own Rules*, 2021).

In 1974, APPI was transformed into a discussion group of only high-level business executives, without legal experts, a permanent secretariat or member companies anymore. Under the impression of the 1973 oil shock, its president, the German banker Hermann J. Abs, thought that APPI had to consider the revolutionary impact of the higher oil prices. The oil-exporting countries were rapidly becoming important capital exporters. Therefore, APPI should invite representatives from these countries to give them "proper guidance" for their investment policies. Source number 1 details these considerations: in an internal memorandum, Abs' secretary Paul Krebs laid out the reasons why APPI should welcome new members from the Middle East. We can read the efforts to court businessmen from these countries in the context of OECD governments' attempt of driving a wedge between the Organization of Petroleum Exporting Countries (OPEC) and the rest of the so-called Non-Aligned Movement (NAM). These governments outside the Communist bloc and the Atlantic allies had been pushing for structural changes to the international system and economic world order. With the OPEC's "commodity weapon"' it appeared that they were indeed able to threaten the West's hegemony. Therefore, strategists such as Henry Kissinger searched for ways to break the "unholy alliance" (Vijay Prashad, *The Poorer Nations: A Possible History of the Global South*, 2012). These included cooperating with select countries (such as Saudi Arabia, Iran and Brazil) more closely and threatening others with the termination of all aid, including loans from the IMF and World

Bank. Suddenly then, people that for long had been excluded from circles like APPI became important potential allies.
Source number 2 sheds lights on the internal deliberations on whom to approach through a series of letters between Hermann Abs and Sir Frank Roberts, a well-connected former UK diplomat who, after his retirement, was advisor to several companies. In July 1975, APPI members unanimously decided to unofficially approach government and business circles in select oil-exporting countries to find suitable representatives to join as outright members. Source number 3 contains two memoranda written by Dr. Paul Krebs, Abs' personal assistant. They detail two meetings with potential new members, the Iranian business executive Dr. Abol Gasem Kheradjou, who would decline the invitation, and Dr. Abd El Aziz Mohamed Hegazy, former Prime Minister of Egypt. In 1976, Hegazy and Sheikh Ahmed Juffali from Saudi Arabia joined APPI. Juffali was the founder of the biggest privately held company in Saudi Arabia. As part of its overture to the Middle East, APPI held meetings in Cairo and Jeddah in 1977. Source number 4 contains extracts from the protocols of these meetings, showing the interest of APPI in learning more about investment opportunities in Middle Eastern countries, and its desire to guide the investment of petrodollars outside the MENA region.

Sources selected, translated, and annotated by Nicolas Hafner.