



Interview with
Rimmer de Vries

THE NEED FOR A POLICY TO BUILD EXPORTS

From his post as vice-president and chief international economist for Morgan Guaranty Trust Co. and as editor of its monthly newsletter, *World Financial Markets*, Rimmer de Vries was one of the first observers to connect the decline of the U. S. dollar to huge and continuing oil imports. While the Administration was ignoring the problem of the dollar for months, de Vries was calling for major changes in our energy policies. Now he believes that the U. S. must go beyond energy to build a national export policy in order to revive our international competitiveness. Until that happens, he warns, dollar crises will recur with regularity.

As we enter 1978, what are the major economic and financial problems confronting the world and how well are we solving them?

We have four big problems: the international payments surplus of OPEC, the payments deficits of the less developed countries (LDCs), the U. S. deficit, and Japan's surplus. On OPEC, we are optimistic. The oil glut has brought about stability in the oil price. A few months ago we were foreseeing an OPEC surplus of \$28 billion in 1978. Now we see a surplus of \$25 billion. In 1974 it was \$65 billion, and last year it was \$85 billion.

On the LDCs, it is really amazing what the 10 or 15 top LDCs have been doing in their growth, fighting inflation and developing their exports. The fear of a worldwide breakdown on LDC debt has certainly minimized.

That leaves really the problems of the U. S. and Japan. It's somewhat paradoxical that it seems harder to make headway on these problems than with OPEC and the LDCs.

How well has the U. S. stabilized the dollar through its recent intervention?

The markets are very fragile. The timing of the U. S. intervention was probably pretty good. We had a good depreciation of the dollar last fall. The steps by the U. S. came at a time when the market needed direction.

How do the foreign exchange markets see the dollar today after the U. S. intervention?

The market is still bearish on the dollar because of the basics—mainly because of U. S. inflation, energy, and the trade deficit. There are no pluses for the dollar yet. Confidence remains very fragile.

What else should the U. S. be doing to help stabilize the dollar?

The best we can do is work on confidence. It gets back to the basic causes of the U. S. trade deficit. Even if we get an energy policy, it won't erase the balance-of-payments deficit. The best thing this country can do is get a positive national policy to increase exports. We have to fight inflation as well. We need to have a competitive product. We do not take inflation seriously enough. We have to check the projected 7% rate of inflation in wholesale prices of manufacturers—in the areas where it really counts for exports. In contrast, for Japan and Germany, we are projecting only a 1% to 1½% inflation in wholesale prices.

How much further can the dollar fall before there are major repercussions overseas?

We are probably beginning to reach a limit on how far you can devalue the dollar. No matter what the free markets may say, the Germans may begin to put controls on their trade and economy if the mark goes up to 50¢. The other European countries may develop duties to offset the changes in the exchange rate.

“ We need a national export policy to refurbish and strengthen our industry. We have to . . . go out and sell the stuff ”

Are there any dangers in relying solely on the foreign exchange system to remedy all of the world's trade problems?

If you really want to do it all through the exchange system, you have to have a much bigger devaluation of the dollar than we have seen. It is one thing to overvalue the Icelandic krona, but it's another thing to overvalue the U. S. dollar. It is the basic currency of the world, with hundreds of billions of dollars of assets denominated in it. You are dealing with confidence here. You can upset the whole framework of international finance if you really overplay the dollar.

What effect would the oil producers' denominating their oil sales in Special Drawing Rights (SDRs) instead of dollars have?

There are two aspects to this SDR question. One is simply

pricing oil in SDRs or some other currency basket. I am less concerned about this because I think the oil cartel does respond to market forces, especially with this glut.

But if the OPEC nations say they want to get paid in currencies other than the dollar—which is very different from just pricing—then that is tantamount to saying that they want to increase the diversification of their assets. They want to get away from dollar holdings even more so than they are doing today.

If they were to make this big step and demand payments in other currencies, we would probably have another dollar depreciation. And that would tend to increase inflation here in the U. S.

How much should the U. S. rely on depreciation of the dollar to solve its balance-of-payments problem?

Devaluation is basically a way of buying time. It is not a final solution to a payments problem. The U. S. is no different from other countries like Britain, Mexico, or Turkey. If you need to depreciate your currency because of inflation or



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structural factors like big oil imports, it has to be backed up by other policies. Now the U. S. does not have any backup policy to go with depreciation of the dollar.

So why doesn't the U. S. have such a policy to reinforce the dollar?

We can't even agree on the reason why the dollar has been depreciating. I am struck by the fact that whether you look at speeches from the Treasury, the Federal Reserve, or the Council of Economic Advisers, they always omit the competitive aspect when talking about the weakness of the dollar. They attribute the weakness to energy imports or cyclical growth rates among nations, but never competitiveness. No one seems to think that there is any competitive problem at all.

Would you say that the U. S. has an export policy today?

If you look at U. S. government export policy, I think we have a negative policy on exports. We frequently discourage exports. We sometimes discourage agricultural exports because of domestic price pressures, we discourage military exports for political reasons, we discourage trade with Eastern Europe, and we have the problem of the Arab boycott legislation.

This attitude is a remnant of a time of thinking when the U. S. didn't need export markets. This must change. The energy imports are a major structural change. We are buying \$45 billion to \$50 billion worth of oil abroad, and we should seek new export markets of \$50 billion.

Can you give a specific example of how the government has discouraged exports?

Take Mexico. Mexico is going to build a pipeline to develop its natural gas, and U. S. Steel got the contract for \$1.5 billion. But it depended on Export-Import Bank financing. Some senators didn't like the price of natural gas the Mexicans were asking for and discouraged Ex-Im financing. U. S. Steel lost the deal, and it has completely gone to the Germans and Japanese. This is something that most other industrial nations would never do.

What kind of export policy should the U. S. have?

We need a national export policy to refurbish and strengthen our industry. Through fiscal policy, we should stimulate research and development. Investment tax credits must be used in a meaningful way.

Export financing obviously has to be improved. Our export financing is certainly much less developed than in other foreign countries. We have to develop new technology and go out and sell the stuff.

What are the dangers if the U. S. does not come up with a national export policy?

Unless we do, the dollar weakness will be a recurring phenomenon. It will be interrupted if we have a good year in agricultural exports or if the rest of the world sometimes grows faster than the U. S. But energy imports will be with us for many years. We can't respond to these imports in a negative way, through protectionism, but in a positive way by increasing our share of exports in the world markets.

We have to plan for the 1980s. I think the competition will be immense. Japan has a tremendous national drive to export. They will respond to the challenge. And so will the LDCs.

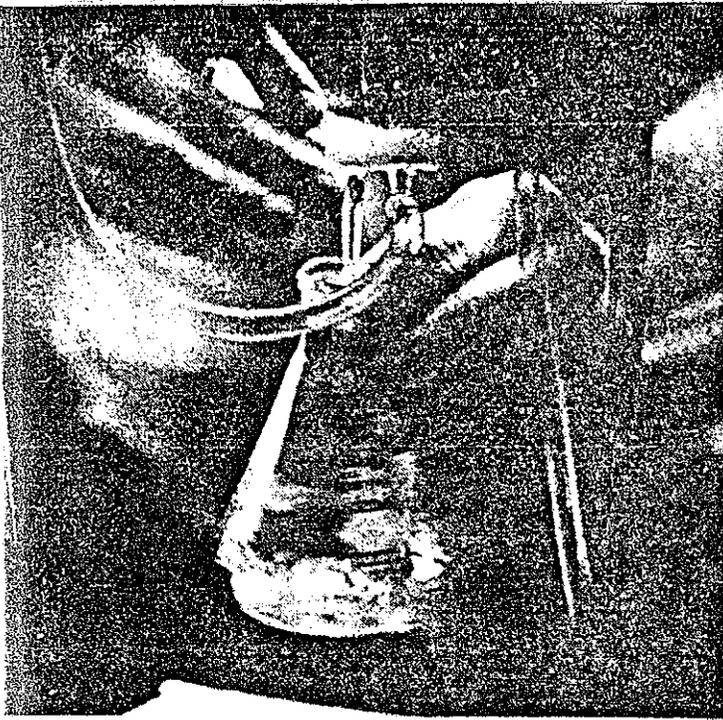
Can the Carter Administration put a new national export policy in place?

It is still a new Administration. Don't forget, the Administration started off with the feeling that the dollar would not be a problem. We didn't have to worry about it because floating rates were supposed to do the job. It took six months to find out that this was not so. The payments problem is new. It will take time. The message has to be told; it has to be emphasized.

How high is the yen likely to rise in the year ahead?

I don't think a 220 to 225 yen [to the dollar] is unreasonable. [The yen is currently 241 to the U. S. dollar.]

	PERCENT					IN U. S. DOLLARS						
	U.S. TREASURY BILLS	CERTIFICATES OF DEPOSIT			EUROMARKET TIME DEPOSITS	GERMAN MARK	SWISS FRANC	JAPANESE YEN	CANADIAN DOLLAR	FRENCH FRANC	BRITISH POUND	ITALIAN LIRA
		U.S.	EUROMARKET	SINGAPORE								
SPOT	x	x	x	x	x	.4743	.5110	.004141	.9000	.2047	1.9245	.001156
THREE-MONTH	6.43	6.93	7.18	7.18	7.19	.4788	.5192	.004179	.8998	.2009	1.9211	.001134
SIX-MONTH	6.73	7.28	7.50	7.50	7.63	.4846	.5274	.004215	.9000	.1981	1.9183	.001113
ONE-YEAR	6.83	7.75	7.85	7.85	7.81	.4953	.5407	.004285	.8998	.1933	1.9140	.001071
BANK PRIME	x	x	x	x	x	6.00%	6.50%	4.50%	8.25%	11.35%	7.50%	16.00%



Four by Five, Inc.

Recent negotiations between nonprofit, "public sector" institutions and commercial, "private sector" firms concerning patent arrangements exemplify how the patent system can serve the public interest. Experiences of the Population Council and the Ford Foundation in negotiating patent rights for contraceptive developments under grants they made are interesting precedents for further collaboration.

By Sheila Avrin McLean

IN RECENT years the patent system in the United States has been the subject of frequent, critical examination. T.L. Bowes's December, 1975, *American Bar Association Journal* article, "Patents and the Public Interest" (61 A.B.A.J. 1521), usefully summarizes this controversy surrounding our patent system and concludes that the system has served the public interest by helping "this nation become a pre-eminent developer of technology." Some recent negotiations between nonprofit, "public sector" institutions and commercial, "private sector" firms concerning patent arrangements provide an instructive new model of how the patent system can serve the public interest by catalyzing the further development of nonprofit-based research and technology.

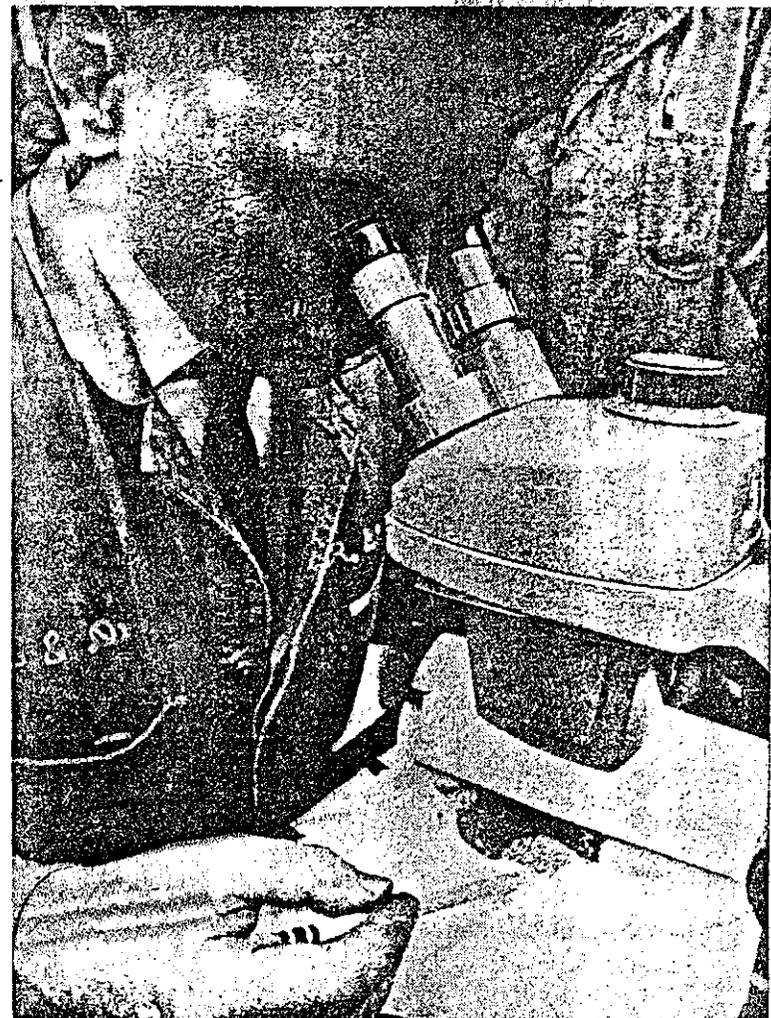
It is important to recognize that collaboration between the private and public sectors is increasingly

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essential to the development of products that are ultimately useful to the public. Carl Djerassi, a founder of Syntex and now a Stanford professor, forcefully pointed out seven years ago in *Science* that while many basic discoveries and important steps leading to technological developments are made by researchers based in the nonprofit or public sector, pharmaceutical firms—private sector firms—"play an indispensable role in the development of any drug." His observations have been reinforced by a 1974 report prepared for the Federal Council for Science and Technology, which reflects the obvious point that universities and nonprofit hospitals do not engage in direct manufacture. Thus, industry must bring university inventions to the market place.

Since collaboration is so essential, consideration of new arrangements for bringing the private and public sectors together for their mutual benefit may be helpful to lawyers advising either sector. Some experiences of the Population Council and the Ford Foundation in negotiating patent rights for contraceptive developments under grants they had made serve as interesting precedents for further collaboration in that and other areas.

Inventions in the field of contraceptive research illustrate the way in which patented technology is often



Candida Photo

developed. Individual university-based researchers may conceive of new ideas for fertility-regulating drugs or devices or combinations thereof. Through their universities, they receive initial "seed" funding from governmental or philanthropic agencies. But to some extent the invention and to a greater extent the necessary initial research are done at organized laboratories by teams of professionals associated with medical schools, research hospitals, or nonprofit research institutions. The inventor-professor usually is required by employment arrangements to convey patent rights to the employer-university, at least in part. The work in the nonprofit sector typically does not result in a product that can be distributed to the public. Additional research and much of the necessary development is done by specially trained teams at well-equipped laboratories, frequently those maintained by profit-oriented pharmaceutical firms. This is particularly the case when development of the invention requires the Food and Drug Administration's approval, necessitating extensive and costly clinical testing.

In these cases there is a potential for conflict between the public and private sectors in the differing philosophies underlying the funding of research by public sector organizations, the availability of patent protection for new inventions, and the further funding provided by the pharmaceutical firm. The public sector donor proceeds on the premise that its reward for helping to finance an invention will be public access to the results of the supported research at minimum expense. The patent laws, on the other hand, are based on the philosophy of encouraging the development of new ideas by giving the inventor the right under a patent for a limited period to profit from the invention—either by use of the patent or through royalty arrangements with others. Because an inventor may choose to obtain patent protection in more than one country, it is possible to obtain virtually worldwide patent rights for an invention, albeit for limited periods of time.

Marketing Creates Interest in Royalties

Simply stated, if a patented invention is marketed, several parties involved in its development—the university or hospital where the original research was conducted, the investigator (inventor) in whose name the patent was prosecuted, and the pharmaceutical firm where further research and development are carried on—become interested in royalties under the patent and in the exclusive right to control the manufacture and sale of the product.

The public sector donor (for example, the Population Council, the United States Agency for International Development, or the Ford Foundation) usually retains some form of license—usually a royalty-free, nonexclusive license to make, use, and sell the invention—but it is usually impractical for these funding agencies to consider exercising this license. Not being in the busi-

ness of manufacturing and not typically in the business of distributing drugs or devices, they must develop alternatives to safeguard their original purpose of public sector access, at low cost, to the patented invention they helped to finance.

Experience has shown that in exchange for providing venture capital and other support for further necessary research and development, pharmaceutical firms are likely to require an exclusive license under the patent—the exclusive right to make, use, and sell the new invention. Sometimes working together, and sometimes separately, the Population Council and the Ford Foundation have developed with pharmaceutical firms an interesting and innovative approach to this aspect of patents under research grants. At the stage when a grant for research is made, the grantee institution (usually a university) and the principal investigator enter into a patent agreement with the foundation or council under which the institution or investigator is responsible for obtaining patents on inventions and may grant only nonexclusive licenses of any patentable invention resulting from the sponsored research. The agreement requires the foundation's or council's consent before the institution or investigator may permit an exclusive license of the patent. Drug companies interested in further development and marketing of the invention usually do request the foundation's or council's consent to exclusive licenses before they will make the substantial investment to develop, test, and market the drug or device.

Royalties Can Be Fed Back into Research

The foundation and council have made an initial decision not to demand royalties in return for their consent to an exclusive license, even though it might be simpler to negotiate standard royalty arrangements with pharmaceutical firms. The donor agencies could then feed these royalties back into further research. The Population Council, for one, has considered and rejected this approach on the ground that its objectivity in advising on the use of contraceptives might be impugned if it were viewed as having a financial stake in a particular product.

Instead they take steps in their agreements with the drug companies to assure that the public sector will be able to purchase the new contraceptive devices at a price lower than that which the drug company would charge the private sector (for example, commercial suppliers to private physicians). The key issues forming the basis of these agreements are (a) definition of the "public sector," (b) pricing formulas, and (c) guaranty of supply to the public sector. "Public sector" is defined, for example, as national and voluntary family planning programs. A pricing formula for the public sector, for example, may take into account the cost of the product to the pharmaceutical firm but not give any profit to the firm from public sector purchasers. The guaranty-of-supply provisions attempt to assure

that public sector agencies that order the product at the special public sector price will have it supplied to them.

The details vary with circumstances, such as the sums of money the various parties have contributed, or will have to contribute, to research and development. Negotiating these arrangements can be extremely complex and time consuming, and the legal fees can be substantial. There are at least four parties—the donor agency, the hospital or university in which the inventor works, the inventor, and the drug company. The interests of the various parties are not, of course, identical. The hospital and inventor usually work out royalty arrangements at the same time the donor agencies negotiate the special public sector pricing formula. But if the parties approach the negotiations in good faith, and with a sense of humor, their agreement can be a workable model for collaboration between philanthropy and industry.

Justice Department Issues Position

The Justice Department has recently announced its position on a patent licensing arrangement between a nonprofit, public sector organization and several private sector pharmaceutical firms. The public sector concern is the Salk Institute for Biological Studies, a publicly supported, nonprofit organization in California that performs biological research. Salk outlined to the Justice Department a proposed licensing arrangement of patents for a drug (Somastostatin) intended to treat diabetes. Salk would grant world-wide, nonexclusive patent licenses to five pharmaceutical firms and would also agree not to grant additional licenses for a period of three years after the first sale of the drug. At the end of three years Salk would again be free to grant additional nonexclusive licenses. In return, the pharmaceutical firm licensees would pay the institute royalties and would commit themselves to clinical testing necessary to obtaining the Food and Drug Administration's approval to distribute the drug.

In February, 1975, the Antitrust Division of the Justice Department issued an unfavorable business review letter with respect to these proposed arrangements. But in December, 1975, the division reversed its earlier position. In the December letter, it found that temporary limitation of the number of licensees appeared reasonable because Salk had been unable to obtain license agreements with qualified and interested firms without such a limitation. In addition, the division found that the terms in Salk's licensing agreement were designed to minimize the anticompetitive consequences of that limitation.

This discussion of patents has focused on public access to patented inventions initially funded by the public sector. It is important to remember that the life of patents is limited in the United States for seventeen years. Indeed, some of the patents on contraceptives invented in the late 1950s and early 1960s have expired

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or are about to expire. For example, Syntex's patent on Norethindrone and Searle's patent on Norethynodrel expired in 1972. Once the patent expires, the invention, including all the data related to it contained in the patent application, is dedicated to the public.

In certain cases the patent holder and those with licenses to make the invention will have a large head start in developing technical know-how and market acceptance for the product, and their market position may not be affected adversely by the expiration of the patent. This may be true for patented devices such as intrauterine devices carrying releasing compounds. On the other hand, replication of available contraceptive compounds used for the female contraceptive pill is relatively simple and inexpensive. The end of patent protection on these products will almost certainly invite competition and reduce the monopoly profits assured by the patent.

Life of a Patent May Be Extended

Because the Food and Drug Administration and other regulatory requirements demand a lengthy period of testing before a patented product can be approved for general use, Carl Djerassi has suggested that the life of a patent be extended for a specified number of years after a contraceptive product has been approved by the regulatory agency. Congressional consideration might be given to granting these extensions, by amending the patent law, in return for a *quid pro quo* benefiting the public, as, for example, a stipulation that the product be made available at a special low price (at "cost") to nonprofit or governmental programs distributing the product (nonprofit government sponsored family planning programs).

As indicated by these examples, imaginative use of patent arrangements can facilitate the development and marketing of public sector inventions by collaboration between the private and public sectors despite the differing interests of the parties involved. The suggested model may encourage other public funding agencies, universities, nonprofit research institutes, and private, profit-oriented companies—and their legal counsel—to look at their negotiations over patent rights as a helpful tool for mutually beneficial collaboration. ▲