

**SOVEREIGN WEALTH FUNDS AS A DEVELOPMENT TOOL FOR ASEAN NATIONS:
FROM SOCIAL WEALTH TO SOCIAL RESPONSIBILITY**
RUMU SARKAR*

Introduction

While sovereign wealth funds (SWFs) have existed since the 1950s, their significance and importance in economic, political and policy terms have increased exponentially in the past decade or so. Ironically, however, it may be argued that the development aspects of SWFs have been a missing dimension from the latest rounds of analysis and scrutiny. This is somewhat surprising since most new SWFs are being formed in emerging or developing economies.¹ This article will address this vacuum by exploring certain development aspects of SWFs.

Specifically, this article will examine three separate but interrelated questions: (1) why and under what economic and political conditions should an emerging (ASEAN)² economy create an SWF; (2) what should the specific objectives of a newly formed SWF be, and how should it be structured in order to meet these goals; and (3) should an SWF be used as a self-financing tool for development purposes and, if so, how? For the first question, the debate surrounding the establishment of a SWF by India will be examined. While India is not an ASEAN member, certain precautionary notes may be useful in this context especially for the ASEAN-4 nations (i.e., Indonesia, Malaysia, the Philippines, and Thailand). Secondly, this article will address the specific objectives that an SWF may support, and how it may best be structured in support of such goals. Finally, the relative merits of using SWFs as a development finance tool will be explored.

A. Definition and Structure of a Sovereign Wealth Fund

Generally speaking, a sovereign wealth fund (SWF) is a state-owned or state-controlled investment fund that consists of financial assets such as stocks, bonds, real estate, or other financial instruments funded by foreign exchange assets. These assets can include, for example, balance of payments surpluses from sales of commodities or other exports, official foreign currency operations, the proceeds of privatizations, or fiscal surpluses.

* Professor Rumu Sarkar is the Senior Legal Advisor to CALIBRE Systems, Inc., a defense consulting firm in Alexandria, Virginia, and is an Adjunct Law Professor at the Georgetown University Law Center where she teaches an LL.M. seminar on international development law.

¹ Javier Santiso, "Sovereign Development Funds," *Policy Insights* No. 58, OECD (April 2008), available at <http://www.oecd.org/dataoecd/17/57/40040692.pdf> (last visited on June 16, 2009).

² ASEAN stands for the Association of Southeast Asian Nations. Its members are Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam. See <http://www.aseansec.org/>. The scope of this article focuses on ASEAN nations to make the discussion clearer and perhaps more relevant to the audience of the conference sponsored by the Asian Society of International Law and the Faculty of Law, National University of Singapore.

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Typically, SWFs have six main characteristics:

- SWFs are state-owned or state-controlled;
- SWFs are managed separately from official foreign exchange reserves;
- SWFs have high foreign currency exposure;
- Unlike pension funds, SWFs have no explicit (or contingent) liabilities;
- SWFs have high risk tolerance; and,
- SWFs have long-term investment horizons.³

SWFs are generally structured as a fund, pool, or corporation.⁴ However, the legal structure of SWFs is certainly not uniform. For example, the SWF need not be a separate legal entity from the government that formed it as in the case of Norway's Government Pension Fund. It may be a government corporation as in the case of the Korea Investment Corporation, or a government-owned corporation governed by the country's company law as in the case of Temasek Holdings (Singapore).⁵

Sovereign wealth funds are specifically defined by the U.S. Treasury as government-held investment funds that are in foreign currency (or, in other words, held in currencies other than the investing host government's own currency).⁶ These reserves are managed separately from official currency reserves, and are often invested in foreign companies or enterprises for profit. When an excess of such foreign currency reserves (usually held in US dollars, Euro or Japanese yen) are accumulated, a host country may decide to establish a sovereign wealth fund. Common wisdom dictates that a foreign exchange reserve cushion should be sufficient to support three to four months worth of imports and cover all external debt financing needs for one year. Using this standard, the foreign exchange reserves accumulated by several Asian countries far exceed that amount.⁷

The first SWF was established in 1953 by the Government of Kuwait for the purpose of investing surplus oil revenues in order to reduce its reliance on its finite oil reserves. Since the 1950s, SWFs have experienced two notable waves of inception, the first, in the 1970s with the creation of Singapore's Temasek Holdings in 1974, and the Abu Dhabi Investment Authority in 1976, and second, in the new millennium with the establishment of over 20 SWFs in the 2000-2007 time period.⁸ The largest SWFs at this point belong to the Middle East (i.e., Abu Dhabi, Dubai, Kuwait, Oman, Qatar and Saudi Arabia), Norway, Singapore, China and Russia.⁹

There are two basic sources of funding for most SWFs: (1) commodity-based funds (e.g., oil, gas, extractive minerals and other natural resources-based commodities), and (2) non-commodity-based resources (e.g., foreign exchange reserves from exports, gold, pension

³ Kavaljit Singh, "Frequently Asked Questions about Sovereign Wealth Funds," *supra*, at 5.

⁴ See generally, "What is a Sovereign Wealth Fund?" available at <http://www.swfinstitute.org/swf.php> (last visited on April 17, 2009).

⁵ Kavaljit Singh, "Frequently Asked Questions about Sovereign Wealth Funds," *supra*, at 5.

⁶ Lee Hudson Teslik, "Sovereign Wealth Funds," Council on Foreign Relations (Jan. 18, 2008), available at <http://www.cfr.org/publication/15251/> (last visited on July 21, 2008).

⁷ Yang Zhendai, "Issues in the long-term development of sovereign wealth funds," *4 Asia-Pacific Trade & Invest. Rev.* 159, 162 (2008).

⁸ *Id.* at 161.

⁹ Kavaljit Singh, "Frequently Asked Questions about Sovereign Wealth Funds," *supra*, at 11.

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investments, general tax, privatization-based proceeds, and other government revenue-based financial holdings).¹⁰ Indeed, the two categories of SWFs provide an interesting backdrop that explains both the origins and the objectives of such funds.

The first category of SWFs served the interests of oil-exporting countries such as Norway and the Gulf states who, beginning in the 1950s, identified a long-term need to invest their export revenues in foreign investments. In contrast, the newly industrialized Asian countries began generating current account surpluses not from the sales of natural resources but from non-resource exports. These capital flows contributed to large and persistent balance of payment surpluses resulting in the accumulation of excess foreign exchange reserves. The foreign investments made by SWFs recycle surplus funds much in the same way as Western banks recycled petrodollars by making loans to sovereign nations during the mid-1970s to mid-1980s.¹¹

However, the need to create SWFs by Asian nations whereby their central banks would purchase foreign exchange reserves as an insurance or hedge against shortages in foreign exchange became an acute need after the Asian currency crisis in 1997-98.¹² The desire of the affected Asian countries to avoid future International Monetary Fund (IMF) prescriptions for dealing with the financial crisis was clear. The impact of painful IMF-imposed structural reforms along with an immediate tightening of monetary policies were deeply felt in Korea, Thailand and Indonesia, the countries where the IMF most substantively intervened.¹³

Thus, a cushion of foreign exchange reserves as a form of “self-insurance” to protect a country such as Thailand or Indonesia against volatile capital outflows became the official policy response. In fact, the long-established, commercially successful Singapore’s Temasek Holdings (established in 1974), and the Government of Singapore Investment Corporation (GIC) (established in 1981), may have inspired several Asian countries to form their own SWFs.¹⁴ While certain countries such as Korea, Thailand and Russia began accumulating large foreign exchange reserves in order to cushion their economies from future economic shocks,¹⁵ there are other reasons to create SWFs which may include, for example:

¹⁰ Id. It has also been argued that government owned or controlled pension funds (e.g., Japan’s Government Pension investment Funds, U.S. Social Security Trust Fund, Russia’s Lukoil, and China Development Bank) are not truly SWFs since the individual sub-account pensioner chooses investments in particular subfunds and thus, is a narrower concept than an actual SWF. See Edwin Truman, “A Blueprint for Sovereign Wealth Fund Best Practices,” *Policy Brief* (No. PB08-3, April 2008), footnote 1, available at <http://www.petersoninstitute.org/publications/pb/pb08-3.pdf> (last visited on June 17, 2009). One notable difference between state-owned pension funds and other types of SWFs is the fact that they are generally denominated and funded in local currency, and do not substantially invest abroad. See Kavaljit Singh, “Frequently Asked Questions about Sovereign Wealth Funds,” *supra* at 7.

¹¹ See Kavaljit Singh, “Frequently Asked Questions about Sovereign Wealth Funds,” *supra*, at 13.

¹² Donghyun Park, “Developing Asia’s New Sovereign Wealth Funds and Global Financial Stability,” *ADB Briefs*, No. 1 (Oct. 2008), available at <http://www.adb.org/Documents/Briefs/ADB-Briefs-001-Sovereign-Wealth-Funds.pdf> (last visited on June 17, 2009).

¹³ The IMF’s Response to the Asian Crisis, Factsheet (January 1999), available at <http://www.imf.org/External/np/exr/facts/asia.htm> (last visited on June 17, 2009).

¹⁴ Donghyun Park, “Developing Asia’s New Sovereign Wealth Funds and Global Financial Stability,” *supra*.

¹⁵ David Burton, et al., “Asia’s Winds of Change,” 43 *Fin. & Dev.* (June 2006), available at <http://www.imf.org/external/pubs/ft/fandd/2006/06/burton.htm> (last visited on July 21, 2008). See also Anders Aslund, “The Truth About Sovereign Wealth Funds,” *Foreign Policy*, December 2007, available at http://www.foreignpolicy.com/story/cms.php?story_id=4056 (last visited on July 21, 2008).

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- Protect and stabilize the host country budget and economy from excess volatility in revenues/exports;
- Create a diversified fund of holdings generated by non-renewable commodity exports;
- Earn greater returns than on foreign exchange reserves;
- Increase savings for future generations;
- Fund social and economic development;
- Exercise increased political influence by making strategic foreign investments.¹⁶

Moreover, for commodity-exporting countries like Russia, for example, a large build up of foreign exchange reserves protects it against the boom and bust cycle of volatile commodity sales, and helps reassure foreign investors on the fundamental soundness of their direct foreign investment in the country. SWFs are also a means of converting non-renewable and finite natural resources into financial assets to provide for future generations. By saving and investing the financial gains during a “boom,” SWFs can protect against a potential “bust,” by acting as a stabilization fund.

The IMF has identified five types of SWFs based on their underlying objective: (1) *stabilization funds* designed to insulate the host government’s budget and economy against commodity (e.g., oil) swings; (2) *savings funds* set up to convert nonrenewable resources such as oil or minerals into a more diversified portfolio of assets for use by future generations; (3) *reserve investment corporations* who are established to increase the returns (earnings) on reserves; (4) *development funds* which typically help fund socio-economic programs; and (5) *contingent pension reserve funds* which provide budgetary support for potential unfunded contingent pension liabilities.¹⁷

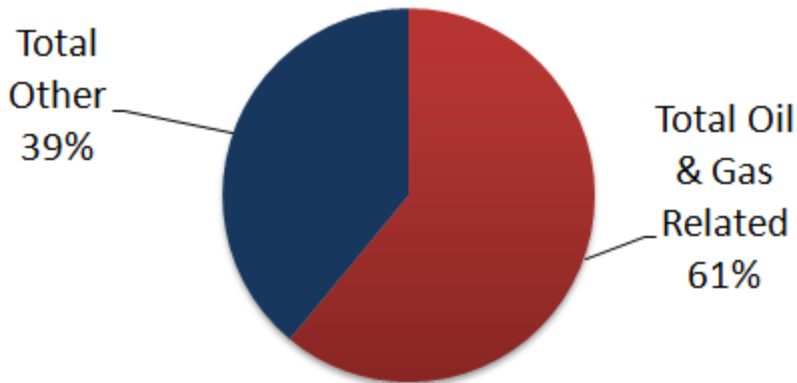
In addition, some governments have established wholly government-owned development funds that support development such as infrastructure projects. Examples of this type of SWF include Temasek Holdings (Singapore), Khazanah Nasional Berhad of Malaysia, and the National Development Fund of Venezuela.¹⁸ The ways in which such SWFs may support the development policy objectives of their governments will be explored later in this article.

¹⁶ Javier Santiso, “Sovereign Development Funds,” *supra*, footnote 1.

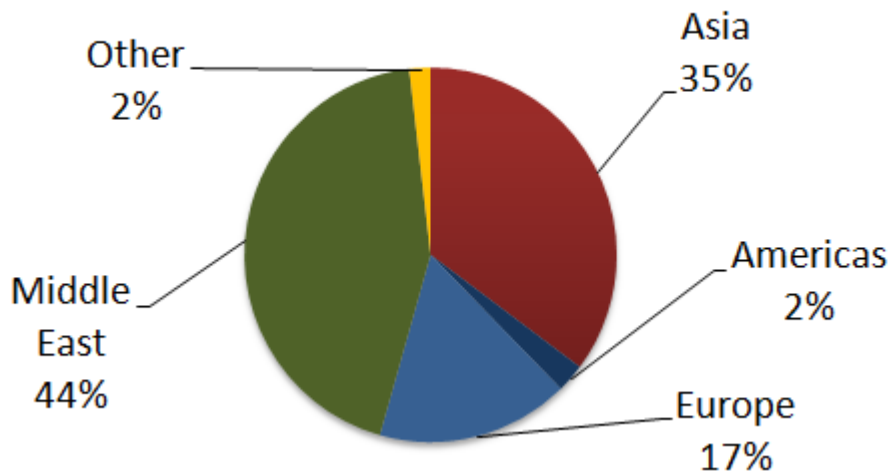
¹⁷ IMF, “Sovereign Wealth Funds—A Work Agenda (February 29, 2008) at 5, available at <http://www.imf.org/external/np/pp/eng/2008/022908.pdf>. This overview provides a thorough discussion of many facets and implications of SWFs.

¹⁸ Kavaljit Singh, “Frequently Asked Questions about Sovereign Wealth Funds,” *supra*, at 6.

SWFs by Funding Source



SWFs by Region



Source Sovereign Wealth Fund Institute
See <http://www.swfinstitute.org/funds.php> (last visited on June 17, 2009).

B. Capital Market Implications of SWFs

While SWFs seem to indicate that global capital markets are working well as indicated by the net flow of capital from developing countries to advanced nations, there is a significant sea change underway. While a great deal of discussion has been devoted by dependency theorists during the 1970s-1980s arguing that a net flow of capital from the developing world and emerging economies to industrialized powers is part of the equation causing “underdevelopment” in these places, the new trend with SWFs indicates something else completely.

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This sea change needs to be understood from two perspectives: first, global savings are being generated by a commodity boom or export-led growth in developing countries. While most SWFs in, for example, Abu Dubai, Kuwait, Norway, Russia are being generated by excess oil revenues, in other instances, such as Singapore, Korea, and China, net export revenues are generating surplus reserves.¹⁹ Commodity exports such as in oil, metals, major food crops along with the exports of manufactured goods has led to savings accumulations in many developing countries. Emerging economies are now “key engines of the world economy,”²⁰ and are now in a position of not just exporting goods (whether in the form of natural resources or industrialized products) but also exporting capital to the rest of the world.

Secondly, advanced nations are now in desperate need of strategic cash infusions from emerging economies. In fact, emerging economies are no longer in the debtor class of nations but in the creditor class providing billions in liquidity to Western-based firms (and in the case of Iceland, countries)²¹ struggling on the brink of bankruptcy and collapse. For example, China Investment Corporation invested US\$5 billion in Morgan Stanley, and the Korea Investment Corporation invested US\$2 billion in Merrill Lynch.²² The need for liquidity by advanced economies is changing the face of global capital markets and giving SWFs a newfound prominence.

The pivotal role played by SWFs in injecting cash liquidity in response to the subprime mortgage financial meltdown of 2008-2009 was acknowledged with a mixture of both relief and alarm. While international capital markets were stabilized as a result, the motives of SWFs were also questioned. The fact that many SWFs are state-owned or state-controlled institutions from countries with different political systems from Western-styled democracies raised important questions. The Western nations whose assets were being acquired by SWFs were, in some instances, skeptical of the underlying objectives of such SWFs. These concerns may not be wholly unfounded.

The Peterson Institute for International Economics developed a “blueprint” for SWF best practices. In so doing, the Institute created a score sheet consisting of four components to assess SWFs: (1) the structure of the SWF; (2) the governance of the fund; (3) the accountability and transparency of the fund in terms of its investment strategy and reporting; and (4) the behavior of the funds in managing its portfolio.²³ The study found a systemic pattern of SWFs with low transparency being associated

¹⁹ N. Spatafora & I. Tytell, “Commodity Price Boom, Better Policies Spur Globalization,” *IMF Survey* (April 3, 2008), available at <http://www.imf.org/external/pubs/ft/survey/so/2008/RES040308B.htm> (last visited on July 21, 2008).

²⁰ Javier Santiso, “Sovereign Development Funds,” *supra*.

²¹ Yuri Zarakhovich, “Why Russia is Bailing Put Iceland,” *TIME* (October 13, 2008), available at <http://www.time.com/time/world/article/0,8599,1849705,00.html> (last visited on June 16, 2009).; see also “Icelandic-Russian Bailout,” available at <http://continentsmith.blogspot.com/2008/10/icelandic-russian-bailout.html>, where the Russia Reserve Fund and the National Welfare Fund, while not classified yet as SWFs, are in substance exactly that.

²² Donghyun Park, “Developing Asia’s New Sovereign Wealth Funds and Global Financial Stability,” *supra*.

²³ Edwin Truman, “A Blueprint for Sovereign Wealth Fund Best Practices,” *Policy Brief* (No. PB08-3, April 2008), at 6, available at <http://www.petersoninstitute.org/publications/pb/pb08-3.pdf> (last visited on June 17, 2009).

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with economies with low scores in Rule of Law dimensions and democratic governance. A similar pattern was detected by the Linaberg-Maduell Transparency Index of the Sovereign Wealth Fund Institute.²⁴

The possibility of SWFs acquiring greater political leverage or influence or even acquiring technologies and know-how through their ownership of distressed Western-based investment banks, financial institutions or infrastructure portals or other commercial enterprises was openly voiced by critics. National security concerns were raised expressing the fear that SWFs may somehow compromise sensitive or proprietary information and processes in some way.

Nevertheless, Angel Gurría, OECD Secretary-General, stated at the 17th meeting held by the International Monetary and Financial Committee that, “[n]ational security is a legitimate concern but should not be a cover for protectionist policies.”²⁵ He further stated that:

Investments controlled by foreign governments, such as those by SWFs, can raise concerns based on uncertainty regarding the objectives of the investor and whether they are commercially based or driven by political or foreign policy considerations. They can raise concerns with respect to foreign government control or access to defence [sic] related technologies – for example, that such investments could provide a channel for the acquisition of dual-use technologies for military purposes by the acquiring country or for denying technology or other assets critical for national defence [sic] to the recipient government itself, or for aiding the intelligence capabilities of a foreign country that is hostile to the host country.

However, OECD members have agreed that the national security clause of the OECD investment instruments should be applied with restraint and should not be a general escape clause from their commitments to open investment policies.²⁶

Further, it should be noted in this context that exercising control over foreign firms by SWFs is highly problematic, at least in the U.S. context. The proposed acquisition of a controlling interest (10%) by an SWF in a U.S. corporation triggers a review by the U.S. Committee on Foreign Investment in the United States (CFIUS), a multi-agency committee that analyzes the potential national security impacts of a proposed acquisition or other corporate act by an SWF.²⁷ Moreover,

²⁴ See Kavaljit Singh, “Frequently Asked Questions about Sovereign Wealth Funds,” *supra*, at 23.

²⁵ Angel Gurría, “Statement,” International Monetary and Financial Committee (April 12, 2008) at 4, available at <http://www.imf.org/External/spring/2008/imfc/statement/eng/oecd.pdf> (last visited on June 22, 2009).

²⁶ *Id.* The International Monetary Fund tasked its ministerial guidance body, the International Monetary and Financial Committee, to develop best practices for SWFs. See “IMF Intensifies Work on Sovereign Wealth Funds,” *IMF Survey On-Line* (March 4, 2008), available at <http://www.imf.org/external/pubs/ft/survey/so/2008/POL03408A.htm> (last visited on June 22, 2009).

²⁷ Paul Rose, “Sovereign Wealth Funds: Active or Passive Investors?” 118 *Yale L.J. Pocket Part* 104 (November 2008) at 105, available at <http://yalelawjournal.org/content/view/725/1/> (last visited on June 22, 2009). In sum, the Exon-Florio amendment, 50 U.S.C. app 2170 (1988), permits blocking the acquisition of U.S. assets by a foreign entity where there is a national security threat. The amendment is implemented by the CFIUS, chaired by the U.S. Secretary of the Treasury. The U.S. Congress also passed the Foreign Investment and National Security Act (FINSIA), Pub. L. No. 110-49, 121 Stat. 246 (2007), which strengthens the screening powers of CFIUS.

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there is a recognition that control may be exercised in ways that go beyond the simple acquisition of shares. For example, if an SWF decides to sell assets, reorganize, merge, make major expenditures, issues securities or pursue other lines of business, to name a few actions, the SWF may be regarded as exercising a controlling interest over the company in question, thereby triggering greater scrutiny.²⁸

Moreover, the opaqueness, the general lack of transparency concerning the disclosure of investment earnings, and other basic financial information, the lack of corporate governance and ethical standards of SWFs have added to these concerns. The issues regarding the potentially political (or noncommercial) motivations of SWFs may be over exaggerated, but nonetheless, form a part of the dialogue underlying the role of SWFs in global investment relations.

Apart from these issues, the existence of high levels of corruption in certain countries with high net worth SWFs has also raised the concern that making large scale investment may induce more corruption. This possibility, combined with the limited transparency of most SWFs, makes financial monitoring of the SWFs themselves and their impact on global capital markets even more problematic. Thus, the grand scale of operation of some SWFs have raised concerns spanning from financial stability and monitoring, corporate governance, political opportunism, and protectionism.²⁹ Some countries have reacted in a hostile and protectionist manner,³⁰ while others have taken a more constructive approach, a point that we will return to later in this discussion.

In essence, this circulation of capital from saving and investing nations to consuming nations (who absorb both commodities and capital) is a relatively new phenomenon. However, in the not so distant past, it was the reverse—developing countries absorbed finished industrialized products and capital investment, and had the debt overhang to prove it. Now, whether they are providing natural resources or industrialized products, emerging economies are in a much different and better financial position. The “[g]overnments of emerging markets [have] become major shareholders of countries in industrialized countries.”³¹

Indeed, the “growth of SWFs reflects a dramatic redistribution of international wealth from traditional industrialized countries like the United States to countries that historically have not been major players in international finance and have little or no role in shaping the practices, norms, and conventions governing the

For a fuller discussion on the choice between foreign direct investment and national security concerns, the impact of FINSA, and the role of CFIUS, see generally, Jason Cox, “Regulation of Foreign Direct Investment After the Dubai Ports Controversy: Has the U.S. Government Finally Figured Out How to Balance Foreign Threats to National Security Without Alienating Foreign Companies?” 34 *Iowa J. Corp. L.* 293 (2008).

²⁸ See Paul Rose, “Sovereign Wealth Funds: Active or Passive Investors?” *supra*, footnote 24.

²⁹ Yang Zhendai, “Issues in the long-term development of sovereign wealth funds,” *supra*, at 160, 162.

³⁰ Juan Pedro Gomez, “Sovereign Wealth Funds: Heroes or Villains?” IE Business School (July 31, 2008), available at <http://cc.bingj.com/cache.aspx?q=juan+gomez+swfs&d=76259307768285&mk=en-US&setlang=en-US&w=65caf751.b83dafb6> (last visited on June 22, 2009).

³¹ Yang Zhendai, “Issues in the long-term development of sovereign wealth funds,” *supra*, at 160.

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international financial systems.”³² A subtle role reversal has taken place, and has been duly noted.

The redistribution of global financial power has another dimension as well. Not only are SWFs becoming financial actors on the same scale as OECD countries, but they also play a major new financial role in investing in other emerging economies. While the successive bailouts of Western financial institutions from 2007-2009 are impressive in actual net dollar terms, but they may overshadow another more subtle and perhaps more significant trend.

Temasek Holdings (Singapore), for example, has a 40% stake in other Asian countries (excluding Japan), a 38% stake in Singaporean enterprises, and a mere 20% stake in OECD countries. Further, the Kuwait Investment Authority (KIA) is reducing its 90% portfolio investment in Europe and the United States to less than 70%.³³ To explain this new shift in investment from OECD countries to emerging economies in Asia and elsewhere, one commentator poses the question, “why bother to invest in low-growth OECD economies when you can access nearly double-digit growth rates in emerging countries?”³⁴ Thus, investments in Asia, Latin America and even Africa may hold more potential investment gains than OECD countries whose economies are slowing down.

Additionally, the investment patterns of SWFs have gradually been changing as well. Central banks who manage the capital of SWFs usually invest in short-term investments in low-yielding liquid assets such as U.S. Treasury bills where the return on such money market instruments have hovered around 1% over the last 60 years. Now, the originating nations of SWFs are more interested in riskier and more high-yielding investments since a diversified portfolio of 60% equities and 40% bonds yields closer to 6% in earnings.³⁵ The change in investment strategy stems from economic reasons based on a desire to increase net earnings rather than from political, strategic, or foreign policy motivations.³⁶

Based on this impressive flow of investments (i.e., capital movements), one may be tempted to assume that global capital markets are functioning well. This assumption is predicated on the belief that developing countries are better integrated into global financial markets. A number of economic rationales have been offered to explain the fuller integration of these emerging economies into the global capital market, namely, better macroeconomic frameworks, better institutions, reduced policy distortions, fewer exchange restrictions, fewer tariffs, lessened overvaluation

³² Edwin Truman, “A Blueprint for Sovereign Wealth Fund Best Practices,” *supra*, at 3.

³³ Javier Santiso, “Sovereign Development Funds,” *supra*.

³⁴ *Id.*

³⁵ Kavaljit Singh, “Frequently Asked Questions about Sovereign Wealth Funds,” *supra*, at 15 quoting sources from Deutsche bank Research (last visited on June 17, 2009). See also Table 6 (Investment Patterns of SWFs); Table 7 (Composition and Asset Allocation of Selected SWFs [December 2006]), and Table 8 (Recent Investments by SWFs in International Banks) at 19, 21, 22 for a graphic outlay of specific investment patterns of selected SWFs.

³⁶ See Ronald Gilson & Curtis Milhaupt, “Sovereign Wealth Funds and Corporate Governance: A Minimalist Response to the New Mercantilism,” 60 *Stan. L. Rev.* 1345, 1347, 1359 (2008).

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of their currencies, financial deepening, fiscal prudence, better South-South trade linkages and more economic liberalization in general.³⁷

While foreign portfolio investments may be financially rewarding, SWFs should also be viewed by ASEAN countries with basic development needs as an opportunity to invest in the internal development of their own country.³⁸ For example, for countries reaping financial benefits from the current commodity boom, these investments may be seen as long-term capital growth opportunities. The excess foreign exchange reserves could translate into lower taxes, better investments into physical infrastructure and the “softer” infrastructure of education, health and social services. Better state-run business (or perhaps the privatization of existing ones) may also be contemplated.³⁹

Indeed, a windfall of profits, if generated by an emerging economy, poses interesting policy challenges. For example, should the windfall be used to pay down official government debt? Should interest rates be lowered thereby encouraging private sector investment and growth? Should the funds be used for public infrastructure works, or should it be used to support social infrastructure needs such as providing education, health care, and support contingent pension fund liabilities? Should a windfall profit be used to create tax cuts? Or should the funds be set aside in an SWF to make profitable investments for future generations?

In fact, not only may SWFs be strategically deployed to support internal development needs, but they can also encourage the development of other countries. This pattern is already emerging. One commentator notes that, “SWFs could also become a formidable force for economic development if these funds invest part of their assets in developing countries.”⁴⁰ The economic incentives for doing are becoming stronger as industrialized Western economies begin to falter. SWFs as a development tool may be an idea that has come of age.

(i) Sovereign Funds Initiative

Two examples of using SWFs as a strategic development asset have been proposed and, in one case, been implemented. An international capital facility has been proposed to receive excess cash reserves.⁴¹ This reserve would be “politically neutral.” In fact, it has been argued that even the modest fees that could be charged for such a facility would be more than sufficient to support the grant and concessional aspects of international lending by multilateral banks to fund

³⁷ N. Spatafora & I. Tytell, “Commodity Price Boom, Better Policies Spur Globalization,” *supra*.

³⁸ For a general discussion on development issues and the role of legal reform in support of development, see Rumu Sarkar, *INTERNATIONAL DEVELOPMENT LAW: Rule of Law, Human Rights and Global Finance* (Oxford University Press, forthcoming 2009).

³⁹ *Id.*

⁴⁰ Angel Gurría, “Sovereign wealth funds an opportunity, not a threat,” *Guardian* (April 9, 2008), available at <http://www.guardian.co.uk/business/2008/apr/09/creditrunch.economics> (last visited on June 22, 2009).

⁴¹ Lawrence Summers, “Reflections on Global Account Balances and Emerging Markets Reserve Accumulation,” Reserve Bank of India (Mar. 24, 2006), available at http://www.president.harvard.edu/speeches/2006/0324_rbi.html (last visited on July 21, 2008).

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development projects.⁴² Ironically perhaps, the poorest people in the world may live in economies with the largest foreign exchange cash reserves.⁴³ Thus, poverty reduction could truly start at home.

The second example where concrete action was actually taken is the Sovereign Funds Initiative. On December 9, 2008, the Board of Directors of the International Finance Corporation (IFC), a member of the World Bank Group, announced that it was approving a Sovereign Funds Initiative (SFI).⁴⁴ The IFC plans on investing up to US\$200 million of its own resources in a fund that the IFC will directly or indirectly manage using its own investment principles and policies related to social and environmental sustainability. The IFC will also use the SFI as a vehicle to raise commercial capital from SWFs in order to make equity investments in the poorest countries in Africa and Latin America. The IFC plans on targeting US\$1 billion in commitments from SWFs.⁴⁵

Of course, at this early stage, it is not clear whether the SFI has adequately identified unfunded venture capital opportunities in the recipient African countries, in particular and thus, whether this type of intervention is actually addressing or correcting a market imperfection. However, the fact that this initiative has been undertaken by the IFC should be seen as a step in the right direction. In fact, let us hope that the SFI assists Africa, at least in part, to achieve the Millennium Development Goals.⁴⁶

C. Why Should an ASEAN Country Create an SWF?

After this lengthy introduction, we now turn to the first inquiry of why an ASEAN country should create an SWF. The Asian nations that currently have SWFs are Singapore, China, Hong Kong, South Korea, Malaysia, Indonesia, Taiwan, Vietnam and East Timor.⁴⁷ Of these nations, Singapore, Malaysia, Indonesia, and Vietnam are ASEAN members. Potential ASEAN members who may be interested in forming SWFs in the future may include Thailand, the Philippines, Cambodia, and Laos.

The initial determination of whether to establish an SWF is dependent on the actual nature of the foreign exchange reserves in question. Reverting to the original distinction made with respect to SWFs, foreign exchange reserves are derived from two major sources: commodity exports and non-commodity exports. Generally speaking, commodity exports (e.g., oil, minerals) derive from foreign currencies accruing directly to the host government. The foreign currency is not converted to local currency, does not

⁴² Id.

⁴³ For tracking SWFs generally, see <http://www.swfinstitute.org/> (last visited on February 6, 2009).

⁴⁴ "IFC Board Approves Initiatives for Financial Crisis Response and Sovereign Funds to Support Private Sector in Emerging Markets," available at

<http://www.ifc.org/ifcext/media.nsf/content/SelectedPressRelease?OpenDocument&UNID=E915A6E933FD599E85257523007974CD> (last visited on April 17, 2009).

⁴⁵ "Investment in IFC's SF Initiative," available at

<http://www.ifc.org/IFCExt/spiwebsite1.nsf/f451ebbe34a9a8ca85256a550073ff10/259d7a5219924185852574da005b01d2?OpenDocument> (last visited on April 17, 2009).

⁴⁶ See Javier Santiso, "Sovereign Development Funds," *supra*. Indonesia formed an SWF in 2006, see SWF Institute, Fund Rankings, available at <http://www.swfinstitute.org/funds.php> (last visited on June 26, 2009).

⁴⁷ Kavaljit Singh, "Frequently Asked Questions about Sovereign Wealth Funds," *supra*, at 11 (Table 1).

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enter the domestic economy, and therefore does not need to be sterilized to avoid unwanted inflationary pressures. If the funds are accumulated as savings rather than to meet balance of payments needs, those funds may be invested in less liquid assets as national monetary authorities do not have a clear right to call upon the liquidation of these assets. These SWF assets would not be classified as official reserves, and are relatively unencumbered as financial assets.⁴⁸

In contrast, non-commodity funds are typically established through transfers of assets from official foreign exchange reserves. While large current account surpluses have swelled the coffers of certain ASEAN countries, it is worth a closer look to see if these reserves may be called upon by central bank monetary authorities to satisfy balance of payment requirements. If so, these reserves are normally held in short-term liquid marketable instruments and are classified as official reserves.⁴⁹ Thus the nature and the contingent legal liabilities of such foreign exchange reserves are the first “tipping point” in determining the appropriateness of establishing a SWF.

(i) India as a Case Study

There has been a vigorous debate on whether India should establish an SWF. While India is not an ASEAN country, it is an Asian country, and there may be some cautionary or instructive notes to be learned from this debate. According to the Reserve Bank of India (RBI), India’s foreign exchange reserves accumulated to a massive holding of US\$309.7 billion in March 2008. By September 2008, the reserves dropped to US\$ 291 billion, partly in response to the global economic downturn.

While IMF guidelines call for reserves of an amount not less than that needed to support 3-4 months of import requirements, India is capable of sustaining its import needs for 14 months, thus far exceeding IMF guidance. Even if the advice of former Federal Reserve Chief, Alan Greenspan, is taken into account to maintain foreign exchange reserves in an amount that fully meets short-term external debt needs, the RBI reports that India’s short-term debt is less than 15% of its current reserves. It is estimated that India is the fifth largest holder of reserves in the world.⁵⁰ This has increased pressure on the Indian Government to invest the excess reserves in profitable foreign currency denominated investments. So, then why hasn’t India moved forward with establishing a SWF?

Appearances may be deceiving. India made an estimated return on its Treasury bill investments of 4.6% in 2006-2007. However, the 4.6% in earnings, when adjusted for inflation of 5.4%, results in a negative return, or a holding cost for the RBI.⁵¹ Advocates

⁴⁸ See Hearing on the Implications of Sovereign Wealth Fund Investments for National Security (March 24, 2008), available at <http://www.asiaing.com/hearing-on-the-implications-of-sovereign-wealth-fund-investments-for-national-sec.html> (last visited on June 22, 2009).

⁴⁹ Id.

⁵⁰ Sharmili Phulgirkar & Sidharth Gupta, “Why India Needs a Sovereign Wealth Fund,” *Busi. Week* (October 10, 2008), available at http://www.businessweek.com/globalbiz/content/oct2008/gb20081010_964477.htm (last visited on June 22, 2009).

⁵¹ Id.

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of establishing an Indian SWF have strongly recommended that US\$56 billion be set aside in an SWF enabling India to earn more than a mere 4.6% in T-bills.⁵²

They point to the example of the China Investment Corporation (CIC) which began operations in 2007. China only transferred 15% of its reserves to the CIC, or US\$200 billion out of its reserves of US\$1,300 billion, thereby creating the world's fifth largest SWF.⁵³ Despite the apparent wisdom of following China's lead, there are naysayers. Their concerns stem from three sources: first, the nature of India's foreign exchange surpluses; second, the fact that India is not exporting natural resources but is a net importer of oil and gas, and, finally, large capital inflows in India are subject to capital flight.

One commentator points out that it would be a mistake to equate India with Singapore and China insofar as India, unlike these other Asian countries, is running a persistent current account deficit of close to US\$17 billion in 2007-2008 largely due to oil imports. Secondly, India's trade deficit increased to US\$90 billion in 2007-2008, representing more than 7% of India's GDP.⁵⁴ India's current account deficit is rising despite gains made in the software sector and the receipt of workers' remittances from Indians living abroad.

Moreover, as India imports rather than exports minerals and natural resources, it can neither generate large surpluses in foreign exchange receipts nor can it support its own energy needs without importing oil and gas. Additionally, the net inflow of capital resources have been in the form of portfolio investments, commercial borrowings, short-term debt, and the acquisition of domestic firms (rather than greenfield investments)—all of which are subject to volatile capital outflows. Further, India has a negative international investment position with a net liability of US\$45 billion, and an external debt position of US\$221 billion in March 2008, burgeoning from US\$169 billion in March 2007.⁵⁵ This is a depressing financial picture, but perhaps there is some hope of establishing an SWF after all by improving the "infrastructure, education and health services, particularly in rural India rather than financing the 'acquisition of companies abroad.'"⁵⁶

Further, there are other means of addressing this financial picture than simply establishing a SWF. While India's reserves are clearly excessive, one way to manage the costs of maintaining the liquidity costs of these reserves is to appreciate the Indian rupee.⁵⁷ Another avenue is to diversify the reserve holdings from the depreciating U.S. dollar to Euros and other higher-yielding currencies.⁵⁸ If the RBI increases its risk-taking posture, it should begin shifting from liquidity management to wealth management in making decisions regarding the asset allocation of excess reserves.

⁵² Id.

⁵³ Id.

⁵⁴ Kavaljit Singh, "Frequently Asked Questions about Sovereign Wealth Funds," *supra*, at 18.

⁵⁵ Id. at 18-19.

⁵⁶ Id. at 19.

⁵⁷ S. Rajan, "Should India Create a Sovereign Wealth Fund?" (November 10, 2007), available at <http://inhome.rediff.com/money/2007/nov/10guest.htm> (last visited on June 22, 2009).

⁵⁸ Id.

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Rather than establishing an SWF now, commentators are cautioning India to participate in the international dialogue on establishing a code of best practices for SWFs that govern the creation, management and operation of SWFs.⁵⁹ Further, investment managers at the RBI should be encouraged to focus on the organizational structure, governance, investment objectives and policies in setting up a SWF before proceeding with its creation without those policies in place. Some of the issues that must be tackled by the RBI include whether to make commercial versus strategic investments, where such investments should be made, whether to create a diversified or concentrated portfolio of assets, and deciding the degree of transparency the RBI is willing to create concerning the investments, returns, policies and operations of a newly created SWF.⁶⁰

Indeed, the former Governor of the RBI, Dr. Y. V. Reddy, seemed to be taking a cautious approach by stating that:

However, of late, there have been suggestions that India should consider setting up a wealth fund on the lines of either a Stabilization Fund or a SWF. As mentioned, the objectives of establishing Stabilization Funds are to mainly smoothen the revenue flows arising out of volatility in commodity export proceeds. India's export basket is diversified and does not have a dominant "exportable" natural resource, which might bring "windfall" gains. Further, India has experienced consistent current account deficits, barring a modest surplus for a few years. Hence, creating a Stabilisation [sic] Fund may not be justified on the basis of current situation. SWFs are generally created amidst current account surpluses when the foreign exchange reserves attain a level higher than what is perceived as "adequate". If we follow this global experience, consideration of an SWF for India may ideally await "more comfortable current account" and "significantly improved fiscal" situations.⁶¹

Thus, India's example illustrates that the economic and underlying financial picture of the country's foreign exchange reserves are very nuanced. Simply gauging the "excess" amount of such reserves based on IMF stockpiling recommendations is only the beginning of the analysis. Further, the foundation for a successful SWF must be laid *before* the SWF is created. In other words, the merits of participating in a larger international dialogue on the complex issues of when and how to create an SWF is a meaningful exercise in educating the principals in the ASEAN country in question. The learning curve may be quite high, and needs to be tailored to the individual country's needs and political will to invest its financial assets in a politically sustainable way. In

⁵⁹ Id.

⁶⁰ Id. See also, "Does India need a Sovereign Wealth Fund?" available at http://www.ibef.org/download/India_BS_24Apr_08.pdf (last visited on June 22, 2009).

⁶¹ "Will We Witness an Indian Sovereign Wealth Fund?" *Indian Corporate Law* (January 9, 2008), available at <http://indiacorplaw.blogspot.com/2008/01/will-we-witness-indian-sovereign-wealth.html> (last visited on June 22, 2009).

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sum, India's example demonstrates that the requisite financial standing and the political will must be present before creating an SWF.

D. Defining the Objectives of an SWF

The second layer of inquiry is defining the objectives of the SWF, and determining how to create a legal structure that supports those objectives. As discussed earlier, SWFs may be set up as a stabilization fund designed to insulate the host government's budget and economy against commodity export fluctuations; (2) a savings fund to convert nonrenewable resources into a more diversified portfolio of assets for use by future generations; (3) a reserve investment corporation to increase the returns (earnings) on reserves; (4) a development fund to support socio-economic programs; or (5) a contingent pension reserve fund to provide budgetary support for potential unfunded contingent pension liabilities. These types of SWFs support larger policy objectives in the short-term by protecting the host country from foreign exchange fluctuations, and increasing returns on the reserves and generating profits. Long-term goals may include the creation of savings for future generations and supporting development goals by funding physical infrastructure, education, health and other social programs.

Thus, the second level of inquiry that an ASEAN country should make is what larger policy objectives should an SWF support? Both short-term and long-term goals should be considered. Once these questions are satisfactorily answered, it may proceed to designing the legal structure of the SWF. For purposes of this discussion, the article will focus on using SWFs as a development fund to support long-term development goals.

Returning to the example of India, there may be sufficient financially and politically-based reservations against forming an SWF at this time. However, there are merits to considering alternative approaches and legal structures as preparatory steps leading to the formation of an Indian SWF in the near future. Rather than relying on the example of the CIC, it may be more instructive to look to Temasek Holdings, a corporation established by the Government of Singapore in 1974.⁶² Temasek began with a modest portfolio comprised of Singapore government-owned companies. Now, Temasek has over US\$ 160 billion in holdings.⁶³

Rather than setting aside excess foreign exchange reserves or budgetary surpluses, one suggestion has been to create a prototype Indian SWF by transferring government-owned corporations and state-owned enterprises (SOEs) to form the corpus of the SWF.⁶⁴ In other words, there are a number of small, medium and large-sized diverse corporate entities owned by various Indian government ministries and departments. These SOEs are in the manufacturing or extractive industries, trading and services corporations, and

⁶² One commentator points out that, "[d]espite being fully state-owned, the Government of Singapore has no influence in [Temasek's] investment and management decisions which are guided by commercial interests with an independent Board." Kavaljit Singh, "Frequently Asked Questions about Sovereign Wealth Funds," *supra*, at 27.

⁶³ *Id.* at 11 (Table 1).

⁶⁴ "The Case for an Indian SWF," *Indian Corporate Law*, (January 31, 2008), available at <http://indiacorplaw.blogspot.com/2008/01/case-for-indian-swf.html> (last visited on June 24, 2009).

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financial services companies, and are either wholly or partly owned by the Government of India.

If these entities (particularly in the financial services sector such as public sector banks) are not corporatized, they may be transformed into corporate entities and then transferred to the Indian SWF. For example, the statutes creating these entities could be repealed, and then reorganized as new corporations under the Companies Act of 1956.⁶⁵ Precedent exists for this type of governmental action with respect to Industrial Development Bank of India and the Industrial Finance Corporation of India—both statutes creating these entities were repealed, and both institutions were subsequently incorporated as companies under the Companies Act of 1956.⁶⁶

If the newly formed Indian SWF is organized as a government-owned holding company, it may own the subsidiary companies to be transferred to it by operation of the Companies Act of 1956 in one of two ways: (1) outright ownership of over 50% of the equity of each subsidiary, or (2) by the authority to appoint a majority of the members of the Board of Directors. Thus, the Articles of Association for each subsidiary company may designate the authority of the Indian SWF to appoint a majority of the subsidiary's board members. The Indian SWF may then subsequently divest itself of up to 49% of its equity in a public offering or by the private placement of its shares to sophisticated financial investors. The Indian SWF may be made subject to oversight by the Prime Minister's Office, the Finance Minister, or other designated government official or department.⁶⁷

The relative merits of adopting this type of an approach is three-fold, first, to corporatize and transfer existing SOEs to the Indian SWF. Better capital and debt management, corporate governance and market discipline may be required of the subsidiaries in order to improve their profitability, and perhaps ultimately remove government budgetary support for their operations. Secondly, this approach creates a corporate structure that better enables these subsidiaries to seek partners (domestic and foreign) in greenfield or retrofitting projects, and leverage capital from global capital markets.

Finally, this approach enables the Indian SWF (and its constituent subsidiaries) to enhance their respective competitive positions by providing better products and services that meet consumer demands. By enhancing the technologies used and enlarging the consumer base, the newly formed Indian SWF (acting through its subsidiaries) may increase employment and tax revenues as well. Moreover, this approach does not require

⁶⁵ See the Companies Act of 1956 at <http://www.netlawman.co.in/acts/companies-act-1956.php> (last visited on June 24, 2009). Examples cited of Indian SOEs suitable for such an action include, in the manufacturing or extraction-based or energy companies, Indian Oil, Hindustan Petroleum, Bharat Petroleum, ONGC, Steel Authority of India Ltd., National Thermal Power Corporation, Gas Authority of India Ltd., Bharat Heavy Electricals Ltd., Bharat Earth Movers Ltd., Hindustan Aeronautics Ltd. For trading or services companies, the National Aviation Company of India (Air India, Indian Airlines, Air India Express), Bharat Sanchar Nigam Ltd., Mahanagar Telephone Nigam Ltd., Delhi Metro Rail Corporation, and the Konkan Railway Corporation. For financial services companies, the State Bank of India group, Punjab National Bank, Bank of Baroda, Canara Bank, Bank of India, and the Indian Overseas Bank. "The Case for an Indian SWF," *Indian Corporate Law*, *supra*.

⁶⁶ *Id.*

⁶⁷ *Id.*

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a set aside of excess foreign exchange reserves by the Indian Government in order to capitalize the Indian SWF.

The above suggestion is, in essence, a financial scheme to create an investment fund-type structure that retains government ownership, control and oversight of the actual Indian SWF. This legal structure could be catalytic in supporting important development objectives of the Indian Government. These objectives may include, for example, the improvement of infrastructure, health, education and social welfare services since many basic services are not accessible to poor, rural and marginalized citizens. Certain financial sector firms participating in the Indian SWF could be required, for example, to finance infrastructure growth, or provide concessional lending for private sector development. In any case, whatever the development objectives of the Indian Government may be, this SWF structure can afford one avenue of achieving those long-term objectives.

The final result is designed to provide better and more competitive services to the Indian public. Further, this proposed approach follows the example of Temasek Holdings which now has an internationally diversified portfolio. Profits from the Indian SWF may be invested in foreign investments and, if at some point, the Indian Government feels that additional capitalization using excess foreign exchange reserves is warranted, a corporate structure exists to absorb that capital.

Of course, this is *not* a privatization scheme although privatization may be contemplated in the future. In fact, it should be noted that the formation of SWFs and their cross-border investment activities reverse the trend of privatization that has occurred over the past 25 years.⁶⁸ Host governments are now acquiring equity stakes in what were (or could have been) private entities. The role of host governments in the ownership and control of national assets is increasing, thus changing the nature of the world capital markets. Ultimately, the structure of the international financial architecture may be altered as a cumulative result of this trend.

We now finally turn to the underlying question of whether SWFs should be used as a tool to “self-finance” development needs of the host country. The discussion in the media and in scholarly writing have mainly focused on the implications (both financial and political) with regard to the foreign investment choices of SWFs. However, it is equally important to consider the development implications of SWFs, and making investment choices that support sustainable economic development. In fact, it is difficult to assess how much of SWFs investments overall are directed to explicitly support development-based undertakings. It seems axiomatic in a way to use the funding for development purposes, but the lack of transparency and the limited reporting on investments makes it difficult to make this determination.

⁶⁸ Ronald Gilson & Curtis Milhaupt, “Sovereign Wealth Funds and Corporate Governance: A Minimalist Response to the New Mercantilism,” *supra*, 60 *Stan. L. Rev.* at 1347.

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One commentator makes a contrarian argument by pointing out that there are certain aid-recipient countries that also manage enormous holdings in SWFs including, for purposes of this discussion, Malaysia which formed an SWF in 2008, and Indonesia which established an SWF in 2006. Malaysia reportedly received US\$240.2 million in official development assistance (ODA) in 2008 even though it was forming an SWF at the same time.⁶⁹ (Other countries falling into this category of receiving ODA while also holding substantial reserves in SWFs include China, Angola, Botswana, Libya, Nigeria, Timor-Leste and Venezuela, to name a few.)

This commentator poses the following quandary:

For donors, a state's acceptance of development aid is an indication that the recipient cannot, on its own, afford to meet the needs of its citizens. When the recipient of this largesse is also a steward of a multibillion investment fund, donors may well ask whether their dollars would be better spent elsewhere. One way to interpret a state's decision to create a sovereign investment vehicle despite being the recipient of development aid is that the state's own government thinks that its development is a bad bet. If a government has decided that it is a better long-term investment to buy shares in foreign corporations than to build roads, provide basic education, or improve health care, then why should foreign donors conclude that development aid is a good investment?⁷⁰

This view assumes that the establishment of an SWF automatically means that the aid-recipient country in question has "graduated" from that category, and should not remain eligible to receive further ODA. This assumption fails to take into account the underlying reasons for providing ODA may have political and strategic dimensions that may have been overlooked in this context. Further, ODA may be a strategic investment by the donor country in the aid-recipient country to support the donor's foreign relations and foreign policy agenda. Moreover, donor assistance may be the prologue to future trade along with establishing other broader economic, political and military relations.

Further, this view does not take into the account the perspective of the aid-recipient country itself. The developing country in question may have specific objectives in establishing an SWF along the lines discussed above. For example, it may be seeking to protect itself against boom-and-bust cycles of commodity sales by establishing a stabilization fund. Côte d'Ivoire, for example, is contemplating the merits of establishing a stabilization fund from sale proceeds that it receives as the supplier of 40% of the world's cocoa. Reinvesting foreign exchange currencies in a diversified portfolio may generate returns that may be used for long-term development needs of the country.⁷¹ There are other complex reasons as well, of course, for establishing an SWF. Therefore, it may be more efficacious in this context is to view SWFs as a "tool" in the development toolbox for both donors and for emerging economies.

⁶⁹ See Patrick Keenan, "Sovereign Wealth Funds and Social Arrears: Should Debts to Citizens be Treated Differently than Debts to Other Creditors?" 49 *Va. Int'l L.* 431, 441 (2009).

⁷⁰ *Id.* at 436.

⁷¹ See e.g., "Côte d'Ivoire: The Case for a Sovereign Wealth Funds," ProVerity, available at <http://www.proverity.net/country-risk-IvoryCoast.html> (last visited on June 25, 2009).

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As the case study for India endeavored to point out, the formation of an SWF may have many downstream positive impacts. However, at this point, there is no real way to measure whether such positive impacts stemming from current SWF investments are actually taking place. The linkage between SWFs and overall poverty reduction (or other development goals) seems attenuated, in part because the reporting and disclosure practices of SWFs remain opaque in many instances. (In some cases, such as Norway, this consideration may not actually be relevant.) Moreover, this linkage to achieving development goals may not be an explicit policy of the host government in question.

Additionally, the current international discussions on the governance, transparency and accountability of SWFs have been focused on the fiduciary duties of SWFs to the shareholders and managers of the enterprises that they invest in, and generating profits in general. The International Working Group (IWG) of Sovereign Wealth Funds, for example, presented the Santiago Principles to the IMF's International Monetary and Financial Committee on October 11, 2008. The Santiago Principles are comprised of 24 voluntary generally accepted principles and practices of SWF investment practices and objectives. The IWG's Asian member countries include China, South Korea, Timor-Leste, with Vietnam participating as a permanent observer. These voluntary principles are designed to create a framework of good governance of an SWF from the perspective of managing a government-owned financial asset. It does not, and perhaps should not, address the development implications and opportunities presented by SWFs.

However, as SWFs are government-owned entities, there are other "shareholders" to consider, namely, the general public of the host country in question. Thus, in going forward with a discussion of ASEAN nations such as Thailand, and the Philippines establishing SWFs in the future, there should be some consideration given to creating an explicit linkage between the profits generated by such SWFs and achieving long-term development goals. "Self-financing" development is another means of the host government using its social wealth to meet its social responsibility needs. The development agenda may be dynamic as the policy goals of the host government change over time. However, a SWF provides a host government with a unique opportunity to use it as a development tool, and not simply a cash reserve that is cached away indefinitely. In fact, there may be many lessons to be learned and shared among IWG members and other countries with established SWFs in supporting a development agenda.

If there is an explicit linkage to achieving development goals by using SWFs in a strategic way, then the possible criticism that countries with SWFs do not need or deserve ODA may be avoided. This will put Thailand, and the Philippines in a better bargaining position to both receive aid and also move forward with establishing SWFs in the future, as circumstances may warrant.

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E. Conclusion

As a concluding note, development may be seen as an internal priority of the host government, but it may also be viewed as a global undertaking whereby SWFs support the development of other nations. Indeed, the World Bank's President, Robert B. Zoellick, encouraged sovereign wealth funds to create a "One Percent Solution" for equity investment in Africa.⁷² Rather than simply accumulating wealth for its own sake (a laudable undertaking to be sure), SWFs afford the countries of their origin to achieve something more—equitable participation in the wealth of nations.

⁷² "World Bank President Calls for Plan to Fight Hunger in Pre-Spring Meetings Address," (April 2, 2008), available at <http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21711537~menuPK:34457~pagePK:34370~piPK:34424~theSitePK:4607,00.html> (last visited on June 25, 2009).