

Pension Benefit Guaranty Corporation

78-14

June 30, 1978

REFERENCE:

[*1] 4021(b)(7) Plans Covered. Foreign Plans

OPINION:

This is in response to your request for a determination whether two pension plans of the * * *, are excluded from coverage under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA) by virtue of Section 4021(b)(7) of ERISA. That section excludes from coverage a plan "which is established and maintained outside of the United States primarily for the benefit of individuals substantially all of whom are nonresident aliens."

Based on your letter of May 19, 1978 and upon several telephone conversations between * * * of the PBGC and * * * of your office, I understand the following to be the relevant facts. * * * is a United States corporation with its principal offices in New York, New York. The * * * is a division of * * * located in * * *, Canada. Employees of the * * * participate in two qualified defined benefit retirement plans. All of the participants in these plans work and reside in Canada. None of the participants in these plans is a United States citizen. The Retirement Plan for Salaried Employees of the * * * is funded through a trust established with the * * *. Newfoundland. The * * * Retirement Annuity Plan [*2] for hourly paid employees is funded through a group annuity contract issued by the * * * Insurance Company of New York, New York.

On the basis of the facts recited above, it appears that the plans are excluded from coverage under Title IV of ERISA by § 4021(b)(7).

Henry Rose
General Counsel