EXCHANGE CONTROL - TRANSNATIONAL BANKING
Wells Fargo Bank v. Citibank.(Pending)

A suit has been commenced by Wells Fargo Bank in
the New York Federal Court against Citibank to recover more than
3 million dollars in deposits frozen in the Manila Branch of
Citibank. The latter argues that the money has been frozen
because the Philipines Government has imposed exchange controls
which proscribed foreign exchange outflows. A spokesman for
Citibank is reported as saying:"We believe most bankers understood
that when they made deposits in dollars or any other currency
in a sovereign jurisdiction that those deposits could be effected
by that sovereign jurisdiction".

It is reported that as much as one billion U.S. dollars
may have been deposited by other banks with the Manila Branch of
Citibank. Higher returns may be earned in certain offshore
banking centres because of tax advantages and the minimal reserve
requirements applicable. Perhaps another factor has not previously
been admitted, and this is "country risk," i.e. the risk that
policies in relation to exchange control may suddenly change.

The possibility of such sudden changes however does
not only affect the newer offshore banking centres. Immediately
prior to the last British elections, the then Leader of the
Opposition, Mr. Michael Foot, announced that exchange controls
would be reintroduced within hours of the election of a Labor
government. The position in both the United Kingdom and Australia
is such that   governments do have the power to reimpose
exchange control at very short notice.

The question in the case before the New York court
seems to be the extent to which the parent company guarantees
deposits in other countries. It would be hard to argue that a
bank carrying on business in the Philipines should not be subject
to Philipines law. It will of course be recalled that the United
States has argued that dollar denominated accounts in branches
and subsidaries of United States banks overseas are also within
the jurisdiction of the United States.

D.F.