

U.S. DEPARTMENT OF LABOR
Pension and Welfare Benefit Programs
OFFICE OF REGULATORY STANDARDS AND EXCEPTIONS
Washington, D.C. 20216



NOV 25 1977

Mr. Bernard D. Atwood
Haight, Gardner, Poor & Havens
One State Street Plaza
New York, New York 10004

OPINION 77-86 A
4 (b) (4)

Dear Mr. Atwood:

Thank you for your request for an advisory opinion regarding coverage under the Employee Retirement Income Security Act of 1974 (ERISA). Specifically, you ask whether the Det Norske Veritas' Pension Fund (the Fund) is excluded from coverage under title I of ERISA by section 4(b)(4).

You advise that you represent the Fund which was created under the law of the Kingdom of Norway and is maintained in Norway. The Fund covers the employees of Det Norske Veritas, an unincorporated institution organized under the law of the Kingdom of Norway. Det Norske Veritas employs about 1,330 persons with most participating in the Fund. There are 9 employees serving in the United States. Of these two are resident aliens, five are Norwegians temporarily in the United States, and two are United States citizens. The other participating employees are non-resident aliens.

Section 4(b)(4) of ERISA provides that title I shall not apply to any employee benefit plan if ". . . such plan is maintained outside of the United States primarily for the benefit of persons substantially all of whom are nonresident aliens. . . ."

Based on your representations, it is the position of the Department of Labor that the Fund is maintained in Norway primarily for the benefit of persons substantially all of whom are non-resident aliens. Accordingly, the Det Norske Veritas' Pension Fund is not covered under title I of ERISA.

This letter constitutes an opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure including section 10 relating to the effect of advisory opinions.

Sincerely,

Fred W. Stuckwisch
Director
Office of Regulatory Standards and
Exceptions