

Public Law 102-549
102d Congress

An Act

To extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

Oct. 28, 1992
[H.R. 4996]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jobs Through Exports Act of 1992".

Jobs Through
Exports Act of
1992.
22 USC 2151
note.

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. CREATION, PURPOSE AND POLICY.

Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended in the first sentence by striking "friendly countries and areas," and inserting "countries and areas, and countries in transition from nonmarket to market economies,".

SEC. 102. WORKER RIGHTS.

(a) **LIMITATION.**—Section 231A(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended by adding at the end the following: "The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:

"The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government.".

SEC. 103. EQUITY INVESTMENT FUND.

Section 234(g)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2194(g)(5)) is amended to read as follows:

"(c) **CREATION OF FUND FOR ACQUISITION OF EQUITY.**—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of \$10,000,000 (less amounts transferred to the fund before the date of the enactment of the Jobs Through Exports Act of 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under this subsection,

and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 632(a) of this Act.”

SEC. 104. ISSUING AUTHORITY, DIRECT INVESTMENTS, AND ADMINISTRATIVE EXPENSES.

(a) ISSUING AUTHORITY AND DIRECT INVESTMENT AUTHORITY.—Section 235 of the Foreign Assistance Act of 1961 (22 U.S.C. 2195) is amended—

(1) in the section caption by striking “FUND” and inserting “AUTHORITY”;

(2) by amending subsection (a) to read as follows:

“(a) ISSUING AUTHORITY.—

“(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed in the aggregate \$9,000,000,000.

“(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 234(b) shall not exceed in the aggregate \$2,500,000,000.

“(B) Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

“(i) to transfer \$9,800,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 234 of \$650,000,000 for fiscal year 1993; and

“(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 234 of \$850,000,000 for fiscal year 1994.

“(3) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 234 shall continue until September 30, 1994.”; and

(3) by repealing subsection (b).

(b) ADMINISTRATIVE EXPENSES.—Section 235 of such Act is amended by adding at the end the following:

“(g) ADMINISTRATIVE EXPENSES.—Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

“(1) \$8,128,000 for fiscal year 1993; and

“(2) \$11,000,000 for fiscal year 1994.”.

SEC. 105. GENERAL PROVISIONS.

(a) FEES.—Section 237(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(d)) is amended to read as follows:

“(d) FEES.—

“(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other

services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

“(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

“(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.”.

(b) PENALTIES FOR FRAUD.—Section 237 of such Act is amended by adding at the end the following:

“(n) PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 234 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.”.

(c) USE OF LOCAL CURRENCIES.—Section 237 of such Act is amended by adding at the end the following:

“(o) USE OF LOCAL CURRENCIES.—Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations made with funds described in this subsection.”.

SEC. 106. DEFINITIONS.

Section 238 of the Foreign Assistance Act of 1961 (22 U.S.C. 2198) is amended—

(1) in subsection (c) by striking “and” after the semicolon at the end;

(2) by redesignating subsection (d) as subsection (f); and

(3) by inserting after subsection (c) the following:

“(d) the term ‘noncredit account revolving fund’ means the account in which funds under section 236 and all funds from noncredit activities are held; and

"(e) the term 'noncredit activities' means all activities of the Corporation other than its loan guarantee program under section 234(b) and its direct loan program under section 234(c);".

SEC. 107. CONTRACTING AUTHORITY.

Section 239(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(d)) is amended by inserting after "legal and arbitral proceedings;" the following: "to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 234;".

SEC. 108. REPORTS TO CONGRESS.

Section 240A(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a(b)) is amended by striking paragraph (2) and inserting the following:

"(2) The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1).

"(3) In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

"(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

"(B) any jobs created by the project; and

"(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph."

SEC. 109. AWARDING OF CONTRACTS.

Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 240A the following new section:

"SEC. 240B. PROHIBITION ON NONCOMPETITIVE AWARDING OF INSURANCE CONTRACTS ON OPIC SUPPORTED EXPORTS.

"(a) REQUIREMENT FOR CERTIFICATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the investor on whose behalf insurance, reinsurance, guarantees, or other financing is provided under this title with respect to a project shall be required to certify to the Corporation that any contract for the export of goods as part of that project will include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

"(2) WHEN CERTIFICATION MUST BE MADE.—The investor shall be required, in every practicable case, to so certify before the insurance, reinsurance, guarantee, or other financing is provided. In any case in which such a certification is not made in advance, the investor shall include in the certification the reasons for the failure to make a certification in advance.

"(3) EXCEPTION.—Paragraph (1) does not apply with respect to an investor who does not, because of the nature of the investment, have a controlling interest in fact in the project in question.

"(b) REPORTS BY THE UNITED STATES TRADE REPRESENTATIVE.—The United States Trade Representative shall review the actions of the Corporation under subsection (a) and, after consultation with representatives of United States insurance companies, shall

Privacy.

22 USC 2200b.

report to the Congress in the report required by section 181(b) of the Trade Act of 1974 with respect to such actions.

“(c) DEFINITIONS.—For purposes of this section—

“(1) the term ‘United States insurance company’ includes—

“(A) an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

“(B) foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

“(2) United States insurance companies shall be considered to have had a ‘fair and open competitive opportunity to provide insurance’ if they—

“(A) have received notice of the opportunity to provide insurance; and

“(B) have been evaluated on a nondiscriminatory basis;

and

“(3) the term ‘State’ includes the District of Columbia and any commonwealth, territory, or possession of the United States.”.

TITLE II—TRADE AND DEVELOPMENT AGENCY

SEC. 201. TRADE AND DEVELOPMENT AGENCY.

Section 661 of the Foreign Assistance Act of 1961 is amended 22 USC 2421. to read as follows:

“SEC. 661. TRADE AND DEVELOPMENT AGENCY.

“(a) PURPOSE.—The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries.

“(b) AUTHORITY TO PROVIDE ASSISTANCE.—

“(1) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under part I, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

“(2) USE OF FUNDS.—Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

"(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

"(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

"(3) INFORMATION DISSEMINATION.—(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

"(4) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this section may be used notwithstanding any other provision of law.

"(c) DIRECTOR AND PERSONNEL.—

President.

"(1) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) OFFICERS AND EMPLOYEES.—(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

"(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

"(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

President.

"(d) ANNUAL REPORT.—The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"(e) AUDITS.—

"(1) IN GENERAL.—The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, United States Code, except as otherwise provided in this section.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking

into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, United States Code, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary.

Reports.

“(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

“(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

“(f) FUNDING.—

“(1) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section, in addition to funds otherwise available for such purposes, \$55,000,000 for fiscal year 1993 and \$65,000,000 for fiscal year 1994.

“(2) FUNDING FOR TECHNICAL ASSISTANCE GRANTS BY MULTILATERAL DEVELOPMENT BANKS.—(A) The Trade and Development Agency should, in fiscal years 1993 and 1994, substantially increase the amount of funds it provides to multilateral development banks for technical assistance grants.

“(B) As used in subparagraph (A)—

“(i) the term ‘technical assistance grants’ means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

“(ii) the term ‘multilateral development bank’ has the meaning given that term in section 1701(c) of the International Financial Institutions Act.”

SEC. 202. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this section, be known as the Trade and Development Agency.

(b) APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED.—The enactment of this title shall not affect the appointment of the

22 USC 2421
note.22 USC 2421
note.

individual who is the Director of the Trade and Development Program on the effective date of this section.

(c) TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—(1) Sections 644, 645, and 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q, 635r, and 635s) are each amended by striking “Trade and Development Program” each place it appears and inserting “Trade and Development Agency”.

(2) The section heading for section 645 of such Act is amended by striking “TRADE AND DEVELOPMENT PROGRAM” and inserting “TRADE AND DEVELOPMENT AGENCY”.

(d) TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking

“Director, Trade and Development Program.”

and inserting

“Director, Trade and Development Agency.”

(e) REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

22 USC 2421
note.

Aid, Trade, and
Competitiveness
Act of 1992.

TITLE III—AID, TRADE, AND COMPETITIVENESS

22 USC 2421a
note.

SEC. 301. SHORT TITLE.

This title may be cited as the “Aid, Trade, and Competitiveness Act of 1992”.

22 USC 2421a.

SEC. 302. CAPITAL PROJECTS OFFICE WITHIN THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) ESTABLISHMENT OF OFFICE.—The Administrator of AID shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) PURPOSES OF OFFICE.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) ACTIVITIES OF AID.—The Administrator of AID (acting through the capital projects office), in coordination with the appropriate members of the Trade Promotion Coordination Committee—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall ensure that each capital project for which AID provides funding is developmentally sound, as determined

under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid purposes; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infrastructure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after the date of the enactment of this Act.

Reports.

SEC. 303. CAPITAL PROJECTS FOR POVERTY ALLEVIATION AND ENVIRONMENTAL SAFETY AND SUSTAINABILITY.

22 USC 2421b.

(a) **PURPOSES.**—The Administrator of AID shall develop a program, in accordance with subsection (b), that focuses on developmentally sound capital projects for basic infrastructure that will measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level, taking into consideration development needs of the host country and export opportunities for services and goods from the United States.

(b) **ACTIVITIES OF AID.**—In order to carry out subsection (a), the Administrator of AID shall, working with AID technical support staff, regional bureau staff, and country missions, identify and provide funding for capital projects to alleviate the worst manifestations of poverty or to promote environmental safety and sustainability at the community level in countries receiving assistance under part I of the Foreign Assistance Act of 1961. Such projects may include basic sanitation systems, basic water supply and treatment, pollution control, and rural infrastructure benefiting poor communities or establishing environmentally sustainable patterns of rural development. Such projects should have measurable positive effects on indicators of human and environmental health.

SEC. 304. COORDINATION.

President.
22 USC 2421c.

The President shall use the Trade Promotion Coordination Committee to coordinate activities under this title with other relevant activities of the United States Government.

President.
22 USC 2421a
note.

SEC. 305. REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Congress a report describing—

(1) the extent to which United States Government resources have been expended specifically to support the projects described in this title in developing countries and countries making the transition from nonmarket to market economies;

(2) the extent to which the activities of the United States Government have been coordinated pursuant to section 304; and

(3) the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

22 USC 2421d.

SEC. 306. FUNDING FOR CAPITAL PROJECTS.

(a) **FUNDING LEVEL.**—The Congress strongly urges the President to use at least \$650,000,000 for fiscal year 1993 and at least \$700,000,000 for fiscal year 1994 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), assistance under the Support for East European Democracy (SEED) Act of 1989, assistance under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, and assistance under the Multilateral Assistance Initiative for the Philippines, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities.

(b) **DEVELOPMENT ASSISTANCE CAPITAL PROJECTS.**—Funds appropriated to carry out chapter 1 or chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to development assistance and the Development Fund for Africa) may not be used for capital projects that do not meet the criteria contained in section 303 of this Act. This subsection does not apply with respect to capital projects for which funds have been obligated or expended before the date of the enactment of this Act.

President.
22 USC 2421a
note.

SEC. 307. REPORT ON THE FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report on the feasibility of allowing AID to offer credit guarantees for the financing of capital projects.

22 USC 2421e.

SEC. 308. DEFINITIONS.

For purposes of this title—

(1) the term “AID” means the Agency for International Development; and

(2) the term “capital project” means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services.

TITLE IV—UNITED STATES COMMERCIAL CENTERS

SEC. 401. UNITED STATES COMMERCIAL CENTERS.

22 USC 4723a.

(a) **ESTABLISHMENT.**—The Secretary of Commerce, in his or her role as chairperson of the Trade Promotion Coordinating Committee, is authorized and encouraged to establish United States Commercial Centers (hereinafter in this section referred to as “Centers”) in Asia, in Latin America, and in Africa.

(b) **PURPOSE OF THE CENTERS.**—The purpose of the Centers shall be to provide additional resources for the promotion of exports of United States goods and services to the host countries, by familiarizing United States exporters with the industries, markets, and customs of the host countries, thus facilitating commercial ties and trade.

(c) **FUNCTIONS OF THE CENTERS.**—Each Center shall—

(1) collect and publish economic and market data with respect to the host country;

(2) provide, on a user-fee basis, preliminary technical and clerical assistance, language translation, and administrative assistance, and information regarding the legal systems, laws, regulations, and procedures of the host country, to United States exporters seeking to do business in the host country; and

(3) in other ways promote exports of United States goods and services to the host country.

(d) **SPECIFIC SERVICES TO BE PROVIDED.**—To carry out its objectives, each Center shall make available the following (on a user-fee basis):

(1) **BUSINESS FACILITIES.**—Business facilities, including exhibition space, conference rooms, office space (including telephones and other basic office equipment), and, where warranted by impending deficiencies in the public system, high quality international telecommunications facilities.

(2) **BUSINESS SERVICES.**—Business support services, including language translation services, clerical services, and a commercial library containing a comprehensive collection of reference materials covering United States and host country industries and markets.

(3) **COMMERCIAL LAW INFORMATION SERVICES.**—Commercial law information services, including—

(A) a clearinghouse for information regarding the relevant commercial laws, practices, and regulations of the host country;

(B) publications to assist United States businesses;

(C) legal referral services; and

(D) lists of local agents and distributors.

(e) **OTHER TRADE PROMOTION ACTIVITIES.**—Each Center shall also promote United States export trade by—

(1) facilitating contacts between buyers, sellers, bankers, traders, distributors, agents, and necessary government officials from the United States and the host country;

(2) coordinating trade missions; and

(3) assisting with applications, contracts, and clearances for imports into the host country and exports from the United States.

(f) **STAFFING OF CENTERS.**—Each Center shall be staffed by members of the United States and Foreign Commercial Service, participants in the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723), other employees of the Department of Commerce, and employees of appropriate executive branch departments and agencies which are members of the Trade Promotion Coordinating Committee.

(g) **CENTER FACILITIES AND THEIR RELATIONSHIP TO UNITED STATES DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.**—

(1) **PHYSICAL ACCOMMODATIONS FOR THE CENTERS.**—The Secretary of Commerce shall locate each Center in the primary commercial city of the host country. The Secretary shall acquire office space, exhibition space, and other facilities and equipment that are necessary for each Center to perform its functions. To the extent feasible, each Center shall be located in the central commercial district of the host city.

(2) **CONSOLIDATION OF DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.**—For the purpose of obtaining maximum effectiveness and efficiency and to the extent consistent with the purposes of the Centers, the Secretary of Commerce is encouraged to place all personnel of the Department of Commerce who are assigned to the city in which a Center is located in the same facilities as those in which the Center conducts its activities.

(h) **USE OF MARKET DEVELOPMENT COOPERATOR PROGRAM.**—The Secretary of Commerce shall, to the greatest extent feasible, use the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723) to assist in carrying out the purposes of the Centers established under this section.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Commerce to carry out this section \$8,000,000 for fiscal year 1993, and \$5,500,000 for fiscal year 1994. Funds made available under this subsection may be used for the acquisition of real property.

(j) **REPORTS TO CONGRESS.**—The Secretary of Commerce shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 1 year after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, a report on the status, activities, and effectiveness of the Centers. Each such report shall include any recommendations with respect to the program established under this section.

(k) **DEFINITIONS.**—For purposes of this section—

(1) the term “United States exporter” means—

(A) a United States citizen,

(B) a corporation, partnership, or other association created under the laws of the United States or of any State, or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(2) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(3) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

SEC. 501. ADDITIONAL PROCUREMENT OFFICERS.

22 USC 262s-2
note.

(a) APPOINTMENT.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint one or more full-time additional procurement officers, for each multilateral development bank, to promote exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(b) DEFINITION.—As used in this section, the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce \$1,000,000 for each of the fiscal years 1993 and 1994 to carry out this section. Amounts appropriated pursuant to this subsection shall be available only for the purpose of making the appointment of additional procurement officers required by subsection (a).

Enterprise for
the Americas
Act of 1992.

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

22 USC 2151
note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Enterprise for the Americas Act of 1992".

SEC. 602. FOREIGN ASSISTANCE ACT DEBT REDUCTION.

(a) AUTHORIZATION.—The Foreign Assistance Act of 1961 is amended by adding at the end the following new part:

"PART IV—ENTERPRISE FOR THE AMERICAS INITIATIVE

22 USC 2430.

"SEC. 701. PURPOSE.

"The purpose of this part is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with inter-related actions to promote debt reduction, investment reforms, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this part for those countries with democratically elected governments that meet investment reforms and other policy conditions.

22 USC 2430a.

"SEC. 702. DEFINITIONS.

"For purposes of this part—

"(1) the term 'administering body' means the entity provided for in section 708(c);

"(2) the term 'Americas Framework Agreement' means an Americas Framework Agreement provided for in section 708;

"(3) the term 'Americas Fund' means an Enterprise for the Americas Fund provided for in section 707(a);

"(4) the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

"(5) the term 'beneficiary country' means an eligible country with respect to which the authority of section 704(a)(1) is exercised;

"(6) the term 'eligible country' means a country designated by the President in accordance with section 703;

"(7) the term 'Enterprise for the Americas Board' or 'Board' means the board established by section 610 of the Agricultural Trade Development and Assistance Act of 1954; and

"(8) the term 'Facility' means the Enterprise for the Americas Facility established in the Department of the Treasury by section 601 of that Act.

22 USC 2430b.

"SEC. 703. ELIGIBILITY FOR BENEFITS.

"(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this part, a country must be a Latin American or Caribbean country—

"(1) whose government is democratically elected;

"(2) whose government has not repeatedly provided support for acts of international terrorism;

"(3) whose government is not failing to cooperate on international narcotics control matters;

"(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

"(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

"(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

"(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

"(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

"(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

"(b) ELIGIBILITY DETERMINATIONS.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

President.

"SEC. 704. REDUCTION OF CERTAIN DEBT.

22 USC 2430c.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1992, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

"(2) APPROPRIATIONS REQUIREMENT.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

"(3) CERTAIN PROHIBITIONS INAPPLICABLE.—(A) A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

“(B) The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

“(b) IMPLEMENTATION OF DEBT REDUCTION.—

“(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of the date specified in subsection (a)(1).

“(2) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the agency primarily responsible for administering part I of this Act of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection. At the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

22 USC 2430d.

“SEC. 705. REPAYMENT OF PRINCIPAL.

“(a) CURRENCY OF PAYMENT.—The principal amount of each new obligation issued pursuant to section 704(b) shall be repaid in United States dollars.

“(b) DEPOSIT OF PAYMENTS.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

22 USC 2430e.

“SEC. 706. INTEREST ON NEW OBLIGATIONS.

“(a) RATE OF INTEREST.—New obligations issued by a beneficiary country pursuant to section 704(b) shall bear interest at a concessional rate.

“(b) CURRENCY OF PAYMENT; DEPOSITS.—

“(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Americas Framework Agreement, interest shall be paid in the local currency of the beneficiary country and deposited in an Americas Fund. Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 707(d). Such local currencies shall be used for the purposes specified in the Americas Framework Agreement.

“(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Americas Framework Agreement, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

“(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Americas Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Americas Fund established for that country.

22 USC 2430f.

“SEC. 707. ENTERPRISE FOR THE AMERICAS FUNDS.

“(a) ESTABLISHMENT.—Each beneficiary country that enters into an Americas Framework Agreement shall be required to establish an Enterprise for the Americas Fund to receive payments in local currency pursuant to section 706(b)(1).

“(b) DEPOSITS.—Local currencies deposited in an Americas Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

“(c) INVESTMENT.—Deposits made in an Americas Fund shall be invested until disbursed. Any return on such investment may be retained by the Americas Fund, without deposit in the Treasury of the United States and without further appropriation by the Congress.

“(d) DISBURSEMENTS.—Funds in an Americas Fund shall be disbursed only pursuant to an Americas Framework Agreement.

“SEC. 708. AMERICAS FRAMEWORK AGREEMENTS.

22 USC 2430g.

“(a) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an Americas Framework Agreement with any eligible country concerning the operation and use of the Americas Fund for that country. In the negotiation of such Agreements, the Secretary shall consult with the Enterprise for the Americas Board in accordance with section 709.

“(b) CONTENTS OF AGREEMENTS.—An Americas Framework Agreement with an eligible country shall—

“(1) require that country to establish an Americas Fund;

“(2) require that country to make interest payments under section 706(b)(1) into an Americas Fund;

“(3) require that country to make prompt disbursements from the Americas Fund to the administering body described in subsection (c);

“(4) when appropriate, seek to maintain the value of the local currency resources of the Americas Fund in terms of United States dollars;

“(5) specify, in accordance with subsection (d), the purposes for which amounts in an Americas Fund may be used; and

“(6) contain reasonable provisions for the enforcement of the terms of the agreement.

“(c) ADMINISTERING BODY.—

“(1) IN GENERAL.—Funds disbursed from the Americas Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

“(2) COMPOSITION.—The administering body shall consist of—

“(A) one or more individuals appointed by the United States Government,

“(B) one or more individuals appointed by the government of the beneficiary country, and

“(C) individuals who represent a broad range of—

“(i) environmental nongovernmental organizations of the beneficiary country,

“(ii) child survival and child development nongovernmental organizations of the beneficiary country,

“(iii) local community development nongovernmental organizations of the beneficiary country, and

“(iv) scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

“(3) RESPONSIBILITIES.—The administering body—

"(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Americas Framework Agreement, consistent with subsection (d);

"(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Americas Fund;

"(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

"(D) shall be required to grant to representatives of the United States General Accounting Office such access to books and records associated with operations of the Americas Fund as the Comptroller General of the United States may request;

"(E) shall present an annual program for review each year by the Enterprise for the Americas Board; and

"(F) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Enterprise for the Americas Board and to the government of the beneficiary country.

Reports.

Grants.

"(d) **ELIGIBLE ACTIVITIES.**—Grants from an Americas Fund shall be used for—

"(1) activities that link the conservation and sustainable use of natural resources with local community development; and

"(2) child survival and other child development activities.

"(e) **GRANT RECIPIENTS.**—Grants made from an Americas Fund shall be made to—

"(1) nongovernmental environmental, conservation, child survival and child development, development, and indigenous peoples organizations of the beneficiary country;

"(2) other appropriate local or regional entities; and

"(3) in exceptional circumstances, the government of the beneficiary country.

"(f) **REVIEW OF LARGER GRANTS.**—Any grant of more than \$100,000 from an Americas Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

"(g) **ELIGIBILITY CRITERIA.**—In the event that a country ceases to meet the eligibility requirements set forth in section 703(a), as determined by the President pursuant to section 703(b), then grants from the Americas Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 703(a).

22 USC 2430h.

"SEC. 709. ENTERPRISE FOR THE AMERICAS BOARD.

"For purposes of this part, the Enterprise for the Americas Board shall—

"(1) advise the Secretary of State on the negotiations of Americas Framework Agreements;

"(2) ensure, in consultation with—

"(A) the government of the beneficiary country,

“(B) nongovernmental organizations of the beneficiary country,

“(C) nongovernmental organizations of the region (if appropriate),

“(D) environmental, scientific, child survival and child development, and academic leaders of the beneficiary country, and

“(E) environmental, scientific, child survival and child development, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Americas Fund; and

“(3) review the programs, operations, and fiscal audits of each administering body.

“SEC. 710. ANNUAL REPORTS TO THE CONGRESS.

22 USC 2430i.

“The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a description of each Americas Framework Agreement and a description of any grants that have been extended by administering bodies pursuant to an Americas Framework Agreement.”.

(b) **CONFORMING AMENDMENT TO AVOID DUPLICATIVE AUTHORIZATIONS.**—Chapter 12 of part I of the Foreign Assistance Act of 1961 (as enacted by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993), relating to the Enterprise for the Americas Initiative, is repealed. Any exercise of the authorities provided in that chapter prior to its repeal by this subsection shall be deemed to be an exercise of the authorities of part IV of the Foreign Assistance Act of 1961 (as enacted by subsection (a) of this section) and shall be carried out, after the enactment of this section, in accordance with that part.

Ante, p. 1692.

SEC. 603. ENTERPRISE FOR THE AMERICAS BOARD.

Section 610 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i) is amended—

(1) in the section heading, by striking out “ENVIRONMENT” and inserting in lieu thereof “ENTERPRISE”;

(2) in subsection (a), by striking out “Environment” and inserting in lieu thereof “Enterprise”; and

(3) in subsection (b)(1)(B)—

(A) by inserting “child survival and child development,” after “environmental,”; and

(B) by inserting “, at least one of whom shall be a representative from a child survival and child development organization” after “Caribbean”.

SEC. 604. INTERNATIONAL UNIVERSITY FOR THE AMERICAS.

22 USC 2077.

(a) **PURPOSE.**—The purpose of this section is to promote economic integration and the consolidation and strengthening of democratic institutions in the Western Hemisphere, and to commemorate the 500th anniversary of the discovery of the Americas by Christopher Columbus through the establishment of an institution of higher education, which shall be known as the “International University for the Americas”.

(b) **ESTABLISHMENT.**—The Secretary of State, in consultation with other governments in the Western Hemisphere, shall determine the most appropriate location for the International University

for the Americas. In making that determination, the Secretary shall ensure that—

(1) the location chosen is in the Americas and is easily accessible to all peoples in the region; and

(2) the relevant government—

(A) has demonstrated a commitment to economic integration and democratic values through its policies and programs; and

(B) has expressed an interest in that location being chosen as a site and has agreed to contribute some amount of assistance, either in cash or kind, toward the costs of developing the institution.

(c) **FACULTY, STUDENTS, AND CURRICULUM.**—In developing the bylaws of the International University for the Americas, the Secretary of State shall ensure that they contain provisions to ensure that faculty and students are drawn from all the nations in the Western Hemisphere, and that the curriculum is designed to develop expertise in fields that will promote the economic integration of the Americas and the consolidation of democracy throughout the Hemisphere.

(d) **ANNUAL REPORT.**—The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a progress report on the selection of a site and design for the establishment of the International University for the Americas.

(e) **FUNDING.**—Of the funds that are allocated for assistance for Latin America and the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and chapter 4 of part II of that Act (relating to the economic support fund), \$500,000 may be made available to carry out the site location and design phase of the International University for the Americas.

TITLE VII—TRADE PROMOTION EXPANSION

SEC. 701. INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts otherwise available, there are authorized to be appropriated \$5,000,000 for each of the fiscal years 1993 and 1994 for use by the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service in accordance with subsection (b).

(b) **USE OF FUNDS.**—Amounts appropriated pursuant to subsection (a) shall be available only for placing and maintaining 20 additional Commercial Service Officers abroad. The Secretary of Commerce, acting through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, may place such additional Commercial Service Officers—

(1) in countries with which the United States has the largest trade deficit, and

(2) in newly emerging market economy countries, with democratically elected governments, in Central and Eastern Europe and elsewhere.

(c) **REPORT TO CONGRESS.**—The Secretary of Commerce, acting through the Assistant Secretary of Commerce and the Director General of the United States and Foreign Commercial Service, shall, not later than December 31, 1994, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of subsection (b). Each report shall specify—

(1) in what countries the additional Commercial Service Officers were placed, and the number of such officers placed in each such country; and

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to the countries in which such officers were placed.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. IMPACT ON EMPLOYMENT IN THE UNITED STATES.

22 USC 2151
note.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States, if such incentive or inducement is likely to reduce the number of employees in the United States because United States production is being replaced by such enterprise outside the United States.

SEC. 802. INTERNATIONALLY RECOGNIZED WORKER RIGHTS.

22 USC 2151
note.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone in that country.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 4996 (S. 3294):

HOUSE REPORTS: Nos. 102-551 (Comm. on Foreign Affairs) and 102-1026 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 138 (1992):

June 17, Aug. 5, considered and passed House.

Oct. 1, considered and passed Senate, amended, in lieu of S. 3294.

Oct. 5, House agreed to conference report.

Oct. 8, Senate agreed to conference report.