

funds for inclusion in the Bank's ordinary capital resources as defined in article 7 of the agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 6, section 5, of the agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of subsection (a)(2) of section 77c of title 15, and subsection (a)(12) of section 78c of title 15. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(b) The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, is authorized to suspend the provisions of subsection (a) of this section at any time as to any or all securities issued or guaranteed by the Bank during the period of such suspension. The Commission shall include in its annual reports to Congress such information as it shall deem advisable with regard to the operations and effect of this section and in connection therewith shall include any views submitted for such purpose by any association of dealers registered with the Commission.

(Pub. L. 89-369, § 11, Mar. 16, 1966, 80 Stat. 73.)

§ 285i. Authorization for payment of United States contribution; United States Special Resources

(a) Subject to the provisions of this subchapter, the United States Governor of the Bank is authorized to enter into an agreement with the Bank providing for a United States contribution of \$100,000,000 to the Bank in two annual installments of \$60,000,000 and \$40,000,000, beginning in fiscal year 1972. This contribution is referred to hereinafter in this subchapter as the "United States Special Resources".

(b) The United States Special Resources shall be made available to the Bank pursuant to the provisions of this subchapter and article 19 of the Articles of Agreement of the Bank, and in a manner consistent with the Bank's Special Funds Rules and Regulations.

(Pub. L. 89-369, § 12, as added Pub. L. 92-245, § 1, Mar. 10, 1972, 86 Stat. 57.)

§ 285j. United States Special Resources

(a) Development projects and programs

The United States Special Resources shall be used to finance specific high priority development projects and programs in developing member countries of the Bank with emphasis on such projects and programs in the Southeast Asia region.

(b) Authorized uses

The United States Special Resources shall be used by the Bank only for—

- (1) making development loans on terms which may be more flexible and bear less heavily on the balance of payments than those established by the Bank for its ordinary operations; and

- (2) providing technical assistance credits on a reimbursable basis.

(c) Eligible goods and services

(1) The United States Special Resources may be expended by the Bank only for procurement in the United States of goods produced in, or services supplied from the United States, except that the United States Governor, in consultation with the National Advisory Council on International Monetary and Financial Policies, may allow eligibility for procurement in other member countries from the United States Special Resources if he determines that such procurement eligibility would materially improve the ability of the Bank to carry out the objectives of its special funds resources and would be compatible with the international financial position of the United States.

(2) The United States Special Resources may be used to pay for administrative expenses arising from the use of the United States Special Resources, but only to the extent such expenses are not covered from the Bank's service fee or income from use of United States Special Resources.

(d) Repayment in dollars

All financing of programs and projects by the Bank from the United States Special Resources shall be repayable to the Bank by the borrowers in United States dollars.

(Pub. L. 89-369, § 13, as added Pub. L. 92-245, § 1, Mar. 10, 1972, 86 Stat. 57.)

DELEGATION OF FUNCTIONS

Functions of National Advisory Council on International Monetary and Financial Problems delegated to National Advisory Council on International Monetary and Financial Policies, see section 2(a) of Ex. Ord. No. 11269, Feb. 14, 1966, 31 F.R. 2813, set out as a note under section 286b of this title.

§ 285k. Utilization of United States Special Resources

(a) The letters of credit provided for in section 285l of this title shall be issued to the Bank only to the extent that at the time of issuance the cumulative amount of the United States Special Resources provided to the Bank (A) constitute a minority of all special funds contributions to the Bank, and (B) are no greater than the largest cumulative contribution of any other single country contributing to the special funds of the Bank.

(b) The United States Governor of the Bank shall give due regard to the principles of (A) utilizing all special funds resources on an equitable basis, and (B) significantly shared participation by other contributors in each special fund to which United States Special Resources are provided.

(Pub. L. 89-369, § 14, as added Pub. L. 92-245, § 1, Mar. 10, 1972, 86 Stat. 58.)

§ 285l. Letter of credit form for United States Special Resources

The United States Special Resources will be provided to the Bank in the form of a nonnegotiable, noninterest-bearing, letter of credit which shall be payable to the Bank at par value

on demand to meet the cost of eligible goods and services, and administrative costs authorized pursuant to section 285j(c) of this title.

(Pub. L. 89-369, §15, as added Pub. L. 92-245, §1, Mar. 10, 1972, 86 Stat. 58.)

§ 285m. Withdrawal rights covering United States Special Resources

The United States shall have the right to withdraw all or part of the United States Special Resources and any accrued resources derived therefrom under the procedures provided for in section 8.03 of the Special Funds Rules and Regulations of the Bank.

(Pub. L. 89-369, §16, as added Pub. L. 92-245, §1, Mar. 10, 1972, 86 Stat. 58.)

§ 285n. Authorization of appropriations to provide United States Special Resources

For the purpose of providing United States Special Resources to the Bank there is hereby authorized to be appropriated \$100,000,000, all of which shall remain available until expended.

(Pub. L. 89-369, §17, as added Pub. L. 92-245, §1, Mar. 10, 1972, 86 Stat. 58; amended Pub. L. 93-189, §28, Dec. 17, 1973, 87 Stat. 732.)

AMENDMENTS

1973—Pub. L. 93-189 substituted “\$100,000,000” for “\$60,000,000 for the fiscal year 1972 and \$40,000,000 for the fiscal year 1973”.

§ 285o. Expropriation of United States property; loan restrictions

The President shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exaction, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

(Pub. L. 89-369, §18, as added Pub. L. 92-245, §1, Mar. 10, 1972, 86 Stat. 58.)

§ 285p. Illegal drug traffic; loan restrictions

The Secretary of the Treasury shall instruct the United States Executive Director of the Asian Development Bank to vote against any loan or other utilization of the funds of the Bank for the benefit of any country with respect to which the President has made a determination, and so notified the Secretary of the Treasury, that the government of such country has failed to take adequate steps to prevent narcotic drugs and other controlled substances (as defined by the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]) produced or processed, in whole or in part, in such country, or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents, or from entering the United States unlawfully. Such instruction shall continue in effect until the President determines, and so notifies the Secretary of the Treasury, that the government of such country has taken adequate steps to prevent such sale or entry of narcotic drugs and other controlled substances.

(Pub. L. 89-369, §19, as added Pub. L. 92-245, §2, Mar. 10, 1972, 86 Stat. 58.)

REFERENCES IN TEXT

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in text, is Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to chapter 13 (§801 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

§ 285q. Subscription to additional shares; authorization of appropriations

(a) The United States Governor of the Bank is authorized to subscribe on behalf of the United States to thirty thousand additional shares of the capital stock of the Bank in accordance with and subject to the terms and conditions of Resolution Numbered 46 adopted by the Bank's Board of Governors on November 30, 1971.

(b) In order to pay for the increase in the United States subscription to the Bank provided for in this section, there is hereby authorized to be appropriated without fiscal year limitation \$361,904,726 for payment by the Secretary of the Treasury.

(Pub. L. 89-369, §20, as added Pub. L. 93-537, Dec. 22, 1974, 88 Stat. 1735.)

§ 285r. Contribution to special funds; authorization of appropriations

(a) The United States Governor of the Bank is hereby authorized to agree to contribute on behalf of the United States \$50,000,000 to the special funds of the Bank. This contribution shall be made available to the Bank pursuant to the provisions of article 19 of the articles of agreement of the Bank.

(b) In order to pay for the United States contribution to the special funds, there is hereby authorized to be appropriated without fiscal year limitation \$50,000,000 for payment by the Secretary of the Treasury.

(Pub. L. 89-369, §21, as added Pub. L. 93-537, Dec. 22, 1974, 88 Stat. 1735.)