

unless cost-effective conservation measures have been fully evaluated and considered;

(2) encourage each MDB to offer technical assistance to borrower nations in preparing national energy plans. Special emphasis shall be given to least-cost analysis in making decisions on energy use and development, and such analyses shall take into account all demand-side as well as supply-side options;

(3) promote expansion of MDB expertise in the areas of energy conservation and renewable energy sources;

(4) promote the adoption of lending strategies which place increased emphasis on energy conservation and efficiency as opposed to merely increasing generating capacity;

(5) promote adoption of policies which minimize emissions of greenhouse gases;

(6) promote the adoption of lending strategies that place increased emphasis on energy efficient transportation programs. Such strategies shall consider alternatives to conventional mechanized transport such as non-motorized vehicles, public transport and increased energy and cost efficiency of transportation systems; and

(7) promote the use of existing and the development of new mechanisms to promote conservation of biological diversity. Existing resources to be consulted shall include but not be limited to Conservation Data Centers.

**(b) Bilateral and multilateral discussions to strengthen environmental performance of Multilateral Development Banks**

The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall conduct bilateral and multilateral discussions with other members of the MDB's to further strengthen the environmental performance of each bank. These discussions shall include, but not be limited to organizational, administrative and procedural arrangements to remove impediments to the efficient and effective management of assistance programs necessary to protect and ensure the sustainable use of natural resources and to carry out such assistance programs in consultation with affected local communities.

**(c) Duties of Administrator of Agency for International Development**

The Administrator of the Agency for International Development shall—

(1) in the submission of future “early warning system” reports, as required by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, make use of resources that promote the conservation of biological diversity, such as Conservation Data Centers;

(2) submit a report to the Committees on Appropriations, by January 15, 1989, on the Agency's activities and practices which encourage or discourage the use of renewable energy technologies overseas, and on ways to correct or refocus those efforts. This report shall include but is not limited to Agency activities which could be directed to develop a stronger interface with the private sector through the establishment of a United States Renewable Energy Industry Advisory Council;

(3) issue guidance to all Agency missions stating that renewable energy resources and conservation are to be the centerpiece of its energy efforts, and meeting energy needs through these means shall be discussed in every Country Development Strategy Statement; and

(4) take steps to implement recommendations set forth by a report of the Committee on Health and Environment on opportunities for the Agency to assist developing countries in the proper use of agricultural and industrial chemicals.

(Pub. L. 100-461, title V, §535, Oct. 1, 1988, 102 Stat. 2268-28.)

REFERENCES IN TEXT

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, referred to in subsec. (c)(1), is Pub. L. 100-202, §101(e), Dec. 22, 1987, 101 Stat. 1329-131. The “early warning system” reports refer to the reports required by section 537(h)(1) of the Act (Pub. L. 100-202, §101(e) [title V, §537(h)(1)]), which is classified to section 2621-1(h)(1) of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is from the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989.

Section was formerly classified to section 2621 of this title.

**§ 2621-3. Environmental and energy initiatives; benchmarks; Global Warming Initiative; appropriations**

**(a) Instructions to Executive Directors of Multilateral Development Banks**

It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to continue to promote vigorously the environmental and energy initiatives established in section 533(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513). The Secretary of the Treasury, in cooperation with the Secretary of State, shall also undertake direct, bilateral discussions with appropriate officials of the governments of the member nations of the Organization for Economic Cooperation and Development with a goal of building greater international support for the environmental goals established in subsection (d) of this section. The Secretary of the Treasury shall submit a report to the Committees on Appropriations by March 1, 1993, which describes the progress of these bilateral discussions.

**(b) Report to Congress**

The Secretary of the Treasury shall, not later than March 1, 1993, submit a report to the Congress containing the same information as requested in section 533(b) of Public Law 101-513.

**(c) Improved environmental performance; benchmarks**

(1) In furtherance of the policies contained in section 533(a) of Public Law 101-513 and section

1308<sup>1</sup> of the International Development and Finance Act of 1989 (Public Law 101-240), and as a basis for measuring more effectively progress by the MDBs toward improved environmental performance, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDBs to encourage each MDB, at a minimum, to meet the benchmarks established in paragraph (2) in the areas of sustainable energy development, forest conservation, forced displacement of populations, and environmental impact assessment. On March 1, 1993 and March 1, 1994, the Secretary of the Treasury shall submit a report to the Congress describing in detail the progress being made by the MDBs in meeting these benchmarks.

(2) For the purposes of paragraph (1), benchmarks are as follows:

(A) In the area of sustainable energy development—

(i) all loans in the energy sector should be based on, or support development of, “least-cost” integrated resource plans. Such plans shall include analyses of possible end-use energy efficiency measures and nonconventional renewable energy options, and such plans shall reflect the quantifiable environmental costs of proposed energy developments;

(ii) a substantial portion of loans and grants in the energy, industry, and transportation sectors shall be devoted to end-use energy efficiency improvements and nonconventional renewable energy development; and

(iii) all organizational units within the MDBs should create staff positions in a management role in end-use efficiency and renewable energy, which positions shall be staffed by individuals with professional experience in program design and management and educational degrees in relevant technical disciplines.

(B) In the area of forest conservation—

(i) forestry loans should not support commercial logging in relatively undisturbed primary forests, nor should loans result in any significant loss of tropical forests;

(ii) forestry loans should not be disbursed until legal, economic, land tenure, and other policy conditions needed to ensure sustainability are in place;

(iii) loans should not support mineral, petroleum, or other industrial development in, or construction or upgrading of roads through, relatively undisturbed primary forests unless adequate safeguards and monitoring systems, developed in consultation with local populations, are already in place to prevent degradation of the surrounding forests;

(iv) loans should be consistent with and support the needs and rights of indigenous peoples and other long-term forest inhabitants and should not be made to countries which have shown an unwillingness to resolve fairly the territorial claims of such people; and

(v) support for protection of biological diversity, in close consultation with local communities, should be increased to account for a larger proportion of MDB lending.

(C) In the area of forced displacement of populations—

(i) the World Bank, Inter-American Development Bank, and Asian Development Bank should maintain a listing, available to the Secretary of the Treasury, of all ongoing projects involving forced displacement of populations, including the number of people displaced and a report on the status of the implementation of their resettlement policy guidelines for each such project, and obtain agreements with borrowers to ensure that all ongoing projects involving forced displacement will be in full compliance with their resettlement policy guidelines by mid-1993; and

(ii) the African Development Bank should adopt and implement policy guidelines on forced displacement similar to such guidelines of the other MDBs.

(D) In the area of procedures for environmental impact assessment (EIA)—

(i) each MDB should require that draft and final EIA reports be made available to the public in borrowing and donor countries and that the public be offered timely opportunities for comment on the EIA process, including initial scoping sessions, review of EIA categories assigned to individual projects, and opportunities to comment on draft and final EIA reports;

(ii) each MDB should apply EIA requirements to all sector loans and develop and apply the methodology for environmental assessment of structural adjustment loans;

(iii) each MDB should require that the EIA process include analyses of the potential impacts of proposed projects on the global environment; and

(iv) each MDB should require the head of the appropriate environmental unit, rather than project officers, determine the appropriate type of environmental analysis required under the bank’s EIA procedures.

#### **(d) Global Warming Initiative**

The Administrator of the Agency for International Development shall instruct all Agency missions and bureaus to continue to implement all elements of the “Global Warming Initiative” as defined in, and which may continue under, the authorities of sections<sup>2</sup> 533(c)(1) through (4) of Public Law 101-513. The Initiative shall continue to emphasize the need to reduce emissions of greenhouse gases through strategies consistent with continued economic development, such as forest conservation, end-use energy efficiency, least-cost energy planning, and renewable energy development. The Administrator shall direct Agency mission directors to incorporate these strategies in their country programs.

#### **(e) Environment and energy activities**

Of the funds appropriated by this Act under the headings in title II of this Act under “Agen-

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be “section”.

cy for International Development”, not less than \$650,000,000 shall be made available for environment and energy activities, including funds earmarked under section 533 of this Act, including the following—

(1) Not less than \$20,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2151a–2151d; 2293 et seq.] shall be made available for biological diversity activities, of which \$5,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act [22 U.S.C. 2151q(b)]; \$1,500,000 shall be for the National Science Foundation’s international biological diversity program; \$750,000 shall be for the Neotropical Bird Conservation Initiative of the National Fish and Wildlife Foundation; and up to \$2,000,000 shall be for Project Noah;

(2) Not less than \$15,000,000 of the funds appropriated for the Development Assistance Fund and to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2293 et seq.] shall be made available to support replicable renewable energy projects, and the Agency for International Development shall initiate at least five significant new activities in renewable energy during fiscal year 1993;

(3) Not less than \$7,000,000 of the funds appropriated for the Development Assistance Fund and to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2293 et seq.] shall be made available for assistance in support of elephant conservation and preservation;

(4) Not less than \$25,000,000 of the funds appropriated for the Development Assistance Fund shall be made available for the Office of Energy of the Agency for International Development; and

(5) Up to \$50,000,000 of the funds appropriated to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] may be made available to carry out the “Forests for the Future Initiative” and to achieve a Global Forest Agreement.

**(f) International development and economic support**

Of the funds appropriated by this Act to carry out the provisions of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2151 et seq.; 2346 et seq.], the Agency for International Development should, to the extent feasible and inclusive of funds earmarked under subsection (e) of this section, target assistance for the following activities:

(1) \$50,000,000 for projects associated with the Global Environment Facility;

(2) a total of \$10,000,000 for CORECT, the Environmental Technology Export Council, and the International Fund for Renewable Energy Efficiency; and

(3) \$55,000,000 for activities consistent with the Global Warming Initiative.

**(g) Development Assistance Fund and Development Fund for Africa**

Funds appropriated by this Act or any subsequent Act for the Development Assistance Fund

and the Development Fund for Africa may be used for expenses (including related support costs) relating to the environment and energy sectors, of individuals detailed to or employed by the Agency for International Development, particularly those involved with the “Global Warming<sup>3</sup> Initiative” described in this subsection.<sup>4</sup>

**(h) Conservation and biological diversity in Africa**

Of the funds appropriated by this Act to carry out the provisions of section 2763 of this title, not less than \$15,000,000 shall be made available to countries in Africa for programs which support conservation and biological diversity.

(Pub. L. 102-391, title V, §532, Oct. 6, 1992, 106 Stat. 1666.)

REFERENCES IN TEXT

Section 533 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, referred to in subsecs. (a), (b), (c)(1), and (d), is section 533 of Pub. L. 101-513, which was formerly classified to section 262l of this title.

Section 1308 of the International Development and Finance Act of 1989 (Public Law 101-240), referred to in subsec. (c)(1), probably means a reference to the section 1308 of Pub. L. 95-118, the International Financial Institutions Act, which was added by section 521 of Pub. L. 101-240, and subsequently renumbered section 1307 of Pub. L. 95-118 by section 541(f)(4) of Pub. L. 101-240, and is classified to section 262m-7 of this title. Pub. L. 101-240 does not contain a section 1308.

This Act, referred to in subsecs. (e) to (h), is Pub. L. 102-391, Oct. 6, 1992, 106 Stat. 1633, known as the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993. Provisions under the headings in title II of this Act under “Agency for International Development” appear at 106 Stat. 1638 et seq. and are not classified to the Code except for an undesignated par. that was formerly set out as a note under section 2151u of this title. Section 533 of the Act is not classified to the Code. For complete classification of this Act to the Code, see Tables.

The Foreign Assistance Act of 1961, referred to in subsecs. (e)(1) to (3), (5) and (f), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424. Part I of the Act is classified generally to subchapter I (§2151 et seq.) of chapter 32 of this title. For provisions deeming references to subchapter I to include parts IV (§2346 et seq.), VI (§2348 et seq.), and VIII (§2349aa et seq.) of subchapter II of chapter 32, see section 202(b) of Pub. L. 92-226, set out as a note under section 2346 of this title, and sections 2348c and 2349aa-5 of this title. Sections 103 to 106 of the Act are classified to section 2151a to 2151d of this title. For provisions deeming references to sections 2151a to 2151d of this title to include a reference to section 2293 of this title, see section 2293(d)(1) of this title. Chapter 10 of part I of the Act is classified generally to part X (§2293 et seq.) of subchapter I of chapter 32 of this title. Chapter 4 of part II of the Act is classified generally to part IV (§2346 et seq.) of subchapter II of chapter 32 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of this title and Tables.

CODIFICATION

Section is from the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993.

Section was formerly classified to section 262l of this title.

<sup>3</sup> So in original. Probably should be “Warming”.

<sup>4</sup> So in original. Probably should be “section.”

**§ 262m. Congressional findings and policies for multilateral development banks respecting environment, public health, natural resources, and indigenous peoples**

The Congress finds that—

(1) United States assistance to the multilateral development banks should promote sustainable use of natural resources and the protection of the environment, public health, and the status of indigenous peoples in developing countries;

(2) multilateral development bank projects, policies, and loans have failed in some cases to provide adequate safeguards for the environment, public health, natural resources, and indigenous peoples;

(3) many development efforts of the multilateral development banks are more enduring and less costly if based on consultations with directly affected population groups and communities;

(4) developing country governments sometimes do not ensure that appropriate policies and procedures are in place to use natural resources sustainably or consult with affected population groups and communities, where costs could be reduced or benefits made more enduring; and

(5) in general, the multilateral development banks do not yet provide systematic and adequate assistance to their borrowers to encourage sustainable resource use and consultation with affected communities, where costs could be reduced or benefits made more enduring.

(Pub. L. 95-118, title XIII, § 1301, as added Pub. L. 100-202, § 101(e) [title I], Dec. 22, 1987, 101 Stat. 1329-131, 1329-134.)

**CODIFICATION**

Section 1301 of Pub. L. 95-118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100-202.

**§ 262m-1. Environmental performance of banks; mechanisms for improvement**

The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall vigorously promote mechanisms to strengthen the environmental performance of these banks. These mechanisms shall include strengthening organizational, administrative, and procedural arrangements within the banks which will substantially improve management of assistance programs necessary to ensure the sustainable use of natural resources and the protection of indigenous peoples.

(Pub. L. 95-118, title XIII, § 1302, as added Pub. L. 100-202, § 101(e) [title I], Dec. 22, 1987, 101 Stat. 1329-131, 1329-134.)

**CODIFICATION**

Section 1302 of Pub. L. 95-118 is based on section 701 of title VII of H.R. 3750, One Hundredth Congress, as introduced Dec. 11, 1987, and enacted into law by Pub. L. 100-202.

**DEFINITIONS**

The definition in section 262p of this title applies to this section.

**§ 262m-2. Environmental impact of assistance proposals**

**(a) Analysis by agencies, United States embassies and overseas missions of Agency for International Development; factors considered; affirmative investigation of adverse impacts; availability of information to public**

(1) In the course of reviewing assistance proposals of the multilateral development banks, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall ensure that other agencies and appropriate United States embassies and overseas missions of the Agency for International Development are instructed to analyze, where feasible, the environmental impacts of multilateral development loans well in advance of such loans' approval by the relevant institutions to determine whether the proposals will contribute to the sustainable development of the borrowing country.

(2) To the extent possible, such reviews shall address the economic viability of the project, adverse impacts on the environment, natural resources, public health, and indigenous peoples, and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts.

(3) If there is reason to believe that any such loan is particularly likely to have substantial adverse impacts, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall ensure that an affirmative investigation of such impacts is undertaken in consultation with relevant Federal agencies. If not classified under the national security system of classification, the information collected pursuant to this paragraph shall be made available to the public.

**(b) Evaluation by major shareholder governments prior to bank action on assistance proposals**

(1) The Secretary of the Treasury shall instruct the Executive Directors representing the United States at the multilateral development banks as defined in section 262m-7(g) of this title to urge the management and other directors of each such bank, to provide sufficient time between the circulation of assistance proposals and bank action on those proposals, in order to permit their evaluation by major shareholder governments.

(2) The Secretary of the Treasury shall instruct such Executive Directors to work with other countries' Executive Directors and multilateral development bank management to—

(A) improve the procedures of each multilateral development bank for providing its board of directors with a complete and accurate record regarding public consultation before they vote on proposed projects with significant environmental implications; and

(B) revise bank procedures to consistently require public consultation on operational policy proposals or revisions that have significant environmental or social implications.

(3) Progress under this subsection shall be incorporated into Treasury's required annual re-