

Subsec. (g)(2)(E). Pub. L. 101-240, §101(b)(6), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “any progress achieved in negotiations to establish a comprehensive international arrangement restricting the use of tied aid and partially untied credits for commercial purposes.”

1988—Subsecs. (c)(2), (e)(1). Pub. L. 100-418 substituted “1988, and 1989” for “and 1988”.

1987—Subsec. (c)(2). Pub. L. 100-217 substituted “during fiscal years 1986, 1987, and 1988” for “during fiscal year 1986”.

USE OF FUND TO DISCOURAGE PREDATORY FINANCING PRACTICES

Pub. L. 100-418, title III, §3302(a), Aug. 23, 1988, 102 Stat. 1383, provided that: “The Congress finds that—

“(1) negotiations have led to an international agreement to increase the grant element required in tied aid credit offers;

“(2) concern continues to exist that countries party to the agreement may continue to offer tied aid credits that deviate from the agreement;

“(3) in such cases, the United States could continue to lose export sales in connection with the aggressive, and in some cases, unfair, tied aid practices of such countries; and

“(4) in such cases, the Export-Import Bank of the United States should continue to use the Tied Aid Credit Fund established by section 15(c) [now 10(c)] of the Export-Import Bank Act of 1945 [12 U.S.C. 635i-3(c)] to discourage the use of such predatory financing practices.”

§ 635i-4. Repealed. Pub. L. 102-429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section, act July 31, 1945, ch. 341, §16, as added Oct. 21, 1986, Pub. L. 99-509, title II, §2002, 100 Stat. 1880, related to procedures and terms for sale of Bank loans to public.

§ 635i-5. Environmental policy and procedures

(a) Environmental effects consideration

(1) In general

Consistent with the objectives of section 635(b)(1)(A) of this title, the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services for which support is requested under its direct lending and guarantee programs. Such procedures shall provide for the public disclosure of environmental assessments and supplemental environmental reports required to be submitted to the Bank, including remediation or mitigation plans and procedures, and related monitoring reports. The preceding sentence shall not be interpreted to require the public disclosure of any information described in section 1905 of title 18. Such procedures shall apply to any transaction involving a project—

(A) for which long-term support of \$25,000,000 (or, if less than \$25,000,000, the threshold established pursuant to international agreements, including the Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, as adopted by the Organisation for Economic Co-operation and Development Council on June 28, 2012, and the risk-management framework adopted by financial institutions for determining, assessing, and managing environmental and social risk in projects (commonly referred to as the

“Equator Principles”)) or more is requested from the Bank;

(B) for which the Bank’s support would be critical to its implementation; and

(C) which may have significant environmental effects upon the global commons or any country not participating in the project, or may produce an emission, an effluent, or a principal product that is prohibited or strictly regulated pursuant to Federal environmental law.

(2) Authority to withhold financing

The procedures established under paragraph (1) shall permit the Board of Directors, in its judgment, to withhold financing from a project for environmental reasons or to approve financing after considering the potential environmental effects of a project.

(b) Use of Bank programs to encourage certain exports

(1) In general

The Bank shall encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects (such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank). The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank’s programs can be used to support the export of such goods and services. The officer shall act as liaison between the Bank and other Federal Government agencies, including the agencies whose representatives are members of the Environmental Trade Promotion Working Group of the Trade Promotion Coordinating Committee, with respect to overall United States Government policy on the environment.

(2) Limitations on authorization of appropriations

In addition to other funds available to support the export of goods and services described in paragraph (1), there are authorized to be appropriated to the Bank not more than \$35,000,000 for the cost (as defined in section 661a(5) of title 2) of supporting such exports. If, in any fiscal year, the funds appropriated in accordance with this paragraph are not fully utilized due to insufficient qualified transactions for the export of such goods and services, such funds may be expended for other purposes eligible for support by the Bank.

(c) Inclusion in report to Congress

The Bank shall provide in its annual report to the Congress a summary of its activities under subsections (a) and (b).

(d) Interpretation

Nothing in this section shall be construed to create any cause of action.

(July 31, 1945, ch. 341, § 11, formerly § 17, as added and renumbered § 11, Pub. L. 102-429, title I, §§ 106, 121(c)(5), Oct. 21, 1992, 106 Stat. 2189, 2199; amended Pub. L. 103-428, § 2(a), Oct. 31, 1994, 108 Stat. 4376; Pub. L. 109-438, § 18(b), Dec. 20, 2006, 120 Stat. 3281; Pub. L. 114-94, div. E, title LIV, § 54002(d), Dec. 4, 2015, 129 Stat. 1769.)

CODIFICATION

Another section 11 of act July 31, 1945, ch. 341, was renumbered section 14 and is classified to section 635i-8 of this title.

PRIOR PROVISIONS

A prior section 11 of act July 31, 1945, ch. 341, was renumbered section 9 and is classified to section 635h of this title.

AMENDMENTS

2015—Subsec. (a)(1)(A). Pub. L. 114-94 substituted “\$25,000,000 (or, if less than \$25,000,000, the threshold established pursuant to international agreements, including the Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, as adopted by the Organisation for Economic Co-operation and Development Council on June 28, 2012, and the risk-management framework adopted by financial institutions for determining, assessing, and managing environmental and social risk in projects (commonly referred to as the ‘Equator Principles’)) or more” for “\$10,000,000 or more”.

2006—Subsec. (a)(1). Pub. L. 109-438 inserted after first sentence “Such procedures shall provide for the public disclosure of environmental assessments and supplemental environmental reports required to be submitted to the Bank, including remediation or mitigation plans and procedures, and related monitoring reports. The preceding sentence shall not be interpreted to require the public disclosure of any information described in section 1905 of title 18.”

1994—Subsec. (b). Pub. L. 103-428 inserted par. (1) designation and heading, inserted before period at end of first sentence “(such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank)”, and added par. (2).

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 applicable with respect to fiscal year 2016 and each fiscal year thereafter, see section 54002(e) of Pub. L. 114-94, set out as a note under section 635 of this title.

§ 635i-6. Debt reduction; Enterprise for the Americas Initiative**(a) Definitions**

For purposes of this section—

(1) the term “eligible country” means a country designated by the President in accordance with subsection (b);

(2) the term “Facility” means the entity established in the Department of the Treasury by section 1738 of title 7; and

(3) the term “IMF” means the International Monetary Fund.

(b) Eligibility for benefits under the Facility**(1) Requirements**

To be eligible for benefits from the Facility under this section, a country must—

(A) be a Latin American or Caribbean country;

(B) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

(i) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility or, in exceptional circumstances, an IMF monitored program or its equivalent; and

(ii) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

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

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

(2) Eligibility determinations

The President shall determine whether a country is an eligible country for purposes of paragraph (1).

(c) Loans eligible for sale, reduction, or cancellation**(1) Authority to sell, reduce, or cancel certain loans**

Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any loan or portion thereof made before January 1, 1992, to any eligible country or any agency thereof pursuant to this subchapter, or, on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buy-back by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development activities, in a manner consistent with sections 1738f through 1738k of title 7,

if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.