

Development Bank, and the African Development Bank.

(Pub. L. 99-88, title I, § 502, Aug. 15, 1985, 99 Stat. 330; Pub. L. 102-285, § 10(b), May 18, 1992, 106 Stat. 172.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“United States Bureau of Mines” substituted for “Bureau of Mines” in subsec. (c)(2) pursuant to section 10(b) of Pub. L. 102-285, set out as a note under section 1 of Title 30, Mineral Lands and Mining. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see note set out under section 1 of Title 30, Mineral Lands and Mining.

COPPER MINING, SMELTING, AND REFINING

Pub. L. 99-88, title I, § 501, Aug. 15, 1985, 99 Stat. 329, provided that: “The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act or any other Act, for the production of any copper commodity for export or for the financing of the expansion, improvement, or modernization of copper mining, smelting, and refining capacity.”

§ 262k-1. Transparency of budgets

(a) Limitation

Beginning three years after September 30, 1996, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

(1) does not have in place a functioning system for reporting to civilian authorities audits of receipts and expenditures that fund activities of the armed forces and security forces;

(2) has not provided to the institution information about the audit process requested by the institution.

(b) “International financial institution” defined

For purposes of this section, the term “international financial institution” shall include the institutions identified in section 532(b) of this Act.

(Pub. L. 104-208, div. A, title I, § 101(c) [title V, § 576], Sept. 30, 1996, 110 Stat. 3009-121, 3009-168; Pub. L. 105-118, title V, § 572, Nov. 26, 1997, 111 Stat. 2430.)

Editorial Notes

REFERENCES IN TEXT

Section 532(b) of this Act, referred to in subsec. (b), is section 532(b) of Pub. L. 104-208, div. A, title I, § 101(c) [title V], Sept. 30, 1996, 110 Stat. 3009-121, 3009-152, which is not classified to the Code.

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105-118, § 572(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “does not have in place a functioning system for a civilian audit of all receipts and expenditures that fund activities of the armed forces and security forces;”.

Subsec. (a)(2). Pub. L. 105-118, § 572(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “has not provided a summary of a current audit to the institution.”

§ 262k-2. Female genital mutilation

(a) Limitation

Beginning 1 year after September 30, 1996, the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any loan or other utilization of the funds of their respective institution, other than to address basic human needs, for the government of any country which the Secretary of the Treasury determines—

(1) has, as a cultural custom, a known history of the practice of female genital mutilation; and

(2) has not taken steps to implement educational programs designed to prevent the practice of female genital mutilation.

(b) “International financial institution” defined

For purposes of this section, the term “international financial institution” shall include the institutions identified in section 532(b) of this Act.

(Pub. L. 104-208, div. A, title I, § 101(c) [title V, § 579], Sept. 30, 1996, 110 Stat. 3009-121, 3009-170.)

Editorial Notes

REFERENCES IN TEXT

Section 532(b) of this Act, referred to in subsec. (b), is section 532(b) of Pub. L. 104-208, div. A, title I, § 101(c) [title V], Sept. 30, 1996, 110 Stat. 3009-121, 3009-152, which is not classified to the Code.

§ 262l. Environmental reform measures and remedial measures; Committee on Health and the Environment

(a) Environmental reform measures; instructions to Executive Directors of Multilateral Development Banks

The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks to—

(1) vigorously promote a commitment of these institutions to—

(A) add professionally trained staff with experience in ecology and related areas to undertake environmental review of projects, and strengthen existing staff exercising environmental responsibilities;

(B) develop and implement management plans to ensure systematic and thorough environmental review of all projects and activities affecting the ecology and natural resources of borrowing countries, including—

(i) creation of a line unit to carry out such reviews as part of the normal project cycle,

(ii) appointment of an environmental advisor to the Presidents of the Multilateral Development Banks,

(iii) institution of a regular program of monitoring all ongoing projects to ensure that contract conditions and general bank policies to protect the environment and indigenous peoples are fully complied with;

(C) create career and other institutional incentives for all professionally trained bank staff to incorporate environmental and natural resources concerns into project planning and country programming activities;

(2) vigorously promote changes in these institutions in their preparation of projects and country programs that will prompt staff and encourage borrower countries to—

(A) actively and regularly involve environmental and health ministers, or comparable representatives, at the national, regional and local level, in the preparation of environmentally sensitive projects and in bank-supported country program planning and strategy sessions;

(B) actively and regularly seek the participation of non-governmental indigenous peoples and conservation organizations in the host countries at all stages of project planning and strategy sessions;

(C) fully inform local communities and appropriate non-governmental organizations with interests in local development projects of all project planning sufficiently in advance of project appraisal to allow informed participation of local communities and non-governmental organizations that may be adversely affected by them;

(3) establish a regular integrated multidisciplinary planning process to conduct land use capability analyses in reviewing potential loans. Such plans shall include, but not be limited to, a review of ongoing or other potential resource utilization efforts in and adjacent to the project area;

(4) vigorously promote a commitment of these institutions to develop and implement plans for the rehabilitation and management of the ecological resources of borrower nations on a sustained basis. Special attention shall be paid to soil conservation, wildlife, wetlands, estuaries, croplands, grasslands, forests, and fisheries, including—

(A) long-term programs of research designed to manage ecosystems properly;

(B) provision of adequate extension workers, park rangers, social forestry experts, and other appropriate personnel; and

(C) improved programs of training in environmental science and land-use planning;

(5) vigorously promote a commitment of these institutions to increase the proportion of their programs supporting environmentally beneficial projects and project components, such as technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed

farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, rural solar energy systems, and rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems.¹

(6) place an increased emphasis on upgrading the efficient use of energy and other resources by borrower nations. Such efforts shall include, but not be limited to—

(A) significantly increasing the proportion of energy project lending for energy efficiency improvements, and decentralized small scale facilities such as solar, wind, or biomass generating facilities; and

(B) conducting an analysis of the comparative costs of any new energy generating facilities with the cost of increasing the energy efficiency in the project service area;

(7) seek a commitment of these institutions to fund projects to protect and preserve crucial wetland systems and to avoid expenditures for projects designed to convert major wetland systems. Development proposals which may affect these areas should be the subject of detailed impact assessments so as to avoid detrimental impacts to fisheries, wildlife and other important resources;

(8) vigorously promote the establishment within the Economic Development Institute of the World Bank of a component which provides training in environmental and natural resource planning and program development;

(9) regularly raise, at meetings of the Boards of Directors of these institutions, the issue of their progress in improving their environmental performance, with specific focus on the measures set forth above; and

(10) require at least a four week project review period between the time when staff recommendations are presented to the board and board action on any projects.

(b) Joint evaluation of potential environmental problems and remedial measures

The Secretaries of Treasury and State, and the Administrator of the Agency for International Development, shall ensure and coordinate a thorough evaluation within the United States Government of the potential environmental problems, and the adequacy of measures to address these problems, associated with all proposed loans for projects involving large impoundments of rivers in tropical countries; penetration roads into relatively undeveloped areas; and agricultural and rural development programs. The potential environmental problems to be addressed in such evaluations shall include those relating to deterioration of water quality; siltation; spread of waterborne diseases; forced resettlement; deforestation; threats to the land, health and culture of indigenous peoples; wetlands disruption; topsoil management, water logging and salinization in irrigation projects; and pesticide misuse and resistance.

¹ So in original. The period probably should be a semicolon.

(c) Additional initiatives

The Secretary of the Treasury and the Secretary of State shall regularly undertake and continue diplomatic and other initiatives, in addition to those mentioned in subsection (a)(5), to discuss measures to improve the environmental performance of the Multilateral Development Banks with the representatives to these institutions, and with ministries from which they receive their instructions, of borrower and donor nations. In particular, joint efforts shall be undertaken with borrowers and donors to ensure cooperative implementation of the reforms described above.

(d) Special meetings of Boards of Governors

The Secretary of the Treasury and the Secretary of State shall propose formally that the Boards of Governors of each Multilateral Development Bank hold a special meeting within the next twelve months, focused specifically on environmental performance and better implementation of multilateral development policies designed to protect the environment and indigenous peoples.

(e) Reporting requirements generally

The Secretary of the Treasury shall prepare and submit to the Committees on Appropriations by January 15, 1987, and annually thereafter, a report documenting the progress the Multilateral Development Banks have made in implementing the environmental reform measures described in paragraphs one through eight of subsection (a).

(f) Reporting requirements respecting environmental staffing

In the report of the Secretary of the Treasury required by subsection (e), regarding the implementation of staffing measures suggested in subsection (a)(1)(A), the Secretary of the Treasury shall specifically discuss the progress of the International Bank for Reconstruction and Development in upgrading and adding environmentally trained professionals to each of its six regional offices to review projects for their prospective ecological impacts.

(g) Duties of Administrator of Agency for International Development

The Administrator of the Agency for International Development in conjunction with the Secretaries of Treasury and State shall—

(1) instruct overseas missions of the Agency for International Development and embassies of the United States to analyze the impacts of Multilateral Development Bank projects proposed to be undertaken in the host country well in advance of a project's approval by the relevant institution. Such reviews shall address the economic viability of the project; adverse impacts on the environment, natural resources, and indigenous peoples; and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts. If not classified under the national security system of classification, such information shall be made available to the public;

(2) in preparation of reviews required by subsection (g)(1), compile a list of categories of

projects likely to have adverse impacts on the environment, natural resources, or indigenous peoples. The list shall be developed in consultation with interested members of the public and made available to the Committee on Appropriations by December 31, 1986 and semi-annually thereafter; and

(3) study the feasibility of creating a cooperative “early warning system” for projects of concern with other interested donors.

(h) Adverse impacts to environment, natural resources, or indigenous peoples; instructions to Executive Director of Multilateral Development Bank

If a review required by subsection (g)(1) identifies adverse impacts to the environment, natural resources, or indigenous peoples, the Secretary of the Treasury shall instruct the United States Executive Director of the Multilateral Development Bank to seek changes to the project necessary to eliminate or mitigate those impacts.

(i) Committee on Health and the Environment

The Administrator of the Agency for International Development shall appoint a Committee on Health and the Environment to examine opportunities for assisting countries in the proper use of agricultural and industrial chemicals and processes and alternatives such as integrated pest management. The committee shall be broadly representative of industry, agriculture, labor, health and environmental interests and shall report its preliminary findings to Congress before hearings on the fiscal year 1988 budget.

(Pub. L. 99-500, §101(f) [title V, §539], Oct. 18, 1986, 100 Stat. 1783-213, 1783-232, and Pub. L. 99-591, §101(f) [title V, §539], Oct. 30, 1986, 100 Stat. 3341-214, 3341-232.)

Editorial Notes**CODIFICATION**

Section is from the Foreign Assistance and Related Programs Appropriations Act, 1987.

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

PRIOR PROVISIONS

A prior section 262I, Pub. L. 102-391, title V, §532, Oct. 6, 1992, 106 Stat. 1666, which related to environmental and energy initiatives, benchmarks, Global Warming Initiative, and appropriations, was transferred to section 262I-3 of this title.

Another prior section 262I, Pub. L. 101-167, title V, §533, Nov. 21, 1989, 103 Stat. 1225, is set out as a note below.

Another prior section 262I, Pub. L. 100-461, title V, §535, Oct. 1, 1988, 102 Stat. 2268-28, which related to sustainable use of natural resources and use of agricultural and industrial chemicals, was transferred to section 262I-2 of this title.

Another prior section 262I, Pub. L. 100-202, §101(e) [title V, §537], Dec. 22, 1987, 101 Stat. 1329-131, 1329-161; Pub. L. 101-240, title V, §541(d)(8), Dec. 19, 1989, 103 Stat. 2518, which related to sustainable economic growth and management of natural resources, environmental impact of loans, pest management, addition of trained professionals, and “early warning system”, was transferred to section 262I-1 of this title.

Statutory Notes and Related Subsidiaries**SIMILAR PROVISIONS**

Similar provisions were contained in the following appropriation acts:

Pub. L. 101-513, title V, §533, Nov. 5, 1990, 104 Stat. 2013, as amended by Pub. L. 102-27, title III, §308, Apr. 10, 1991, 105 Stat. 152.

Pub. L. 99-190, §101(i) [title V, §540], Dec. 19, 1985, 99 Stat. 1291, 1309.

ECONOMIC GROWTH TO BE PREDICATED ON SUSTAINABLE MANAGEMENT OF NATURAL RESOURCES; GLOBAL CLIMATE CHANGE

Pub. L. 101-167, title V, §533, Nov. 21, 1989, 103 Stat. 1225, provided that:

“(a) 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 Directors of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

“(1) augment and expand the professional staff of each MDB with expertise in end-use energy efficiency and conservation and renewable energy;

“(2) develop methodologies which allow borrowing countries to include investments in end-use energy efficiency and renewable energy as explicit alternatives in the ‘least cost’ energy sector investments plans they prepare with MDB assistance. Such plans shall give priority to projects and programs which support energy conservation, end-use efficiency and renewable energy sources in major economic sectors, and shall compare the economic and environmental costs of those actions with the economic and environmental costs of investments in conventional energy supplies;

“(3) provide analysis for each proposed loan to support additional power generating capacity, comparing the economic and environmental costs of investments in demand reduction, including energy conservation and end-use energy efficiency, with the economic and environmental costs of the proposal;

“(4) assure that systematic, detailed environmental impact assessments (EIA) of proposed energy projects, or projects with potential significant environmental impacts, are conducted early in the project cycle. Assessments should include but not be limited to—

“(A) consideration of a wide range of alternatives to the proposed project including, where feasible, alternative investments in end-use energy efficiency and non-conventional renewable energy; and

“(B) encouragement and adoption of policies which allow for public participation in the EIA process;

“(5) include environmental costs in the economic assessment of the proposed projects with significant potential environmental impacts, or power projects, and if possible for all projects which involve expansion of generating capacity of more than 10 MW, develop a standard increase in project cost as a surrogate for the environmental costs;

“(6) encourage and promote end-use energy efficiency and renewable energy in negotiations of policy-based energy sector lending, and MDBs should consider not proceeding with policy-based sector loans which do not contain commitments from the borrowing country to devote a significant portion of its sector investments toward energy efficiency and renewable energy;

“(7) provide technical assistance as a component of all energy sector lending to help borrowing countries identify and pursue end-use energy efficiency investments. This technical assistance shall include support for detailed audits of energy use and the development of institutional capacity to promote end-use energy efficiency and conservation;

“(8) work with borrowing countries, with input from the public in both borrowing and donor countries, to develop loans for end-use energy efficiency and renewable energy, where possible ‘bundling’

small projects into larger, more easily financed projects; and

“(9) seek the convening of a special seminar for board members and senior staff of each MDB concerning alternate energy investment opportunities and end-use energy efficiency and conservation.

“(b) The Secretary of the Treasury as a part of the annual report to the Congress shall describe in detail, progress made by each of the MDBs in adopting and implementing programs meeting the standards set out in subsection (a), including in particular—

“(1) efforts by the Department of Treasury to assure implementation by each of the MDBs of programs substantially equivalent to those set out in this section, and results of such efforts;

“(2) progress made by each MDB in drafting and implementing least cost energy plans for each recipient country which meets requirements outlined in subsection (a)(2);

“(3) the absolute dollar amounts, and proportion of total lending in the energy sector, of loans and portions of loans, approved by each MDB in the previous year for projects or programs of end-use energy efficiency and conservation and renewable energy.

“(c) Not later than April 1, 1990, the Secretary of the Treasury shall request each MDB to prepare an analysis of the impact its current forestry sector loans will have on borrowing country emissions of CO₂ and the status of proposals for specific forestry sector activities to reduce CO₂ emissions.

“(d)(1) The Administrator of the Agency for International Development shall issue guidance to all Agency missions and bureaus detailing the elements of a ‘Global Warming Initiative’ which will emphasize the need to reduce emissions of greenhouse gases, especially CO₂, through strategies consistent with their continued economic development. This initiative shall emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

“(2) The Agency for International Development shall—

“(A) increase the number and expertise of personnel devoted to end-use energy efficiency, renewable energy, and environmental activities in all bureaus and missions;

“(B) devote increased resources to technical training of mission directors, in energy planning, energy conservation, end-use energy efficiency, renewable energy, reforestation, and biodiversity;

“(C) accelerate the activities of the Multi-Agency Working Group on Power Sector Innovation to enable completion of case studies of at least ten countries in fiscal year 1990; and

“(D) devote at least 10 percent of the resources allocated for forestry activities to the preservation and restoration (as opposed to management for extraction) of natural forests.

“(3) Funds appropriated by this Act [see Tables for classification] to carry out the provisions of sections 103 to 106 of the Foreign Assistance Act of 1961 [22 U.S.C. 2151a to 2151d] may be used to reimburse the full cost of technical personnel detailed or assigned to, or contracted by, the Agency for International Development to provide expertise in the environmental sector.

“(4)(A) [Amended section 2151q of this title.]

“(B) Not less than \$10,000,000 of the funds appropriated to carry out the provisions of sections 103 through 106 of such Act [22 U.S.C. 2151a to 2151d] (including funds for sub-Saharan Africa) shall be made available for biological diversity activities, of which \$2,000,000 shall be made available for the Parks in Peril project, pursuant to the authority of section 119(b) [of the Foreign Assistance Act of 1961, 22 U.S.C. 2151q(b)] and \$1,000,000 shall be available for the National Science Foundation’s international biological diversity program.

“(C) Funds obligated in prior fiscal years pursuant to the authority of section 119(b) may be expended in fiscal year 1990 pursuant to the authority of such section as amended by subparagraph (A).

“(e) The Secretary of the Treasury shall—

“(1) instruct the United States Executive Directors to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the African Development Bank, the Asian Development Bank, and the International Monetary Fund, to actively support lending portfolios which allow debtor developing countries to reduce or restructure debt in concert with the sustainable use of their natural resources. As a part of any such debt restructuring program, the United States Executive Director should require a thorough review of opportunities this initiative may offer for providing additional financial resources for the management of natural resources. The Secretary shall submit a report to the Committees on Appropriations on the progress of this program by April 30, 1990;

“(2) instruct the United States Executive Directors to the international financial institutions to seek the support of other donor countries in the implementation of this policy; and

“(3) instruct the United States Executive Director to the International Bank for Reconstruction and Development to actively seek the implementation by the World Bank of the recommendations set forth in its April 1, 1988, report on ‘Debt-for-Nature swaps’, including the setting up of a pilot debt-for-nature swap program in one or more interested countries. The Secretary shall submit a progress report on the implementation of this program to the Committees on Appropriations by April 1, 1990.

“(f) The Secretary of the Treasury shall seek to incorporate natural resource management initiatives throughout the implementation of the Brady Plan. The Secretary shall submit to the Committees on Appropriations a report by April 15, 1990, describing how such initiatives have been incorporated into the Brady Plan and identifying any such initiatives undertaken to date.

“(g) The Secretary of the Treasury shall instruct the United States Executive Director to the Inter-American Development Bank to—

“(1) seek implementation of the environmental reform measures agreed to as part of the Bank’s 7th replenishment;

“(2) seek adoption of Bank policies regarding indigenous people, relations with nongovernmental organizations, and the protection of wildlife and unique natural and cultural features;

“(3) require the Bank to demonstrate how it has improved, and will improve, the monitoring of environmental and social components of loans; and

“(4) within four months after the date of enactment of this Act [Nov. 21, 1989] report to the Committees on Appropriations on the progress the Bank has made in implementing each of these reforms.”

§ 262I-1. Sustainable economic growth and management of natural resources; environmental impact of loans; pest management; addition of trained professionals; “early warning system”

(a) Implementation of programs to promote sustainable economic growth and management of natural resources; instructions to Executive Directors of Multilateral Development Banks

It is the policy of the United States that participation in international financial institutions is predicated on the implementation of programs to promote environmentally sustainable economic growth and sustainable management

of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB’s) to continue to vigorously promote a commitment of these institutions to—

(1) add appropriately trained professional staff with expertise, and rigorously strengthen existing staffs’ training in ecology and related areas;

(2) develop and implement management plans to ensure systematic environmental review of all projects;

(3) fully inform and involve host country environmental and health officials (Federal and local) and nongovernmental environmental and indigenous peoples organizations at all stages of the project cycle in environmentally sensitive projects as well as in policy based lending to ensure the active participation of local communities and non-governmental organizations in the planning of projects that may adversely affect them;

(4) substantially increase the proportion of lending supporting environmentally beneficial projects and project components, including but not limited to technical assistance for environmental ministries and institutions, resource rehabilitation projects and project components, protection of indigenous peoples, and appropriate light capital technology projects. Other examples of such projects include small scale mixed farming and multiple cropping, agroforestry, programs to promote kitchen gardens, watershed management and rehabilitation, high yield wood lots, integrated pest management systems, dune stabilization programs, programs to improve energy efficiency, energy efficient technologies such as small scale hydro projects, solar, wind and biomass energy systems, rural and mobile telecommunications systems, and improved efficiency and management of irrigation systems; and

(5) conduct analyses of the comparative costs of new generating facilities with the cost of increasing energy efficiency in the project service area.

(b) Environmental impact of loans; instructions to Executive Directors

The Secretary of the Treasury shall instruct the United States Executive Directors of the MDB’s and, where appropriate, the International Monetary Fund (IMF) to—

(1) promote the requirement that all country lending strategies, policy based loans and adjustment programs contain analyses of the impact of such activities on the natural resources, potential for sustainable development, and legal protections for the land rights of indigenous peoples;

(2) promote the establishment of programs of policy-based lending in order to improve natural resource management, environmental quality, and protection of biological diversity;

(3) seek a commitment of these institutions to promote the conservation of wetlands, tropical forests, and other unique biological and highly productive ecosystems.