

104 Stat. 1066; Pub. L. 105-277, div. G, subdiv. A, title XIII, §1335(f), Oct. 21, 1998, 112 Stat. 2681-788.)

Editorial Notes

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-277, §1335(f)(1), substituted “7 members” for “9 members” in introductory provisions.

Subsec. (b)(3), (4). Pub. L. 105-277, §1335(f)(2)-(4), redesignated par. (4) as (3), substituted “Five” for “Six”, and struck out former par. (3) which read as follows: “An officer or employee of the United States Information Agency, designated by the Director of that Agency.”

1990—Subsec. (b)(4). Pub. L. 101-454 substituted “international affairs or foreign languages,” for “Soviet or Eastern European area studies or languages.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105-277, set out as an Effective Date note under section 6531 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-454, §9(c)(2), Oct. 24, 1990, 104 Stat. 1066, provided that: “The amendment made by paragraph (1) [amending this section] shall apply only to appointments to the Fасcell Fellowship Board after the date of the enactment of this section [Oct. 24, 1990] and shall not affect the service of members of such board on the date of the enactment of this section.”

§ 4903. Fellowships

(a) Number

Up to 100 fellowships may be provided under this chapter each year. Not less than 15 shall be provided during fiscal year 1993.

(b) Remuneration and period

The Board shall determine, taking into consideration the position in which each Fellow will serve and his or her experience and expertise—

(1) the amount of remuneration the Fellow will receive for his or her service under this chapter, and

(2) the period of the fellowship, which shall be between one and two years.

(c) Training

Each Fellow may be given appropriate training at the George P. Shultz National Foreign Affairs Training Center or other appropriate institution.

(d) Housing and transportation

The Secretary of State shall, pursuant to regulations—

(1) provide housing for each Fellow while the Fellow is serving abroad, including (where appropriate) housing for family members; and

(2) pay the costs and expenses incurred by each Fellow in traveling between the United States and the country in which the Fellow serves, including (where appropriate) travel for family members.

(e) Effective date

Subsection (d) of this section shall not take effect until October 1, 1986.

(Pub. L. 99-399, title X, §1004, Aug. 27, 1986, 100 Stat. 894; Pub. L. 102-511, title VIII, §804(a), Oct.

24, 1992, 106 Stat. 3353; Pub. L. 107-132, §1(b), Jan. 16, 2002, 115 Stat. 2412.)

Editorial Notes

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-132 substituted “George P. Shultz National Foreign Affairs Training Center” for “Foreign Service Institute”.

1992—Subsec. (a). Pub. L. 102-511 inserted at end “Not less than 15 shall be provided during fiscal year 1993.”

Statutory Notes and Related Subsidiaries

FUNDING

Pub. L. 102-511, title VIII, §804(b), Oct. 24, 1992, 106 Stat. 3353, provided that: “In addition to the funds made available pursuant to section 1005(c) of that Act [22 U.S.C. 4904(c)], funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2295 et seq.] may be used in carrying out the amendment made by subsection (a) [amending this section] with respect to missions in the independent states of the former Soviet Union.”

§ 4904. Secretary of State

(a) Determinations

The Secretary of State shall determine which of the individuals selected by the Board will serve at each United States diplomatic or consular mission abroad and the position in which each will serve.

(b) Authorities

Fellows may be employed—

(1) under a temporary appointment in the civil service;

(2) under a limited appointment in the Foreign Service; or

(3) by contract under the provisions of section 2669(c) of this title.

(c) Funding

Funds appropriated to the Department of State for “Salaries and Expenses” shall be used for the expenses incurred in carrying out this chapter.

(Pub. L. 99-399, title X, §1005, Aug. 27, 1986, 100 Stat. 894; Pub. L. 100-204, title I, §187, Dec. 22, 1987, 101 Stat. 1368; Pub. L. 101-454, §9(d), Oct. 24, 1990, 104 Stat. 1066.)

Editorial Notes

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-454 substituted “abroad” for “in the Soviet Union or Eastern Europe”.

1987—Subsec. (b). Pub. L. 100-204 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Such service shall be in accordance with the relevant authorities of the Foreign Service Act of 1980, the State Department Basic Authorities Act of 1956, and title 5.”

CHAPTER 60—ANTI-APARTHEID PROGRAM

§ 5001. Repealed. Pub. L. 103-149, §4(a)(2), Nov. 23, 1993, 107 Stat. 1505

Section, Pub. L. 99-440, §3, Oct. 2, 1986, 100 Stat. 1087; Pub. L. 99-631, §1(a)(2), Nov. 7, 1986, 100 Stat. 3515; Pub. L. 103-149, §4(a)(3)(A), Nov. 23, 1993, 107 Stat. 1505, defined terms for purposes of this chapter.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF REPEAL**

Repeal effective June 8, 1994, date on which President certified to Congress that interim government, elected on nonracial basis through free and fair elections, had taken office in South Africa, see section 4(a)(2) of Pub. L. 103-149, set out in a Repeal of Chapter; South African Democratic Transition Support note below.

SHORT TITLE

Pub. L. 99-440, §1, Oct. 2, 1986, 100 Stat. 1086, provided that Pub. L. 99-440, which enacted this chapter and sections 2151o and 2346d of this title, amended sections 2151c and 2151n of this title and section 635 of Title 12, Banks and Banking, and enacted provisions set out as a note under section 2346d of this title, could be cited as the "Comprehensive Anti-Apartheid Act of 1986", prior to repeal by Pub. L. 103-149, §4(a)(2), Nov. 23, 1993, 107 Stat. 1505.

REPEAL OF CHAPTER; SOUTH AFRICAN DEMOCRATIC TRANSITION SUPPORT

Pub. L. 103-149, Nov. 23, 1993, 107 Stat. 1503, provided that:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'South African Democratic Transition Support Act of 1993'.

"SEC. 2. FINDINGS.

"The Congress makes the following findings:

"(1) After decades of apartheid, South Africa has entered a new era which presents a historic opportunity for a transition to a peaceful, stable, and democratic future.

"(2) The United States policy of economic sanctions toward the apartheid government of South Africa, as expressed in the Comprehensive Anti-Apartheid Act of 1986 [22 U.S.C. 5001 et seq.], helped bring about reforms in that system of government and has facilitated the establishment of a nonracial government.

"(3) Through broad and open negotiations, the parties in South Africa have reached a landmark agreement on the future of their country. This agreement includes the establishment of a Transitional Executive Council and the setting of a date for nonracial elections.

"(4) The international community has a vital interest in supporting the transition from apartheid toward nonracial democracy.

"(5) The success of the transition in South Africa is crucial to the stability and economic development of the southern African region.

"(6) Nelson Mandela of the African National Congress and other representative leaders in South Africa have declared that the time has come when the international community should lift all economic sanctions against South Africa.

"(7) In light of recent developments, the continuation of these economic sanctions is detrimental to persons disadvantaged by apartheid.

"(8) Those calling for the lifting of economic sanctions against South Africa have made clear that they do not seek the immediate termination of the United Nations-sponsored special sanctions relating to arms transfers, nuclear cooperation, and exports of oil. The Ad Hoc Committee on Southern Africa of the Organization of African Unity, for example, has urged that the oil embargo established pursuant to a 1986 General Assembly resolution be lifted after the establishment and commencement of the work of the Transitional Executive Council.

"SEC. 3. UNITED STATES POLICY.

"It is the sense of the Congress that—

"(1) the United States should—

"(A) strongly support the Transitional Executive Council in South Africa,

"(B) encourage rapid progress toward the establishment of a nonracial democratic government in South Africa, and

"(C) support a consolidation of democracy in South Africa through democratic elections for an interim government and a new nonracial constitution;

"(2) the United States should continue to provide assistance to support the transition to a nonracial democracy in South Africa, and should urge international financial institutions and other donors to also provide such assistance;

"(3) to the maximum extent practicable, the United States should consult closely with international financial institutions, other donors, and South African entities on a coordinated strategy to support the transition to a nonracial democracy in South Africa;

"(4) in order to provide ownership and managerial opportunities, professional advancement, training, and employment for disadvantaged South Africans and to respond to the historical inequities created under apartheid, the United States should—

"(A) promote the expansion of private enterprise and free markets in South Africa,

"(B) encourage the South African private sector to take a special responsibility and interest in providing such opportunities, advancement, training, and employment for disadvantaged South Africans,

"(C) encourage United States private sector investment in and trade with South Africa,

"(D) urge United States investors to develop a working partnership with representative organs of South African civil society, particularly churches and trade unions, in promoting responsible codes of corporate conduct and other measures to address the historical inequities created under apartheid;

"(5) the United States should urge the Government of South Africa to liberalize its trade and investment policies to facilitate the expansion of the economy, and to shift resources to meet the needs of disadvantaged South Africans;

"(6) the United States should promote cooperation between South Africa and other countries in the region to foster regional stability and economic growth; and

"(7) the United States should demonstrate its support for an expedited transition to, and should adopt a long term policy beneficial to the establishment and perpetuation of, a nonracial democracy in South Africa.

"SEC. 4. REPEAL OF APARTHEID SANCTIONS LAWS AND OTHER MEASURES DIRECTED AT SOUTH AFRICA.

"(a) COMPREHENSIVE ANTI-APARTHEID ACT.—

"(1) IN GENERAL.—All provisions of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5001 and following) are repealed as of the date of enactment of this Act [Nov. 23, 1993], except for the sections specified in paragraph (2).

"(2) EFFECTIVE DATE OF REPEAL OF CODE OF CONDUCT REQUIREMENTS.—Sections 1, 3, 203(a), 203(b), 205, 207, 208, 601, 603, and 604 of the Comprehensive Anti-Apartheid Act of 1986 [22 U.S.C. 5001 note, 5001, 5031(a), (b), 5032, 5034, 5035, 5111, 5113, 5114] are repealed as of the date on which the President certifies to the Congress that an interim government, elected on a nonracial basis through free and fair elections, has taken office in South Africa. [A Presidential message to Congress dated June 8, 1994, set out in 30 Weekly Compilation of Presidential Documents 1258, June 13, 1994, certified that interim government, elected on nonracial basis through free and fair elections, had taken office in South Africa.]

"(3) CONFORMING AMENDMENTS.—(A) Section 3 of the Comprehensive Anti-Apartheid Act of 1986 [22 U.S.C. 5001] is amended by striking paragraphs (2) through (4) and paragraphs (7) through (9), by inserting 'and' at the end of paragraph (5), and by striking '; and' at the end of paragraph (6) and inserting a period.

"(B) The following provisions of the Foreign Assistance Act of 1961 that were enacted by the Comprehensive Anti-Apartheid Act of 1986 are repealed: sub-

sections (e)(2), (f), and (g) of section 116 (22 U.S.C. 2151n); section 117 (22 U.S.C. 2151o), relating to assistance for disadvantaged South Africans; and section 535 (22 U.S.C. 2346d). Section 116(e)(1) of the Foreign Assistance Act of 1961 is amended by striking '(1)'.

“(b) OTHER PROVISIONS.—The following provisions are repealed or amended as follows:

“(1) Subsections (c) and (d) of section 802 of the International Security and Development Cooperation Act of 1985 (99 Stat. 261) is repealed.

“(2) Section 211 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (99 Stat. 432) is repealed, and section 1(b) of that Act is amended by striking the item in the table of contents relating to section 211.

“(3) Sections 1223 and 1224 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (101 Stat. 1415) is repealed, and section 1(b) of that Act is amended by striking the items in the table of contents relating to sections 1223 and 1224.

“(4) Section 362 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (105 Stat. 716) is repealed, and section 2 of that Act is amended by striking the item in the table of contents relating to section 362.

“(5) Section 2(b)(9) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)) is repealed.

“(6) Section 43 of the Bretton Woods Agreements Act (22 U.S.C. 286aa) is amended by repealing subsection (b) and by striking '(a)'.

“(7) Section 330 of H.R. 5205 of the 99th Congress (Department of Transportation and Related Agencies Appropriations Act, 1987) (22 U.S.C. 5056a) as incorporated by reference in section 101(l) of Public Law 99-500 and Public Law 99-591, and made effective as if enacted into law by section 106 of Public Law 100-202, is repealed.

“(8)(A) Section 901(j)(2)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 901(j)(2)(C)) is repealed.

“(B) Subparagraph (A) shall not be construed as affecting any of the transitional rules contained in Revenue Ruling 92-62 which apply by reason of the termination of the period for which section 901(j) of the Internal Revenue Code of 1986 was applicable to South Africa.

“(9) The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking 'Republic of South Africa'.

“(c) SANCTIONS MEASURES ADOPTED BY STATE OR LOCAL GOVERNMENTS OR PRIVATE ENTITIES.—

“(1) POLICY REGARDING RESCISSION.—The Congress urges all State or local governments and all private entities in the United States that have adopted any restriction on economic interactions with South Africa, or any policy discouraging such interaction, to rescind such restriction or policy.

“(2) REPEAL OF PROVISIONS RELATING TO WITHHOLDING FEDERAL FUNDS.—Effective October 1, 1995, the following provisions are repealed:

“(A) The undesignated paragraph entitled 'STATE AND LOCAL ANTI-APARTHEID POLICIES' in chapter IX of the Dire Emergency Supplemental Appropriations and Transfers, Urgent Supplementals, and Correcting Enrollment Errors Act of 1989 (22 U.S.C. 5117).

“(B) Section 210 of the Urgent Supplemental Appropriations Act, 1986 (100 Stat. 749).

“(d) CONTINUATION OF UN SPECIAL SANCTIONS.—It is the sense of the Congress that the United States should continue to respect United Nations Security Council resolutions on South Africa, including the resolution providing for a mandatory embargo on arms sales to South Africa and the resolutions relating to the import of arms, restricting exports to the South African military and police, and urging states to refrain from nuclear cooperation that would contribute to the manufacture and development by South Africa of nuclear weapons or nuclear devices.

“SEC. 5. UNITED STATES ASSISTANCE FOR THE TRANSITION TO A NONRACIAL DEMOCRACY.

“(a) IN GENERAL.—The President is authorized and encouraged to provide assistance under chapter 10 of

part I of the Foreign Assistance Act of 1961 [22 U.S.C. 2293 et seq.] (relating to the Development Fund for Africa) or chapter 4 of part II of that Act [22 U.S.C. 2346 et seq.] (relating to the Economic Support Fund) to support the transition to nonracial democracy in South Africa. Such assistance shall—

“(1) focus on building the capacity of disadvantaged South Africans to take their rightful place in the political, social, and economic systems of their country;

“(2) give priority to working with and through South African nongovernmental organizations whose leadership and staff represent the majority population and which have the support of the disadvantaged communities being served by such organizations;

“(3) in the case of education programs—

“(A) be used to increase the capacity of South African institutions to better serve the needs of individuals disadvantaged by apartheid;

“(B) emphasize education within South Africa to the extent that assistance takes the form of scholarships for disadvantaged South African students; and

“(C) fund nontraditional training activities;

“(4) support activities to prepare South Africa for elections, including voter and civic education programs, political party building, and technical electoral assistance;

“(5) support activities and entities, such as the Peace Accord structures, which are working to end the violence in South Africa; and

“(6) support activities to promote human rights, democratization, and a civil society.

“(b) GOVERNMENT OF SOUTH AFRICA.—

“(1) LIMITATION ON ASSISTANCE.—Except as provided in paragraph (2), assistance provided in accordance with this section may not be made available to the Government of South Africa, or organizations financed and substantially controlled by that government, unless the President certifies to the Congress that an interim government that was elected on a nonracial basis through free and fair elections has taken office in South Africa.

“(2) EXCEPTIONS.—Notwithstanding paragraph (1), assistance may be provided for—

“(A) the Transitional Executive Council;

“(B) South African higher education institutions, particularly those traditionally disadvantaged by apartheid policies; and

“(C) any other organization, entity, or activity if the President determines that the assistance would promote the transition to nonracial democracy in South Africa.

Any determination under subparagraph (C) should be based on consultations with South African individuals and organizations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and consultations with the appropriate congressional committees.

“(c) INELIGIBLE ORGANIZATIONS.—

“(1) ACTS OF VIOLENCE.—An organization that has engaged in armed struggle or other acts of violence shall not be eligible for assistance provided in accordance with this section unless that organization is committed to a suspension of violence in the context of progress toward nonracial democracy.

“(2) VIEWS INCONSISTENT WITH DEMOCRACY AND FREE ENTERPRISE.—Assistance provided in accordance with this section may not be made available to any organization that has espoused views inconsistent with democracy and free enterprise unless such organization is engaged actively and positively in the process of transition to a nonracial democracy and such assistance would advance the United States objective of promoting democracy and free enterprise in South Africa.

“SEC. 6. UNITED STATES INVESTMENT AND TRADE.

“(a) TAX TREATY.—The President should begin immediately to negotiate a tax treaty with South Africa to facilitate United States investment in that country.

“(b) OPIC.—The President should immediately initiate negotiations with the Government of South Africa for an agreement authorizing the Overseas Private Investment Corporation [now the United States International Development Finance Corporation] to carry out programs with respect to South Africa in order to expand United States investment in that country.

“(c) TRADE AND DEVELOPMENT AGENCY.—In carrying out section 661 of the Foreign Assistance Act of 1961 [22 U.S.C. 2421], the Director of the Trade and Development Agency should provide additional funds for activities related to projects in South Africa.

“(d) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand its activities in connection with exports to South Africa.

“(e) PROMOTING DISADVANTAGED ENTERPRISES.—

“(1) INVESTMENT AND TRADE PROGRAMS.—Each of the agencies referred to in subsections (b) through (d) should take active steps to encourage the use of its programs to promote business enterprises in South Africa that are majority-owned by South Africans disadvantaged by apartheid.

“(2) UNITED STATES GOVERNMENT PROCUREMENT.—To the extent not inconsistent with the obligations of the United States under any international agreement, the Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by South African blacks or other nonwhite South Africans, notwithstanding any law relating to the making or performance of, or the expenditure of funds for, United States Government contracts.

“SEC. 7. INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS.

“The Director of the United States Information Agency should use the authorities of the United States Information and Educational Exchange Act of 1948 [22 U.S.C. 1431 et seq.] to promote the development of a nonracial democracy in South Africa.

“SEC. 8. OTHER COOPERATIVE AGREEMENTS.

“In addition to the actions specified in the preceding sections of this Act, the President should seek to conclude cooperative agreements with South Africa on a range of issues, including cultural and scientific issues.

“SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND OTHER DONORS.

“(a) IN GENERAL.—The President should encourage other donors, particularly Japan and the European Community countries, to expand their activities in support of the transition to nonracial democracy in South Africa.

“(b) INTERNATIONAL FINANCIAL INSTITUTIONS.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution, including the International Bank for Reconstruction and Development and the International Development Association, to urge that institution to initiate or expand its lending and other financial assistance activities to South Africa in order to support the transition to nonracial democracy in South Africa.

“(c) TECHNICAL ASSISTANCE.—The Secretary of the Treasury should instruct the United States Executive Director of each relevant international financial institution to urge that institution to fund programs to initiate or expand technical assistance to South Africa for the purpose of training the people of South Africa in government management techniques.

“SEC. 10. CONSULTATION WITH SOUTH AFRICANS.

“In carrying out this Act, the President should consult closely with South African individuals and organi-

zations representative of the majority population in South Africa (particularly consultations through the Transitional Executive Council) and others committed to abolishing the remnants of apartheid.”

[For abolition of United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau), transfer of functions, and treatment of references thereto, see sections 6531, 6532, and 6551 of this title.]

NON-FEDERAL RESTRICTIONS AND REGULATIONS

House Resolution 549, Ninety-ninth Congress, Sept. 12, 1986, provided: “That in passing the bill, H.R. 4868, as amended by the Senate [enacted into law as Pub. L. 99-440], it is not the intent of the House of Representatives that the bill limit, preempt, or affect, in any fashion, the authority of any State or local government or the District of Columbia or of any Commonwealth, territory, or possession of the United States or political subdivision thereof to restrict or otherwise regulate any financial or commercial activity respecting South Africa.”

§ 5002. Repealed. Pub. L. 103-149, § 4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section, Pub. L. 99-440, § 4, Oct. 2, 1986, 100 Stat. 1089, related to purpose of this chapter.

SUBCHAPTER I—POLICY OF UNITED STATES WITH RESPECT TO ENDING APARTHEID

§§ 5011 to 5020. Repealed. Pub. L. 103-149, § 4(a)(1), Nov. 23, 1993, 107 Stat. 1504

Section 5011, Pub. L. 99-440, title I, § 101, Oct. 2, 1986, 100 Stat. 1089, stated United States policy toward Government of South Africa.

Section 5012, Pub. L. 99-440, title I, § 102, Oct. 2, 1986, 100 Stat. 1090; Pub. L. 99-631, § 1(a)(3), Nov. 7, 1986, 100 Stat. 3515, stated United States policy toward African National Congress, Pan African Congress, and their affiliates.

Section 5013, Pub. L. 99-440, title I, § 103, Oct. 2, 1986, 100 Stat. 1090; Pub. L. 99-631, § 1(a)(4), Nov. 7, 1986, 100 Stat. 3515, stated United States policy toward victims of apartheid.

Section 5014, Pub. L. 99-440, title I, § 104, Oct. 2, 1986, 100 Stat. 1091; Pub. L. 99-631, § 1(a)(5), Nov. 7, 1986, 100 Stat. 3515, stated United States policy toward other countries in Southern Africa.

Section 5015, Pub. L. 99-440, title I, § 105, Oct. 2, 1986, 100 Stat. 1091; Pub. L. 99-631, § 1(a)(6), Nov. 7, 1986, 100 Stat. 3516, stated sense of Congress as to Presidential discussions with “frontline” African states.

Section 5016, Pub. L. 99-440, title I, § 106, Oct. 2, 1986, 100 Stat. 1092; Pub. L. 99-631, § 1(a)(7), Nov. 7, 1986, 100 Stat. 3516, stated United States policy toward negotiated settlement.

Section 5017, Pub. L. 99-440, title I, § 107, Oct. 2, 1986, 100 Stat. 1093, stated congressional findings and policy toward international cooperation on measures to end apartheid.

Section 5018, Pub. L. 99-440, title I, § 108, Oct. 2, 1986, 100 Stat. 1093, stated sense of Congress relating to “necklacing”.

Section 5019, Pub. L. 99-440, title I, § 109, Oct. 2, 1986, 100 Stat. 1093; Pub. L. 99-631, § 1(a)(8), Nov. 7, 1986, 100 Stat. 3516, stated sense of Congress that United States Ambassador should meet with Nelson Mandela.

Section 5020, Pub. L. 99-440, title I, § 110, Oct. 2, 1986, 100 Stat. 1093, stated congressional findings and sense of Congress relating to recruitment and training of black South Africans by United States employers.