

use of foreign currencies that accrue from the sale of agricultural commodities under this chapter, and local currencies generated from other types of foreign assistance activities.”

Subsec. (b)(1), Pub. L. 104-127, §277(c)(1)(B), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “The term ‘emerging democracy’ means a country that is taking steps toward—

“(A) political pluralism, based on progress toward free and fair elections and a multiparty political system;

“(B) economic reform, based on progress toward a market-oriented economy;

“(C) respect for internationally recognized human rights; and

“(D) a willingness to build a friendly relationship with the United States.”

Subsec. (c), Pub. L. 104-127, §224(2), substituted “0.4 percent of the amounts” for “0.2 percent of the amounts”, “1996 through 2002” for “1991 through 1995”, and “0.2 percent to be used” for “0.1 percent to be used”.

1991—Subsec. (a)(3), Pub. L. 102-237 struck out comma after “public”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-246 effective May 22, 2008, see section 4(b) of Pub. L. 110-246, set out as an Effective Date note under section 8701 of this title.

##### EFFECTIVE DATE

Section effective Jan. 1, 1991, see section 1513 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1691 of this title.

#### Executive Documents

##### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Administrator of the Agency for International Development by section 4(d) of Ex. Ord. No. 12752, Feb. 25, 1991, 56 F.R. 8256, set out as a note under section 1691 of this title.

#### SUBCHAPTER VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

### § 1738. Establishment of Facility

There is established in the Department of the Treasury an entity to be known as the “Enterprise for the Americas Facility” (hereafter referred to in this subchapter as the “Facility”).

(July 10, 1954, ch. 469, title VI, §601, as added Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3658.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Subchapter effective Jan. 1, 1991, see section 1513 of Pub. L. 101-624, set out as an Effective Date of 1990 Amendment note under section 1691 of this title.

#### Executive Documents

##### EXECUTIVE ORDER NO. 12757

Ex. Ord. No. 12757, Mar. 19, 1991, 56 F.R. 12107, as amended by Ex. Ord. No. 12823, Dec. 3, 1992, 57 F.R. 57645; Ex. Ord. No. 13028, Dec. 3, 1996, 61 F.R. 64589; Ex. Ord. No. 13131, July 22, 1999, 64 F.R. 40733, which related to implementation of the Enterprise for the Americas Initiative and the Tropical Forest Conservation Act of 1998, was revoked by Ex. Ord. No. 13345, §6(a), July 8, 2004, 69 F.R. 41903, set out below.

EX. ORD. NO. 13345. ASSIGNING FOREIGN AFFAIRS FUNCTIONS AND IMPLEMENTING THE ENTERPRISE FOR THE AMERICAS INITIATIVE AND THE TROPICAL FOREST CONSERVATION ACT

Ex. Ord. No. 13345, July 8, 2004, 69 F.R. 41901, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Agricultural Trade Development and Assistance Act of 1954 (ATDA Act), as amended [now Food for Peace Act, 7 U.S.C. 1691 et seq.], the Foreign Assistance Act of 1961 (Foreign Assistance Act), as amended [22 U.S.C. 2151 et seq.], and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. *Functions to be Performed by the Secretary of the Treasury.* (a) The Secretary of the Treasury is hereby designated to perform the functions of the President under the following provisions of law:

(1) sections 603(b), 604(a), and 611 of the ATDA Act (7 U.S.C. 1738b(b), 1738c(a), and 1738j); and

(2) sections 703, 704(a), 805(b), 806(a), 807(a), 808(a), and 812 of the Foreign Assistance Act (22 U.S.C. 2430b, 2430c(a), 2431c(b), 2431d(a), 2431e(a), 2431f(a), and 2431j).

(b) The Secretary of the Treasury shall:

(1)(A) make determinations under the provisions of sections 703(b) and 805(b) of the Foreign Assistance Act in accordance with any recommendations received from the Secretary of State with respect to subsections 703(a)(1)-703(a)(4) and the corresponding recommendations under section 805(a)(1) of that Act; and

(B) make determinations under the provisions of section 805(b) of the Foreign Assistance Act in accordance with any recommendations from the Administrator of the United States Agency for International Development (USAID) with respect to section 803(5)(B) of that Act [22 U.S.C. 2431a(5)(B)];

(2) exercise the functions under the provisions listed in section 1(a)(1) of this order in consultation with the Secretary of State and with the National Advisory Council on International Monetary and Financial Policies (Council) established by Executive Order 11269 of February 14, 1966 [22 U.S.C. 286b note];

(3) consult, as appropriate, with the Secretary of State, the Administrator of USAID, the Council, the Secretary of Agriculture, the Director of the Office of Management and Budget, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Director of the Office of National Drug Control Policy, and the Chairman of the Council of Economic Advisers in the performance of all other functions under the provisions listed in section 1(a) of this order.

SEC. 2. *Functions to be Performed by the Secretary of State.* (a) The Secretary of State is hereby designated to perform the functions of the President under sections 607 and 614 of the ATDA Act (7 U.S.C. 1738f and 1738m) and section 813(a) [now 813] of the Foreign Assistance Act (22 U.S.C. 2431k).

(b) The Secretary of State shall consult, as appropriate, with the Secretary of the Treasury and the Administrator of USAID, in the performance of functions under the provisions listed in subsection 2(a) of this order.

(c) The Secretary of State shall consult, as appropriate, in the performance of functions under section 607 of the ATDA Act, with the Secretary of Agriculture, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, and the heads of such other executive departments and agencies as the Secretary of State determines appropriate.

(d) The Secretary of State is hereby designated to receive advice or supplemental views on the President's behalf consistent with the following provisions of law:

(1) section 610(c)(1) of the ATDA Act (7 U.S.C. 1738i(c)(1)); and

(2) [former] section 813(b) of the Foreign Assistance Act (22 U.S.C. 2431k).

SEC. 3. *Recommendation by USAID.* The Administrator of USAID shall make recommendations with respect to

803(5)(B) of the Foreign Assistance Act (22 U.S.C. 2431a(5)(B)[]), in cooperation with the Secretary of Agriculture and the Secretary of State.

**SEC. 4. Government Appointees to the Enterprise for the Americas Board.** (a) Pursuant to section 610(b)(1)(A) of the ATDA Act (7 U.S.C. 1738i(b)(1)(A)[]) and section 811(b)(1)(A) and (b)(2) of the Foreign Assistance Act (22 U.S.C. 2431i(b)(1)(A) and (b)(2)), the following officers or employees of the United States are hereby designated to serve as representatives on the Enterprise for the Americas Board:

(i) the designee of the Secretary of State, who shall be the chairperson of the Board;

(ii) the designee of the Secretary of the Treasury;

(iii) two designees of the Secretary of Agriculture, one of whom shall be an officer or employee of the United States Forest Service International Programs Office with experience in international forestry matters, and the other shall be an officer or employee of the Foreign Agricultural Service;

(iv) the designee of the Secretary of the Interior;

(v) the designee of the Administrator of the Environmental Protection Agency;

(vi) the designee of the Administrator of USAID, who shall be the vice chairperson of the Board; and

(vii) the designee of the Chairman of the Council on Environmental Quality.

(b) The Board shall permit the following officers or employees of the United States to attend and observe a Board meeting:

(i) a designee of the Secretary of Commerce; and

(ii) a designee of the head of any executive department or agency, if the meeting will relate to matters relevant to the activities of such executive department or agency.

(c) An officer of the United States listed in subsections 4(a) and 4(b) shall make a designation for purposes of those subsections in writing submitted to the Secretary of State and shall change any such designation in the same manner. The authority to make such a designation may not be delegated.

(d) The Secretary of State may, after consultation with the officers of the United States listed in subsection 4(b) and the Attorney General, as appropriate, establish such procedures as may be necessary to provide for the governance and administration of the Board.

**SEC. 5. Guidance for the Performance of Functions.** In performing functions under this order, officers of the United States:

(a) shall ensure that all actions taken by them are consistent with the President's constitutional authority to (i) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations, (ii) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties, (iii) recommend for congressional consideration such measures as the President may judge necessary or expedient, and (iv) supervise the unitary executive branch;

(b) may further assign functions assigned by this order to officers of any department or agency within the executive branch to the extent permitted by law except as provided in subsection 4(c) of this order and such further assignment shall be published in the Federal Register; and

(c) shall consult the Attorney General as appropriate in implementing this section.

**SEC. 6. Revocation of Executive Orders.** The following Executive Orders are hereby revoked:

(a) Executive Order 12757 of March 19, 1991;

(b) Executive Order 12823 of December 3, 1992;

(c) Executive Order 13028 of December 3, 1996; and

(d) Executive Order 13131 of July 22, 1999.

**SEC. 7. Judicial Review.** This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a

party against the United States, its departments, agencies, entities, officers, employees or agents, or any other person.

GEORGE W. BUSH.

### § 1738a. Purpose

The purpose of this subchapter is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with inter-related actions to promote debt reduction, investment reforms, and community-based conservation and sustainable use of the environment. The Facility will support such objectives through the administration of debt reduction operations relating to those countries that meet investment reform and other policy conditions provided for in this subchapter.

(July 10, 1954, ch. 469, title VI, §602, as added Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3658.)

### § 1738b. Eligibility for benefits under Facility

#### (a) Requirements

To be eligible for benefits from the Facility under this subchapter, a country shall—

(1) be a Latin American or Caribbean country;

(2) have in effect or have received approval for, or, as appropriate in exceptional circumstances, be making significant progress towards the establishment of—

(A) an International Monetary Fund (hereafter referred to in this subchapter as the "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

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development (hereafter referred to in this subchapter as the "World Bank") or the International Development Association (hereafter referred to in this subchapter as the "IDA");

(3) have placed into effect major investment reforms in conjunction with an Inter-American Development Bank (hereafter referred to as the "IDB") loan or otherwise be implementing, or making significant progress towards an open investment regime; and

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

#### (b) Eligibility determination

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

(July 10, 1954, ch. 469, title VI, §603, as added Pub. L. 101-624, title XV, §1512, Nov. 28, 1990, 104 Stat. 3658; amended Pub. L. 102-237, title III, §302, Dec. 13, 1991, 105 Stat. 1855.)

### Editorial Notes

#### AMENDMENTS

1991—Subsec. (a)(3). Pub. L. 102-237 inserted hyphen between "Inter" and "American".