

BETTER UTILIZATION OF INVESTMENTS LEADING TO DEVELOPMENT ACT OF 2018

JULY 11, 2018.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. ROYCE of California, from the Committee on Foreign Affairs,
submitted the following

R E P O R T

[To accompany H.R. 5105]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill
(H.R. 5105) to establish the United States International Develop-
ment Finance Corporation, and for other purposes, having consid-
ered the same, reports favorably thereon with an amendment and
recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Better Utilization of Investments Leading to Development Act of 2018” or the “BUILD Act of 2018”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—ESTABLISHMENT

Sec. 101. Statement of policy.
Sec. 102. United States International Development Finance Corporation.
Sec. 103. Management of Corporation.
Sec. 104. Inspector General of the Corporation.
Sec. 105. Independent accountability mechanism.

TITLE II—AUTHORITIES

Sec. 201. Authorities relating to provision of support.
Sec. 202. Terms and conditions.
Sec. 203. Payment of losses.
Sec. 204. Termination.

TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

Sec. 301. Operations.
Sec. 302. Corporate powers.
Sec. 303. Maximum contingent liability.
Sec. 304. Corporate funds.
Sec. 305. Coordination with other development agencies.

TITLE IV—MONITORING, EVALUATION, AND REPORTING

Sec. 401. Establishment of risk and audit committees.
Sec. 402. Performance measures.
Sec. 403. Annual report.
Sec. 404. Publicly available project information.
Sec. 405. Engagement with investors.
Sec. 406. Notification of support to be provided by the Corporation.

TITLE V—CONDITIONS, RESTRICTIONS, AND PROHIBITIONS

Sec. 501. Limitations and preferences.
Sec. 502. Additionality and avoidance of market distortion.
Sec. 503. Prohibition on support in sanctioned countries and with sanctioned persons.
Sec. 504. Penalties for misrepresentation, fraud, and bribery.

TITLE VI—TRANSITIONAL PROVISIONS

Sec. 601. Definitions.
Sec. 602. Reorganization plan.
Sec. 603. Transfer of functions.
Sec. 604. Termination of Overseas Private Investment Corporation and other superceded authorities.
Sec. 605. Transitional authorities.
Sec. 606. Savings provisions.
Sec. 607. Other terminations.
Sec. 608. Incidental transfers.
Sec. 609. Reference.
Sec. 610. Conforming amendments.

SEC. 2. DEFINITIONS.

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(2) **LESS DEVELOPED COUNTRY.**—The term “less developed country” means a country with a low-income economy, lower-middle-income economy, or upper-middle-income economy, as defined by the International Bank for Reconstruction and Development and the International Development Association (collectively referred to as the “World Bank”).

(3) **PREDECESSOR AUTHORITY.**—The term “predecessor authority” means authorities repealed by title VI.

(4) **QUALIFYING SOVEREIGN ENTITY.**—The term “qualifying sovereign entity” means—

(A) any agency or instrumentality of a foreign state (as defined in section 1603 of title 28, United States Code) that has a purpose that is similar to the purpose of the Corporation as described in section 102(b); and

(B) any international financial institution (as defined in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c))).

TITLE I—ESTABLISHMENT

SEC. 101. STATEMENT OF POLICY.

It is the policy of the United States to facilitate market-based private sector development and economic growth in less developed countries through the provision of credit, capital, and other financial support—

(1) to mobilize private capital in support of sustainable, broad-based economic growth, poverty reduction, and development through demand-driven partnerships with the private sector that further the foreign policy interests of the United States;

(2) to finance development in a way that builds and strengthens civic institutions, promotes competition, provides for public accountability and transparency;

(3) to help private sector actors overcome identifiable market gaps and inefficiencies without distorting markets;

(4) to achieve clearly defined economic and social development outcomes;

(5) to coordinate with institutions with purposes similar to the purposes of the Corporation to leverage resources of those institutions to produce the greatest impact;

(6) to provide countries a robust alternative to state-directed investments by authoritarian governments and United States strategic competitors using high standards of transparency, environmental and social safeguards, and which take into account the debt sustainability of partner countries;

(7) to leverage private sector capabilities and innovative development tools to help countries currently receiving United States assistance to transition from their status as recipients of traditional forms of assistance in order to decrease their reliance on such assistance over time;

(8) to complement and be guided by overall United States foreign policy, development, and national security objectives, taking into account the priorities and needs of countries receiving support.

SEC. 102. UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION.

(a) **ESTABLISHMENT.**—There is established in the Executive branch the United States International Development Finance Corporation (in this Act referred to as the “Corporation”), which shall be a wholly owned Government corporation (as defined in section 9101 of title 31, United States Code) under the foreign policy guidance of the Secretary of State.

(b) **PURPOSE.**—The purpose of the Corporation shall be to mobilize and facilitate the participation of private sector capital and skills in the economic development of less developed countries, as described in subsection (c), and countries in transition from nonmarket to market economies, in order to complement the development assistance objectives, and advance the foreign policy interests, of the United States. In carrying out its purpose, the Corporation, utilizing broad criteria, shall take into account in its financing operations the economic and financial soundness of projects for which it provides support under title II.

(c) **LESS DEVELOPED COUNTRY FOCUS.**—

(1) **IN GENERAL.**—The Corporation shall prioritize the provision of support under title II in less developed countries with a low-income economy or a lower-middle-income economy.

(2) **SUPPORT IN UPPER-MIDDLE-INCOME COUNTRIES.**—The Corporation shall restrict the provision of support under title II in a less developed country with an upper-middle-income economy unless—

(A) the President certifies to the appropriate congressional committees that such support furthers the national economic or foreign policy interests of the United States; and

(B) such support is likely to be highly developmental or provide developmental benefits to the poorest population of that country.

SEC. 103. MANAGEMENT OF CORPORATION.

(a) **STRUCTURE OF CORPORATION.**—There shall be in the Corporation a Board of Directors (in this Act referred to as the “Board”), a Chief Executive Officer, a Deputy Chief Executive Officer, a Chief Risk Officer, Chief Development Officer, and such other officers as the Board may determine.

(b) **BOARD OF DIRECTORS.**—

(1) DUTIES.—All powers of the Corporation shall vest in and be exercised by or under the authority of the Board. The Board—

(A) shall perform the functions specified to be carried out by the Board in this Act;

(B) may prescribe, amend, and repeal bylaws, rules, regulations, policies, and procedures governing the manner in which the business of the Corporation may be conducted and in which the powers granted to the Corporation by law may be exercised; and

(C) shall develop, in consultation with stakeholders and other interested parties, a publicly-available policy with respect to consultations, hearings, and other forms of engagement in order to provide for meaningful public participation in the Board's activities.

(2) MEMBERSHIP OF BOARD.—

(A) IN GENERAL.—The Board shall consist of—

(i) the Chief Executive Officer of the Corporation;

(ii) the officers specified in subparagraph (B); and

(iii) four other individuals who shall be appointed by the President, by and with the advice and consent of the Senate, of which—

(I) one individual should be appointed from among a list of at least five individuals submitted by the majority leader of the Senate after consultation with the chairman of the Committee on Foreign Relations of the Senate;

(II) one individual should be appointed from among a list of at least five individuals submitted by the minority leader of the Senate after consultation with the ranking member of the Committee on Foreign Relations of the Senate;

(III) one individual should be appointed from among a list of at least five individuals submitted by the Speaker of the House of Representatives after consultation with the chairman of the Committee on Foreign Affairs of the House of Representatives; and

(IV) one individual should be appointed from among a list of at least five individuals submitted by the minority leader of the House of Representatives after consultation with the ranking member of the Committee on Foreign Affairs of the House of Representatives.

(B) OFFICERS SPECIFIED.—

(i) IN GENERAL.—The officers specified in this subparagraph are the following:

(I) The Secretary of State or a designee of the Secretary.

(II) The Administrator of the United States Agency for International Development or a designee of the Administrator.

(III) The Secretary of the Treasury or a designee of the Secretary.

(IV) The Secretary of Commerce or a designee of the Secretary.

(ii) REQUIREMENTS FOR DESIGNEES.—A designee under clause (i) shall be selected from among officers—

(I) appointed by the President, by and with the advice and consent of the Senate;

(II) whose duties relate to the programs of the Corporation; and

(III) who is designated by and serving at the pleasure of the President.

(C) REQUIREMENTS FOR NON-GOVERNMENT MEMBERS.—A member of the Board described in subparagraph (A)(iii)—

(i) may not be an officer or employee of the United States Government;

(ii) shall have relevant experience, which may include experience relating to the private sector, international environment, labor organizations, or international development, to carry out the purposes of the Corporation;

(iii) shall be appointed for a term of 3 years and may be reappointed for one additional term;

(iv) shall serve until the member's successor is appointed and confirmed;

(v) shall be compensated at a rate equivalent to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code, when engaged in the business of the Corporation; and

(vi) may be paid per diem in lieu of subsistence at the applicable rate under the Federal Travel Regulation under subtitle F of title 41, Code

of Federal Regulations, from time to time, while away from the home or usual place of business of the member.

(3) CHAIRPERSON.—There shall be a Chairperson of the Board designated by the President from among the individuals described in paragraph (2)(A).

(4) VICE CHAIRPERSON.—The Administrator of the United States Agency for International Development, or the designee of the Administrator under paragraph (2)(B)(i)(II), shall serve as the Vice Chairperson of the Board.

(5) QUORUM.—Five members of the Board shall constitute a quorum for the transaction of business by the Board.

(c) PUBLIC HEARINGS.—

(1) PUBLIC HEARINGS BY THE BOARD.—The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views with respect to whether—

(A) the Corporation is carrying out its activities in accordance with this Act; and

(B) any support provided by the Corporation under title II in any country should have been or should be extended.

(2) ADDITIONAL PUBLIC HEARINGS.—In conjunction with each meeting of the Board, the Corporation shall hold a public hearing in order to afford an opportunity for any person to present views regarding the activities of the Corporation. Such views shall be made part of the record.

(d) CHIEF EXECUTIVE OFFICER.—

(1) APPOINTMENT.—There shall be in the Corporation a Chief Executive Officer, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President.

(2) AUTHORITIES AND DUTIES.—The Chief Executive Officer shall be responsible for the management of the Corporation and shall exercise the powers and discharge the duties of the Corporation subject to the bylaws, rules, regulations, and procedures established by the Board.

(3) RELATIONSHIP TO BOARD.—The Chief Executive Officer shall report to and be under the direct authority of the Board.

(4) COMPENSATION.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

“Chief Executive Officer, United States International Development Finance Corporation.”

(e) DEPUTY CHIEF EXECUTIVE OFFICER.—There shall be in the Corporation a Deputy Chief Executive Officer, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall serve at the pleasure of the President.

(f) CHIEF RISK OFFICER.—

(1) APPOINTMENT.—Subject to the approval of the Board, the Chief Executive Officer of the Corporation shall appoint a Chief Risk Officer, from among individuals with experience at a senior level in financial risk management, who—

(A) shall report directly to the Board; and

(B) shall be removable only by a majority vote of the Board.

(2) DUTIES.—The Chief Risk Officer shall, in coordination with the audit committee of the Board established under section 401, develop, implement, and manage a comprehensive process for identifying, assessing, monitoring, and limiting risks to the Corporation, including the overall portfolio diversification of the Corporation.

(g) CHIEF DEVELOPMENT OFFICER.—

(1) APPOINTMENT.—Subject to the approval of the Board, the Chief Executive Officer, in conjunction with the Administrator of the United States Agency for International Development, shall appoint a Chief Development Officer, from among individuals with experience in development, who—

(A) shall report directly to the Board; and

(B) shall be removable only by a majority vote of the Board.

(2) DUTIES.—The Chief Development Officer shall—

(A) coordinate the Corporation's development policies and implementation efforts with the United States Agency for International Development, the Millennium Challenge Corporation, and other relevant United States Government departments and agencies, including directly liaising with missions of the United States Agency for International Development, to ensure that departments, agencies, and missions have training, awareness, and access to the Corporation's tools in relation to development policy and projects in countries;

(B) under the guidance of the Chief Executive Officer, manage employees of the Corporation that are dedicated to structuring, monitoring and evaluating transactions and projects co-designed with the United States Agency

for International Development and other relevant United State Government departments and agencies;

(C) authorize and coordinate transfers of funds or other resources to and from such agencies, departments, or missions upon the concurrence of those institutions in support of the Corporation's projects or activities; and

(D) coordinate and implement the activities of the Corporation under section 405.

(h) OFFICERS AND EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this section, officers, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine.

(2) ADMINISTRATIVELY DETERMINED EMPLOYEES.—

(A) APPOINTMENT; COMPENSATION; REMOVAL.—Of officers and employees employed by the Corporation under paragraph (1), not to exceed 50 may be appointed, compensated, or removed without regard to title 5, United States Code.

(B) REINSTATEMENT.—Under such regulations as the President may prescribe, officers and employees appointed to a position under subparagraph (A) may be entitled, upon removal from such position (unless the removal was for cause), to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary.

(C) ADDITIONAL POSITIONS.—Positions authorized by subparagraph (A) shall be in addition to those otherwise authorized by law, including positions authorized under section 5108 of title 5, United States Code.

(D) RATES OF PAY FOR OFFICERS AND EMPLOYEES.—The Corporation may set and adjust rates of basic pay for officers and employees appointed under subparagraph (A) without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, respectively.

(3) LIABILITY OF EMPLOYEES.—

(A) IN GENERAL.—An individual who is a member of the Board or an officer or employee of the Corporation has no liability under this Act with respect to any claim arising out of or resulting from any act or omission by the individual within the scope of the employment of the individual in connection with any transaction by the Corporation.

(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to limit personal liability of an individual for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other acts or omissions outside the scope of the individual's employment.

(C) SAVINGS PROVISION.—This paragraph shall not be construed—

(i) to affect—

(I) any other immunities and protections that may be available to an individual described in subparagraph (A) under applicable law with respect to a transaction described in that subparagraph; or

(II) any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than an individual described in subparagraph (A) participating in such a transaction; or

(ii) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees not described in this paragraph.

SEC. 104. INSPECTOR GENERAL OF THE CORPORATION.

The President shall appoint and maintain an Inspector General in the Corporation, in accordance with the Inspector General Act of 1978 (5 U.S.C. App.).

SEC. 105. INDEPENDENT ACCOUNTABILITY MECHANISM.

(a) IN GENERAL.—The Board shall establish a transparent and independent accountability mechanism.

(b) FUNCTIONS.—The independent accountability mechanism established pursuant to subsection (a) shall—

(1) annually evaluate and report to the Board and Congress regarding compliance with environmental, social, labor, human rights, and transparency standards, consistent with Corporation statutory mandates;

(2) provide a forum for resolving concerns regarding the impacts of specific Corporation-supported projects with respect to such standards; and

(3) provide advice regarding Corporation projects, policies, and practices.

TITLE II—AUTHORITIES

SEC. 201. AUTHORITIES RELATING TO PROVISION OF SUPPORT.

- (a) IN GENERAL.—The authorities in this title should only be exercised to—
 - (1) carry out of the policy of the United States in section 101 and the purpose of the Corporation in section 102;
 - (2) mitigate risks to United States taxpayers by sharing risks with the private sector and qualifying sovereign entities through co-financing and structuring of tools; and
 - (3) ensure that support provided under this title is additional to private sector resources by mobilizing private capital that would otherwise not be deployed without such support.
- (b) LENDING AND GUARANTIES.—
 - (1) IN GENERAL.—The Corporation may make loans or guaranties upon such terms and conditions as the Corporation may determine.
 - (2) DENOMINATION.—Loans and guaranties issued under paragraph (1) may be denominated and repayable in United States dollars or foreign currencies. Foreign currency denominated loans and guaranties should only be provided if the Board determines there is a substantive policy rationale for such loans and guaranties.
 - (3) APPLICABILITY OF FEDERAL CREDIT REFORM ACT OF 1990.—Loans and guaranties issued under paragraph (1) shall be subject to the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).
- (c) EQUITY INVESTMENTS.—
 - (1) IN GENERAL.—The Corporation may, as a minority investor, support projects with funds or use other mechanisms for the purpose of purchasing, and may make and fund commitments to purchase, invest in, make pledges in respect of, or otherwise acquire, equity or quasi-equity securities or shares or financial interests of any entity, including as a limited partner or other investor in investment funds, upon such terms and conditions as the Corporation may determine.
 - (2) DENOMINATION.—Support provided under paragraph (1) may be denominated and repayable in United States dollars or foreign currency. Foreign currency denominated support provided by paragraph (1) should only be provided if the Board determines there is a substantive policy rationale for such support.
 - (3) GUIDELINES AND CRITERIA.—The Corporation shall develop guidelines and criteria to require that the use of the authority provided by paragraph (1) with respect to a project has a clearly defined development and foreign policy rationale, taking into account the following objectives:
 - (A) The support for the project would be more likely than not to substantially reduce or overcome the effect of an identified market failure in the country in which the project is carried out.
 - (B) The project would not have proceeded or would have been substantially delayed without the support.
 - (C) The support will meaningfully contribute to transforming local conditions to promote the development of markets.
 - (D) The support can be shown to be aligned with commercial partner incentives.
 - (E) The support can be shown to have significant developmental impact and will contribute to long-term commercial sustainability.
 - (F) The support furthers the policy of the United States described in section 101.
 - (4) LIMITATIONS ON EQUITY INVESTMENTS.—
 - (A) PER PROJECT LIMIT.—The aggregate amount of support provided under this subsection with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made from any source to the project at the time that the Corporation approves support of the project.
 - (B) TOTAL LIMIT.—Support provided pursuant to this subsection shall be limited to not more than 35 percent of the Corporation's aggregate exposure on the date that such support is provided.
 - (5) SALES AND LIQUIDATION OF POSITION.—The Corporation shall seek to sell and liquidate any support for a project provided under this subsection as soon as commercially feasible, commensurate with other similar investors in the project and taking into consideration the national security interests of the United States.
 - (6) TIMETABLE.—The Corporation shall create a project-specific timetable for support provided under paragraph (1).

(d) **INSURANCE AND REINSURANCE.**—The Corporation may issue insurance or reinsurance, upon such terms and conditions as the Corporation may determine, to private sector entities and qualifying sovereign entities assuring protection of their investments in whole or in part against any or all political risks such as currency inconvertibility and transfer restrictions, expropriation, war, terrorism, and civil disturbance, breach of contract, or non-honoring of financial obligations.

(e) **PROMOTION OF AND SUPPORT FOR PRIVATE INVESTMENT OPPORTUNITIES.**—

(1) **IN GENERAL.**—In order to carry out the purposes of the Corporation described in section 102(b), the Corporation may initiate and support, through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, feasibility studies for the planning, development, and management of, and procurement for, potential bilateral and multilateral development projects eligible for support under this title, including training activities undertaken in connection with such projects, for the purpose of promoting investment in such projects and the identification, assessment, surveying, and promotion of private investment opportunities, utilizing wherever feasible and effective, the facilities of private investors.

(2) **CONTRIBUTIONS TO COSTS.**—The Corporation shall, to the maximum extent practicable, require any person receiving funds under the authorities of this subsection to—

(A) share the costs of feasibility studies and other project planning services funded under this subsection; and

(B) reimburse the Corporation those funds provided under this section, if the person succeeds in project implementation.

(f) **SPECIAL PROJECTS AND PROGRAMS.**—The Corporation may administer and manage special projects and programs in support of specific transactions undertaken by the Corporation, including programs of financial and advisory support that provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings, and intermediate financial and investment institutions and cooperatives and including the initiation of incentives, grants, and studies for renewable energy, microenterprise households, women's economic empowerment, microenterprise households, and other small business activities.

(g) **ENTERPRISE FUNDS.**—

(1) **IN GENERAL.**—The Corporation may, following consultation with the Secretary of State, the Administrator of the United States Agency for International Development, and the heads of other relevant departments or agencies, establish and operate enterprise funds in accordance with this subsection.

(2) **PROCEDURES AND REQUIREMENTS.**—The provisions of section 201 of the Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5421) (other than the provisions of subsections (a), (b), (c), (d)(1), (d)(3), (e), (f), and (j) of that section), shall be deemed to apply with respect to any enterprise fund established by the Corporation under this subsection and to funds made available to any such enterprise fund in the same manner and to the same extent as such provisions apply with respect to enterprise funds established pursuant to such section 201 or to funds made available to enterprise funds established under that section.

(3) **PURPOSES FOR WHICH SUPPORT MAY BE PROVIDED.**—The Corporation, subject to the approval of the Board, may designate private, nonprofit organizations as eligible to receive support under this subsection for the following purposes:

(A) To promote development of economic freedom and private sectors, including small- and medium-sized enterprises and joint ventures with the United States and host country participants.

(B) To facilitate access to the credit to small- and medium-sized enterprises with sound business plans in countries where there is limited means of accessing credit on market terms.

(C) To promote policies and practices conducive to economic freedom and private sector development.

(D) To attract foreign direct investment capital to further promote private sector development and economic freedom.

(E) To complement the work of the United States Agency for International Development and other donors to improve the overall business-enabling environment, financing the creation and expansion of the private business sector.

(F) To make financially sustainable investments designed to generate measurable social benefits and build technical capacity in addition to financial returns.

(4) **OPERATION OF FUNDS.**—

(A) EXPENDITURES.—Funds made available to an enterprise fund shall be expended at the minimum rate necessary to make timely payments for projects and activities carried out under this subsection.

(B) ADMINISTRATIVE EXPENSES.—Not more than 3 percent of the funds made available to an enterprise fund may be obligated or expended for the administrative expenses of the enterprise fund.

(5) BOARD OF DIRECTORS.—Each enterprise fund established under this subsection should be governed by a Board of Directors comprised of private citizens of the United States or the host country, who—

(A) shall be appointed by the President after consultation with the chairmen and ranking members of the appropriate congressional committees; and

(B) have pursued careers in international business and have demonstrated expertise in international and emerging market investment activities.

(6) MAJORITY MEMBER REQUIREMENT.—The majority of the members of the Board of Directors shall be United States citizens who shall have relevant experience relating to the purposes described in paragraph (3).

(7) REPORTS.—Not later than one year after the date of the establishment of an enterprise fund under this subsection, and annually thereafter until the enterprise fund terminates in accordance with paragraph (10), the Board of Directors of the enterprise fund shall—

(A) submit to the appropriate congressional committees a report—

(i) detailing the administrative expenses of the enterprise fund during the year preceding the submission of the report;

(ii) describing the operations, activities, engagement with civil society and relevant local private sector entities, development objectives and outcomes, financial condition, and accomplishments of the enterprise fund during that year;

(iii) describing the results of the audit conducted under paragraph (8) during that year; and

(iv) describing how audits conducted under paragraph (8) are informing the operations and activities of the enterprise fund; and

(B) publish, on a publicly available internet website of the enterprise fund, each report required by subparagraph (A).

(8) OVERSIGHT.—

(A) INSPECTOR GENERAL PERFORMANCE AUDITS.—

(i) IN GENERAL.—The Inspector General of the Corporation shall conduct periodic audits of the activities of each enterprise fund established under this subsection.

(ii) CONSIDERATION.—In conducting an audit under clause (i), the Inspector General shall assess whether the activities of the enterprise fund—

(I) support the purposes described in paragraph (3);

(II) result in profitable private sector investing; and

(III) generate measurable social benefits.

(B) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each enterprise fund receiving support under this subsection—

(i) keeps separate accounts with respect to such support; and

(ii) maintains such records as may be reasonably necessary to facilitate effective audits under this paragraph.

(9) RETURN OF FUNDS TO TREASURY.—Any funds resulting from any liquidation, dissolution, or winding up of an enterprise fund, in whole or in part, shall be returned to the Treasury of the United States.

(10) TERMINATION.—The authority of an enterprise fund to provide support under this subsection shall terminate on the earlier of—

(A) the date that is 7 years after the date of the first expenditure of amounts from the enterprise fund; or

(B) the date on which the enterprise fund is liquidated.

(h) SUPERVISION OF SUPPORT.—Support provided under this title shall be subject to section 622(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2382(c)).

SEC. 202. TERMS AND CONDITIONS.

(a) IN GENERAL.—Except as provided in subsection (b), support provided by the Corporation under this title shall be on such terms and conditions as the Corporation may prescribe.

(b) REQUIREMENTS.—The following requirements apply to support provided by the Corporation under this title:

(1) The Corporation shall provide support using authorities under this title only if it is necessary—

(A) to alleviate a credit market imperfection; or

(B) to achieve specified development or foreign policy objectives of the United States Government by providing support in the most efficient way to meet those objectives on a case-by-case basis.

(2) The final maturity of a loan made or guaranteed by the Corporation shall not exceed the lesser of—

(A) 25 years; or

(B) debt servicing capabilities of the project to be financed by the loan (as determined by the Corporation).

(3) The Corporation shall, with respect to providing any loan guaranty to a project, require the parties to the project to bear the risk of loss in an amount equal to at least 20 percent of the guaranteed support by the Corporation in the project.

(4) The Corporation may not make or guarantee a loan unless the Corporation determines that the borrower or lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

(5) The interest rate for direct loans and interest supplements on guaranteed loans shall be set by reference to a benchmark interest rate (yield) on marketable Treasury securities or other widely recognized or appropriate benchmarks with a similar maturity to the loans being made or guaranteed, as determined in consultation with the Director of the Office of Management and Budget and the Secretary of the Treasury. The Corporation shall establish appropriate minimum interest rates for loans, guaranties, and other instruments as necessary.

(6) The minimum interest rate for new loans as established by the Corporation shall be adjusted periodically to take account of changes in the interest rate of the benchmark financial instrument.

(7)(A) The Corporation shall set fees or premiums for support provided under this title at levels that minimize the cost to the Government while supporting achievement of the objectives of support.

(B) The Corporation shall review fees for loan guaranties periodically to ensure that the fees assessed on new loan guaranties are at a level sufficient to cover the Corporation's most recent estimates of its costs.

(8) Any loan guaranty provided by the Corporation shall be conclusive evidence that—

(A) the guaranty has been properly obtained;

(B) the loan qualified for the guaranty; and

(C) but for fraud or material misrepresentation by the holder of the guaranty, the guaranty is presumed to be valid, legal, and enforceable.

(9) The Corporation shall prescribe explicit standards for use in periodically assessing the credit risk of new and existing direct loans or guaranteed loans.

(10) The Corporation may not make loans or loan guaranties except to the extent that budget authority to cover the costs of the loans or guaranties is provided in advance in an appropriations Act, as required by section 504 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c).

(11) The Corporation shall rely upon specific standards to assess the developmental and strategic value of projects for which it provides support and should only provide the minimum level of support necessary in order to support such projects.

(12) Any loan or loan guaranty made by the Corporation should be provided on a senior basis or *pari passu* with other senior debt unless there is a substantive policy rationale to provide such support otherwise.

SEC. 203. PAYMENT OF LOSSES.

(a) PAYMENTS FOR DEFAULTS ON GUARANTEED LOANS.—

(1) IN GENERAL.—If the Corporation determines that the holder of a loan guaranteed by the Corporation suffers a loss as a result of a default by a borrower on the loan, the Corporation shall pay to the holder the percent of the loss, as specified in the guaranty contract after the holder of the loan has made such further collection efforts and instituted such enforcement proceedings as the Corporation may require.

(2) SUBROGATION.—Upon making a payment described in paragraph (1), the Corporation shall ensure the Corporation will be subrogated to all the rights of the recipient of the payment.

(3) RECOVERY EFFORTS.—The Corporation shall pursue recovery from the borrower of the amount of any payment made under paragraph (1) with respect to the loan.

(b) LIMITATION ON PAYMENTS.—

(1) **IN GENERAL.**—Except as provided by paragraph (2), compensation for insurance, reinsurance, or a guaranty issued under this title shall not exceed the dollar value of the tangible or intangible contributions or commitments made in the project, plus interest, earnings, or profits actually accrued on such contributions or commitments, to the extent provided by such insurance, reinsurance, or guaranty.

(2) EXCEPTION.—

(A) **IN GENERAL.**—The Corporation may provide that—

- (i) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets; and
- (ii) compensation for a claim of loss under insurance of an equity investment under section 201(b) may be computed on the basis of the net book value attributable to the equity investment on the date of loss.

(3) ADDITIONAL LIMITATION.—

(A) **IN GENERAL.**—Notwithstanding paragraph (2)(A)(ii) and except as provided in subparagraph (B), the Corporation shall limit the amount of direct insurance and reinsurance issued under section 201 with respect to a project so as to require that the insured and its affiliates bear the risk of loss for at least 10 percent of the amount of the Corporation's exposure to that insured and its affiliates in the project.

(B) **EXCEPTION.**—The limitation under subparagraph (A) shall not apply to direct insurance or reinsurance of loans provided by banks or other financial institutions to unrelated parties.

(c) **ACTIONS BY ATTORNEY GENERAL.**—The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any loan or guaranty under this title.

(d) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to preclude any forbearance for the benefit of a borrower that may be agreed upon by the parties to a loan guaranteed by the Corporation if budget authority for any resulting costs to the United States Government (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) is available.

SEC. 204. TERMINATION.

(a) **IN GENERAL.**—The authorities provided under this title terminate on the date that is 7 years after the date of the enactment of this Act.

(b) **TERMINATION OF CORPORATION.**—The Corporation shall terminate on the date on which the portfolio of the Corporation is liquidated.

TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

SEC. 301. OPERATIONS.

(a) **BILATERAL AGREEMENTS.**—The Corporation may provide support under title II in connection with projects in any country the government of which has entered into an agreement with the United States authorizing the Corporation to provide such support in that country.

(b) CLAIMS SETTLEMENT.—

(1) **IN GENERAL.**—Claims arising as a result of support provided under title II or under predecessor authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine.

(2) **SETTLEMENTS CONCLUSIVE.**—Payment made pursuant to any settlement pursuant to paragraph (1), or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

(c) **PRESUMPTION OF COMPLIANCE.**—Each contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

(d) **ELECTRONIC PAYMENTS AND DOCUMENTS.**—The Corporation shall implement policies to accept electronic documents and electronic payments in all of its programs.

SEC. 302. CORPORATE POWERS.

(a) **IN GENERAL.**—The Corporation—

(1) may adopt, alter, and use a seal, to include an identifiable symbol of the United States;

(2) may make and perform such contracts, including no-cost contracts (as defined by the Corporation), grants, and other agreements notwithstanding divi-

sion C of subtitle I of title 41, United States Code, with any person or government however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation;

(3) may lease, purchase, or otherwise acquire, improve, and use such real property wherever situated, as may be necessary for carrying out the functions of the Corporation;

(4) may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, for the purpose of carrying out the functions of the Corporation;

(5) may use the United States mails in the same manner and on the same conditions as the Executive departments (as defined in section 101 of title 5, United States Code);

(6) may contract with individuals for personal services, who shall not be considered Federal employees for any provision of law administered by the Director of the Office of Personnel Management;

(7) may hire or obtain passenger motor vehicles;

(8) may sue and be sued in its corporate name;

(9) may acquire, hold, or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest in such property;

(10) may lease office space for the Corporation's own use, the obligation of amounts for such lease is limited to the current fiscal year for which payments are due until the expiration of the current lease of the predecessor authority, as of the day before the date of the enactment of this Act;

(11) may indemnify directors, officers, employees, and agents of the Corporation for liabilities and expenses incurred in connection with their activities on behalf of the Corporation;

(12) notwithstanding any other provision of law, may represent itself or contract for representation in all legal and arbitral proceedings;

(13) may exercise any priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates;

(14) may collect, notwithstanding section 3711(g)(1) of title 31, United States Code, or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation;

(15) may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions of such governments) or with multilateral organizations or institutions for sharing liabilities;

(16) may sell direct investments of the Corporation to private investors upon such terms and conditions as the Corporation may determine; and

(17) shall have such other powers as may be necessary and incident to carrying out the functions of the Corporation.

(b) **TREATMENT OF PROPERTY.**—Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Corporation shall have the right in its discretion to complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by the Corporation pursuant to the provisions of this Act.

SEC. 303. MAXIMUM CONTINGENT LIABILITY.

(a) **IN GENERAL.**—The maximum contingent liability of the Corporation outstanding at any one time shall not exceed in the aggregate the amount specified in subsection (b).

(b) **AMOUNT SPECIFIED.**—

(1) **INITIAL 5-YEAR PERIOD.**—The amount specified in this subsection for the 5-year period beginning on the date of the enactment of this Act, is \$60,000,000,000.

(2) **SUBSEQUENT 5-YEAR PERIODS.**—Not later than 5 years after the date of the enactment of this Act, and not less frequently than every 5 years thereafter, the amount specified in paragraph (1) shall be adjusted to reflect the percentage of the increase (if any) in the average of the Consumer Price Index during the preceding 5-year period.

(3) **CONSUMER PRICE INDEX DEFINED.**—In this subsection, the term “Consumer Price Index” means the most recent Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

SEC. 304. CORPORATE FUNDS.

(a) **CORPORATE CAPITAL ACCOUNT.**—There is established in the Treasury of the United States a fund to be known as the “Corporate Capital Account” to carry out the purposes of the Corporation.

(b) **FUNDING.**—The Corporate Capital Account shall consist of—

(1) fees charged and collected pursuant to subsection (c);

- (2) any amounts received pursuant to subsection (e);
 - (3) investments and returns on such investments pursuant to subsection (g);
 - (4) unexpended balances transferred to the Corporation pursuant to subsection (h);
 - (5) payments received in connection with settlements of all insurance and reinsurance claims of the Corporation; and
 - (6) all other collections transferred to or earned by the Corporation, excluding the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of loans and loan guaranties.
- (c) COLLECTIONS.—Fees may be charged and collected for providing services in amounts to be determined by the Corporation as provided in advance in appropriations Acts.
- (d) USES.—
- (1) IN GENERAL.—Subject to Acts making appropriations, the Corporation is authorized to pay—
 - (A) the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of loans and loan guaranties;
 - (B) administrative expenses of the Corporation; and
 - (C) for the cost of providing support authorized by subsections (c), (e), (f), and (g) of section 201.
 - (2) INCOME AND REVENUE.—In order to carry out the purposes of the Corporation, all collections transferred to or earned by the Corporation, excluding the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of loans and loan guaranties, shall be deposited into the Corporate Capital Account and shall be available to carry out its purpose, including without limitation—
 - (A) payment of all insurance and reinsurance claims of the Corporation;
 - (B) repayments to the Treasury of amounts borrowed under subsection (e);
 - (C) dividend payments to the Treasury under subsection (f); and
 - (D) project-specific transaction costs.
- (e) FULL FAITH AND CREDIT.—
- (1) IN GENERAL.—All support provided pursuant to predecessor authorities or title II shall continue to constitute obligations of the United States, and the full faith and credit of the United States is hereby pledged for the full payment and performance of such obligations.
 - (2) AUTHORITY TO BORROW.—The Corporation is authorized to borrow from the Treasury such sums as may be necessary to fulfill such obligations of the United States and any such borrowing shall be at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yields on outstanding marketable obligations of the United States of comparable maturities, for a period jointly determined by the Corporation and the Secretary, and subject to such terms and conditions as the Secretary may require.
- (f) DIVIDENDS.—The Board, in consultation with the Director of the Office of Management and Budget, shall annually assess a dividend payment to the Treasury if the Corporation's insurance portfolio is more than 100 percent reserved.
- (g) INVESTMENT AUTHORITY.—
- (1) IN GENERAL.—The Corporation may request the Secretary of the Treasury to invest such portion of the Corporate Capital Account as is not, in the Corporation's judgement, required to meet the current needs of the Corporate Capital Account.
 - (2) FORM OF INVESTMENTS.—Such investments shall be made by the Secretary of the Treasury in public debt obligations, with maturities suitable to the needs of the Corporate Capital Account, as determined by the Corporation, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.
- (h) TRANSFER FROM PREDECESSOR AGENCIES AND PROGRAMS.—By the date end of the transition period described in title VI, the unexpended balances, assets, and responsibilities of any agency specified in the plan required by section 602 shall be transferred to the Corporation.
- (i) TRANSFER OF FUNDS.—In order to carry out this Act, funds authorized to be appropriated to carry out the Foreign Assistance Act of 1961 may be transferred to the Corporation and funds authorized appropriated to the Corporation may be transferred to the Department of State and the United States Agency for International Development.
- (j) DEFINITION.—In this section, the term “project-specific transaction costs”—
- (1) means those costs incurred by the Corporation for travel, legal expenses, and direct and indirect costs incurred in claims settlements associated with the

provision of support under title II and shall not be considered administrative expenses for the purposes of this section; and

(2) does not include information technology (as such term is defined in section 11101 of title 40, United States Code).

SEC. 305. COORDINATION WITH OTHER DEVELOPMENT AGENCIES.

It is the sense of Congress that the Corporation should use relevant data of the Department of State, Millennium Challenge Corporation, United States Agency for International Development, and other departments and agencies that have development functions to better inform the decisions of the Corporation with respect to providing support under title II.

TITLE IV—MONITORING, EVALUATION, AND REPORTING

SEC. 401. ESTABLISHMENT OF RISK AND AUDIT COMMITTEES.

(a) **IN GENERAL.**—To assist the Board to fulfill its duties and responsibilities under section 201(a), the Corporation shall establish a risk committee and an audit committee.

(b) **DUTIES AND RESPONSIBILITIES OF RISK COMMITTEE.**—Subject to the direction of the Board, the risk committee established under subsection (a) shall have oversight responsibility of—

(1) formulating risk management policies of the operations of the Corporation;

(2) reviewing and providing guidance on operation of the Corporation's global risk management framework;

(3) developing policies for enterprise risk management, monitoring, and management of strategic, reputational, regulatory, operational, developmental, environmental, social, and financial risks;

(4) developing the risk profile of the Corporation, including a risk management and compliance framework and governance structure to support such framework; and

(5) developing policies and procedures for assessing, prior to providing, and during any period during which the Corporation provides, support to any foreign entities, whether such entities have in place sufficient enhanced due diligence policies and practices to prevent money laundering and corruption to ensure the Corporation does not provide support to persons that are—

(A) knowingly engaging in acts of corruption;

(B) knowingly providing material or financial support for terrorism, drug trafficking, or human trafficking; or

(C) responsible for ordering or otherwise directing serious or gross violations of human rights.

(c) **DUTIES AND RESPONSIBILITIES OF AUDIT COMMITTEE.**—Subject to the direction of the Board, the audit committee established under subsection (a) shall have the oversight responsibility of—

(1) the integrity of the Corporation's financial reporting and systems of internal controls regarding finance and accounting;

(2) the integrity of the Corporation's financial statements;

(3) the performance of the Corporation's internal audit function; and

(4) compliance with legal and regulatory requirements related to the finances of the Corporation.

SEC. 402. PERFORMANCE MEASURES.

(a) **IN GENERAL.**—The Corporation shall develop a performance measurement system to evaluate and monitor projects supported by the Corporation under title II and to guide future projects of the Corporation.

(b) **CONSIDERATIONS.**—In developing the performance measurement system required by subsection (a), the Corporation shall—

(1) develop a successor for the development impact measurement system of the Overseas Private Investment Corporation (as such system was in effect on the day before the date of enactment of this Act);

(2) develop a mechanism for ensuring that support provided by the Corporation under title II is in addition to private investment;

(3) develop standards for, and a method for ensuring, appropriate financial performance of the Corporation's portfolio; and

(4) develop standards for, and a method for ensuring, appropriate development performance of the Corporation's portfolio, including—

(A) measurement of the projected and ex post development impact of a project; and

(B) the information necessary to comply with section 403.

(c) **PUBLIC AVAILABILITY OF CERTAIN INFORMATION.**—The Corporation shall make available to the public on a regular basis information about support provided by the Corporation under title II and performance metrics about such support on a country-by-country basis.

(d) **COLLABORATION.**—In developing the performance measurement system required by subsection (a), the Corporation shall consult with stakeholders and other interested parties engaged in sustainable economic growth and development.

SEC. 403. ANNUAL REPORT.

(a) **IN GENERAL.**—After the end of each fiscal year, the Corporation shall submit to the appropriate congressional committees a complete and detailed report of its operations during that fiscal year, including an assessment of—

(1) the economic and social development impact, including with respect to matters described in subsections (d) and (e) of section 501, of projects supported by the Corporation under title II;

(2) the extent to which the operations of the Corporation complement or are compatible with the development assistance programs of the United States and qualifying sovereign entities;

(3) the Corporation's institutional linkages with other relevant United States Government department and agencies, including efforts to strengthen such linkages; and

(4) the compliance of projects supported by the Corporation under title II with all relevant human rights, environmental, labor, and social policies, or other such related policies that govern the Corporation's support for projects, promulgated or otherwise administered by the Corporation.

(b) **ELEMENTS.**—Each annual report required by subsection (a) shall include projections of the effects of projects supported by the Corporation under title II, including—

(1) reviews and analysis of—

(A) the desired development and whether or not the Corporation is meeting the associated metrics, goals, and development objectives, including, to the extent practicable, in the years after conclusion of projects; and

(B) the effect of the Corporation's support on access to capital and ways in which the Corporation is addressing identifiable market gaps or inefficiencies and what impact, if any, such support has on access to credit for a specific project, country, or sector;

(2) an explanation of any partnership arrangement or cooperation with a qualifying sovereign entity in support of each project;

(3) projections of—

(A) development outcomes, and whether or not support for projects are meeting the associated performance measures, both during the start-up phase and over the duration of the support, and to the extent practicable, measures of such development outcomes should be on a gender-disaggregated basis, such as changes in employment, access to financial services, enterprise development and growth, and composition of executive boards and senior leadership of enterprises receiving support under title II; and

(B) the amount of private sector assets brought to bear relative to the amount of support provided by the Corporation and any other public sector support; and

(4) an assessment of the extent to which lessons learned from the monitoring and evaluation activities of the Corporation, and from annual reports from previous years compiled by the Corporation, have been applied to projects.

SEC. 404. PUBLICLY AVAILABLE PROJECT INFORMATION.

The Corporation shall—

(1) maintain a user-friendly, publicly available, machine-readable database with detailed country-level information, including a description of the support provided by the Corporation under title II; and

(2) include a clear link to information about each project supported by the Corporation under title II on the internet website of the Department of State, "ForeignAssistance.gov", or a successor website or other online publication.

SEC. 405. ENGAGEMENT WITH INVESTORS.

(a) **IN GENERAL.**—The Corporation, acting through the Chief Development Officer, shall, in cooperation with the Administrator of the United States Agency for International Development—

(1) develop a strategic relationship with private sector entities focused at the nexus of business opportunities and development priorities;

(2) engage such entities and reduce business risks primarily through direct transaction support and facilitating investment partnerships;

(3) develop and support tools, approaches, and intermediaries that can mobilize private finance at scale in the developing world;

(4) pursue projects of all sizes, especially those that are small but designed for work in the most underdeveloped areas, including countries with chronic suffering as a result of extreme poverty, fragile institutions, or a history of violence; and

(5) pursue projects consistent with the policy of the United States described in section 101 and the Joint Strategic Plan and the Mission Country Development Cooperation Strategies of the United States Agency for International Development.

(b) ASSISTANCE.—To achieve the goals described in subsection (a), the Corporation shall—

(1) develop risk mitigation tools;

(2) provide transaction structuring support for blended finance models;

(3) support intermediaries linking capital supply and demand;

(4) coordinate with other Federal agencies to support or accelerate transactions;

(5) convene financial, donor, civil society, and public sector partners around opportunities for private finance within development priorities;

(6) offer strategic planning and programming assistance to catalyze investment into priority sectors;

(7) provide transaction structuring support;

(8) deliver training and knowledge management tools for engaging private investors;

(9) partner with private sector entities that provide access to capital and expertise; and

(10) identify and screen new investment partners.

(c) TECHNICAL ASSISTANCE.—The Corporation shall coordinate with the United States Agency for International Development and other agencies and departments, as necessary, on projects and programs supported by the Corporation that include technical assistance.

SEC. 406. NOTIFICATION OF SUPPORT TO BE PROVIDED BY THE CORPORATION.

(a) IN GENERAL.—Not later than 15 days prior to the Corporation making a financial commitment associated with the provision of support under title II in an amount in excess of \$10,000,000, the Chief Executive Officer of the Corporation shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report in writing that contains the information required by subsection (b).

(b) INFORMATION REQUIRED.—The information required by this subsection includes—

(1) the amount of each such financial commitment;

(2) an identification of the recipient or beneficiary; and

(3) a description of the project, activity, or asset and the development goal or purpose to be achieved by providing support by the Corporation.

TITLE V—CONDITIONS, RESTRICTIONS, AND PROHIBITIONS

SEC. 501. LIMITATIONS AND PREFERENCES.

(a) LIMITATION ON SUPPORT FOR SINGLE ENTITY.—No entity receiving support from the Corporation under title II may receive more than an amount equal to 5 percent of the Corporation's maximum contingent liability authorized under section 303.

(b) PREFERENCE FOR SUPPORT FOR PROJECTS SPONSORED BY UNITED STATES PERSONS.—

(1) IN GENERAL.—The Corporation should give preferential consideration to projects sponsored by or involving private sector entities that are United States persons.

(2) UNITED STATES PERSON DEFINED.—In this subsection, the term “United States person” means—

(A) a United States citizen; or

(B) an entity significantly beneficially owned by individuals described in subparagraph (A).

(c) PREFERENCE FOR SUPPORT IN COUNTRIES IN COMPLIANCE WITH INTERNATIONAL TRADE OBLIGATIONS.—

(1) CONSULTATIONS WITH UNITED STATES TRADE REPRESENTATIVE.—Not less frequently than annually, the Corporation shall consult with the United States Trade Representative with respect to the status of countries eligible to receive support from the Corporation under title II and the compliance of those countries with their international trade obligations.

(2) PREFERENTIAL CONSIDERATION.—The Corporation shall give preferential consideration to providing support under title II for projects in countries in compliance with or making substantial progress coming into compliance with their international trade obligations.

(d) WORKER RIGHTS.—

(1) IN GENERAL.—The Corporation should support projects under title II in countries that are taking steps to adopt and implement laws that extend internationally recognized worker rights (as defined in section 507 of the Trade Act of 1974 (19 U.S.C. 2467)) to workers in that country, including any designated zone in that country.

(2) REQUIRED CONTRACT LANGUAGE.—The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide support under title II: “The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor or the worst forms of child labor (as defined in section 507 of the Trade Act of 1974 (19 U.S.C. 2467(6))). The investor is not responsible under this paragraph for the actions of a foreign government.”

(e) ENVIRONMENTAL AND SOCIAL IMPACT.—The Board shall not vote in favor of any project proposed to be supported by the Corporation under title II that is likely to have significant adverse environmental or social impacts that are sensitive, diverse, or unprecedented, unless—

(1) at least 60 days before the date of the vote, an environmental and social impact assessment or initial environmental and social audit, analyzing the environmental and social impacts of the proposed project and of alternatives to the proposed project, is completed; and

(2) such assessment or audit has been made available to the public of the United States, locally affected groups in the country in which the project will be carried out, and nongovernmental organizations in that country.

(f) WOMEN’S ECONOMIC EMPOWERMENT.—In utilizing its authorities under title II, the Corporation should consider the impacts of its support on women’s economic opportunities and outcomes and make efforts to mitigate gender gaps and maximize development impact by working to improve women’s economic opportunities.

(g) PREFERENCE FOR PROVISION OF SUPPORT IN COUNTRIES EMBRACING PRIVATE ENTERPRISE.—

(1) IN GENERAL.—The Corporation should give preferential consideration to projects for which support under title II may potentially be provided in countries the governments of which are making continual progress toward economic policies that promote the development of private enterprise, both domestic and foreign, and maintaining the conditions that enable private enterprise to make its full contribution to the development of such countries, including—

(A) market-based economies;

(B) protecting private property rights;

(C) respect for the rule of law; and

(D) systems to combat corruption and bribery.

(2) SOURCES OF INFORMATION.—The Corporation should rely on both third-party indicators and United States Government information, such as the Department of State’s Investment Climate Statements, the Department of Commerce’s Country Commercial Guides, or the Millennium Challenge Corporation’s Constraints Analysis, to assess whether countries meet the conditions described in paragraph (1).

(h) CONSIDERATION OF FOREIGN BOYCOTT PARTICIPATION.—In providing support under for projects under title II, the Corporation shall consider, using information readily available, whether the project is sponsored by or substantially affiliated with any person taking or knowingly agreeing to take actions, or having taken or knowingly agreed to take actions within the past three years, which demonstrate or otherwise evidence intent to comply with, further, or support any boycott fostered or imposed by any foreign country, or request to impose any boycott by any foreign

country, against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation.

SEC. 502. ADDITIONALITY AND AVOIDANCE OF MARKET DISTORTION.

(a) **IN GENERAL.**—Before the Corporation provides support for a project under title II, the Corporation shall ensure that private sector entities are afforded an opportunity to support the project.

(b) **SAFEGUARDS, POLICIES, AND GUIDELINES.**—The Corporation shall develop appropriate safeguards, policies, and guidelines to ensure that support provided by the Corporation under title II—

- (1) supplements and encourages, but does not compete with, private sector support;
- (2) operates according to internationally recognized best practices and standards with respect to ensuring the avoidance of market distorting government subsidies and the crowding out of private sector lending; and
- (3) does not have a significant adverse impact on United States employment.

SEC. 503. PROHIBITION ON SUPPORT IN SANCTIONED COUNTRIES AND WITH SANCTIONED PERSONS.

(a) **IN GENERAL.**—The Corporation is prohibited from providing support under title II in a country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism for purposes of—

- (1) section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A)) (as continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.));
- (2) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));
- (3) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)); or
- (4) any other provision of law.

(b) **PROHIBITION ON SUPPORT OF SANCTIONED PERSONS.**—The Corporation is prohibited from supporting a project under title II that directly benefits any entity subject to sanctions imposed by the United States.

(c) **PROHIBITION ON SUPPORT OF ACTIVITIES SUBJECT TO SANCTIONS.**—The Corporation shall require any entity or party receiving support under title II to certify it, any entity owned or controlled by the entity or party, or any entity or party which owns or otherwise manages the entity or party receiving support, does not conduct any activities subject to sanctions imposed by the United States.

SEC. 504. PENALTIES FOR MISREPRESENTATION, FRAUD, AND BRIBERY.

Subsections (g), (l), and (n) of section 237 of the Foreign Assistance Act of 1961 (22 U.S.C. 2197) shall apply with respect to the Corporation to the same extent and in the same manner as such subsections applied with respect to the Overseas Private Investment Corporation on the day before the date of the enactment of this Act.

TITLE VI—TRANSITIONAL PROVISIONS

SEC. 601. DEFINITIONS.

In this title:

- (1) **AGENCY.**—The term “agency” includes any entity, organizational unit, program, or function.
- (2) **TRANSITION PERIOD.**—The term “transition period” means the period—
 - (A) beginning on the date of the enactment of this Act; and
 - (B) ending on the effective date of the reorganization plan required by section 602(e).

SEC. 602. REORGANIZATION PLAN.

(a) **SUBMISSION OF PLAN.**—

(1) **IN GENERAL.**—Not later than 120 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

- (A) The transfer of agencies, personnel, assets, and obligations to the Corporation pursuant to this title.
- (B) Any consolidation, reorganization, or streamlining of agencies transferred to the Corporation pursuant to this title.
- (C) Any efficiencies or cost savings achieved as a result of the transfer of agencies, personnel, assets, and obligations to the Corporation pursuant to this title, including reductions in unnecessary or duplicative operations, assets, and personnel.

- (2) CONSULTATION.—Not later than 15 days before the date on which the plan is transmitted pursuant to this subsection, the President shall consult with the appropriate congressional committees on such plan.
- (b) PLAN ELEMENTS.—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:
- (1) Identification of any functions of agencies transferred to the Corporation pursuant to this title that will not be transferred to the Corporation under the plan.
 - (2) Specification of the steps to be taken to organize the Corporation, including the delegation or assignment of functions transferred to the Corporation among officers of the Corporation in order to permit the Corporation to carry out the functions transferred under the plan.
 - (3) Specification of the funds available to each agency that will be transferred to the Corporation as a result of transfers under the plan.
 - (4) Specification of the proposed allocations within the Corporation of unexpended funds transferred in connection with transfers under the plan.
 - (5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.
- (c) REPORT ON COORDINATION.—
- (1) IN GENERAL.—The transfer of functions authorized by this section may occur only after the President and Chief Executive Officer of the Overseas Private Investment Corporation and the Administrator of the United States Agency for International Development jointly submit to the Committee on Foreign Affairs and Committee on Appropriations of the House of Representatives and Committee on Foreign Relations and Committee on Appropriations of the Senate a report in writing that contains the information required by paragraph (2).
 - (2) INFORMATION REQUIRED.—The information required by this paragraph includes a description in detail of the procedures to be followed after the transfer of functions authorized by this section have occurred to coordinate between the Corporation and the United States Agency for International Development in carrying out the functions so transferred.
- (d) MODIFICATION OF PLAN.—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (e).
- (e) EFFECTIVE DATE.—
- (1) IN GENERAL.—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (c), shall become effective for an agency on the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a).
 - (2) STATUTORY CONSTRUCTION.—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.
- SEC. 603. TRANSFER OF FUNCTIONS.**
- (a) IN GENERAL.—Effective at the end of the transition period, there shall be transferred to the Corporation the functions, personnel, assets, and liabilities of—
- (1) the Overseas Private Investment Corporation, as in existence on the day before the date of the enactment of this Act; and
 - (2) the following elements of the United States Agency for International Development:
 - (A) The Development Credit Authority.
 - (B) The existing Legacy Credit portfolio under the Urban Environment Program and any other direct loan programs and non-Development Credit Authority guaranty programs authorized by the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or other predecessor Acts, as in existence on the date of the enactment of this Act, other than any sovereign loan guaranties.
- (b) ADDITIONAL TRANSFER AUTHORITY.—Effective at the end of the transition period, there is authorized to be transferred to the Corporation the functions, personnel, assets, and liabilities of the following elements of the United States Agency for International Development:
- (1) The Office of Private Capital and Microenterprise.
 - (2) The enterprise funds.
- (c) SOVEREIGN LOAN GUARANTY TRANSFER.—
- (1) IN GENERAL.—Effective at the end of the transition period, there is authorized to be transferred to the Corporation or any other appropriate department

or agency of the United States Government the loan accounts and the legal rights and responsibilities for the sovereign loan guaranty portfolio held by the United States Agency for International Development as in existence on the day before the date of the enactment of this Act.

(2) INCLUSION IN REORGANIZATION PLAN.—The President shall include in the reorganization plan submitted under section 602 a description of the transfer authorized under paragraph (1).

(d) BILATERAL AGREEMENTS.—Any bilateral agreement of the United States in effect on the date of the enactment of this Act that serves as the basis for programs of the Overseas Private Investment Corporation and the Development Credit Authority shall be considered as satisfying the requirements of section 301(a).

(e) TRANSITION.—During the transition period, the agencies specified in subsection (a) shall—

- (1) continue to administer the assets and obligations of those agencies; and
- (2) carry out such programs and activities authorized under this Act as may be determined by the President.

SEC. 604. TERMINATION OF OVERSEAS PRIVATE INVESTMENT CORPORATION AND OTHER SUPERCEDED AUTHORITIES.

Effective at the end of the transition period—

- (1) the Overseas Private Investment Corporation is terminated; and
- (2) title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.) (other than subsections (g), (l), and (n) of section 237 of that Act) is repealed.

SEC. 605. TRANSITIONAL AUTHORITIES.

(a) PROVISION OF ASSISTANCE BY OFFICIALS.—Until the transfer of an agency to the Corporation under section 603, any official having authority over or functions relating to the agency immediately before the date of the enactment of this Act shall provide to the Corporation such assistance, including the use of personnel and assets, as the Corporation may request in preparing for the transfer and integration of the agency into the Corporation.

(b) SERVICES AND PERSONNEL.—During the transition period, upon the request of the Corporation, the head of any executive agency may, on a reimbursable or non-reimbursable basis, provide services or detail personnel to assist with the transition.

(c) ACTING OFFICIALS.—

(1) IN GENERAL.—During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the date of the enactment of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so acting, such officers shall receive compensation at the higher of—

- (A) the rates provided by this Act for the respective offices in which they act; or
- (B) the rates provided for the offices held at the time of designation.

(2) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require the advice and consent of the Senate to the appointment by the President to a position in the Corporation of any officer whose agency is transferred to the Corporation pursuant to this title and whose duties following such transfer are germane to those performed before such transfer.

(d) TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTIONS.—Upon the transfer of an agency to the Corporation under section 603—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Corporation for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and in accordance with section 1531(a)(2) of title 31, United States Code; and

(2) the Corporation shall have all functions—

- (A) relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer; and
- (B) vested in the Corporation by this Act or other law.

SEC. 606. SAVINGS PROVISIONS.

(a) COMPLETED ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Corporation under section 603, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in ac-

cordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) COMPLETED ADMINISTRATIVE ACTION DEFINED.—In this subsection, the term “completed administrative action” includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, policies, licenses, registrations, and privileges.

(b) PENDING PROCEEDINGS.—

(1) IN GENERAL.—Pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Corporation, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred.

(2) ORDERS.—Orders issued in proceedings described in paragraph (1), and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) PENDING CIVIL ACTIONS.—Pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Corporation, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) REFERENCES.—References relating to an agency that is transferred to the Corporation under section 603 in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the date of the enactment of this Act shall be deemed to refer, as appropriate, to the Corporation, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) EMPLOYMENT PROVISIONS.—

(1) REGULATIONS.—The Corporation may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the date of the enactment of this Act, relating to employment in any agency transferred to the Corporation under section 603.

(2) EFFECT OF TRANSFER ON CONDITIONS OF EMPLOYMENT.—Except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this title of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(f) STATUTORY REPORTING REQUIREMENTS.—Any statutory reporting requirement that applied to an agency transferred to the Corporation under this title immediately before the date of the enactment of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

SEC. 607. OTHER TERMINATIONS.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this title, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code, shall terminate.

SEC. 608. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, in consultation with the Corporation, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director may determine necessary to accomplish the purposes of this Act.

SEC. 609. REFERENCE.

With respect to any function transferred under this title (including under a reorganization plan under section 602) and exercised on or after the date of the enactment of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Corporation or official or component of the Corporation to which that function is so transferred.

SEC. 610. CONFORMING AMENDMENTS.

(a) EXEMPT PROGRAMS.—Section 255(g)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(2)) is amended by striking “Overseas Private Investment Corporation, Noncredit Account (71–4184–0–3–151).” and inserting “United States International Development Finance Corporation.”

(b) EXECUTIVE SCHEDULE.—Title 5, United States Code, is amended—

(1) in section 5314, by striking “President, Overseas Private Investment Corporation.”;

(2) in section 5315, by striking “Executive Vice President, Overseas Private Investment Corporation.”; and

(3) in section 5316, by striking “Vice Presidents, Overseas Private Investment Corporation (3).”.

(c) OFFICE OF INTERNATIONAL TRADE OF THE SMALL BUSINESS ADMINISTRATION.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking “the President of the Overseas Private Investment Corporation, Director” and inserting “the Board of Directors of the United States International Development Finance Corporation, the Director”; and

(2) by striking “Overseas Private Investment Corporation” each place it appears and inserting “United States International Development Finance Corporation”.

(d) UNITED STATES AND FOREIGN COMMERCIAL SERVICE.—Section 2301 of the Export Enhancement Act of 1988 (15 U.S.C. 4721) is amended by striking “Overseas Private Investment Corporation” each place it appears and inserting “United States International Development Finance Corporation”.

(e) TRADE PROMOTION COORDINATING COMMITTEE.—Section 2312(d)(1)(K) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(d)(1)(K)) is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(f) INTERAGENCY TRADE DATA ADVISORY COMMITTEE.—Section 5402(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4902(b)) is amended by striking “the President of the Overseas Private Investment Corporation” and inserting “the Chief Executive Officer of the United States International Development Finance Corporation”.

(g) MISUSE OF NAMES OF FEDERAL AGENCIES.—Section 709 of title 18, United States Code, is amended by striking “‘Overseas Private Investment’, ‘Overseas Private Investment Corporation’, or ‘OPIC’,” and inserting “‘United States International Development Finance Corporation’ or ‘DFC’”.

(h) ENGAGEMENT ON CURRENCY EXCHANGE RATE AND ECONOMIC POLICIES.—Section 701(c)(1)(A) of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4421(c)(1)(A)) is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(i) INTERNSHIPS WITH INSTITUTE FOR INTERNATIONAL PUBLIC POLICY.—Section 625(a) of the Higher Education Act of 1965 (20 U.S.C. 1131c(a)) is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(j) FOREIGN ASSISTANCE ACT OF 1961.—The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in section 499B(b)(2) (22 U.S.C. 2296b(b)(2)), by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”; and

(2) in section 481(e)(4)(A) (22 U.S.C. 2291(e)(4)(A)), in the matter preceding clause (i), by striking “(including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation)” and inserting “(and any support under title II of the Better Utilization of Investments Leading to Development Act of 2018, relating to the United States International Development Finance Corporation)”.

(k) ELECTRIFY AFRICA ACT OF 2015.—Sections 5 and 7 of the Electrify Africa Act of 2015 (Public Law 114–121; 22 U.S.C. 2293 note) are amended by striking “Overseas Private Investment Corporation” each place it appears and inserting “United States International Development Finance Corporation”.

(l) FOREIGN AID TRANSPARENCY AND ACCOUNTABILITY ACT OF 2016.—Section 2(3) of the Foreign Aid Transparency and Accountability Act of 2016 (Public Law 114–191; 22 U.S.C. 2394c note) is amended—

(1) in subparagraph (A), by striking “except for” and all that follows through “chapter 3” and inserting “except for chapter 3”;

(2) in subparagraph (C), by striking “and” at the end;

(3) in subparagraph (D), by striking the period at the end and insert “; and”; and

(4) by adding at the end the following:

“(E) the Better Utilization of Investments Leading to Development Act of 2018.”.

(m) SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM.—The Support for East European Democracy (SEED) Act of 1989 (22 U.S.C. 5401 et seq.) is amended—

(1) in section 2(c) (22 U.S.C. 5401(c)), by striking paragraph (12) and inserting the following:

“(12) UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION.—Programs of the United States International Development Finance Corporation.”; and

(2) in section 201(e) (22 U.S.C. 5421(e)), by striking “Agency for International Development” and inserting “United States International Development Finance Corporation”.

(n) CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT OF 1996.—Section 202(b)(2)(B)(iv) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6062(b)(2)(B)(iv)) is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(o) INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998.—Section 405(a)(10) of the International Religious Freedom Act of 1998 (22 U.S.C. 6445(a)(10)) is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(p) TRAFFICKING VICTIMS PROTECTION ACT OF 2000.—Section 103(8)(A) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(8)(A)) is amended by amending clause (viii) to read as follows:

“(viii) any support under title II of the Better Utilization of Investments Leading to Development Act of 2018 relating to the United States International Development Finance Corporation; and”.

(q) TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES.—Section 732(b) of the Global Environmental Protection Assistance Act of 1989 (22 U.S.C. 7902(b)) is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(r) EXPANDED NONMILITARY ASSISTANCE FOR UKRAINE.—Section 7(c)(3) of the Ukraine Freedom Support Act of 2014 (22 U.S.C. 8926(c)(3)) is amended—

(1) in the matter preceding subparagraph (A), by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”; and

(2) in subparagraph (B), by striking “by eligible investors (as defined in section 238 of the Foreign Assistance Act of 1961 (22 U.S.C. 2198))”.

(s) GLOBAL FOOD SECURITY ACT OF 2016.—Section 4(7) of the Global Food Security Act of 2016 (22 U.S.C. 9303(7)) is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(t) SENSE OF CONGRESS ON EUROPEAN AND EURASIAN ENERGY SECURITY.—Section 257(c)(2)(B) of the Countering Russian Influence in Europe and Eurasia Act of 2017 (22 U.S.C. 9546(c)(2)(B)) is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(u) WHOLLY OWNED GOVERNMENT CORPORATION.—Section 9101(3) of title 31, United States Code, is amended by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”.

(v) ENERGY INDEPENDENCE AND SECURITY ACT OF 2007.—Title IX of the Energy Independence and Security Act of 2007 (42 U.S.C. 17321 et seq.) is amended—

(1) in section 914 (42 U.S.C. 17334)—

(A) in the section heading, by striking “OVERSEAS PRIVATE INVESTMENT CORPORATION” and inserting “UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION”; and

(B) in subsection (a), in the matter preceding paragraph (1), by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”; and

(C) in subsection (b), in the matter preceding paragraph (1), by striking “Overseas Private Investment Corporation shall include in its annual report required under section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a)” and inserting “United States International Development Finance Corporation shall include in its annual report required under section 403 of the Better Utilization of Investments Leading to Development Act of 2018”; and

(2) in section 916(a)(2)(I) (42 U.S.C. 17336(a)(2)(I)), by striking “Overseas Private Investment Corporation,” and inserting “United States International Development Finance Corporation;”.

(w) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the transition period.

SUMMARY AND PURPOSE

H.R. 5105, the bipartisan and bicameral Better Utilization of Investments Leading to Development Act of 2018 (or the BUILD Act of 2018), as amended, would reform and consolidate the authorities of the Overseas Private Investment Corporation (OPIC), the United States Agency for International Development (USAID), Development Credit Authority (DCA), and the Enterprise Funds into a single full-service, self-sustaining United States International Development Finance Corporation (DFC). Through the provision of loans, guaranties, limited equity investments, feasibility studies, political risk insurance, and other instruments of support, the new DFC will mobilize private capital in furtherance of America’s foreign policy and development objectives in the world’s less developed countries.

BACKGROUND AND NEED FOR THE LEGISLATION

Across the globe, lack of access to capital often constrains economic growth—especially in the world’s least developed countries. According to the International Finance Corporation, micro-, small- and medium-sized enterprises in emerging markets have unmet financing needs of \$5.2 trillion every year. This lack of access to capital limits their ability to grow. Foreign investment is critical to empowering entrepreneurs, creating jobs and reducing poverty.

America has an undeniable interest in supporting the development of vibrant and stable economies around the world. Healthy private sectors promote good governance, support thriving civil societies, and help reduce civil strife. The resulting stability is good for our national security, and also benefits U.S. exports and jobs.

Increasingly, other countries are working to advance their economic and political interests by shaping overseas markets. China’s “One Belt, One Road” (OBOR) initiative, which has been estimated at \$1 trillion or more, dwarfs the size of the Marshall Plan which rebuilt war-torn Europe in the 1940s and 1950s. Across Africa, Asia and beyond, Beijing is making massive investments in new construction and infrastructure projects—from the headquarters of the African Union to a port in Djibouti—a strategically located nation where both the U.S. and China have military bases and whose foreign debt is 80 percent owned by Beijing. As Ray Washburne, the President and CEO of OPIC, testified to the Foreign Affairs Committee on April 11, 2018, “a condition of many of these loans is that Chinese firms—and labor—get the business. . . . This state-directed approach is not consistent with our values, which incorporate the high standards of international financial institutions related to governance, transparency, debt sustainability, environmental, and social safeguards.”

Chinese development practices have in some cases left countries worse off. A study by the Center for Global Development, which assessed the likelihood of debt problems in 68 countries identified as potential OBOR borrowers, concluded that eight countries are at particular risk of debt distress based on an identified pipeline of

project lending associated with OBOR. For example, in December 2017, Sri Lanka gave control of the strategic Sri Lankan port of Hambantota to Beijing for 99 years after it could not repay the Chinese-backed loans to fund it, granting China a foothold in the Indian Ocean and its critical shipping lanes.

In short, the committee is deeply concerned that China's approach in the developing world is fueling debt dependency, undermining good governance and human rights, and taking an illiberal approach to regions that contain about 65 percent of the world's population and one-third of its economic output.

In November 2017, at the Asia-Pacific Economic Cooperation (APEC) Summit in Vietnam, the President committed to reforming U.S. development-finance institutions "so they better incentivize private-sector investment" and "provide strong alternatives to state-directed initiatives that come with many strings attached." The President's *National Security Strategy* also prioritized efforts to catalyze private sector activity and the mobilization of resources to developing countries:

"Today, the United States must compete for positive relationships around the world. China and Russia target their investments in the developing world to expand influence and gain competitive advantages against the United States. China is investing billions of dollars in infrastructure across the globe. Russia, too, projects its influence economically, through the control of key energy and other infrastructure throughout parts of Europe and Central Asia.—The United States provides an alternative to state-directed investments, which often leave developing countries worse off. The United States pursues economic ties not only for market access but also to create enduring relationships to advance common political and security interests. . . .

"Across Africa, Latin America, and Asia, states are eager for investments and financing to develop their infrastructure and propel growth. The United States and its partners have opportunities to work with countries to help them realize their potential as prosperous and sovereign states that are accountable to their people. Such states can become trading partners that buy more American-made goods and create more predictable business environments that benefit American companies. American-led investments represent the most sustainable and responsible approach to development and offer a stark contrast to the corrupt, opaque, exploitive, and low-quality deals offered by authoritarian states."

The U.S. cannot and should not match China's investments dollar-for-dollar, but the committee believes we can and should do more to support international economic development with partners who have embraced the private sector-driven development model. However, America's existing development finance toolkit—which is spread across multiple agencies—is limited, duplicative, disjointed and uncoordinated. The BUILD Act will address these shortcomings and modernizes America's antiquated development finance capabilities to address the challenges of the 21st century. As Secretary of State Pompeo testified before the committee, "this is a







very important piece of legislation. I think there's real opportunity for the United States . . . this bill hits it perfectly."

Limitations. OPIC—America's development finance institution (DFI)—operates under authorities that have changed very little since it was created by Congress more than 45 years ago. The Corporation provides direct loans, guaranties and political risk insurance, but it lacks the authority to make equity investments—an authority held by every other DFI around the world. Because OPIC only provides a debt financing instrument and must be repaid as a senior creditor, the U.S. is often locked out of co-investment opportunities with like-minded DFIs. This discourages other countries—such as the United Kingdom and Japan—from partnering with OPIC on projects. For this reason, the BUILD Act authorizes the new DFC to make limited equity investments as a minority investor in projects provided that certain conditions enumerated in the bill are met, including selling equity investments as quickly as is economically feasible. Further, the bill establishes a 30 percent per-project cap on equity authority and a total limit on equity of not more than 35 percent of the Corporation's aggregate exposure.

Additionally, OPIC lacks the ability to support feasibility studies, project-related technical-assistance grants, and other kinds of "wrap around" services for projects potentially eligible for financing. The BUILD Act would authorize these new activities.

The BUILD Act would also set the new DFC's maximum contingent liability (MCL) at \$60 billion—slightly more than double OPIC's current statutory cap, which was set at \$29 billion in 1997. This is necessary for three reasons. First, OPIC is quickly nearing its cap. According to its FY 2017 Annual Report, OPIC had a total portfolio exposure of \$23.2 billion, or 80 percent of its MCL. If OPIC's annual commitments are consistent with its recent 5 year average (approximately \$3.7 billion), it should reach its MCL by FY 2019. Second, the new MCL is critical to being able to compete with China. Even if adjusted for inflation, OPIC's current cap would be approximately \$45 billion which still pales in comparison to the China Development Bank's \$1.6 trillion portfolio. Third, the BUILD Act would automatically add approximately \$3.6 billion in legacy liabilities from USAID on top of OPIC's \$23.2 billion portfolio to the new DFC—totaling more than \$26.8 billion in inherited liabilities. Thus, if the new MCL was unchanged from OPIC's current exposure limit, the DFC would hit the cap within its first year of existence. With a 7 year authorization, the \$60 billion cap will ensure that the new DFC can continue to extend annual commitments consistent with its recent 5 year average and provides for a modest buffer to account for the Corporation's new instruments of support and strong mandate.

Table 1. Comparison of OPIC and Selected Bilateral Foreign DFIs

	OPIC (U.S.)	CDC (UK)	DEG (Germany)	Proparco (France)	CDB (China)	JBIC (Japan)
2016 Portfolio/ Outstanding Commitments	\$21.5 billion 	£3.8 billion (\$5.5 billion) 	€8.6 billion (\$10.6 billion) 	€5.9 billion (\$7.3 billion) 	10.3 trillion yuan (\$1.6 trillion) 	¥17 trillion (\$158 billion) 
Year Est'd/ Began Operations	1971	1948	1962	1977	1995	2012 (reorganized)
Structure/ ownership	Wholly owned U.S. government corporation	Wholly owned by UK government	Wholly owned by KfW, a German development bank that is 80% owned by German government	Limited liability company, subsidiary of Agence Française de Développement, which is main shareholder; other shareholders are public and private institutions	State "policy" bank, Chinese Ministry of Finance and other public/state- owned enterprise shareholders	Policy-based financial institution wholly owned by the Japanese government
Mandate	Mobilize U.S. private capital in less developed countries, complementing U.S. development objectives	Support growth of business and job creation across Africa and South Asia	Promote business initiatives in developing and emerging markets as a contribution to sustainable growth and improved living conditions of local populations	Foster private investment in emerging and developing economies with the aim of supporting growth and sustainability	Support China's economic development in key industries and underdeveloped sectors	Contribute to the sound development of the Japanese and the international economy and society
Key Services	Finance, political risk insurance	Equity, finance	Equity, finance, technical assistance	Equity, finance, technical assistance	Equity, finance	Equity, finance
Country GDP(current U.S.\$)	\$18.6 trillion	\$2.6 trillion	\$3.5 trillion	\$2.5 trillion	\$11.2 trillion	\$4.9 trillion

Source: Congressional Research Service, based on information available about DFIs in their annual reports and other sources.

Duplication. America's development finance toolkit is duplicative across Federal agencies. For example, USAID's Development Credit Authority and Enterprise Funds have the ability to make guarantees and direct loans, respectively, which are duplicative of OPIC's own authorities. Consolidating these disparate functions under a single Development Finance Corporation will improve efficiencies.

Disjointed and Uncoordinated. The committee has learned in the course of its oversight activities that OPIC and USAID staff have at times been unaware of what the other agency is doing in a particular country. Moreover, effective use of DCA's risk sharing program is often entirely dependent on whether USAID's in-country Mission Director is aware of and understands DCA's offerings. In order to ensure that the DFC and USAID are not working at cross-

purposes and support America's development interests, the BUILD Act requires the Administrator of USAID to serve as the Vice Chair of the DFC's Board of Directors. It also establishes a Chief Development Officer, whose duties include coordination with USAID (and other relevant agencies), directly liaising with USAID missions, and ensuring that all relevant departments, agencies, and missions have awareness of, training with respect to, and access to the Corporation's tools in relation to development policy and projects. This is especially important since OPIC currently has just three staff posted overseas. The new DFC will therefore empower USAID's employees in the field with awareness of and access to the DFC's full-suite of financial tools for developmental projects. Similarly, the new DFC will have stronger linkages to Foreign Service Officers and other employees of USAID, the State Department, the Commerce Department, and the Agriculture Department working in countries where DFC support will be provided.

BUILD Act Reforms. The President's FY 2019 Budget proposes to consolidate U.S. development finance agencies and functions, such as OPIC and DCA into a single, consolidated DFI with more modern and effective tools and reforms to protect taxpayer dollars. The BUILD Act, as amended, will help effectuate this proposal and also includes critical reforms to OPIC and USAID's current functions in order to protect taxpayers, improve accountability to Congress, and ensure that the DFC can effectively carry out its mandate, including:

- 1) A clear statement of policy that the United States will facilitate private sector development and economic growth to provide countries a robust alternative to state-directed investments by authoritarian governments and United States strategic competitors (such as China) using high standards of transparency, environmental, and social safeguards, and which take into account the debt sustainability of partner countries;
- 2) Requiring that the Corporation prioritizes its support in less developed countries with a low-income economy or a low-middle-income economy according to World Bank standards;
- 3) Requiring that non-government members of the Corporation's Board of Directors are appointed by the President from among a list of individuals submitted by the congressional leadership;
- 4) Establishing a Chief Development Officer to ensure strong institutional linkages between the new DFC, USAID, and other relevant departments and agencies;
- 5) Creating an independent Inspector General of the Corporation;
- 6) Mandating that foreign currency-denominated support may only be provided if there is a substantive policy rationale;
- 7) Authorizing the Corporation to make limited equity investments as a minority investor in order to ensure that the Corporation is economically interoperable with allies such as the United Kingdom, Japan, and multilateral institu-

- tions like the International Finance Corporation, in which the United States is the largest shareholder;
- 8) Authorizing the Corporation to conduct feasibility studies, project-related technical-assistance grants, and other kinds of “wrap around” services, as long as they do not duplicate work being done by the U.S. Trade and Development Agency;
 - 9) Authorizing the Corporation to establish and operate enterprise funds provided that such funds are terminated not later than 7 years after their first expenditure of funds;
 - 10) Subjecting the Corporation’s lending activities to the Federal Credit Reform Act;
 - 11) Keeping the Corporation subject to the regular authorization and appropriations process to make its spending transparent to taxpayers and accountable to Congress;
 - 12) Requiring the Corporation’s Board to annually assess whether it should pay a dividend to the Treasury if its insurance reserves exceed 100 percent;
 - 13) Restricting the Corporation from using fees to pay for information technology or anything except travel and legal expenses;
 - 14) Establishing Risk and Audit Committees to ensure appropriate oversight of the Corporation’s investment strategies and finances;
 - 15) Requiring the Corporation to establish clear performance measures to evaluate and monitor its projects;
 - 16) Requiring the Corporation to notify the committee not later than 15 days prior to making a financial commitment of \$10 million or more;
 - 17) Requiring the Corporation to give preference to projects sponsored by or involving United States persons;
 - 18) Requiring the Corporation to consider the impacts of its support on women’s economic opportunities;
 - 19) Requiring the Corporation to give preference to projects in countries the governments of which are making continual progress toward economic policies that support free enterprise;
 - 20) Requiring the Corporation to ensure that private sector entities are afforded an opportunity to support projects before any Corporation support may be provided, which will ensure that Corporation support is additional to—and does not compete with—the private sector;
 - 21) Consolidating OPIC, DCA, and USAID’s existing Legacy Credit portfolio and other direct loans into standalone Development Finance Corporation, after joint coordination between USAID and OPIC; and
 - 22) Authorizing the transfer of USAID’s Office of Private Capital and Microenterprise, legacy enterprise funds, and sovereign loan guaranty portfolio to the new DFC.

In addition to these reforms, the BUILD Act will carry forward several important elements of OPIC. For example, by taking into account the economic and financial soundness of projects for which

it provides support, the new DFC will continue to be self-sustaining. In FY 2017, OPIC returned \$262 million to the Treasury—generating returns for taxpayers for the 40th straight year. Since its inception, OPIC estimates it has contributed to about \$80 billion in U.S. exports and supported over 280,000 U.S. jobs. In addition, the BUILD Act will carry forward all Corporation policies, including those regarding prohibitions on investments in China, Russia, countries facing U.S. sanctions, and any state-owned enterprises.

With the right leadership and authorities, the new U.S. International Development Finance Corporation can be a powerful instrument to create opportunities in countries hungry for growth and jobs. Its creation would also send a strong signal about America’s commitment to international economic engagement in uncertain times.

HEARINGS

Most recently, the Foreign Affairs Committee held a hearing on April 11, 2018, entitled “Financing Overseas Development: The Administration’s Proposal,” with Honorable Ray W. Washburne, President and Chief Executive Officer of the Overseas Private Investment Corporation, related to the contents of H.R. 5105. The legislation was also the topic of discussion on March 21, 2018, at a hearing entitled “The FY 2019 Foreign Assistance Budget” with the Honorable Mark Green, Administrator of the United States Agency for International Development. Previously, the Subcommittee on Asia and the Pacific held a hearing on November 15, 2017, entitled “Development Finance in Asia: U.S. Economic Strategy Amid China’s Belt and Road.”

COMMITTEE CONSIDERATION

On May 9, 2018, the Committee on Foreign Affairs marked up H.R. 5105 in open session, pursuant to notice. An amendment in the nature of a substitute (offered by Chairman Royce) and 14 other amendments to the amendment in the nature of a substitute were considered *en bloc* with the underlying bill, and all were agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of Rules of the House of Representatives, the committee reports that findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of House Rule X, are incorporated in the descriptive portions of this report, particularly in the “Background and Need for the Legislation” and “Section-by-Section Analysis” sections.

NEW BUDGET AUTHORITY, TAX EXPENDITURES, AND FEDERAL MANDATES

In compliance with clause 3(c)(2) of House Rule XIII and the Unfunded Mandates Reform Act (Public Law 104–4), the committee adopts as its own the estimate of new budget authority, entitlement authority, tax expenditure or revenues, and Federal mandates contained in the cost estimate prepared by the Director of the

Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 9, 2018.

Hon. EDWARD R. ROYCE, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5105, the BUILD Act of 2018.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226-2840.

Sincerely,

KEITH HALL.

Enclosure

cc: Honorable Eliot L. Engel
Ranking Member

H.R. 5105—BUILD Act of 2018.

As ordered reported by the House Committee on Foreign Affairs on May 9, 2018

SUMMARY

H.R. 5105 would authorize the establishment of a new development finance institution for the United States: the U.S. International Development Finance Corporation (USIDFC). USIDFC would promote economic development in less developed countries by providing loans, equity, insurance, and other forms of assistance to U.S. companies and other entities that want to invest and expand in those countries. CBO estimates that, on net, implementing the legislation would reduce federal costs by \$77 million over the 2019–2023 period, assuming appropriation actions consistent with the bill.

CBO estimates that enacting H.R. 5105 would increase direct spending by \$113 million over the 2019–2028 period. Because the bill would affect direct spending, pay-as-you-go procedures apply. The bill would not affect revenues.

CBO estimates that enacting H.R. 5105 would not increase net direct spending by more than \$2.5 billion or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5105 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effect of H.R. 5105 is shown in Table 1. The costs of the legislation fall within budget function 150 (international affairs).

TABLE 1. BUDGETARY EFFECTS OF H.R. 5105, THE BUILD ACT OF 2018

By Fiscal Year, in Millions of Dollars							
	2018	2019	2020	2021	2022	2023	2019-2023
INCREASES OR DECREASES (–) IN SPENDING SUBJECT TO APPROPRIATION							
Estimated Authorization Level	0	0	–1	–20	28	114	122
Estimated Outlays	0	0	–89	–67	–8	86	–77
INCREASES IN DIRECT SPENDING ¹							
Estimated Budget Authority	0	0	12	12	13	13	50
Estimated Outlays	0	0	12	12	13	13	50

¹ H.R. 5105 would change direct spending as shown here (an increase of \$50 million over the 2019–2023 period) and also would have effects beyond 2023. CBO estimates that enacting the bill would increase direct spending by \$113 million over the 2019–2028 periods (see Table 3).

Details may not sum to totals because of rounding.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 5105 will be enacted by the end of 2018, that the estimated amounts will be appropriated each fiscal year, and that outlays will match historical spending patterns for similar activities.

Spending Subject to Appropriation

H.R. 5105 would consolidate several existing development finance, credit, and foreign assistance programs into the new USIDFC and provide it with new and broader authority. The agency’s authority to enter into new agreements would expire seven years after enactment of the legislation. The Administration requested funding in 2019 for a similar new institution.

The bill would require the Overseas Private Investment Corporation (OPIC), the Development Credit Authority (DCA), and several smaller legacy credit programs of the U.S. Agency for International Development (USAID) to be folded into USIDFC. Under the bill, USIDFC would have a \$60 billion ceiling on outstanding liability—roughly double the current combined total liability for those programs. Under current law, OPIC’s outstanding liability is roughly \$23 billion, and CBO expects that within the next two years it will reach the currently authorized \$29 billion ceiling.

The Administration would be authorized to transfer other programs to USIDFC, such as enterprise funds, sovereign loan guarantees, and microenterprise credit. The Administration indicated that it is unlikely to do so, however, and this estimate does not include any effects related to those programs. Finally, H.R. 5105 would institutionalize coordination between USIDFC and USAID, thereby allowing USAID staff overseas to identify potential projects and promote USIDFC.

Under current law, OPIC helps U.S. companies expand and invest overseas, primarily by providing direct loans, loan guarantees, and insurance; DCA promotes commercial lending in developing countries by guaranteeing the timely repayment of loans made by local lenders. Although the authority of both entities to enter into new contracts expires at the end of fiscal year 2018, they will continue to operate for some years after that date to service existing contracts.

Under the bill, USIDFC would continue the existing programs run by OPIC and DCA and would be newly authorized to invest in projects, either directly or through investment funds. The bill would loosen an existing requirement on OPIC to work with U.S. citizens and corporations. H.R. 5105 also would require USIDFC to focus primarily on less developed countries, whereas current programs also operate in higher-income countries transitioning to market economies. On the basis of information from the Administration about how USIDFC would implement that focus, CBO estimates that in comparison to current programs, a greater proportion of loans and loan guarantees would have a positive subsidy cost (that is, they increase net costs), as defined in the Federal Credit Reform Act of 1990 (FCRA).¹ In addition, on the basis of information from the Administration about USAID’s legacy credit portfolio, CBO anticipates little, if any, effect on those programs under the bill.

On the basis of information from the Administration about how it would implement the transition plan detailed in H.R. 5105, CBO expects that USIDFC would begin operations in 2020. In total, after accounting for OPIC and DCA costs to complete current contracts, and assuming appropriation actions consistent with the bill, CBO estimates that implementing H.R. 5105 would reduce costs by \$77 million, on net, over the 2019–2023 period. The components of that estimate are discussed below and shown in Table 2.

¹ Under FCRA, the subsidy cost of a direct loan or loan guarantee is the net present value of estimated payments by the government to cover defaults and delinquencies, interest subsidies, or other expenses, offset by any payments to the government, including origination fees, other fees, penalties, and recoveries on defaulted loans. (A present value expresses a flow of past and future income or payments as a single amount received or paid at a specific time.) The net present value does not include the cost of market risk. Such subsidy costs are recorded in the budget when loans are disbursed.

TABLE 2. CHANGES IN SPENDING SUBJECT TO APPROPRIATION IN
H.R. 5105, THE BUILD ACT OF 2018

By Fiscal Year, in Millions of Dollars

	2018	2019	2020	2021	2022	2023	2019- 2023
INCREASES OR DECREASES (–) IN SPENDING SUBJECT TO APPROPRIATION							
Administrative Expenses							
Estimated Authorization Level	0	0	51	56	59	64	230
Estimated Outlays	0	0	31	52	58	62	204
Positive Subsidy Costs for Loans							
Estimated Authorization Level	0	0	85	87	89	91	353
Estimated Outlays	0	0	25	44	55	65	189
Negative Subsidies for Loans							
Estimated Authorization Level	0	0	–170	–221	–253	–272	–916
Estimated Outlays	0	0	–170	–221	–253	–272	–916
Equity Investments							
Estimated Authorization Level	0	0	50	75	150	250	525
Estimated Outlays	0	0	50	75	150	250	525
Other Assistance							
Estimated Authorization Level	0	0	15	15	16	16	62
Estimated Outlays	0	0	7	15	15	16	53
Fees for Activities Related to Specific Projects							
Estimated Authorization Level	0	0	–34	–34	–35	–36	–139
Estimated Outlays	0	0	–34	–34	–35	–36	–139
Inspector General							
Estimated Authorization Level	0	0	3	3	3	3	12
Estimated Outlays	0	0	3	3	3	3	12
Insurance Premiums							
Estimated Authorization Level	0	0	–1	–1	–1	–2	–5
Estimated Outlays	0	0	–1	–1	–1	–2	–5
Total Changes							
Estimated Authorization Level	0	0	–1	–20	28	114	122
Estimated Outlays	0	0	–89	–67	–8	86	–77

Details may not sum to totals because of rounding.

Administrative Expenses. Under current law, OPIC and DCA will be unable to enter into new contracts starting in 2019; however, they will continue to service their existing portfolios for some time. CBO estimates they will begin reducing staffing in 2019 but that severance payments will keep appropriations required for administrative expenses at the current amount (\$89 million) in that year. In 2020, CBO estimates, that amount will decline to \$46 million and will continue to fall in following years.

On the basis of information from the Administration about its budget request for 2019 and staffing requirements to implement the new authority granted under H.R. 5105, CBO estimates that USIDFC would consolidate existing personnel from OPIC and DCA and hire three additional employees (primarily to implement equity investments); those activities would require appropriations in 2020 totaling \$97 million. Over the 2020–2023 period, CBO estimates, total administrative expenses would grow by about 2 percent each year.

After adjusting for ongoing costs of OPIC and DCA, CBO estimates that, on net, implementing H.R. 5105 would require addi-

tional appropriations of \$51 million in 2020 and would increase administrative expenses by \$204 million over the 2020–2023 period, assuming appropriation of the necessary amounts.

Positive Subsidy Costs for Loans. On the basis of information from the Administration and after adjusting for projected growth under the higher ceiling on outstanding liability authorized by H.R. 5105, CBO estimates that appropriations required for the subsidy costs of new loans and loan guarantees would amount to \$85 million in 2020 and total about \$350 million over the 2020–2023 period. (In 2018, OPIC and DCA received total appropriations of \$75 million for subsidy costs.) Assuming appropriation of the necessary amounts, CBO estimates that outlays for those subsidy costs would increase by \$189 million over the 2020–2023 period. (Outlays would lag behind appropriations, reflecting the expected pace of disbursements of new loans.)

Negative Subsidies for Loans. Some of the loans OPIC currently provides yield a net budgetary savings under the cost formula specified in FCRA, which requires that the expected government cash flows be discounted using the rates on Treasury securities of comparable maturity. Those loans have lower default rates and higher fees than other products and, thus, yield net savings to the government. In 2018, CBO estimates, OPIC will generate \$250 million in negative subsidies. Under current law, starting in 2019 when OPIC will be unable to enter into new contracts, CBO estimates that negative subsidies will begin to decline and will disappear by 2025.

On the basis of information from the Administration and adjusting for projected growth under the higher ceiling on outstanding liability, CBO estimates that under H.R. 5105 negative subsidies would total \$265 million in 2020—\$170 million above the current-law amount for that year and \$916 million for the 2020–2023 period.

Equity Investments. H.R. 5105 would authorize USIDFC to invest, either directly or through investment funds, in projects in less developed countries. Under the bill, the proceeds from the eventual sale of those investments, including any accumulated earnings, would be returned to USIDFC. H.R. 5105 does not specify, and CBO cannot determine, whether those proceeds would be available for further spending. If they became available, CBO would treat those effects as direct spending.

The current budgetary treatment of investing federal funds in nonfederal securities is specified in Circular A–11, published by the Office of Management and Budget.² Under that treatment, the purchase of private securities is to be recorded as an outlay at the time of purchase and in the amount of the face value of the purchase. Upon the sale of such securities, CBO expects that the proceeds would be recorded as discretionary offsetting collections.

CBO expects investments in private securities probably would accrue earnings over the period they are held. With the potential for greater rates of return, government investments in private securities could increase the expected value of budgetary resources, but such investments also would expose the government, future taxpayers, and beneficiaries of federal programs to greater risk. In-

²See Office of Management and Budget, *Preparation, Submission, and Execution of the Budget*, Circular A–11 (June 2018), www.whitehouse.gov/omb/circulars.

vestments in less developed countries may be riskier than investments in other private securities. When that risk is taken into account, the returns on private securities would be no greater than the returns on government securities, CBO estimates. In addition, the Department of the Treasury would have to pay interest on the additional borrowing necessary to purchase private securities. In CBO's view, any earnings that result from private investments are equivalent to changes in net interest costs; such earnings are not shown in this estimate because, based on long-standing precedents, CBO does not include in cost estimates the net interest costs associated with the estimated budgetary effects of legislation.

OPIC currently provides loan guarantees to investment funds, and the Administration indicated that it would build on that experience by implementing equity investing through investment funds, rather than through direct investments. The Administration also indicated that it could eventually invest up to a few hundred million dollars a year. On the basis of that information and adjusting for a phase-in period, CBO estimates that implementing the authority to invest in equities would require additional appropriations of \$50 million in 2020, growing to \$250 million in 2023, for a total cost of \$525 million over the 2020–2023 period. CBO expects that USIDFC would retain those investments for a period of 8 to 10 years before deciding to sell; thus, the proceeds from such sales would probably not be returned to USIDFC until after 2028.

Other Assistance. The bill would authorize USIDFC to undertake business promotion activities such as feasibility studies and technical assistance to help projects acquire USIDFC financing. H.R. 5105 also would allow USIDFC to administer ancillary programs and projects to support its financing activities, such as providing grants or technical support for small businesses. On the basis of information from the Administration about its 2019 budget request for such activities, CBO estimates that implementing those provisions would require additional appropriations of about \$15 million a year and cost \$53 million over the 2020–2023 period.

Fees for Activities Related to Specific Projects. H.R. 5105 would authorize USIDFC to charge and retain fees for services, subject to future appropriations action. In addition to its fees for loans and insurance, OPIC charges fees for certain administrative transactions related to specific projects, such as travel and legal work. The vast majority of the fees are collected at the start of the project and under current law CBO expects such collections will end starting in 2019. Under current practice, fees for insurance products are treated as discretionary offsetting collections; however, fees for loans and loan guarantees are currently deposited into loan financing accounts, which are off-budget. Under the bill, both types of fees would be treated as discretionary offsetting collections. On the basis of information about fees collected in recent years, CBO estimates that those collections under the bill would total \$34 million in 2020 and \$139 million over the 2020–2023 period. Under H.R. 5105, spending on the underlying activity associated with these fees would be treated as direct spending and is discussed under that heading below.

Inspector General. Section 104 would establish an inspector general (IG) for USIDFC. Currently, the IG for USAID covers the programs being folded into USIDFC. Based on information from the

Administration about costs for personnel, contract staff, office space, travel, and other expenses and adjusting for reduced costs for the USAID IG, CBO estimates that implementing that requirement would have a net cost of \$3 million a year over the 2020–2023 period, assuming appropriation of the necessary amounts.

Insurance Premiums. OPIC’s current insurance programs offer protection against political risks associated with investing overseas, such as expropriation, terrorism, political violence or civil strife, and currency inconvertibility. The average policy term is about 11 years, and collections from premiums are \$10 million each year. Under the bill, in addition to absorbing OPIC’s insurance portfolio, USIDFC would be allowed to sell insurance to international financial institutions and development finance institutions from other countries. On the basis of information from the Administration, and adjusting for projected growth under the bill, CBO estimates that under this provision USIDFC would collect an additional \$5 million in insurance premiums over the 2020–2023 period. Payments made for insurance claims are treated as direct spending and are discussed under that heading below.

Direct Spending

CBO estimates that enacting H.R. 5105 would increase direct spending by \$113 million over the 2019–2028 period (see Table 3 below).

TABLE 3. CHANGES IN DIRECT SPENDING UNDER H.R. 5105, THE BUILD ACT OF 2018

By Fiscal Year, in Millions of Dollars													
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2019- 2023	2019- 2028
INCREASES IN DIRECT SPENDING													
Activities Related to Specific Projects													
Estimated Budget Authority	0	0	12	12	13	13	14	14	14	11	9	50	112
Estimated Outlays	0	0	12	12	13	13	14	14	14	11	9	50	112
Insurance Claim													
Estimated Budget Authority	0	0	*	*	*	*	*	*	*	*	*	*	1
Estimated Outlays	0	0	*	*	*	*	*	*	*	*	*	*	1
Total Changes in Direct Spending													
Estimated Budget Authority	0	0	12	12	13	13	14	14	14	11	9	50	113
Estimated Outlays	0	0	12	12	13	13	14	14	14	11	9	50	113

Components may not sum to totals because of rounding; * = between zero and \$500,000.

Activities Related to Specific Projects. As described under Spending Subject to Appropriation, H.R. 5105 would authorize USIDFC to undertake certain administrative transactions related to specific projects. Under current law, OPIC has spent roughly \$24 million a year on such transactions; however, starting in 2019 when OPIC’s authorization expires, CBO expects that spending will end. The bill would narrow the scope of such activity to travel, legal expenses, and claims settlement. CBO estimates that fees charged for those purposes would exceed spending. Although the bill clearly specifies that the fees would be collected subject to appropriation, it would allow USIDFC to perform underlying activities without prior appropriation action. On the basis of information about such

activity in recent years, CBO estimates that USIDFC would spend \$12 million in 2020; that amount would grow to \$14 million in 2024 and start to decline in 2025 when USIDF's authorization would expire. In total, CBO estimates, enacting the bill would increase direct spending by \$112 million over the 2020–2028 period.

Insurance Claims. Using information from the Administration about OPIC's current insurance portfolio and adjusting for new insurance policies under the bill, CBO estimates that USIDFC would pay small amounts each year in additional claims, resulting in an increase in direct spending of less than \$500,000 each year and totaling \$1 million over the 2020–2028 period.

Interest Earned on Treasury Securities. Section 304 would authorize the USIDFC to invest balances in securities of the federal government and to use the resulting interest earnings for its ongoing programs. Under current law, OPIC has similar authority. Under a long-standing convention, OPIC's interest earnings are credited to the House and Senate Appropriations Committees as discretionary offsetting collections, thereby reducing OPIC's need for appropriations.

Under the bill, CBO would treat interest earnings from OPIC's reinvestments and new investments made by USIDFC as mandatory offsetting collections, in accordance with the principle that interest on federal securities is an intragovernmental transfer (the interest is paid by the Treasury and thus appears as an offsetting payment elsewhere in the federal budget).

USIDFC would spend its interest earnings on project-specific transactions and insurance claims, as described above. That spending would be treated as direct spending.

Other Provisions. H.R. 5105 would allow USIDFC to accept gifts and donations to carry out its functions and would require the agency to seek cost sharing or reimbursements for business promotion activities such as feasibility studies and technical assistance. CBO estimates that enacting those provisions would have insignificant net effects on direct spending.

PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 4.

TABLE 4. CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 5105 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FOREIGN AFFAIRS ON MAY 9, 2018

By Fiscal Year, in Millions of Dollars													
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2018-2023	2018-2028
NET INCREASE IN THE DEFICIT													
Statutory Pay-As-You-Go Effect	0	0	12	12	13	13	14	14	14	11	9	50	113

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO estimates that enacting H.R. 5105 would not increase net direct spending by more than \$2.5 billion or on-budget deficits by

more than \$5 billion in any of the four consecutive 10-year periods beginning in 2029.

MANDATES

H.R. 5105 contains no intergovernmental or private-sector mandates as defined in UMRA.

ESTIMATE PREPARED BY

Federal Costs: Sunita D'Monte
Mandates: Jon Sperl

ESTIMATE REVIEWED BY

Sarah Jennings
Chief, Defense, International Affairs, and Veterans' Affairs Cost
Estimate Unit
Leo Lex
Deputy Assistant Director for Budget Analysis
Theresa Gullo
Assistant Director for Budget Analysis

DIRECTED RULE MAKING

Pursuant to clause 3(c) of House Rule XIII, as modified by section 3(i) of H. Res. 5 during the 115th Congress, the committee notes that H.R. 5105 contains no directed rule-making provisions.

NON-DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House Rule XIII, the committee states that no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

PERFORMANCE GOALS AND OBJECTIVES

The objective of this legislation is to mobilize and facilitate the participation of private sector capital and skills in the economic development of less developed countries, and countries in transition from nonmarket to market economies, through the provision of credit, capital, and other financial support in order to complement the development assistance objectives, and advance the foreign policy interests, of the United States. To ensure appropriate performance of the new Corporation's activities and proper oversight by Congress, Section 103 establishes a Chief Risk Officer of the U.S. International Development Finance Corporation to limit risks to the Corporation's portfolio. Section 104 requires the President to appoint and maintain an independent Inspector General of the Corporation. Section 304 subjects the Corporation's lending activities to the Federal Credit Reform Act to make its spending transparent to taxpayers and accountable to Congress. Section 401 establishes Risk and Audit Committees at the Corporation to ensure appropriate oversight of the Corporation's investment strategies and fi-

nances. Section 402 requires the Corporation to develop a performance measurement system to evaluate and monitor projects supported by the Corporation. Section 403 requires the Corporation to submit a detailed report to Congress of its operations each year. Section 404 requires the Corporation to make detailed country-level information available to the public, including descriptions of any support provided by the Corporation to projects in those countries. Section 406 requires the Corporation to notify Congress not later than 15 days prior to making a financial commitment of \$10 million or more. Section 502 requires the Corporation to ensure that private sector entities are afforded an opportunity to support projects before any Corporation support may be provided in order to ensure that Corporation support is additional to—and does not compete with—the private sector.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 5105 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

NEW ADVISORY COMMITTEES

H.R. 5105 does not establish or authorize any new advisory committees.

EARMARK IDENTIFICATION

H.R. 5105 contains no congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of House Rule XXI.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title; Table of Contents.

States that this Act may be cited as “The Better Utilization of Investments Leading to Development Act of 2018” or the “BUILD Act of 2018.”

Section. 2. Definitions.

Defines four terms used throughout the bill.

TITLE I—ESTABLISHMENT

Section 101. Statement of Policy.

States that it is the policy of the United States to facilitate market-based private sector development and economic growth in less developed countries through the provision of credit, capital, and other financial support to further U.S. foreign policy interests, help private sector actors overcome market gaps without distorting markets, and help lessen the reliance on traditional forms of foreign assistance over time.

The committee recognizes the importance of private investment, with its accompanying skills, to economic progress in developing countries. Private investment’s role in the growth of private enterprise in developing countries must be more fully realized in order to achieve the objectives of this Act.

Section 102. United States International Development Finance Corporation.

Establishes the U.S. International Development Finance Corporation (the "Corporation") under the general policy guidance of the Secretary of State.

The purpose of the Corporation is to promote and support the active participation of private enterprise in providing capital and skills to help further the development of less developed countries. The Corporation's activities will therefore complement the development assistance objective pursued by USAID and other developmental agencies of the United States Government.

In its support of private sector projects under Title II, the Corporation is expected to operate on a self-sustaining basis. In deciding whether to assist in the financing of a project, the Corporation will consider the economic and financial soundness of the proposal.

This section also sets the Corporation's focus on supporting private sector investment in low income and lower-middle income countries as defined by the World Bank.

Section 103. Management of Corporation.

Establishes the positions of Chief Executive Officer (CEO), Deputy Chief Executive Officer, Chief Development Officer, and Chief Risk Officer. Also establishes a Board of Directors for the Corporation composed of officers from the Departments of State, Treasury, and Commerce, the U.S. Agency for International Development (USAID), and the CEO of the Corporation. The President shall select a Chairman of the Board from among these individuals, while the USAID representative will serve as Vice Chair of the Board. Four other non-government individuals will be appointed by the President selected from lists submitted by congressional leadership.

Subsection (b) vests the powers of the Corporation in the Board of Directors. The latter may delegate authority to Corporation officers, such as the CEO, who may then exercise corporate powers under authority of the Board in accordance with the terms of such delegations. Subsection (d) provides that the CEO of the Corporation shall be appointed by the President of the United States subject to Senate confirmation. In making this appointment the President shall take into account the appointee's private business experience. The CEO of the Corporation is charged with the Corporation's management and operations under bylaws and policies established by the Board of Directors.

The committee carefully considered how to solidify strong institutional linkages between the Corporation and USAID. This relationship is embodied by the establishment of a Chief Development Officer (CDO) in subsection (g). The CDO's central role will be to ensure that USAID officers have "training, awareness and access to" the Corporation's financial tools, and that the DFC has access to USAID resources in pursuit of development projects. While the CDO will report directly to the Board, much of these day to day responsibilities will occur under the guidance of the Chief Executive Officer.

Section 104. Inspector General of the Corporation.

Establishes an Inspector General for the Corporation pursuant to the Inspector General Act of 1978.

Section 105. Independent Accountability Mechanism.

Requires the Board to establish a transparency and independent accountability mechanism to annually evaluate and report to the Board and Congress regarding compliance with the Board's statutory mandates and provide a forum to resolve concerns regarding the impacts of specific Corporation-supported projects.

The committee is aware of the establishment in recent years of various mechanisms within other DFIs to increase accountability and transparency. This section establishes a similar office for the Corporation. However, recognizing under the Inspector General Act that agency compliance and reporting is a core Inspector General duty, the committee expects that the Inspector General of the Corporation and independent accountability mechanism established by this section shall not overlap and result in duplicate work or reporting to the committee.

TITLE II—AUTHORITIES

Section 201. Authorities Relating to Provision of Support.

Authorizes the Corporation to make loans, guaranties, limited equity investments, and to issue political risk insurance. Requires a clearly defined development rationale for equity investments and limits equity investments to no more than 30 percent of the aggregate equity investments for a project and no more than 35 percent of the Corporation's aggregate exposure. Authorizes feasibility studies for the planning, development, and management of potential bilateral and multilateral development projects.

Subsection (e) provides the Corporation with the authority to carry out a range of investment promotion activities, utilizing where appropriate, private organizations and investors. These activities, which may include incentive grants and other financing arrangements, are concerned with the identification, evaluation, and development of private investment opportunities. They will include pre-investment studies and other investigations at various stages of project development. This subsection thus incorporates activities previously carried out under the Foreign Assistance Act by OPIC. As in the past, these techniques may include financial participation which would be repayable to the Corporation if the investor went forward with the project.

Subsection (f) authorizes the Corporation to administer special private enterprise projects and programs relating to its objectives, for which purpose it can also accept and use funds which may be transferred to it. The Corporation might, for example, be asked to administer on behalf of USAID, technical or capital assistance programs relating to private enterprise or concerning institutions, such as intermediate credit institutions and cooperatives, closely related to private enterprise activities. USAID funds, which may be transferred to the Corporation for this purpose, would be used in accordance with the terms and conditions governing USAID's use of such funds.

Subsection (g) also authorizes the Corporation to establish and operate enterprise funds subject to safeguards and oversight mechanisms. Sets forth the purposes for which such funds may be established, including the promotion of economic freedom and private sector development. May establish boards of directors for enterprise

funds, reporting requirements, and regular auditing procedures. Caps the authority of each enterprise fund at 7 years after the first expenditure of the fund.

Section 202. Terms and Conditions.

Imposes terms and conditions on support provided by the Corporation. The final maturity of loans and loan guaranties is capped at 25 years. Limits loan guaranties to transactions involving lenders determined to be responsible by the Corporation. Requires the Corporation to prescribe standards for use in periodically assessing the credit risk of new and existing loans or loan guaranties.

Section 203. Payment of Losses.

Provides for payment for default on a guaranteed loan to the holder of the loan. Directs the Corporation to pursue recovery of the loss from the borrower and the Attorney General to take appropriate action to enforce any rights accruing to the United States under the Act.

Section 204. Termination.

Title II authorities are authorized to continue until 7 years after the date of enactment of this Act, by which time sufficient experience should be gained for reassessment by the committee of the Corporation's programs.

TITLE III—ADMINISTRATIVE AND GENERAL PROVISIONS

Section 301. Operations.

Requires bilateral investment agreements and claims settlement procedures.

Section 302. Corporate Powers.

Provides those general corporate powers which are appropriate to the operations of a government corporation carrying out the purposes and activities specified in this title.

Section 303. Maximum Contingent Liability.

Sets forth the maximum contingent liability of the Corporation at \$60 billion, adjusted according to the Consumer Price Index over time.

Section 304. Corporate Funds.

Establishes a Corporate Capital Account in the Treasury to consist of funds made available to the Corporation to discharge its liabilities. Authorizes transfer of revenues collected by the Overseas Private Investment Corporation (OPIC) to the Corporation. Requires the Corporation to annually assess a dividend to the Treasury if the Corporation's insurance portfolio is more than 100 per cent reserved.

Section 305. Coordination with Other Development Agencies.

Encourages the Corporation to use MCC's constraints analysis and other relevant data of the Department of State, and other departments or agencies with a development function to better inform

the Corporation's decisions regarding the provision of support under Title II.

TITLE IV—MONITORING, EVALUATION, AND REPORTING

Section 401. Establishment of Risk and Audit Committees.

Establishes risk and audit committees to carry out oversight of the Corporation and its risk governance structure.

Section 402. Performance Measures.

Establishes a performance measurement system to evaluate and monitor investment projects of the Corporation.

Section 403. Annual Report.

Requires annual reports to appropriate congressional committees, including assessments of the economic and social development impacts of projects supported by the Corporation.

Section 404. Publicly Available Project Information.

Requires the Corporation to make information about projects supported by the Corporation publicly available.

Section 405. Engagement with Investors.

Requires the Corporation, in cooperation with USAID, to develop a strategic relationship with private entities focused on the nexus of business opportunities and development priorities to pursue projects consistent with State Department and USAID goals.

Section 406. Notification of Support to be Provided by the Corporation.

Not later than 15 days prior to the Corporation making a financial commitment over \$10 million, the CEO shall submit a written notification to the committee. Such notifications will allow the committee to monitor the overall portfolio of the Corporation's support and its development objectives. The committee recognizes that given the Corporation's interaction with the private sector, time certainty in the congressional notification process is critical.

TITLE V—CONDITIONS, RESTRICTIONS, AND PROHIBITIONS

Section 501. Limitations and Preferences.

Sets a ceiling of 5 percent of the maximum contingent liability of the Corporation to be issued to any single entity. Establishes preferences for projects sponsored by or involving U.S. persons, for countries in compliance with international trade obligations, and for countries that are making progress toward economic policies that promote private investment.

Section 502. Additionality and Avoidance of Market Distortion.

Requires the Corporation to ensure private sector entities are afforded opportunities to support the project instead of the project receiving support from the Corporation. Requires the Corporation to develop appropriate safeguards, policies, and guidelines to ensure that Corporation investments supplement but do not compete with or crowd out private sector entities.

Section 503. Prohibition on Support in Sanctioned Countries and with Sanctioned Persons.

Prohibits the Corporation from supporting projects in a country the government of which has repeatedly provided support for acts of international terrorism. Prohibits the Corporation from supporting a project that benefits any entity subject to sanctions imposed by the United States.

Section 504. Penalties for Misrepresentation, Fraud, and Bribery.

Prohibits payments under the Act for losses arising out of fraud or misrepresentation. Imposes criminal penalties for acts of fraud against the Corporation. Prohibits insurance payments in connection with final judgments concluding certain acts constituted a violation of the Foreign Corrupt Practices Act.

TITLE VI—TRANSITIONAL PROVISIONS

Section 601. Definitions.

Defines two terms used throughout this title.

Section 602. Reorganization Plan.

Requires the President to transmit to congressional committees within 120 days of enactment a reorganization plan regarding the transfer and consolidation or reorganization of agencies under this Act.

Section 603. Transfer of Functions.

Transfers functions, personnel, assets, and liabilities of the OPIC, USAID's Development Credit Authority, and the existing Legacy Credit portfolio under the Urban Environment Program and any other direct loan programs and non-Development Credit Authority guaranty programs authorized by the Foreign Assistance Act. Authorizes the transfer of USAID's Office of Private Capital and Microenterprise, the enterprise funds and all sovereign loan accounts.

Section 604. Termination of Overseas Private Investment Corporation and Other Superseded Authorities.

Provides for the termination of OPIC and associated statutory authorities.

Section 605. Transitional Authorities.

Authorizes non-Corporation officials to assist the Corporation with the transfer and integration of agency elements into the Corporation. Establishes authority for acting officials at the Corporation during the transition period and for the transfer of personnel, assets, and obligations from existing agencies to the Corporation.

Section 606. Savings Provisions.

States that completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Corporation. Provides for the continuance of pending proceedings notwithstanding the transfer of operations to the Corporation.

Section 607. Other Terminations.

Terminates offices for transferred positions.

Section 608. Incidental Transfers.

Authorizes the Director of the Office of Management and Budget to make additional dispositions of personnel, assets, and liabilities in connection with functions transferred by the Act.

Section 609. Reference.

States that references in Federal law to transferred offices shall be deemed to refer to the appropriate component of the Corporation.

Section 610. Conforming Amendments.

Makes a series of conforming amendments to existing statutory authorities.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART D—PAY AND ALLOWANCES

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Secretary of Defense.

Deputy Secretary of State.

Deputy Secretary of State for Management and Resources.

Administrator, Agency for International Development.

Administrator of the National Aeronautics and Space Administration.

Deputy Secretary of Veterans Affairs.

Deputy Secretary of Homeland Security.

Under Secretary of Homeland Security for Management.

Deputy Secretary of the Treasury.

Deputy Secretary of Transportation.

Chairman, Nuclear Regulatory Commission.

Chairman, Council of Economic Advisers.

Director of the Office of Science and Technology.

Director of the Central Intelligence Agency.

Secretary of the Air Force.

Secretary of the Army.

Secretary of the Navy.

Administrator, Federal Aviation Administration.

Director of the National Science Foundation.

Deputy Attorney General.

Deputy Secretary of Energy.

Deputy Secretary of Agriculture.

Director of the Office of Personnel Management.

Administrator, Federal Highway Administration.

Administrator of the Environmental Protection Agency.

Chief Management Officer of the Department of Defense.

Deputy Secretary of Labor.

Deputy Director of the Office of Management and Budget.

Independent Members, Thrift Depositor Protection Oversight Board.

Deputy Secretary of Health and Human Services.

Deputy Secretary of the Interior.

Deputy Secretary of Education.

Deputy Secretary of Housing and Urban Development.

Deputy Director for Management, Office of Management and Budget.

Director of the Federal Housing Finance Agency.

Deputy Commissioner of Social Security, Social Security Administration.

Administrator of the Community Development Financial Institutions Fund.

Deputy Director of National Drug Control Policy.

Members, Board of Governors of the Federal Reserve System.

Under Secretary of Transportation for Policy.

Chief Executive Officer, Millennium Challenge Corporation.

Principal Deputy Director of National Intelligence.

Director of the National Counterterrorism Center.

Administrator of the Federal Emergency Management Agency.

Federal Transit Administrator.

Chief Executive Officer, United States International Development Finance Corporation.

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate de-

terminated with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Export Administration, and Under Secretary of Commerce for Travel and Tourism.

Under Secretaries of State (6).

Under Secretaries of the Treasury (3).

Administrator of General Services.

Administrator of the Small Business Administration.

Deputy Administrator, Agency for International Development.

Chairman of the Merit Systems Protection Board.

Chairman, Federal Communications Commission.

Chairman, Board of Directors, Federal Deposit Insurance Corporation.

Chairman, Federal Energy Regulatory Commission.

Chairman, Federal Trade Commission.

Chairman, Surface Transportation Board.

Chairman, National Labor Relations Board.

Chairman, Securities and Exchange Commission.

Chairman, National Mediation Board.

Chairman, Railroad Retirement Board.

Chairman, Federal Maritime Commission.

Comptroller of the Currency.

Commissioner of Internal Revenue.

Under Secretary of Defense for Acquisition and Sustainment.

Under Secretary of Defense for Policy.

Under Secretary of Defense (Comptroller).

Under Secretary of Defense for Personnel and Readiness.

Under Secretary of Defense for Intelligence.

Deputy Chief Management Officer of the Department of Defense.

Under Secretary of the Air Force.

Under Secretary of the Army.

Under Secretary of the Navy.

Deputy Administrator of the National Aeronautics and Space Administration.

Deputy Director of the Central Intelligence Agency.

Director of the Office of Emergency Planning.

Director of the Peace Corps.

Deputy Director, National Science Foundation.

President of the Export-Import Bank of Washington.

Members, Nuclear Regulatory Commission.

Members, Defense Nuclear Facilities Safety Board.

Director of the Federal Bureau of Investigation, Department of Justice.

Administrator of the National Highway Traffic Safety Administration.

Administrator of the Federal Motor Carrier Safety Administration.

Administrator, Federal Railroad Administration.

Chairman, National Transportation Safety Board.

Chairman of the National Endowment for the Arts the incumbent of which also serves as Chairman of the National Council on the Arts.

Chairman of the National Endowment for the Humanities.

Director of the Federal Mediation and Conciliation Service.

【President, Overseas Private Investment Corporation.】

Chairman, Postal Regulatory Commission.

Chairman, Occupational Safety and Health Review Commission.

Governor of the Farm Credit Administration.

Chairman, Equal Employment Opportunity Commission.

Chairman, Consumer Product Safety Commission.

Under Secretaries of Energy (3).

Chairman, Commodity Futures Trading Commission.

Deputy United States Trade Representatives (3).

Chief Agricultural Negotiator, Office of the United States Trade Representative.

Chief Innovation and Intellectual Property Negotiator, Office of the United States Trade Representative.

Chairman, United States International Trade Commission.

Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.

Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.

Associate Attorney General.

Chairman, Federal Mine Safety and Health Review Commission.

Chairman, National Credit Union Administration Board.

Deputy Director of the Office of Personnel Management.

Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

Under Secretary of Agriculture for Natural Resources and Environment.

Under Secretary of Agriculture for Research, Education, and Economics.

Under Secretary of Agriculture for Food Safety.

Under Secretary of Agriculture for Marketing and Regulatory Programs.

Director, Institute for Scientific and Technological Cooperation.

Under Secretary of Agriculture for Rural Development.

Administrator, Maritime Administration.

Executive Director Property Review Board.

Deputy Administrator of the Environmental Protection Agency.

Archivist of the United States.

Executive Director, Federal Retirement Thrift Investment Board.

Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.

Director, Trade and Development Agency.

Under Secretary for Health, Department of Veterans Affairs.
Under Secretary for Benefits, Department of Veterans Affairs.

Under Secretary for Memorial Affairs, Department of Veterans Affairs.

Under Secretaries, Department of Homeland Security.

Director of the Bureau of Citizenship and Immigration Services.

Director of the Office of Government Ethics.

Administrator for Federal Procurement Policy.

Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Director of the Office of Thrift Supervision.

Chairperson of the Federal Housing Finance Board.

Executive Secretary, National Space Council.

Controller, Office of Federal Financial Management, Office of Management and Budget.

Administrator, Office of the Assistant Secretary for Research and Technology of the Department of Transportation.

Deputy Director for Demand Reduction, Office of National Drug Control Policy.

Deputy Director for Supply Reduction, Office of National Drug Control Policy.

Deputy Director for State and Local Affairs, Office of National Drug Control Policy.

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

Register of Copyrights.

Commissioner of U.S. Customs and Border Protection, Department of Homeland Security

Under Secretary of Education

Administrator of the Centers for Medicare & Medicaid Services.

Administrator of the Office of Electronic Government.

Administrator, Pipeline and Hazardous Materials Safety Administration.

Director, Pension Benefit Guaranty Corporation.

Deputy Administrators, Federal Emergency Management Agency.

Chief Executive Officer, International Clean Energy Foundation.

Independent Member of the Financial Stability Oversight Council (1).

Director of the Office of Financial Research.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

Associate Administrator of the National Aeronautics and Space Administration.

Assistant Administrators, Agency for International Development (6).

Regional Assistant Administrators, Agency for International Development (4).

Assistant Secretaries of Agriculture (3).

Assistant Secretaries of Commerce (11).

Assistant Secretaries of Defense (14).

Assistant Secretaries of the Air Force (4).

Assistant Secretaries of the Army (5).

Assistant Secretaries of the Navy (4).

Assistant Secretaries of Health and Human Services (6).

Assistant Secretaries of the Interior (6).

Assistant Attorneys General (11).

Assistant Secretaries of Labor (10), one of whom shall be the Assistant Secretary of Labor for Veterans' Employment and Training.

Administrator, Wage and Hour Division, Department of Labor.

Assistant Secretaries of State (24) and 4 other State Department officials to be appointed by the President, by and with the advice and consent of the Senate.

Assistant Secretaries of the Treasury (10).

Members, United States International Trade Commission (5).

Assistant Secretaries of Education (10).

General Counsel, Department of Education.

Director of Civil Defense, Department of the Army.

Deputy Director of the Office of Emergency Planning.

Deputy Director of the Office of Science and Technology.

Deputy Director of the Peace Corps.

(3). Assistant Directors of the Office of Management and Budget

General Counsel of the Department of Agriculture.

General Counsel of the Department of Commerce.

General Counsel of the Department of Defense.

General Counsel of the Department of Health and Human Services.

Solicitor of the Department of the Interior.

Solicitor of the Department of Labor.

General Counsel of the National Labor Relations Board.

General Counsel of the Department of the Treasury.

First Vice President of the Export-Import Bank of Washington.

Members, Council of Economic Advisers.

Members, Board of Directors of the Export-Import Bank of Washington.

Members, Federal Communications Commission.

Member, Board of Directors of the Federal Deposit Insurance Corporation.

Directors, Federal Housing Finance Board.

Members, Federal Energy Regulatory Commission.

Members, Federal Trade Commission.

Members, Surface Transportation Board.

Members, National Labor Relations Board.

Members, Securities and Exchange Commission.

Members, Merit Systems Protection Board.

Members, Federal Maritime Commission.

Members, National Mediation Board.

Members, Railroad Retirement Board.
 Director of Selective Service.
 Associate Director of the Federal Bureau of Investigation,
 Department of Justice.
 Members, Equal Employment Opportunity Commission (4).
 Director, Community Relations Service.
 Members, National Transportation Safety Board.
 General Counsel, Department of Transportation.
 Deputy Administrator, Federal Aviation Administration.
 Assistant Secretaries of Transportation (5).
 Deputy Federal Highway Administrator.
 Administrator of the Saint Lawrence Seaway Development
 Corporation.
 Assistant Secretary for Science, Smithsonian Institution.
 Assistant Secretary for History and Art, Smithsonian Insti-
 tution.
 Deputy Administrator of the Small Business Administration.
 Assistant Secretaries of Housing and Urban Development
 (8).
 General Counsel of the Department of Housing and Urban
 Development.
 Commissioner of Interama.
 Federal Insurance Administrator, Federal Emergency Man-
 agement Agency.
 [Executive Vice President, Overseas Private Investment Cor-
 poration.]
 Members, National Credit Union Administration Board (2).
 Members, Postal Regulatory Commission (4).
 Members, Occupational Safety and Health Review Commis-
 sion.
 Deputy Under Secretaries of the Treasury (or Assistant Sec-
 retaries of the Treasury) (2).
 Members, Consumer Product Safety Commission (4).
 Members, Commodity Futures Trading Commission.
 Director of Nuclear Reactor Regulation, Nuclear Regulatory
 Commission.
 Director of Nuclear Material Safety and Safeguards, Nuclear
 Regulatory Commission.
 Director of Nuclear Regulatory Research, Nuclear Regulatory
 Commission.
 Executive Director for Operations, Nuclear Regulatory Com-
 mission.
 President, Government National Mortgage Association, De-
 partment of Housing and Urban Development.
 Assistant Secretary of Commerce for Oceans and Atmos-
 phere, the incumbent of which also serves as Deputy Adminis-
 trator of the National Oceanic and Atmospheric Administra-
 tion.
 Director, Bureau of Prisons, Department of Justice.
 Assistant Secretaries of Energy (8).
 General Counsel of the Department of Energy.
 Administrator, Economic Regulatory Administration, Depart-
 ment of Energy.
 Administrator, Energy Information Administration, Depart-
 ment of Energy.

Director, Office of Indian Energy Policy and Programs, Department of Energy.

Director, Office of Science, Department of Energy.

Assistant Secretary of Labor for Mine Safety and Health.

Members, Federal Mine Safety and Health Review Commission.

President, National Consumer Cooperative Bank.

Special Counsel of the Merit Systems Protection Board.

Chairman, Federal Labor Relations Authority.

Assistant Secretaries, Department of Homeland Security.

General Counsel, Department of Homeland Security.

Officer for Civil Rights and Civil Liberties, Department of Homeland Security.

Chief Financial Officer, Department of Homeland Security.

Chief Information Officer, Department of Homeland Security.

Deputy Director, Institute for Scientific and Technological Cooperation.

Director of the National Institute of Justice.

Director of the Bureau of Justice Statistics.

Chief Counsel for Advocacy, Small Business Administration.

Assistant Administrator for Toxic Substances, Environmental Protection Agency.

Assistant Administrator, Office of Solid Waste, Environmental Protection Agency.

Assistant Administrators, Environmental Protection Agency (8).

Director of Operational Test and Evaluation, Department of Defense.

Director of Cost Assessment and Program Evaluation, Department of Defense.

Special Representatives of the President for arms control, nonproliferation, and disarmament matters, Department of State.

Ambassadors at Large.

Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.

Assistant Secretaries, Department of Veterans Affairs (7).

General Counsel, Department of Veterans Affairs.

Commissioner of Food and Drugs, Department of Health and Human Services

Chairman, Board of Veterans' Appeals.

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Director, United States Marshals Service.

Chairman, United States Parole Commission.

Director, Bureau of the Census, Department of Commerce.

Director of the Institute of Museum and Library Services.

Chief Financial Officer, Department of Agriculture.

Chief Financial Officer, Department of Commerce.

Chief Financial Officer, Department of Education.

Chief Financial Officer, Department of Energy.

Chief Financial Officer, Department of Health and Human Services.

Chief Financial Officer, Department of Housing and Urban Development.

Chief Financial Officer, Department of the Interior.

Chief Financial Officer, Department of Justice.

Chief Financial Officer, Department of Labor.

Chief Financial Officer, Department of State.

Chief Financial Officer, Department of Transportation.

Chief Financial Officer, Department of the Treasury.

Chief Financial Officer, Department of Veterans Affairs.

Chief Financial Officer, Environmental Protection Agency.

Chief Financial Officer, National Aeronautics and Space Administration.

Commissioner, Office of Navajo and Hopi Indian Relocation.

Deputy Under Secretary of Defense for Research and Engineering.

Deputy Under Secretary of Defense for Acquisition and Sustainment.

Deputy Under Secretary of Defense for Policy.

Deputy Under Secretary of Defense for Personnel and Readiness.

Deputy Under Secretary of Defense (Comptroller).

Deputy Under Secretary of Defense for Intelligence.

General Counsel of the Department of the Army.

General Counsel of the Department of the Navy.

General Counsel of the Department of the Air Force.

Liaison for Community and Junior Colleges, Department of Education.

Director of the Office of Educational Technology.

Director of the International Broadcasting Bureau.

The Commissioner of Labor Statistics, Department of Labor.

Administrator, Rural Utilities Service, Department of Agriculture.

Chief Information Officer, Department of Agriculture.

Chief Information Officer, Department of Commerce.

Chief Information Officer, Department of Defense (unless the official designated as the Chief Information Officer of the Department of Defense is an official listed under section 5312, 5313, or 5314 of this title).

Chief Information Officer, Department of Education.

Chief Information Officer, Department of Energy.

Chief Information Officer, Department of Health and Human Services.

Chief Information Officer, Department of Housing and Urban Development.

Chief Information Officer, Department of the Interior.

Chief Information Officer, Department of Justice.

Chief Information Officer, Department of Labor.

Chief Information Officer, Department of State.

Chief Information Officer, Department of Transportation.

Chief Information Officer, Department of the Treasury.

Chief Information Officer, Department of Veterans Affairs.

Chief Information Officer, Environmental Protection Agency.

Chief Information Officer, National Aeronautics and Space Administration.

Chief Information Officer, Agency for International Development.

Chief Information Officer, Federal Emergency Management Agency.

Chief Information Officer, General Services Administration.

Chief Information Officer, National Science Foundation.

Chief Information Officer, Nuclear Regulatory Agency.

Chief Information Officer, Office of Personnel Management.

Chief Information Officer, Small Business Administration.

Chief Information Officer of the Intelligence Community.

General Counsel of the Central Intelligence Agency.

Principal Deputy Administrator, National Nuclear Security Administration.

Additional Deputy Administrators of the National Nuclear Security Administration (3), but if the Deputy Administrator for Naval Reactors is an officer of the Navy on active duty, (2).

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

General Counsel of the Office of the Director of National Intelligence.

Chief Medical Officer, Department of Homeland Security.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

Administrator of the National Capital Transportation Agency.

Associate Administrators of the Small Business Administration (4).

Associate Administrators, National Aeronautics and Space Administration (7).

Associate Deputy Administrator, National Aeronautics and Space Administration.

Deputy Associate Administrator, National Aeronautics and Space Administration.

Archivist of the United States.

Assistant Secretary of Health and Human Services for Administration.

Assistant Attorney General for Administration.

Assistant and Science Adviser to the Secretary of the Interior.

Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice.

Chairman of the Renegotiation Board.

Chairman of the Subversive Activities Control Board.

Chief Counsel for the Internal Revenue Service, Department of the Treasury.

Commissioner, Federal Acquisition Service, General Services Administration.

Director, United States Fish and Wildlife Service, Department of the Interior.

Commissioner of Indian Affairs, Department of the Interior. Commissioners, Indian Claims Commission (5).

Commissioner, Public Buildings Service, General Services Administration.

Commissioner of Reclamation, Department of the Interior.

Commissioner of Vocational Rehabilitation, Department of Health and Human Services.

Commissioner of Welfare, Department of Health and Human Services.

Director, Bureau of Mines, Department of the Interior.

Director, Geological Survey, Department of the Interior.

Deputy Commissioner of Internal Revenue, Department of the Treasury.

Associate Director of the Federal Mediation and Conciliation Service.

Associate Director for Volunteers, Peace Corps.

Associate Director for Program Development and Operations, Peace Corps.

Assistants to the Director of the Federal Bureau of Investigation, Department of Justice (2).

Assistant Directors, Office of Emergency Planning (3).

Fiscal Assistant Secretary of the Treasury.

General Counsel of the Agency for International Development.

General Counsel of the Nuclear Regulatory Commission.

General Counsel of the National Aeronautics and Space Administration.

Manpower Administrator, Department of Labor.

Members, Renegotiation Board.

Members, Subversive Activities Control Board.

Assistant Administrator of General Services.

Director, United States Travel Service, Department of Commerce.

Assistant Director (Program Planning, Analysis and Research), Office of Economic Opportunity.

Deputy Director, National Security Agency.

Director, Bureau of Land Management, Department of the Interior.

Director, National Park Service, Department of the Interior.

National Export Expansion Coordinator, Department of Commerce.

Staff Director, Commission on Civil Rights.

Assistant Secretary for Administration, Department of Transportation.

Director, United States National Museum, Smithsonian Institution.

Director, Smithsonian Astrophysical Observatory, Smithsonian Institution.

Administrator of the Environmental Science Services Administration.

Associate Directors of the Office of Personnel Management (5).

Assistant Federal Highway Administrator.

Deputy Administrator of the National Highway Traffic Safety Administration.

Deputy Administrator of the Federal Motor Carrier Safety Administration.

Assistant Federal Motor Carrier Safety Administrator.

Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice.

【Vice Presidents, Overseas Private Investment Corporation (3).】

Deputy Administrator, Federal Transit Administration, Department of Transportation.

General Counsel of the Equal Employment Opportunity Commission.

Executive Director, Advisory Council on Historic Preservation.

Additional Officers, Department of Energy (14).

Additional officers, Nuclear Regulatory Commission (5).

Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

Assistant Administrators (3), National Oceanic and Atmospheric Administration.

General Counsel, National Oceanic and Atmospheric Administration.

Members, Federal Labor Relations Authority (2) and its General Counsel.

Additional officers, Institute for Scientific and Technological Cooperation (2).

Additional officers, Office of Management and Budget (6).

Chief Scientist, National Oceanic and Atmospheric Administration.

Director, Indian Health Service, Department of Health and Human Services.

Commissioners, United States Parole Commission (8).

Commissioner, Administration on Children, Youth, and Families.

Chairman of the Advisory Council on Historic Preservation.

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FOREIGN ASSISTANCE ACT OF 1961

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PART I

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CHAPTER 2—OTHER PROGRAMS

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TITLE IV—OVERSEAS PRIVATE INVESTMENT CORPORATION]

【SEC. 231. CREATION, PURPOSE AND POLICY.— To mobilize and facilitate the participation of United States private capital and skills in the economic and social development of less developed countries and areas, and countries in transition from nonmarket to market economies, thereby complementing the development assistance objectives of the United States, there is hereby created the Overseas Private Investment Corporation (hereinafter called the “Corporation”), which shall be an agency of the United States under the policy guidance of the Secretary of State.

【The Corporation, in determining whether to provide insurance, financing, or reinsurance for a project, shall especially—

【(1) be guided by the economic and social development impact and benefits of such a project and the ways in which such a project complements, or is compatible with, other development assistance programs or projects of the United States or other donors;

【(2) give preferential consideration to investment projects in less developed countries that have per capita incomes of \$984 or less in 1986 United States dollars, and restrict its activities with respect to investment projects in less developed countries that have per capita incomes of \$4,269 or more in 1986 United States dollars (other than countries designated as beneficiary countries under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702), Ireland, and Northern Ireland); and

【(3) ensures that the project is consistent with the provisions of section 117 (as so redesignated by the Special Foreign Assistance Act of 1986), section 118, and section 119 of this Act relating to the environment and natural resources of, and tropical forests and endangered species in, developing countries, and consistent with the intent of regulations issued pursuant to sections 118 and 119 of this Act. In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake—

【(a) to conduct financing, insurance, and reinsurance operations on a self-sustaining basis, taking into account in its financing operations the economic and financial soundness of projects;

【(b) to utilize private credit and investment institutions and the Corporation’s guaranty authority as the principal means of mobilizing capital investment funds;

【(c) to broaden private participation and revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms;

【(d) to conduct its insurance operations with due regard to principles of risk management including efforts to share its insurance risks and reinsurance risks;

【(e) to the maximum degree possible consistent with its purposes—

【(1) to give preferential consideration in its investment insurance, reinsurance, and guaranty activities to investment projects sponsored by or involving United States small business; and

[(2) to increase the proportion of projects sponsored by or significantly involving United States small business to at least 30 percent of all projects insured, reinsured, or guaranteed by the Corporation;

[(f) to consider in the conduct of its operations the extent to which less developed country governments are receptive to private enterprise, domestic and foreign, and their willingness and ability to maintain conditions which enable private enterprise to make its full contribution to the development process;

[(g) to foster private initiative and competition and discourage monopolistic practices;

[(h) to further to the greatest degree possible, in a manner consistent with its goals, the balance-of-payments and employment objectives of the United States;

[(i) to conduct its activities in consonance with the activities of the agency primarily responsible for administering part I and the international trade, investment, and financial policies of the United States Government, and to seek to support those developmental projects having positive trade benefits for the United States;

[(j) to advise and assist, within its field of competence, interested agencies of the United States and other organizations, both public and private, national and international, with respect to projects and programs relating to the development of private enterprise in less developed countries and areas;

[(k)(1) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause such investor (or the sponsor of an investment project in which such investor is involved) significantly to reduce the number of his employees in the United States because he is replacing his United States production with production from such investment which involves substantially the same product for substantially the same market as his United States production; and (2) to monitor conformance with the representations of the investor on which the Corporation relied in making the determination required by clause (1);

[(l) to decline to issue any contract of insurance or reinsurance, or any guaranty, or to enter into any agreement to provide financing for an eligible investor's proposed investment if the Corporation determines that such investment is likely to cause a significant reduction in the number of employees in the United States;

[(m) to refuse to insure, reinsure, or finance any investment subject to performance requirements which would reduce substantially the positive trade benefits likely to accrue to the United States from the investment; and

[(n) to refuse to insure, reinsure, guarantee, or finance any investment in connection with a project which the Corporation determines will pose an unreasonable or major environmental, health, or safety hazard, or will result in the significant degradation of national parks or similar protected areas.

[SEC. 231A. ADDITIONAL REQUIREMENTS.—(a) WORKER RIGHTS.—

[(1) LIMITATION ON OPIC ACTIVITIES.—The Corporation may insure, reinsure, guarantee, or finance a project only if the country in which the project is to be undertaken is taking steps to adopt and implement laws that extend internationally recognized worker rights, as defined in section 507(4) of the Trade Act of 1974, to workers in that country (including any designated zone in that country). The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:

“The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government.”

[(2) USE OF ANNUAL REPORTS ON WORKERS RIGHTS.—The Corporation shall, in making its determinations under paragraph (1), use the reports submitted to the Congress pursuant to section 504 of the Trade Act of 1974. The restriction set forth in paragraph (1) shall not apply until the first such report is submitted to the Congress.

[(3) WAIVER.—Paragraph (1) shall not prohibit the Corporation from providing any insurance, reinsurance, guaranty, or financing with respect to a country if the President determines that such activities by the Corporation would be in the national economic interests of the United States. Any such determination shall be reported in writing to the Congress, together with the reasons for the determination.

[(4) In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 507(4) of the Trade Act of 1974.

[(b) ENVIRONMENTAL IMPACT.—The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

[(1) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

[(2) such assessment or audit has been made available to the public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.

[(c) PUBLIC HEARINGS.—(1) The Board shall hold at least one public hearing each year in order to afford an opportunity for any person to present views as to whether the Corporation is carrying out its activities in accordance with section 231 and this section or whether any investment in a particular country should have been

or should be extended insurance, reinsurance, guarantees, or financing under this title.

[(2) In conjunction with each meeting of its Board of Directors, the Corporation shall hold a public hearing in order to afford an opportunity for any person to present views regarding the activities of the Corporation. Such views shall be made part of the record.

[SEC. 232. CAPITAL OF THE CORPORATION.—The President is authorized to pay in as capital of the Corporation, out of dollar receipts made available through the appropriation process from loans made pursuant to this part and from loans made under the Mutual Security Act of 1954, as amended, for the fiscal year 1970 not to exceed \$20,000,000 and for the fiscal year 1971 not to exceed \$20,000,000. Upon the payment of such capital by the President, the Corporation shall issue an equivalent amount of capital stock to the Secretary of the Treasury.

[SEC. 233. ORGANIZATION AND MANAGEMENT.—(a) STRUCTURE OF THE CORPORATION.—The Corporation shall have a Board of Directors, a President, an Executive Vice President, and such other officers and staff as the Board of Directors may determine.

[(b) BOARD OF DIRECTORS.—All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors (“the Board”) which shall consist of fifteen Directors, including the Chairman, with eight Directors constituting a quorum for the transaction of business. Eight Directors shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall not be officials or employees of the Government of the United States. At least two of the eight Directors appointed under the preceding sentence shall be experienced in small business, one in organized labor, and one in cooperatives. Each such Director shall be appointed for a term of no more than three years. The terms of no more than three such Directors shall expire in any one year. Such Directors shall serve until their successors are appointed and qualified and may be reappointed. The other Directors shall be principal officers of the Government of the United States whose duties relate to the programs of the Corporation, including the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and one such officer of the Department of Labor, designated by and serving at the pleasure of the President of the United States. The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative. There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection. All Directors who are not officers of the Corporation or officials of the Government of the United States shall be compensated at a rate equivalent to that of level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the business of the Corporation and may be paid per diem in lieu of subsistence at the applicable rate prescribed in the standardized Government travel regulations, as amended, from time to time, while away from their homes or usual places of business.

[(c) PRESIDENT OF THE CORPORATION.—The President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. In making such appointment, the President shall take into account private business experience of the appointee. The President of the Corporation shall be its Chief Executive Officer and responsible for the operations and management of the Corporation, subject to bylaws and policies established by the Board.

[(d) OFFICERS AND STAFF.—The Executive Vice President of the Corporation shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Corporation, and shall be vested with such powers and duties as the Corporation may determine. Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations: *Provided*, That under such regulations as the President of the United States may prescribe, officers and employees of the United States Government who are appointed to any of the above positions may be entitled, upon removal from such position, except for cause, to reinstatement to the position occupied at the time of appointment or to a position of comparable grade and salary. Such positions shall be in addition to those otherwise authorized by law, including those authorized by section 5108 of title 5 of the United States Code.

[SEC. 234. INVESTMENT INSURANCE AND OTHER PROGRAMS.— The Corporation is hereby authorized to do the following:

[(a) INVESTMENT INSURANCE.—(1) To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to projects which the Corporation has approved—

[(A) inability to convert into United States dollars other currencies, or credits in such currencies, received as earnings or profits from the approved project, as repayment or return of the investment therein, in whole or in part, or as compensation for the sale or disposition of all or any part thereof;

[(B) loss of investment, in whole or in part, in the approved project due to expropriation or confiscation by action of a foreign government or any political subdivision thereof;

[(C) loss due to war, revolution, insurrection or civil strife; and

[(D) loss due to business interruption caused by any of the risks set forth in subparagraphs (A), (B), and (C).

[(2) Recognizing that major private investments in less developed friendly countries or areas are often made by enterprises in which there is multinational participation, including significant United States private participation, the Corporation may make arrangements with foreign governments (including agencies, instrumentalities, or political subdivisions thereof) or with multilateral organizations and institutions for sharing liabilities assumed under investment insurance for such investments and may in connection therewith issue insurance to investors not otherwise eligible here-

under, except that liabilities assumed by the Corporation under the authority of this subsection shall be consistent with the purposes of this title and that the maximum share of liabilities so assumed shall not exceed the proportionate participation by eligible investors in the project.

[(3) Not more than 10 per centum of the maximum contingent liability of investment insurance which the Corporation is permitted to have outstanding under section 235(a)(1) shall be issued to a single investor.

[(4) Before issuing insurance for the first time for loss due to business interruption, and in each subsequent instance in which a significant expansion is proposed in the type of risk to be insured under the definition of "civil strife" or "business interruption", the Corporation shall, at least sixty days before such insurance is issued, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report with respect to such insurance, including a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves and, in the case of insurance for loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered. Any such report with respect to insurance for loss due to business interruption shall be considered in accordance with the procedures applicable to re-programming notifications pursuant to section 634A of this Act.

[(b) INVESTMENT GUARANTIES.—To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine: *Provided, however,* That such guaranties on other than loan investments shall not exceed 75 per centum of such investment: *Provided further,* That except for loan investments for credit unions made by eligible credit unions or credit union associations, the aggregate amount of investment (exclusive of interest and earnings) so guaranteed with respect to any project shall not exceed, at the time of issuance of any such guaranty, 75 per centum of the total investment committed to any such project as determined by the Corporation, which determination shall be conclusive for purposes of the Corporation's authority to issue any such guaranty: *Provided further,* That not more than 15 per centum of the maximum contingent liability of investment guaranties which the Corporation is permitted to have outstanding under section 235(a)(2) shall be issued to a single investor.

[(c) DIRECT INVESTMENT.—To make loans in United States dollars repayable in dollars or loans in foreign currencies (including, without regard to section 1415 of the Supplemental Appropriation Act, 1953, such foreign currencies which the Secretary of the Treasury may determine to be excess to the normal requirements of the United States and the Director of the Bureau of the Budget may allocate) to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine. Loans may be made under this subsection only for projects that are sponsored by or significantly involve United States small business or cooperatives. The Corporation may designate up to 25 percent of any loan under this subsection for use in the development or adaptation in the United States of new tech-

nologies or new products or services that are to be used in the project for which the loan is made and are likely to contribute to the economic or social development of less developed countries. No loan may be made under this subsection to finance any operation for the extraction of oil or gas. The aggregate amount of loans under this subsection to finance operations for the mining or other extraction of any deposit of ore or other nonfuel minerals may not in any fiscal year exceed \$4,000,000.

[(d) INVESTMENT ENCOURAGEMENT.—To initiate and support through financial participation, incentive grant, or otherwise, and on such terms and conditions as the Corporation may determine, the identification, assessment, surveying and promotion of private investment opportunities, utilizing wherever feasible and effective the facilities of private investors, except that—

[(1) the Corporation shall not finance any survey to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of, oil or gas; and

[(2) expenditures financed by the Corporation during any fiscal year on surveys to ascertain the existence, location, extent, or quality of, or to determine the feasibility of undertaking operations for the extraction of nonfuel minerals may not exceed \$200,000.

[(e) SPECIAL ACTIVITIES.—To administer and manage special projects and programs, including programs of financial and advisory support which provide private technical, professional, or managerial assistance in the development of human resources, skills, technology, capital savings and intermediate financial and investment institutions and cooperatives and including the initiation of incentives, grants, and studies for renewable energy and other small business activities. The funds for these projects and programs may, with the Corporation's concurrence, be transferred to it for such purposes under the authority of section 632(a) or from other sources, public or private. Administrative funds may not be made available for incentives, grants, and studies for renewable energy and other small business activities.

[(f) OTHER INSURANCE FUNCTIONS.—(1) To make and carry out contracts of insurance or reinsurance, or agreements to associate or share risks, with insurance companies, financial institutions, any other persons, or groups thereof, and employing the same where appropriate, as its agent, or acting as their agent, in the issuance and servicing of insurance, the adjustment of claims, the exercise of subrogation rights, the ceding and accepting of reinsurance, and in any other matter incident to an insurance business; except that such agreements and contracts shall be consistent with the purposes of the Corporation set forth in section 231 of this Act and shall be on equitable terms.

[(2) To enter into pooling or other risk-sharing agreements with multinational insurance or financing agencies or groups of such agencies.

[(3) To hold an ownership interest in any association or other entity established for the purposes of sharing risks under investment insurance.

[(4) To issue, upon such terms and conditions as it may determine, reinsurance of liabilities assumed by other insurers or groups

thereof in respect of risks referred to in subsection (a)(1). The amount of reinsurance of liabilities under this title which the Corporation may issue shall not in the aggregate exceed at any one time an amount equal to the amount authorized for the maximum contingent liability outstanding at any one time under section 235(a)(1). All reinsurance issued by the Corporation under this subsection shall require that the reinsured party retain for his own account specified portions of liability, whether first loss or otherwise.

[(g) PILOT EQUITY FINANCE PROGRAM.—

[(1) AUTHORITY FOR PILOT PROGRAM.—In order to study the feasibility and desirability of a program of equity financing, the Corporation is authorized to establish a 4-year pilot program under which it may, on the limited basis prescribed in paragraphs (2) through (5), purchase, invest in, or otherwise acquire equity or quasi-equity securities of any firm or entity, upon such terms and conditions as the Corporation may determine, for the purpose of providing capital for any project which is consistent with the provisions of this title except that—

[(A) the aggregate amount of the Corporation's equity investment with respect to any project shall not exceed 30 percent of the aggregate amount of all equity investment made with respect to such project at the time that the Corporation's equity investment is made, except for securities acquired through the enforcement of any lien, pledge, or contractual arrangement as a result of a default by any party under any agreement relating to the terms of the Corporation's investment; and

[(B) the Corporation's equity investment under this subsection with respect to any project, when added to any other investments made or guaranteed by the Corporation under subsection (b) or (c) with respect to such project, shall not cause the aggregate amount of all such investment to exceed, at the time any such investment is made or guaranteed by the Corporation, 75 percent of the total investment committed to such project as determined by the Corporation.

The determination of the Corporation under subparagraph (B) shall be conclusive for purposes of the Corporation's authority to make or guarantee any such investment.

[(2) LIMITATION TO PROJECTS IN SUB-SAHARAN AFRICA AND CARIBBEAN BASIN.—Equity investments may be made under this subsection only in projects in countries eligible for financing under this title that are countries in sub-Saharan Africa or countries designated as beneficiary countries under section 212 of the Caribbean Basin Economy Recovery Act.

[(3) ADDITIONAL CRITERIA.—In making investment decisions under this subsection, the Corporation shall give preferential consideration to projects sponsored by or significantly involving United States small business or cooperatives. The Corporation shall also consider the extent to which the Corporation's equity investment will assist in obtaining the financing required for the project.

[(4) DISPOSITION OF EQUITY INTEREST.—Taking into consideration, among other things, the Corporations' financial interests and the desirability of fostering the development of local cap-

ital markets in less developed countries, the Corporation shall endeavor to dispose of any equity interest it may acquire under this subsection within a period of 10 years from the date of acquisition of such interest.

[(6) CONSULTATIONS WITH CONGRESS.—The Corporation shall consult annually with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.

[(h) LOCAL CURRENCY GUARANTIES FOR ELIGIBLE INVESTORS.—To issue to—

[(1) eligible investors, or

[(2) local financial institutions, guaranties,

denominated in currencies other than United States dollars, of loans and other investments made to projects sponsored by or significantly involving eligible investors, assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine, for projects that the Corporation determines to have significant developmental effects or as the Corporation determines to be necessary or appropriate to carry out the purposes of this title.

[SEC. 234A. ENHANCING PRIVATE POLITICAL RISK INSURANCE INDUSTRY.

[(a) COOPERATIVE PROGRAMS.—In order to encourage greater availability of political risk insurance for eligible investors by enhancing the private political risk insurance industry in the United States, and to the extent consistent with this title, the Corporation shall under take programs of cooperation with such industry, and in connection with such programs may engage in the following activities:

[(1) Utilizing its statutory authorities, encourage the development of associations, pools, or consortia of United States private political risk insurers.

[(2) Share insurance risks (through coinsurance, contingent insurance, or other means) in a manner that is conducive to the growth and development of the private political risk insurance industry in the United States.

[(3) Notwithstanding section 237(e), upon the expiration of insurance provided by the Corporation for an investment, enter into risk-sharing agreements with United States private political risk insurers to insure any such investment; except that, in cooperating in the offering of insurance under this paragraph, the Corporation shall not assume responsibility for more than 50 percent of the insurance being offered in each separate transaction.

[(b) ADVISORY GROUP.—

[(1) ESTABLISHMENT AND MEMBERSHIP.—The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section. The group shall be appointed by the Board and shall be composed of up to 12 members, including the following:

[(A) Up to seven persons from the private political risk insurance industry, of whom no fewer than two shall represent private political risk insurers, one shall represent

private political risk reinsurers, and one shall represent insurance or reinsurance brokerage firms.

[(B) Up to four persons, other than persons described in subparagraph (A), who are purchasers of political risk insurance.

[(2) FUNCTIONS.—The Corporation shall call upon members of the advisory group, either collectively or individually, to advise it regarding the capability of the private political risk insurance industry to meet the political risk insurance needs of United States investors, and regarding the development of cooperative programs to enhance such capability.

[(3) MEETINGS.—The advisory group shall meet not later than September 30, 1989, and at least annually thereafter. The Corporation may from time to time convene meetings of selected members of the advisory group to address particular questions requiring their specialized knowledge.

[(4) FEDERAL ADVISORY COMMITTEE ACT.—The advisory group shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[SEC. 235. ISSUING AUTHORITY, DIRECT INVESTMENT AUTHORITY AND RESERVES.—

[(a) ISSUING AUTHORITY.—

[(1) INSURANCE AND FINANCING.—(A) The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a), and the amount of financing issued under sections 234(b) and (c), shall not exceed in the aggregate \$29,000,000,000.

[(B) Subject to spending authority provided in appropriations Acts pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized to transfer such sums as are necessary from its noncredit activities to pay for the subsidy and administrative costs of the investment guaranties and direct loan programs under subsections (b) and (c) of section 234.

[(2) TERMINATION OF AUTHORITY.—The authority of subsections (a), (b), and (c) of section 234 shall continue until September 30, 2007.

[(c) There shall be established in the Treasury of the United States a noncredit account revolving fund, which shall be available for discharge of liabilities, as provided in subsection (d) of this section until such time as all such liabilities have been discharged or have expired or until all of the fund has been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 223(b) and the amount made available to the Corporation pursuant to subsection (e) of this section and (2) such sums as shall be appropriated pursuant to subsection (f) of this section for such purposes. Additional amounts may thereafter be transferred to such fund pursuant to section 236.

[(d) Any payment made to discharge liabilities under investment insurance or reinsurance issued under section 234 under similar predecessor guaranty authority or under section 234A, shall be paid first out of the noncredit account revolving fund, as long as

such fund remains available, and thereafter out of funds made available pursuant to subsection (f) of this section. Any payments made to discharge liabilities under guaranties issued under section 234(b) or 234(c) shall be paid in accordance with the Federal Credit Reform Act of 1990.

[(e) There is hereby authorized to be transferred to the Corporation at its call, for the purposes specified in section 236, all fees and other revenues collected under predecessor guaranty authority from December 31, 1968, available as of the date of such transfer.

[(f) There are authorized to be appropriated to the Corporation, to remain available until expended, such amounts as may be necessary from time to time to replenish or increase the noncredit account revolving fund, to discharge the liabilities under insurance, reinsurance, or guaranties issued by the Corporation or issued under predecessor guaranty authority, or to discharge obligations of the Corporation purchased by the Secretary of the Treasury pursuant to this subsection. However, no appropriations shall be made to augment the noncredit account revolving fund until the amount of funds in the noncredit account revolving fund is less than \$25,000,000. Any appropriations to augment the noncredit account revolving fund shall then only be made either pursuant to specific authorization enacted after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974, or to satisfy the full faith and credit provision of section 237(c). In order to discharge liabilities under investment insurance or reinsurance, the Corporation is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed \$100,000,000. Any such obligation shall be repaid to the Treasury within one year after the date of issue of such obligation. Any such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of any obligation authorized by this subsection. The Secretary of the Treasury shall purchase any obligation of the Corporation issued under this subsection, and for such purchase he may use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act after the date of enactment of the Overseas Private Investment Corporation Amendments Act of 1974. The purpose for which securities may be issued under such Bond Act shall include any such purchase.

[(1) \$8,128,000 for fiscal year 1993; and

[(2) \$11,000,000 for fiscal year 1994.

[SEC. 236. INCOME AND REVENUES.— In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation—

[(a) payment of all expenses of the Corporation, including investment promotion expenses;

[(b) transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 235, and such other funds or reserves as the Corpora-

tion may establish, at such time and in such amounts as the Board may determine; and

[(c) payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.]

SEC. 237. GENERAL PROVISIONS RELATING TO INSURANCE GUARANTY, AND FINANCING PROGRAM.—[(a) Insurance guaranties, and reinsurance issued under this title shall cover investment made in connection with projects in any less developed friendly country or area with the government to which the President of the United States has agreed to institute a program for insurance, guaranties, or reinsurance.

[(b) The Corporation shall determine that suitable arrangements exist for protecting the interest of the Corporation in connection with any insurance, guaranty or reinsurance issued under this title, including arrangements concerning ownership, use, and disposition of the currency, credits, assets, or investments on account of which payment under such insurance, guaranty, or reinsurance is to be made, and right, title, claim, or cause of action existing in connection therewith.

[(c) All guaranties issued prior to July 1, 1956, all guaranties issued under sections 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, all guaranties heretofore issued pursuant to prior guaranty authorities repealed by the Foreign Assistance Act of 1969, and all insurance, reinsurance, and guaranties issued pursuant to this title shall constitute obligations, in accordance with the terms of such insurance, reinsurance, or guaranties, of the United States of America and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations.

[(d) FEES.—

[(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guaranty authority may be reduced.

[(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

[(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment serv-

ices, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.

[(e) No insurance, guaranty, or reinsurance of any equity investment shall extend beyond twenty years from the date of issuance.

[(f) Compensation for insurance, reinsurance, or guaranties issued under this title shall not exceed the dollar value, as of the date of the investment, of the investment made in the project with the approval of the Corporation plus interest, earnings, or profits actually accrued on such investment to the extent provided by such insurance, reinsurance, or guaranty, except that the Corporation may provide that (1) appropriate adjustments in the insured dollar value be made to reflect the replacement cost of project assets, and (2) compensation for a claim of loss under insurance of an equity investment may be computed on the basis of the net book value attributable to such equity investment on the date of loss. Notwithstanding the preceding sentence, the Corporation shall limit the amount of direct insurance and reinsurance issued by it under section 234 or 234A so that risk of loss as to at least 10 per centum of the total investment of the insured and its affiliates in the project is borne by the insured and such affiliates, except that limitation shall not apply to direct insurance or reinsurance of loans by banks or other financial institutions to unrelated parties and (3) compensation for loss due to business interruption may be computed on a basis to be determined by the Corporation which reflects amounts lost.]

(g) No payment may be made under any guaranty, insurance or reinsurance issued pursuant to this title for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

[(h) Insurance, guaranties, or reinsurance of a loan or equity investment of an eligible investor in a foreign bank, finance company, or other credit institution shall extend only to such loan or equity investment and not to any individual loan or equity investment made by such foreign bank, finance company, or other credit institution.

[(i) Claims arising as a result of insurance, reinsurance or guaranty operations under this title or under predecessor guaranty authority may be settled, and disputes arising as a result thereof may be arbitrated with the consent of the parties, on such terms and conditions as the Corporation may determine. Payment made pursuant to any such settlement, or as a result of an arbitration award, shall be final and conclusive notwithstanding any other provision of law.

[(j) Each guaranty contract executed by such officer or officers as may be designated by the Board shall be conclusively presumed to be issued in compliance with the requirements of this Act.

[(k) In making a determination to issue insurance, guaranties, or reinsurance under this title, the Corporation shall consider the possible adverse effect of the dollar investment under such insurance, guaranty, or reinsurance upon the balance of payments of the United States.]

(l)(1) No payment may be made under any insurance or reinsurance which is issued under this title on or after the date of enactment of this subsection for any loss occurring with respect to a

project, if the preponderant cause of such loss was an act by the investor seeking payment under this title, by a person possessing majority ownership and control of the investor at the time of the act, or by any agent of such investor or controlling person, and a court of the United States has entered a final judgment that such act constituted a violation under the Foreign Corrupt Practices Act of 1977.

(2) Not later than 120 days after the date of enactment of this subsection, the Corporation shall adopt regulations setting forth appropriate conditions under which any person convicted under the Foreign Corrupt Practices Act of 1977 for an offense related to a project insured or otherwise supported by the Corporation shall be suspended, for a period of not more than five years, from eligibility to receive any insurance, reinsurance, guaranty, loan, or other financial support authorized by this title.

[(m)(1) Before finally providing insurance, reinsurance, guarantees, or financing under this title for any environmentally sensitive investment in connection with a project in a country, the Corporation shall notify appropriate government officials of that country of—

[(A) all guidelines and other standards adopted by the International Bank for Reconstruction and Development and any other international organization relating to the public health or safety or the environment which are applicable to the project; and

[(B) to the maximum extent practicable, any restriction under any law of the United States relating to public health or safety or the environment that would apply to the project if the project were undertaken in the United States.

The notification under the preceding sentence shall include a summary of the guidelines, standards, and restrictions referred to in subparagraphs (A) and (B), and may include any environmental impact statement, assessment, review, or study prepared with respect to the investment pursuant to section 239(g).

[(2) Before finally providing insurance, reinsurance, guarantees, or financing for any investment subject to paragraph (1), the Corporation shall take into account any comments it receives on the project involved.

[(3) On or before September 30, 1986, the Corporation shall notify appropriate government officials of a country of the guidelines, standards, and legal restrictions described in paragraph (1) that apply to any project in that country—

[(A) which the Corporation identifies as potentially posing major hazards to public health and safety or the environment; and

[(B) for which the Corporation provided insurance, reinsurance, guarantees, or financing under this title before the date of enactment of this subsection and which is in the Corporation's portfolio on that date.]

(n) PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 234 or any change or extension of any such insurance, rein-

insurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

[(o) USE OF LOCAL CURRENCIES.—Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations made with funds described in this subsection.]

[SEC. 238. DEFINITIONS.— As used in this title—

[(a) the term “investment” includes any contribution or commitment of funds, commodities, services, patents, processes, or techniques, in the form of (1) a loan or loans to an approved project, (2) the purchase of a share of ownership in any such project, (3) participation in royalties, earnings, or profits of any such project, and (4) the furnishing of commodities or services pursuant to a lease or other contract;

[(b) the term “expropriation” includes, but is not limited to, any abrogation, repudiation, or impairment by a foreign government, a political subdivision of a foreign government, or a corporation owned or controlled by a foreign government, of its own contract with an investor with respect to a project, where such abrogation, repudiation, or impairment is not caused by the investor’s own fault or misconduct, and materially adversely affects the continued operation of the project;

[(c) the term “eligible investor” means: (1) United States citizens; (2) corporations, partnerships, or other associations including nonprofit associations, created under the laws of the United States any State or territory thereof, or the District of Columbia, and substantially beneficially owned by United States citizens; and (3) foreign corporations, partnerships, or other associations wholly owned by one or more such United States citizens, corporations, partnerships, or other associations: *Provided however*, That the eligibility of such foreign corporation shall be determined without regard to any shares, in aggregate less than 5 per centum of the total issued and subscribed share capital, held by other than the United States owners: *Provided further*, That in the case of any loan investment a final determination of eligibility may be made at the time the insurance or guaranty is issued; in all other cases, the investor must be eligible at the time a claim arises as well as the time the insurance or guaranty is issued;

[(d) the term “noncredit account revolving fund” means the account in which funds under section 236 and all funds from noncredit activities are held;

[(e) the term “noncredit activities” means all activities of the Corporation other than its loan guarantee program under section 234(b) and its direct loan program under section 234(c);

[(f) the term “predecessor guaranty authority” means prior guaranty authorities (other than housing guaranty authorities)

repealed by the Foreign Assistance Act of 1969, section 202(b) and 413(b) of the Mutual Security Act of 1954, as amended, and section 111(b)(3) of the Economic Cooperation Act of 1948, as amended (exclusive of authority relating to informational media guaranties); and

[(g) the term “local financial institution”—

[(1) means any bank or financial institution that is organized under the laws of any country or area in which the Corporation operates; but

[(2) does not include a branch, however organized, of a bank or other financial institution that is organized under the laws of a country in which the Corporation does not operate.

[SEC. 239. GENERAL PROVISIONS AND POWERS.—(a) The Corporation shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be resident thereof.

[(b) The President shall transfer to the Corporation, at such time as he may determine, all obligations, assets and related rights and responsibilities arising out of, or related to, predecessor programs and authorities similar to those provided for in section 234 (a), (b), and (d). Until such transfer, the agency heretofore responsible for such predecessor programs shall continue to administer such assets and obligations, and such programs and activities authorized under this title as may be determined by the President.

[(c)(1) The Corporation shall be subject to the applicable provisions of chapter 91 of title 31, United States Code, except as otherwise provided in this title.

[(2) An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every three years, in accordance with generally accepted Government auditing standards for a financial and compliance audit, as issued by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Board. The financial statements of the Corporation shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of title 31, United States Code, and which the Corporation shall submit to the Congress not later than six and one-half months after the end of the last fiscal year covered by the audit. The General Accounting Office may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the General Accounting Office considers necessary.

[(3) In lieu of the financial and compliance audit required by paragraph (2), the General Accounting Office shall, if the Office considers it necessary or upon the request of the Congress, audit the financial statements of the Corporation in the manner provided in paragraph (2). The Corporation shall reimburse the General Accounting Office for the full cost of any audit conducted under this paragraph.

[(4) All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Corporation and the accountant who conducts the audit under paragraph (2),

which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office.

[(d) To carry out the purposes of this title, the Corporation is authorized to adopt and use a corporate seal, which shall be judicially noticed; to sue and be sued in its corporate name; to adopt, amend, and repeal bylaws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law; to acquire, hold or dispose of, upon such terms and conditions as the Corporation may determine, any property, real, personal, or mixed, tangible or intangible, or any interest therein; to invest funds derived from fees and other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate; to indemnify directors, officers, employees and agents of the Corporation for liabilities and expenses incurred in connection with their Corporation activities; to require bonds of officers, employees, and agents and pay the premiums therefor; notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings; to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 234; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and guarantee notes, participation certificates, and other evidence of indebtedness (provided that the Corporation shall not issue its own securities, except participation certificates for the purpose of carrying out section 231(c) or participation certificates as evidence of indebtedness held by the Corporation in connection with settlement of claims under section 237(i)); to make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business; to exercise the priority of the Government of the United States in collecting debts from bankrupt, insolvent, or decedents' estates; to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations; to collect or compromise any obligations assigned to or held by the Corporation, including any legal or equitable rights accruing to the Corporation; and to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon it.

[(e) The Inspector General of the Agency for International Development (1) may conduct reviews, investigations, and inspections of all phases of the Corporation's operations and activities and (2) shall conduct all security activities of the Corporation relating to personnel and the control of classified material. With respect to his responsibilities under this subsection, the Inspector General shall report to the Board. The agency primarily responsible for administering part I shall be reimbursed by the Corporation for all expenses incurred by the Inspector General in connection with his responsibilities under this subsection.

[(f) Except for the provisions of this title, no other provision of this or any other law shall be construed to prohibit the operation in Yugoslavia, Poland, Hungary, or any other East European country, or the People's Republic of China, or Pakistan of the programs authorized by this title, if the President determines that the oper-

ation of such program in such country is important to the national interest.

[(g) The requirements of section 117(c) of this Act relating to environmental impact statements and environmental assessments shall apply to any investment which the Corporation insures, reinsures, guarantees, or finances under this title in connection with a project in a country.

[(h) In order to carry out the policy set forth in paragraph (1) of the second undesignated paragraph of section 231 of this Act, the Corporation shall prepare and maintain for each investment project it insures, finances, or reinsures, a development impact profile consisting of data appropriate to measure the projected and actual effects of such project on development. Criteria for evaluating projects shall be developed in consultation with the Agency for International Development.

[(i) The Corporation shall take into account in the conduct of its programs in a country, in consultation with the Secretary of State, all available information about observance of and respect for human rights and fundamental freedoms in such country and the effect the operation of such programs will have on human rights and fundamental freedoms in such country. The provisions of section 116 of this Act shall apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country, except that in addition to the exception (with respect to benefiting needy people) set forth in subsection (a) of such section, the Corporation may support a project if the national security interest so requires.

[(j) The Corporation, including its franchise, capital, reserves, surplus, advances, intangible property, and income, shall be exempt from all taxation at any time imposed by the United States, by any territory, dependency, or possession of the United States, or by any State, the District of Columbia, or any county, municipality, or local taxing authority.

[(k) The Corporation shall publish, and make available to applicants for insurance, reinsurance, guarantees, financing, or other assistance made available by the Corporation under this title, the policy guidelines of the Corporation relating to its programs.

[SEC. 240. SMALL BUSINESS DEVELOPMENT.—(a) IN GENERAL.—The Corporation shall undertake, in cooperation with appropriate departments, agencies, and instrumentalities of the United States as well as private entities and others, to broaden the participation of United States small business, cooperatives, and other small United States investors in the development of small private enterprise in less developed friendly countries or areas. The Corporation shall allocate up to 50 percent of its annual net income, after making suitable provision for transfers and additions to reserves, to assist and facilitate the development of projects consistent with the provisions of this section. Such funds may be expended, notwithstanding the requirements of section 231(a), on such terms and conditions as the Corporation may determine, through loans, grants, or other programs authorized by section 234 and section 234A.

[(b) OUTREACH TO MINORITY-OWNED AND WOMEN-OWNED BUSINESSES.—The Corporation shall collect data on the involvement of

minority- and women-owned businesses in projects supported by the Corporation, including—

[(1) the amount of insurance and financing provided by the Corporation to such businesses in connection with projects supported by the Corporation; and

[(2) to the extent such information is available, the involvement of such businesses in procurement activities conducted or supported by the Corporation.

The Corporation shall include, in its annual report submitted to the Congress under section 240A, the aggregate data collected under this paragraph, in such form as to quantify the effectiveness of the Corporation's outreach activities to minority- and women-owned businesses.

[SEC. 240A. REPORTS TO THE CONGRESS.— After (a) the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year. Such report shall include—

[(1) an assessment, based upon the development impact profiles required by section 239(h), of the economic and social development impact and benefits of the projects with respect to which such profiles are prepared, and of the extent to which the operations of Corporation complement or are compatible with the development assistance programs of the United States and other donors; and

[(2) a description of any project for which the Corporation—

[(A) refused to provide any insurance, reinsurance, guaranty, financing, or other financial support, on account of violations of human rights referred to in section 239(i); or

[(B) notwithstanding such violations, provided such insurance, reinsurance, guaranty, financing, or financial support, on the basis of a determination (i) that the project will directly benefit the needy people in the country in which the project is located, or (ii) that the national security interest so requires.

[(b)(1) Each annual report required by subsection (a) shall contain projections of the effects on employment in the United States of all projects for which, during the preceding fiscal year, the Corporation initially issued any insurance, reinsurance, or guaranty or made any direct loan. Each such report shall include projections of—

[(A) the amount of United States exports to be generated by those projects, both during the start-up phase and over a period of years;

[(B) the final destination of the products to be produced as a result of those projects; and

[(C) the impact such production will have on the production of similar products in the United States with regard to both domestic sales and exports.

[(2) The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1).

[(3) In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

[(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

[(B) any jobs created by the project; and

[(C) the country in which the project is located, and the economic sector involved in the project.

No proprietary information may be disclosed under this paragraph.

[(d) The Corporation shall maintain as part of its records—

[(1) all information collected in preparing the report required by subsection (c) (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988), whether the information was collected by the Corporation itself or by a contractor; and

[(2) a copy of the analysis of each project analyzed in preparing the reports required by either subsection (b) or (c) (as in effect before the enactment of the Overseas Private Investment Corporation Amendments Act of 1988).

[(e) Each annual report required by subsection (a) shall include an assessment of programs implemented by the Corporation under section 234A(a), including the following information, to the extent such information is available to the Corporation:

[(1) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was not permitted to provide under this title.

[(2) The nature and dollar value of political risk insurance provided by private insurers in conjunction with the Corporation, which the Corporation was permitted to provide under this title.

[(3) The manner in which such private insurers and the Corporation cooperated in recovery efforts and claims management.

[(f) Subsections (b) and (e) do not require the inclusion in any report submitted pursuant to those subsections of any information which would not be required to be made available to the public pursuant to section 552 of title 5, United States Code (relating to freedom of information).

[SEC. 240B. PROHIBITION ON NONCOMPETITIVE AWARDED OF INSURANCE CONTRACTS ON OPIC SUPPORTED EXPORTS.

[(a) REQUIREMENT FOR CERTIFICATION.—

[(1) IN GENERAL.—Except as provided in paragraph (3), the investor on whose behalf insurance, reinsurance, guaranties, or other financing is provided under this title with respect to a project shall be required to certify to the Corporation that any contract for the export of goods as part of that project will include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

[(2) WHEN CERTIFICATION MUST BE MADE.—The investor shall be required, in every practicable case, to so certify before the insurance, reinsurance, guarantee, or other financing is provided. In any case in which such a certification is not made in advance, the investor shall include in the certification the reasons for the failure to make a certification in advance.

[(3) EXCEPTION.—Paragraph (1) does not apply with respect to an investor who does not, because of the nature of the investment, have a controlling interest in fact in the project in question.

[(b) **REPORTS BY THE UNITED STATES TRADE REPRESENTATIVE.**—The United States Trade Representative shall review the actions of the Corporation under subsection (a) and, after consultation with representatives of United States insurance companies, shall report to the Congress in the report required by section 181(b) of the Trade Act of 1974 with respect to such actions.

[(c) **DEFINITIONS.**—For purposes of this section—

[(1) the term “United States insurance company” includes—

[(A) an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

[(B) foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

[(2) United States insurance companies shall be considered to have had a “fair and open competitive opportunity to provide insurance” if they—

[(A) have received notice of the opportunity to provide insurance; and

[(B) have been evaluated on a nondiscriminatory basis; and

[(3) the term “State” includes the District of Columbia and any commonwealth, territory, or possession of the United States.]

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TITLE XII—FAMINE PREVENTION AND FREEDOM FROM HUNGER

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CHAPTER 8—INTERNATIONAL NARCOTICS CONTROL

SEC. 481. **POLICY, GENERAL AUTHORITIES, COORDINATION, FOREIGN POLICE ACTIONS, DEFINITIONS, AND OTHER PROVISIONS.**

(a) **POLICY AND GENERAL AUTHORITIES.**—

(1) **STATEMENTS OF POLICY.**—(A) International narcotics trafficking poses an unparalleled transnational threat in today’s world, and its suppression is among the most important foreign policy objectives of the United States.

(B) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the parties are required to criminalize certain drug-related activities, provide appropriately severe penalties, and cooperate in the extradition of accused offenders.

(C) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

(D) International criminal activities, particularly international narcotics trafficking, money laundering, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

(E) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

(F) The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

(G) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.

(2) In order to promote such cooperation, the President is authorized to conclude agreements, including reciprocal maritime agreements, with other countries to facilitate control of the production, processing, transportation, and distribution of narcotics analgesics, including opium and its derivatives, other narcotic and psychotropic drugs, and other controlled substances.

(3) In order to promote international cooperation in combating international trafficking in illicit narcotics, it shall be the policy of the United States to use its voice and vote in multilateral development banks to promote the development and implementation in the major illicit drug producing countries of programs for the reduction and eventual eradication of narcotic drugs and other controlled substances, including appropriate assistance in conjunction with effective programs of illicit crop eradication.

(4) Notwithstanding any other provision of law, the President is authorized to furnish assistance to any country or international organization, or such terms and conditions as he may determine, for the control of narcotic and psychotropic drugs and other controlled substances, or for other anticrime purposes.

(b) COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—

(1) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(2) RULE OF CONSTRUCTION.—Nothing contained in this subsection or section 489(b) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

(c) PARTICIPATION IN FOREIGN POLICE ACTIONS.—

(1) PROHIBITION ON EFFECTING AN ARREST.—No officer or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action with respect

to narcotics control efforts, notwithstanding any other provision of law.

(2) PARTICIPATION IN ARREST ACTIONS.—Paragraph (1) does not prohibit an officer or employee of the United States, with the approval of the United States chief of mission, from being present when foreign officers are effecting an arrest or from assisting foreign officers who are effecting an arrest.

(3) EXCEPTION FOR EXIGENT, THREATENING CIRCUMSTANCES.—Paragraph (1) does not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

(4) EXCEPTION FOR MARITIME LAW ENFORCEMENT.—With the agreement of a foreign country, paragraph (1) does not apply with respect to maritime law enforcement operations in the territorial sea or archipelagic waters of that country.

(5) INTERROGATIONS.—No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

(6) EXCEPTION FOR STATUS OF FORCES ARRANGEMENTS.—This subsection does not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces Arrangements.

(d) USE OF HERBICIDES FOR AERIAL ERADICATION.—

(1) MONITORING.—The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide for aerial eradication in order to determine the impact of such use on the environment and on the health of individuals.

(2) ANNUAL REPORTS.—In the annual report required by section 489(a), the President shall report on the impact on the environment and the health of individuals of the use under this chapter of a herbicide for aerial eradication.

(3) REPORT UPON DETERMINATION OF HARM TO ENVIRONMENT OR HEALTH.—If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.

(e) DEFINITIONS.—For purposes of this chapter and other provisions of this Act relating specifically to international narcotics matters—

(1) the term “legal and law enforcement measures” means—

(A) the enactment and implementation of laws and regulations or the implementation of existing laws and regulations to provide for the progressive control, reduction, and gradual elimination of the illicit cultivation, production, processing, transportation, and distribution of narcotic drugs and other controlled substances; and

- (B) the effective organization, staffing, equipping, funding, and activation of those governmental authorities responsible for narcotics control;
- (2) the term “major illicit drug producing country” means a country in which—
 - (A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year;
 - (B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or
 - (C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States;
- (3) the term “narcotic and psychotropic drugs and other controlled substances” has the same meaning as is given by any applicable international narcotics control agreement or domestic law of the country of countries concerned;
- (4) the term “United States assistance” means—
 - (A) any assistance under this Act [(including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation)] *(and any support under title II of the Better Utilization of Investments Leading to Development Act of 2018, relating to the United States International Development Finance Corporation), other than—*
 - (i) assistance under this chapter,
 - (ii) any other narcotics-related assistance under this part (including chapter 4 of part II), but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act,
 - (iii) disaster relief assistance, including any assistance under chapter 9 of this part,
 - (iv) assistance which involves the provision of food (including monetization of food) or medicine, and
 - (v) assistance for refugees;
 - (B) sales, or financing on any terms, under the Arms Export Control Act;
 - (C) the provision of agricultural commodities, other than food, under the Food for Peace Act; and
 - (D) financing under the Export-Import Bank Act of 1945;
- (5) the term “major drug-transit country” means a country—
 - (A) that is a significant direct source of illicit narcotic or psychotropic drugs or other controlled substances significantly affecting the United States; or
 - (B) through which are transported such drugs or substances;;
- (6) the term “precursor chemical” has the same meaning as the term “listed chemical” has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 802(33));
- (7) the term “major money laundering country” means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking; and

(8) the term “appropriate congressional committees” means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

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CHAPTER 12—SUPPORT FOR THE ECONOMIC AND POLITICAL INDEPENDENCE OF THE COUNTRIES OF THE SOUTH CAUCASUS AND CENTRAL ASIA

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SEC. 499B. DEVELOPMENT OF INFRASTRUCTURE.

(a) **PURPOSE OF PROGRAMS.**—The purposes of programs under this section include—

(1) to develop the physical infrastructure necessary for regional cooperation among the countries of the South Caucasus and Central Asia; and

(2) to encourage closer economic relations and to facilitate the removal of impediments to cross-border commerce among those countries and the United States and other developed nations.

(b) **AUTHORIZATION FOR PROGRAMS.**—To carry out the purposes of subsection (a), the following types of programs for the countries of the South Caucasus and Central Asia may be used to support the activities described in subsection (c):

(1) Activities by the Export-Import Bank to complete the review process for eligibility for financing under the Export-Import Bank Act of 1945.

(2) The provision of insurance, reinsurance, financing, or other assistance by the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*.

(3) Assistance under section 661 of this Act (relating to the Trade and Development Agency).

(c) **ACTIVITIES SUPPORTED.**—Activities that may be supported by programs under subsection (b) include promoting actively the participation of United States companies and investors in the planning, financing, and construction of infrastructure for communications, transportation, including air transportation, and energy and trade including highways, railroads, port facilities, shipping, banking, insurance, telecommunications networks, and gas and oil pipelines.

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BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

PART C—EMERGENCY POWERS TO ELIMINATE DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT

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SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

(a) **SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.**—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.), and benefits payable under sections 3 and 4 of the Railroad Retirement Act of 1937 (45 U.S.C. 231 et seq.), shall be exempt from reduction under any order issued under this part.

(b) **VETERANS PROGRAMS.**—The following programs shall be exempt from reduction under any order issued under this part:

All programs administered by the Department of Veterans Affairs.

Special Benefits for Certain World War II Veterans (28–0401–0–1–701).

(c) **NET INTEREST.**—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

(d) **REFUNDABLE INCOME TAX CREDITS.**—Payments to individuals made pursuant to provisions of the Internal Revenue Code of 1986 establishing refundable tax credits shall be exempt from reduction under any order issued under this part.

(e) **NON-DEFENSE UNOBLIGATED BALANCES.**—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.

(f) **OPTIONAL EXEMPTION OF MILITARY PERSONNEL.**—

(1) **IN GENERAL.**—The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

(2) **LIMITATION.**—The President may not use the authority provided by paragraph (1) unless the President notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(a) for the budget year.

(g) **OTHER PROGRAMS AND ACTIVITIES.**—

(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

Activities resulting from private donations, bequests, or voluntary contributions to the Government.

Activities financed by voluntary payments to the Government for goods or services to be provided for such payments.

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–808).

Advances to the Unemployment Trust Fund and Other Funds (16–0327–0–1–600).

Black Lung Disability Trust Fund Refinancing (16–0329–0–1–601).

Bonneville Power Administration Fund and borrowing authority established pursuant to section 13 of Public Law 93–454 (1974), as amended (89–4045–0–3–271).

Claims, Judgments, and Relief Acts (20–1895–0–1–808).

Compact of Free Association (14–0415–0–1–808).

Compensation of the President (11–0209–01–1–802).

Comptroller of the Currency, Assessment Funds (20-8413-0-8-373).

Continuing Fund, Southeastern Power Administration (89-5653-0-2-271).

Continuing Fund, Southwestern Power Administration (89-5649-0-2-271).

Dual Benefits Payments Account (60-0111-0-1-601).

Emergency Fund, Western Area Power Administration (89-5069-0-2-271).

Exchange Stabilization Fund (20-4444-0-3-155).

Farm Credit Administration Operating Expenses Fund (78-4131-0-3-351).

Farm Credit System Insurance Corporation, Farm Credit Insurance Fund (78-4171-0-3-351).

Federal Deposit Insurance Corporation, Deposit Insurance Fund (51-4596-0-4-373).

Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51-4065-0-3-373).

Federal Deposit Insurance Corporation, Noninterest Bearing Transaction Account Guarantee (51-4458-0-3-373).

Federal Deposit Insurance Corporation, Senior Unsecured Debt Guarantee (51-4457-0-3-373).

Federal Home Loan Mortgage Corporation (Freddie Mac).

Federal Housing Finance Agency, Administrative Expenses (95-5532-0-2-371).

Federal National Mortgage Corporation (Fannie Mae).

Federal Payment to the District of Columbia Judicial Retirement and Survivors Annuity Fund (20-1713-0-1-752).

Federal Payment to the District of Columbia Pension Fund (20-1714-0-1-601).

Federal Payments to the Railroad Retirement Accounts (60-0113-0-1-601).

Federal Reserve Bank Reimbursement Fund (20-1884-0-1-803).

Financial Agent Services (20-1802-0-1-803).

Foreign Military Sales Trust Fund (11-8242-0-7-155).

Hazardous Waste Management, Conservation Reserve Program (12-4336-0-3-999).

Host Nation Support Fund for Relocation (97-8337-0-7-051).

Internal Revenue Collections for Puerto Rico (20-5737-0-2-806).

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect.

Medical Facilities Guarantee and Loan Fund (75-9931-0-3-551).

National Credit Union Administration, Central Liquidity Facility (25-4470-0-3-373).

National Credit Union Administration, Corporate Credit Union Share Guarantee Program (25-4476-0-3-376).

National Credit Union Administration, Credit Union Homeowners Affordability Relief Program (25-4473-0-3-371).

National Credit Union Administration, Credit Union Share Insurance Fund (25-4468-0-3-373).

National Credit Union Administration, Credit Union System Investment Program (25-4474-0-3-376).

National Credit Union Administration, Operating fund (25-4056-0-3-373).

National Credit Union Administration, Share Insurance Fund Corporate Debt Guarantee Program (25-4469-0-3-376).

National Credit Union Administration, U.S. Central Federal Credit Union Capital Program (25-4475-0-3-376).

Office of Thrift Supervision (20-4108-0-3-373).

Panama Canal Commission Compensation Fund (16-5155-0-2-602).

Payment of Vietnam and USS Pueblo prisoner-of-war claims within the Salaries and Expenses, Foreign Claims Settlement account (15-0100-0-1-153).

Payment to Civil Service Retirement and Disability Fund (24-0200-0-1-805).

Payment to Department of Defense Medicare-Eligible Retiree Health Care Fund (97-0850-0-1-054).

Payment to Judiciary Trust Funds (10-0941-0-1-752).

Payment to Military Retirement Fund (97-0040-0-1-054).

Payment to the Foreign Service Retirement and Disability Fund (19-0540-0-1-153).

Payments to Copyright Owners (03-5175-0-2-376).

Payments to Health Care Trust Funds (75-0580-0-1-571).

Payment to Radiation Exposure Compensation Trust Fund (15-0333-0-1-054).

Payments to Social Security Trust Funds (28-0404-0-1-651).

Payments to the United States Territories, Fiscal Assistance (14-0418-0-1-806).

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds.

Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801).

Postal Service Fund (18-4020-0-3-372).

Radiation Exposure Compensation Trust Fund (15-8116-0-1-054).

Reimbursement to Federal Reserve Banks (20-0562-0-1-803).

Salaries of Article III judges.

Soldiers and Airmen's Home, payment of claims (84-8930-0-7-705).

Tennessee Valley Authority Fund, except nonpower programs and activities (64-4110-0-3-999).

Tribal and Indian trust accounts within the Department of the Interior which fund prior legal obligations of the Government or which are established pursuant to Acts of Congress regarding Federal management of tribal real property or other fiduciary responsibilities, including but not limited to Tribal Special Fund (14-5265-0-2-452), Tribal Trust Fund (14-8030-0-7-452), White Earth Settlement (14-2204-0-1-452), and Indian Water Rights and Habitat Acquisition (14-5505-0-2-303).

United Mine Workers of America 1992 Benefit Plan (95-8260-0-7-551).

United Mine Workers of America 1993 Benefit Plan (95-8535-0-7-551).

United Mine Workers of America Combined Benefit Fund (95-8295-0-7-551).

United States Enrichment Corporation Fund (95-4054-0-3-271).

Universal Service Fund (27-5183-0-2-376).

Vaccine Injury Compensation (75-0320-0-1-551).

Vaccine Injury Compensation Program Trust Fund (20-8175-0-7-551).

(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this part:

Black Lung Disability Trust Fund (20-8144-0-7-601).

Central Intelligence Agency Retirement and Disability System Fund (56-3400-0-1-054).

Civil Service Retirement and Disability Fund (24-8135-0-7-602).

Comptrollers general retirement system (05-0107-0-1-801).

Contributions to U.S. Park Police annuity benefits, Other Permanent Appropriations (14-9924-0-2-303).

Court of Appeals for Veterans Claims Retirement Fund (95-8290-0-7-705).

Department of Defense Medicare-Eligible Retiree Health Care Fund (97-5472-0-2-551).

District of Columbia Federal Pension Fund (20-5511-0-2-601).

District of Columbia Judicial Retirement and Survivors Annuity Fund (20-8212-0-7-602).

Energy Employees Occupational Illness Compensation Fund (16-1523-0-1-053).

Foreign National Employees Separation Pay (97-8165-0-7-051).

Foreign Service National Defined Contributions Retirement Fund (19-5497-0-2-602).

Foreign Service National Separation Liability Trust Fund (19-8340-0-7-602).

Foreign Service Retirement and Disability Fund (19-8186-0-7-602).

Government Payment for Annuitants, Employees Health Benefits (24-0206-0-1-551).

Government Payment for Annuitants, Employee Life Insurance (24-0500-0-1-602).

- Judicial Officers' Retirement Fund (10-8122-0-7-602).
 - Judicial Survivors' Annuities Fund (10-8110-0-7-602).
 - Military Retirement Fund (97-8097-0-7-602).
 - National Railroad Retirement Investment Trust (60-8118-0-7-601).
 - National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306).
 - Pensions for former Presidents (47-0105-0-1-802).
 - Postal Service Retiree Health Benefits Fund (24-5391-0-2-551).
 - Public Safety Officer Benefits (15-0403-0-1-754).
 - Rail Industry Pension Fund (60-8011-0-7-601).
 - Retired Pay, Coast Guard (70-0602-0-1-403).
 - Retirement Pay and Medical Benefits for Commissioned Officers, Public Health Service (75-0379-0-1-551).
 - September 11th Victim Compensation Fund (15-0340-0-1-754).
 - Special Benefits for Disabled Coal Miners (16-0169-0-1-601).
 - Special Benefits, Federal Employees' Compensation Act (16-1521-0-1-600).
 - Special Workers Compensation Expenses (16-9971-0-7-601).
 - Tax Court Judges Survivors Annuity Fund (23-8115-0-7-602).
 - United States Court of Federal Claims Judges' Retirement Fund (10-8124-0-7-602).
 - United States Secret Service, DC Annuity (70-0400-0-1-751).
 - Victims Compensation Fund established under section 410 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note).
 - United States Victims of State Sponsored Terrorism Fund.
 - Voluntary Separation Incentive Fund (97-8335-0-7-051).
 - World Trade Center Health Program Fund (75-0946-0-1-551).
- (2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:
- Biomass Energy Development (20-0114-0-1-271).
 - Check Forgery Insurance Fund (20-4109-0-3-803).
 - Credit liquidating accounts.
 - Credit reestimates.
 - Employees Life Insurance Fund (24-8424-0-8-602).
 - Federal Aviation Insurance Revolving Fund (69-4120-0-3-402).
 - Federal Crop Insurance Corporation Fund (12-4085-0-3-351).
 - Federal Emergency Management Agency, National Flood Insurance Fund (58-4236-0-3-453).
 - Geothermal resources development fund (89-0206-0-1-271).

Low-Rent Public Housing—Loans and Other Expenses (86–4098–0–3–604).

Maritime Administration, War Risk Insurance Revolving Fund (69–4302–0–3–403).

Natural Resource Damage Assessment Fund (14–1618–0–1–302).

【Overseas Private Investment Corporation, Noncredit Account (71–4184–0–3–151).】 *United States International Development Finance Corporation.*

Pension Benefit Guaranty Corporation Fund (16–4204–0–3–601).

San Joaquin Restoration Fund (14–5537–0–2–301).

Servicemembers' Group Life Insurance Fund (36–4009–0–3–701).

Terrorism Insurance Program (20–0123–0–1–376).

(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

Academic Competitiveness/Smart Grant Program (91–0205–0–1–502).

Child Care Entitlement to States (75–1550–0–1–609).

Child Enrollment Contingency Fund (75–5551–0–2–551).

Child Nutrition Programs (with the exception of special milk programs) (12–3539–0–1–605).

Children's Health Insurance Fund (75–0515–0–1–551).

Commodity Supplemental Food Program (12–3507–0–1–605).

Contingency Fund (75–1522–0–1–609).

Family Support Programs (75–1501–0–1–609).

Federal Pell Grants under section 401 of title IV of the Higher Education Act.

Grants to States for Medicaid (75–0512–0–1–551).

Payments for Foster Care and Permanency (75–1545–0–1–609).

Supplemental Nutrition Assistance Program (12–3505–0–1–605).

Supplemental Security Income Program (28–0406–0–1–609).

Temporary Assistance for Needy Families (75–1552–0–1–609).

(i) ECONOMIC RECOVERY PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

GSE Preferred Stock Purchase Agreements (20–0125–0–1–371).

Office of Financial Stability (20–0128–0–1–376).

Special Inspector General for the Troubled Asset Relief Program (20–0133–0–1–376).

(j) SPLIT TREATMENT PROGRAMS.—Each of the following programs shall be exempt from any order under this part to the extent that the budgetary resources of such programs are subject to obligation limitations in appropriations bills:

Federal-Aid Highways (69–8083–0–7–401).

Highway Traffic Safety Grants (69–8020–0–7–401).

Operations and Research NHTSA and National Driver Register (69–8016–0–7–401).

Motor Carrier Safety Operations and Programs (69–8159–0–7–401).

Motor Carrier Safety Grants (69–8158–0–7–401).

Formula and Bus Grants (69–8350–0–7–401).

Grants-In-Aid for Airports (69–8106–0–7–402).

(k) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 2010–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.

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SMALL BUSINESS ACT

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SEC. 22. OFFICE OF INTERNATIONAL TRADE.

(a) ESTABLISHMENT.—

(1) OFFICE.—There is established within the Administration an Office of International Trade which shall implement the programs pursuant to this section for the primary purposes of increasing—

(A) the number of small business concerns that export; and

(B) the volume of exports by small business concerns.

(2) ASSOCIATE ADMINISTRATOR.—The head of the Office shall be the Associate Administrator for International Trade, who shall be responsible to the Administrator.

(b) TRADE DISTRIBUTION NETWORK.—The Associate Administrator, working in close cooperation with the Secretary of Commerce, the United States Trade Representative, the Secretary of Agriculture, the Secretary of State, the President of the Export-Import Bank of the United States, [the President of the Overseas Private Investment Corporation, Director] *the Board of Directors of the United States International Development Finance Corporation*, the Director of the United States Trade and Development Agency, and other relevant Federal agencies, small business development centers engaged in export promotion efforts, Export Assistance Centers, regional and district offices of the Administration, the small business community, and relevant State and local export promotion programs, shall—

(1) maintain a distribution network, using regional and district offices of the Administration, the small business development center network, networks of women's business centers, the Service Corps of Retired Executives authorized by section 8(b)(1), and Export Assistance Centers, for programs relating to—

(A) trade promotion;

(B) trade finance;

(C) trade adjustment assistance;

(D) trade remedy assistance; and

(E) trade data collection;

(2) aggressively market the programs described in paragraph (1) and disseminate information, including computerized marketing data, to small business concerns on exporting trends,

market-specific growth, industry trends, and international prospects for exports;

(3) promote export assistance programs through the district and regional offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the Service Corps of Retired Executives, State and local export promotion programs, and partners in the private sector; and

(4) give preference in hiring or approving the transfer of any employee into the Office or to a position described in subsection (c)(9) to otherwise qualified applicants who are fluent in a language in addition to English, to—

(A) accompany small business concerns on foreign trade missions; and

(B) translate documents, interpret conversations, and facilitate multilingual transactions, including by providing referral lists for translation services, if required.

(c) PROMOTION OF SALES OPPORTUNITIES.—The Associate Administrator shall promote sales opportunities for small business goods and services abroad. To accomplish this objective the office shall—

(1) establish annual goals for the Office relating to—

(A) enhancing the exporting capability of small business concerns and small manufacturers;

(B) facilitating technology transfers;

(C) enhancing programs and services to assist small business concerns and small manufacturers to compete effectively and efficiently in foreign markets;

(D) increasing the ability of small business concerns to access capital; and

(E) disseminating information concerning Federal, State, and private programs and initiatives;

(2) in cooperation with the Department of Commerce, other relevant agencies, regional and local Administration offices, the Small Business Development Center network, and State programs, develop a mechanism for—

(A) identifying subsectors of the small business community with strong export potential;

(B) identifying areas of demand in foreign markets;

(C) prescreening foreign buyers for commercial and credit purposes; and

(D) assisting in increasing international marketing by disseminating relevant information regarding market leads, linking potential sellers and buyers, and catalyzing the formation of joint ventures, where appropriate;

(3) in cooperation with the Department of Commerce, actively assist small business concerns in forming and using export trading companies, export management companies and research and development pools authorized under section 9 of this Act;

(4) work in conjunction with other Federal agencies, regional and district offices of the Administration, the small business development center network, and the private sector to identify and publicize translation services, including those available through colleges and universities participating in the small business development center program;

(5) work closely with the Department of Commerce and other relevant Federal agencies to—

(A) collect, analyze and periodically update relevant data regarding the small business share of United States exports and the nature of State exports (including the production of Gross State Product figures) and disseminate that data to the public and to Congress;

(B) make recommendations to the Secretary of Commerce and to Congress regarding revision of the North American Industry Classification System codes to encompass industries currently overlooked and to create North American Industry Classification System codes for export trading companies and export management companies;

(C) improve the utility and accessibility of existing export promotion programs for small business concerns; and

(D) increase the accessibility of the Export Trading Company contact facilitation service;

(6) make available to the small business community information regarding conferences on exporting and international trade sponsored by the public and private sector;

(7) provide small business concerns with access to up to date and complete export information by—

(A) making available, at the regional and district offices of the Administration through cooperation with the Department of Commerce, export information, including, but not limited to, the worldwide information and trade system and world trade data reports;

(B) maintaining a list of financial institutions that finance export operations;

(C) maintaining a directory of all Federal, regional, State and private sector programs that provide export information and assistance to small business concerns; and

(D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business export firms so as to insure that the maximum information is made available to small business concerns in a readily usable form;

(8) encourage through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce;

(9) facilitate decentralized delivery of export information and assistance to small business concerns by assigning primary responsibility for export development to one individual in each district office and providing each Administration regional office with a full-time export development specialist, who shall—

(A) assist small business concerns in obtaining export information and assistance from other Federal departments and agencies;

(B) maintain a directory of all programs which provide export information and assistance to small business concerns in the region;

(C) encourage financial institutions to develop and expand programs for export financing;

(D) provide advice to personnel of the Administration involved in making loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small business concerns engaged in exports;

(E) within one hundred and eighty days of their appointment, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine the needs of small business concerns for export information and assistance;

(F) participate, jointly with employees of the Office, in an annual training program that focuses on current small business needs for exporting; and

(G) develop and conduct training programs for exporters and lenders, in cooperation with the Export Assistance Centers, the Department of Commerce, the Department of Agriculture, small business development centers, women's business centers, the Export-Import Bank of the United States, the **【Overseas Private Investment Corporation】** *United States International Development Finance Corporation*, and other relevant Federal agencies;

(10) make available on the website of the Administration the name and contact information of each individual described in paragraph (9);

(11) carry out a nationwide marketing effort using technology, online resources, training, and other strategies to promote exporting as a business development opportunity for small business concerns;

(12) disseminate information to the small business community through regional and district offices of the Administration, the small business development center network, Export Assistance Centers, the network of women's business centers, chapters of the Service Corps of Retired Executives authorized by section 8(b)(1), State and local export promotion programs, and partners in the private sector regarding exporting trends, market-specific growth, industry trends, and prospects for exporting; and

(13) establish and carry out training programs for the staff of the regional and district offices of the Administration and resource partners of the Administration on export promotion and providing assistance relating to exports.

(d) EXPORT FINANCING PROGRAMS.—

(1) IN GENERAL.—The Associate Administrator shall work in cooperation with the Export-Import Bank of the United States, the Department of Commerce, other relevant Federal agencies, and the States to develop a program through which export specialists in the regional offices of the Administration, regional and local loan officers, and Small Business Development Center personnel can facilitate the access of small businesses to relevant export financing programs of the Export-Import Bank of the United States and to export and pre-export financing programs available from the Administration and the private sector.

(2) **TRADE FINANCE SPECIALIST.**—To accomplish the goal established under paragraph (1), the Associate Administrator shall—

(A) designate at least 1 individual within the Administration as a trade finance specialist to oversee international loan programs and assist Administration employees with trade finance issues; and

(B) work in cooperation with the Export-Import Bank and the small business community, including small business trade associations, to—

(i) aggressively market existing Administration export financing and pre-export financing programs;

(ii) identify financing available under various Export-Import Bank programs, and aggressively market those programs to small businesses;

(iii) assist in the development of financial intermediaries and facilitate the access of those intermediaries to existing financing programs;

(iv) promote greater participation by private financial institutions, particularly those institutions already participating in loan programs under this Act, in export finance; and

(v) provide for the participation of appropriate Administration personnel in training programs conducted by the Export-Import Bank.

(e) **TRADE REMEDIES.**—The Associate Administrator shall—

(1) work in cooperation with other Federal agencies and the private sector to counsel small businesses with respect to initiating and participating in any proceedings relating to the administration of the United States trade laws; and

(2) work with the Department of Commerce, the Office of the United States Trade Representative, and the International Trade Commission to increase access to trade remedy proceedings for small businesses.

(f) **REPORTING REQUIREMENT.**—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that contains—

(1) a description of the progress of the Office in implementing the requirements of this section;

(2) a detailed account of the results of export growth activities of the Administration, including the activities of each district and regional office of the Administration, based on the performance measures described in subsection (i);

(3) an estimate of the total number of jobs created or retained as a result of export assistance provided by the Administration and resource partners of the Administration;

(4) for any travel by the staff of the Office, the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel; and

(5) a description of the participation by the Office in trade negotiations.

(g) **STUDIES.**—The Associate Administrator, in cooperation, where appropriate, with the Division of Economic Research of the Office of Advocacy, and with other Federal agencies, shall undertake

studies regarding the following issues and shall report to the Committees on Small Business of the House of Representatives and the Senate, and to other relevant Committees of the House and Senate within 6 months after the date of enactment of the Small Business International Trade and Competitiveness Act with specific recommendations on—

(1) the viability and cost of establishing an annual, competitive small business export incentive program similar to the Small Business Innovation Research program and alternative methods of structuring such a program;

(2) methods of streamlining trade remedy proceedings to increase access for, and reduce expenses incurred by, smaller firms;

(3) methods of improving the current small business foreign sales corporation tax incentives and providing small businesses with greater benefits from this initiative;

(4) methods of identifying potential export markets for United States small businesses; maintaining and disseminating current foreign market data; and devising a comprehensive export marketing strategy for United States small business goods and services, and shall include data on the volume and dollar amount of goods and services, identified by type, imported by United States trading partners over the past 10 years; and

(5) the results of a survey of major United States trading partners to identify the domestic policies, programs and incentives, and the private sector initiatives, which exist to encourage the formation and growth of small business.

(h) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—The Administrator shall ensure that—

(1) the responsibilities of the Administration regarding international trade are carried out by the Associate Administrator;

(2) the Associate Administrator has sufficient resources to carry out such responsibilities; and

(3) the Associate Administrator has direct supervision and control over—

(A) the staff of the Office; and

(B) any employee of the Administration whose principal duty station is an Export Assistance Center, or any successor entity.

(i) EXPORT AND TRADE COUNSELING.—

(1) DEFINITION.—In this subsection—

(A) the term “lead small business development center” means a small business development center that has received a grant from the Administration; and

(B) the term “lead women’s business center” means a women’s business center that has received a grant from the Administration.

(2) CERTIFICATION PROGRAM.—The Administrator shall establish an export and trade counseling certification program to certify employees of lead small business development centers and lead women’s business centers in providing export assistance to small business concerns.

(3) NUMBER OF CERTIFIED EMPLOYEES.—The Administrator shall ensure that the number of employees of each lead small

business development center who are certified in providing export assistance is not less than the lesser of—

(A) 5; or

(B) 10 percent of the total number of employees of the lead small business development center.

(4) REIMBURSEMENT FOR CERTIFICATION.—

(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall reimburse a lead small business development center or a lead women's business center for costs relating to the certification of an employee of the lead small business center or lead women's business center in providing export assistance under the program established under paragraph (2).

(B) LIMITATION.—The total amount reimbursed by the Administrator under subparagraph (A) may not exceed \$350,000 in any fiscal year.

(j) PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Associate Administrator shall develop performance measures for the Administration to support export growth goals for the activities of the Office under this section that include—

(A) the number of small business concerns that—

(i) receive assistance from the Administration;

(ii) had not exported goods or services before receiving the assistance described in clause (i); and

(iii) export goods or services;

(B) the number of small business concerns receiving assistance from the Administration that export goods or services to a market outside the United States into which the small business concern did not export before receiving the assistance;

(C) export revenues by small business concerns assisted by programs of the Administration;

(D) the number of small business concerns referred to an Export Assistance Center or a small business development center by the staff of the Office;

(E) the number of small business concerns referred to the Administration by an Export Assistance Center or a small business development center; and

(F) the number of small business concerns referred to the Department of Commerce, the Department of Agriculture, the Department of State, the Export-Import Bank of the United States, the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*, or the United States Trade and Development Agency by the staff of the Office, an Export Assistance Center, or a small business development center.

(2) JOINT PERFORMANCE MEASURES.—The Associate Administrator shall develop joint performance measures for the district offices of the Administration and the Export Assistance Centers that include the number of export loans made under—

(A) section 7(a)(16);

(B) the Export Working Capital Program established under section 7(a)(14);

(C) the Preferred Lenders Program, as defined in section 7(a)(2)(C)(ii); and

(D) the export express program established under section 7(a)(34).

(3) CONSISTENCY OF TRACKING.—The Associate Administrator, in coordination with the departments and agencies that are represented on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) and the small business development center network, shall develop a system to track exports by small business concerns, including information relating to the performance measures developed under paragraph (1), that is consistent with systems used by the departments and agencies and the network.

(k) EXPORT ASSISTANCE CENTERS.—

(1) EXPORT FINANCE SPECIALISTS.—

(A) MINIMUM NUMBER OF EXPORT FINANCE SPECIALISTS.—On and after the date that is 90 days after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that the number of export finance specialists is not less than the number of such employees so assigned on January 1, 2003.

(B) EXPORT FINANCE SPECIALISTS ASSIGNED TO EACH REGION OF THE ADMINISTRATION.—On and after the date that is 2 years after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that there are not fewer than 3 export finance specialists in each region of the Administration.

(2) PLACEMENT OF EXPORT FINANCE SPECIALISTS.—

(A) PRIORITY.—The Administrator shall give priority, to the maximum extent practicable, to placing employees of the Administration at any Export Assistance Center that—

(i) had an Administration employee assigned to the Export Assistance Center before January 2003; and

(ii) has not had an Administration employee assigned to the Export Assistance Center during the period beginning January 2003, and ending on the date of enactment of this subsection, either through retirement or reassignment.

(B) NEEDS OF EXPORTERS.—The Administrator shall, to the maximum extent practicable, strategically assign Administration employees to Export Assistance Centers, based on the needs of exporters.

(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require the Administrator to reassign or remove an export finance specialist who is assigned to an Export Assistance Center on the date of enactment of this subsection.

(3) GOALS.—The Associate Administrator shall work with the Department of Commerce, the Export-Import Bank of the United States, and the [Overseas Private Investment Corporation] *United States International Development Finance Cor-*

poration to establish shared annual goals for the Export Assistance Centers.

(4) OVERSIGHT.—The Associate Administrator shall designate an individual within the Administration to oversee all activities conducted by Administration employees assigned to Export Assistance Centers.

(1) STATE TRADE EXPANSION PROGRAM.—

(1) DEFINITIONS.—In this subsection—

(A) the term “eligible small business concern” means a business concern that—

- (i) is organized or incorporated in the United States;
- (ii) is operating in the United States;
- (iii) meets—

(I) the applicable industry-based small business size standard established under section 3; or

(II) the alternate size standard applicable to the program under section 7(a) of this Act and the loan programs under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(iv) has been in business for not less than 1 year, as of the date on which assistance using a grant under this subsection commences; and

(v) has access to sufficient resources to bear the costs associated with trade, including the costs of packing, shipping, freight forwarding, and customs brokers;

(B) the term “program” means the State Trade Expansion Program established under paragraph (2);

(C) the term “rural small business concern” means an eligible small business concern located in a rural area, as that term is defined in section 1393(a)(2) of the Internal Revenue Code of 1986;

(D) the term “socially and economically disadvantaged small business concern” has the meaning given that term in section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)); and

(E) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

(2) ESTABLISHMENT OF PROGRAM.—The Associate Administrator shall establish a trade expansion program, to be known as the “State Trade Expansion Program”, to make grants to States to carry out programs that assist eligible small business concerns in—

- (A) participation in foreign trade missions;
- (B) a subscription to services provided by the Department of Commerce;
- (C) the payment of website fees;
- (D) the design of marketing media;
- (E) a trade show exhibition;
- (F) participation in training workshops;
- (G) a reverse trade mission;

(H) procurement of consultancy services (after consultation with the Department of Commerce to avoid duplication); or

(I) any other initiative determined appropriate by the Associate Administrator.

(3) GRANTS.—

(A) JOINT REVIEW.—In carrying out the program, the Associate Administrator may make a grant to a State to increase the number of eligible small business concerns in the State exploring significant new trade opportunities.

(B) CONSIDERATIONS.—In making grants under this subsection, the Associate Administrator may give priority to an application by a State that proposes a program that—

(i) focuses on eligible small business concerns as part of a trade expansion program;

(ii) demonstrates intent to promote trade expansion by—

(I) socially and economically disadvantaged small business concerns;

(II) small business concerns owned or controlled by women; and

(III) rural small business concerns;

(iii) promotes trade facilitation from a State that is not 1 of the 10 States with the highest percentage of eligible small business concerns that are engaged in international trade, based upon the most recent data from the Department of Commerce; and

(iv) includes—

(I) activities which have resulted in the highest return on investment based on the most recent year; and

(II) the adoption of shared best practices included in the annual report of the Administration.

(C) LIMITATIONS.—

(i) SINGLE APPLICATION.—A State may not submit more than 1 application for a grant under the program in any 1 fiscal year.

(ii) PROPORTION OF AMOUNTS.—The total value of grants made under the program during a fiscal year to the 10 States with the highest percentage of eligible small business concerns, based upon the most recent data available from the Department of Commerce, shall be not more than 40 percent of the amounts appropriated for the program for that fiscal year.

(iii) DURATION.—The Associate Administrator shall award a grant under this program for a period of not more than 2 years.

(D) APPLICATION.—

(i) IN GENERAL.—A State desiring a grant under the program shall submit an application at such time, in such manner, and accompanied by such information as the Associate Administrator may establish.

(ii) CONSULTATION TO REDUCE DUPLICATION.—A State desiring a grant under the program shall—

(I) before submitting an application under clause (i), consult with applicable trade agencies of the Federal Government on the scope and mission of the activities the State proposes to carry out using the grant, to ensure proper coordination and reduce duplication in services; and

(II) document the consultation conducted under subclause (I) in the application submitted under clause (i).

(4) COMPETITIVE BASIS.—The Associate Administrator shall award grants under the program on a competitive basis.

(5) FEDERAL SHARE.—The Federal share of the cost of a trade expansion program carried out using a grant under the program shall be—

(A) for a State that has a high trade volume, as determined by the Associate Administrator, not more than 65 percent; and

(B) for a State that does not have a high trade volume, as determined by the Associate Administrator, not more than 75 percent.

(6) NON-FEDERAL SHARE.—The non-Federal share of the cost of a trade expansion program carried out using a grant under the program shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

(7) REPORTS.—

(A) INITIAL REPORT.—Not later than 120 days after the date of enactment of this subsection, the Associate Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report, which shall include—

(i) a description of the structure of and procedures for the program;

(ii) a management plan for the program; and

(iii) a description of the merit-based review process to be used in the program.

(B) ANNUAL REPORTS.—

(i) IN GENERAL.—The Associate Administrator shall publish on the website of the Administration an annual report regarding the program, which shall include—

(I) the number and amount of grants made under the program during the preceding year;

(II) a list of the States receiving a grant under the program during the preceding year, including the activities being performed with each grant;

(III) the effect of each grant on the eligible small business concerns in the State receiving the grant;

(IV) the total return on investment for each State; and

(V) a description of best practices by States that showed high returns on investment and signifi-

cant progress in helping more eligible small business concerns.

(ii) NOTICE TO CONGRESS.—On the date on which the Associate Administrator publishes a report under clause (i), the Associate Administrator shall notify the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that the report has been published.

(8) REVIEWS BY INSPECTOR GENERAL.—

(A) IN GENERAL.—The Inspector General of the Administration shall conduct a review of—

(i) the extent to which recipients of grants under the program are measuring the performance of the activities being conducted and the results of the measurements; and

(ii) the overall management and effectiveness of the program.

(B) REPORTS.—

(i) PILOT PROGRAM.—Not later than 6 months after the date of enactment of this subsection, the Inspector General of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the use of amounts made available under the State Trade and Export Promotion Grant Program under section 1207 of the Small Business Jobs Act of 2010 (15 U.S.C. 649b note).

(ii) NEW STEP PROGRAM.—Not later than 18 months after the date on which the first grant is awarded under this subsection, the Inspector General of the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the review conducted under subparagraph (A).

(9) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program \$30,000,000 for each of fiscal years 2016 through 2020.

(m) DEFINITIONS.—In this section—

(1) the term “Associate Administrator” means the Associate Administrator for International Trade described in subsection (a)(2);

(2) the term “Export Assistance Center” means a one-stop shop for United States exporters established by the United States and Foreign Commercial Service of the Department of Commerce pursuant to section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

(3) the term “export finance specialist” means a full-time equivalent employee of the Office assigned to an Export Assistance Center to carry out the duties described in subsection (e); and

(4) the term “Office” means the Office of International Trade established under subsection (a)(1).

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EXPORT ENHANCEMENT ACT OF 1988

TITLE II—EXPORT ENHANCEMENT

SEC. 2001. SHORT TITLE.

This title may be referred to as the “Export Enhancement Act of 1988”.

* * * * *

Subtitle C—Export Promotion

* * * * *

SEC. 2301. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) ESTABLISHMENT.—

(1) **IN GENERAL.**—The Secretary of Commerce shall establish, within the International Trade Administration, the United States and Foreign Commercial Service. The Secretary shall, to the greatest extent practicable, transfer to the Commercial Service the functions and personnel of the United States and Foreign Commercial Services.

(2) **ASSISTANTS SECRETARY OF COMMERCE AND DIRECTOR GENERAL; OTHER PERSONNEL.**—The head of the Commercial Service shall be the Assistant Secretary of Commerce and Director General of the Commercial Service, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary of Commerce and Director General of the Commercial Service may appoint Commercial Service Officers and such other personnel as may be necessary to carry out the activities of the Commercial Service.

(3) **COORDINATION WITH FOREIGN POLICY OBJECTIVES.**—The Secretary shall take the necessary steps to ensure that the activities of the Commercial Service are carried out in a manner consistent with United States foreign policy objectives, and the Secretary shall consult regularly with the Secretary of State in order to comply with this paragraph.

(4) **AUTHORITY OF CHIEF OF MISSION.**—All activities of the Commercial Service shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(b) **STATEMENT OF PURPOSE.**—The Commercial Service shall place primary emphasis on the promotion of exports of goods and services from the United States, particularly by small businesses and medium-sized businesses, and on the protection of United States business interests abroad by carrying out activities such as—

(1) identifying United States businesses with the potential to export goods and services and providing such businesses with advice and information on establishing export businesses;

(2) providing United States exporters with information on economic conditions, market opportunities, the status of the intellectual property system in such country, and the legal and regulatory environment within foreign countries;

(3) providing United States exporters with information and advice on the necessary adaptation of product design and marketing strategy to meet the differing cultural and technical requirements of foreign countries;

(4) providing United States exporters with actual leads and an introduction to contacts within foreign countries;

(5) assisting United States exporters in locating reliable sources of business services in foreign countries;

(6) assisting United States exporters in their dealings with foreign governments and enterprises owned by foreign governments;

(7) assisting the coordination of the efforts of State and local agencies and private organizations which seek to promote United States business interests abroad so as to maximize their effectiveness and minimize the duplication of efforts;

(8) utilizing district and foreign offices as one-stop shops for United States exporters by providing exporters with information on all export promotion and export finance activities of the Federal Government, assisting exporters in identifying which Federal programs may be of greatest assistance, and assisting exporters in making contact with the Federal programs identified; and

(9) providing United States exporters and export finance institutions with information on all financing and insurance programs of the Export-Import Bank of the United States, the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*, the Trade and Development Program, and the Small Business Administration, including providing assistance in completing applications for such programs and working with exporters and export finance institutions to address any deficiencies in such applications that have been submitted.

(c) OFFICES.—

(1) IN GENERAL.—The Commercial Service shall conduct its activities at a headquarters office, district offices located in major United States cities, and foreign offices located in major foreign cities.

(2) HEADQUARTERS.—The headquarters of the Commercial Service shall provide such managerial, administrative, research, and other services as the Secretary considers necessary to carry out the purposes of the Commercial Service.

(3) DISTRICT OFFICES.—The Secretary shall establish district offices of the Commercial Service in any United States city in a region in which the Secretary determines that there is a need for Federal Government export assistance.

(4) FOREIGN OFFICES.—(A) The Secretary may, after consultation with the Secretary of State, establish foreign offices of the Commercial Service. These offices shall be located in foreign cities in regions in which the Secretary determines there are significant business opportunities for United States exporters.

(B) The Secretary may, in consultation with the Secretary of State, assign to the foreign offices Commercial Service Officers and such other personnel as the Secretary considers necessary. In employing Commercial Service Officers and such other personnel, the Secretary shall use the Foreign Service personnel system in accordance with the Foreign Service Act of 1980. The Secretary shall designate a Commercial Officer as head of each foreign office.

(C) Upon the request of the Secretary, the Secretary of State shall attach the Commercial Service Officers and other employees of each foreign office to the diplomatic mission of the United States in the country in which that foreign office is located, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(D) For purposes of official representation, the senior Commercial Service Officer in each country shall be considered to be the senior commercial representative of the United States in that country, and the United States chief of mission in that country shall accord that officer all privileges and responsibilities appropriate to the position of senior commercial representative of other countries.

(E) The Secretary of State is authorized, upon the request of the Secretary, to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the operation of the foreign offices. The Secretary is authorized to reimburse or advance funds to the Secretary of State for such services.

(F) The authority of the Secretary under this paragraph shall be subject to section 103 of the Diplomatic Security Act (22 U.S.C. 4802).

(d) RANK OF COMMERCIAL SERVICE OFFICERS IN FOREIGN MISSIONS.—

(1) MINISTER-COUNSELOR.—Notwithstanding any other provision of law, the Secretary is authorized to designate up to 16 United States missions abroad at which the senior Commercial Service Officer will be able to use the diplomatic title of Minister Counselor. The Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Service Officer assigned to a United States mission so designated.

(2) CONSUL GENERAL.—In any United States consulate in which a vacancy occurs in the position of Consul General, the Secretary of State, in consultation with the Secretary, shall consider filling that vacancy with a Commercial Service Officer if the primary functions of the consulate are of a commercial nature and if there are significant business opportunities for United States exporters in the region in which the consulate is located.

(e) INFORMATION DISSEMINATION.—In order to carry out subsection (b)(7), to lessen the cost of distribution of information produced by the Commercial Service, and to make that information more readily available, the Secretary should establish a system for distributing that information in those areas where no district offices of the Commercial Service are located. Distributors of the in-

formation should be State export promotion agencies or private export and trade promotion associations. The distribution system should be consistent with cost recovery objectives of the Department of Commerce.

(f) COOPERATION IN FEDERAL FINANCING AND INSURANCE PROGRAMS.—To assist the Commercial Service in carrying out subsection (b)(9), and consistent with the provisions of section 13 of the Export-Import Bank Act of 1945, the Export-Import Bank of the United States, the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*, the Trade and Development Program, and the Small Business Administration shall each—

(1) provide to the Commercial Service complete and current information on all of its programs and financing practices; and

(2) undertake a training program regarding such programs and practices for Commercial Service Officers who are designated by the Assistant Secretary of Commerce and Director General of the Commercial Service.

(g) AUDITS.—The Inspector General of the Department of Commerce shall perform periodic audits of the operations of the Commercial Service, but at least once every 3 years. The Inspector General shall report to the Congress the results of each such audit. In addition to an overview of the activities and effectiveness of Commercial Service operations, the audit shall include—

(1) an evaluation of the current placement of domestic personnel and recommendations for transferring personnel among district offices;

(2) an evaluation of the current placement of foreign-based personnel and recommendations for transferring such personnel in response to newly emerging business opportunities for United States exporters; and

(3) an evaluation of the personnel system and its management, including the recruitment, assignment, promotion, and performance appraisal of personnel, the use of limited appointees, and the “time-in-class” system.

(h) REPORT BY THE SECRETARY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the feasibility and desirability, the progress to date, the present status, and the 5-year outlook, of the comprehensive integration of the functions and personnel of the foreign and domestic export promotion operations within the International Trade Administration of the Department of Commerce.

(i) PAY OF ASSISTANT SECRETARY AND DIRECTOR GENERAL.—Section 5315 of title 5, United States Code, is amended by adding at the end the following: “Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.”.

(j) DEFINITIONS.—For purposes of this Section—

(1) the term “Secretary” means the Secretary of Commerce;

(2) the term “Commercial Service” means the United States and Foreign Commercial Service;

(3) the term “United States exporter” means—

(A) a United States citizen;

(B) a corporation, partnership, or other association created under the laws of the United States or of any State;

or

- (C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B), that exports, or seeks to export, goods or services produced in the United States;
- (4) the term “small business” means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632);
- (5) the term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and
- (6) the term “United States” means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

* * * * *

SEC. 2312. TRADE PROMOTION COORDINATING COMMITTEE.

(a) **ESTABLISHMENT AND PURPOSE.**—The President shall establish the Trade Promotion Coordinating Committee (hereafter in this section referred to as the “TPCC”). The purpose of the TPCC shall be—

- (1) to provide a unifying framework to coordinate the export promotion and export financing activities of the United States Government; and
- (2) to develop a governmentwide strategic plan for carrying out Federal export promotion and export financing programs.

(b) **DUTIES.**—The TPCC shall—

- (1) coordinate the development of the trade promotion policies and programs of the United States Government;
- (2) provide a central source of information for the business community on Federal export promotion and export financing programs;
- (3) coordinate official trade promotion efforts to ensure better delivery of services to United States businesses, including—
 - (A) information and counseling on United States export promotion and export financing programs and opportunities in foreign markets;
 - (B) representation of United States business interests abroad; and
 - (C) assistance with foreign business contacts and projects,
- (4) prevent unnecessary duplication in Federal export promotion and export financing activities;
- (5) assess the appropriate levels and allocation of resources among agencies in support of export promotion and export financing and provide recommendations to the President based on its assessment; and
- (6) carry out such other duties as are deemed to be appropriate, consistent with the purpose of the TPCC.

(c) **STRATEGIC PLAN.**—To carry out subsection (b), the TPCC shall develop and implement a governmentwide strategic plan for Federal trade promotion efforts. Such plan shall—

- (1) establish a set of priorities for Federal activities in support of United States exports and explain the rationale for the priorities;

(2) review current Federal programs designed to promote the sale of United States exports in light of the priorities established under paragraph 8) and develop a plan to bring such activities into line with the priorities and to improve coordination of such activities;

(3) identify areas of overlap and duplication among Federal export promotion activities and propose means of eliminating them;

(4) propose to the President an annual unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (2) and eliminates funding for the areas of overlap and duplication identified under paragraph (3);

(5) review efforts by the States (as defined in section 2301(i)) to promote United States exports and propose means of developing cooperation between State and Federal efforts, including co-location, cost-sharing between Federal and State export promotion programs, and sharing of market research data;

(6) reflect the recommendations of the United States National Tourism Organization to the degree considered appropriate by the TPCC; and

(7) in coordination with State trade promotion agencies, include a survey and analysis regarding the overall effectiveness of Federal-State coordination and export promotion goals on an annual basis, to further include best practices, recommendations to better assist small businesses, and other relevant matters.

(d) MEMBERSHIP.—

(1) IN GENERAL.—Members of the TPCC shall include representatives from—

- (A) the Department of Commerce;
- (B) the Department of State;
- (C) the Department of the Treasury;
- (E) the Department of Energy;
- (F) the Department of Transportation;
- (G) the Office of the United States Trade Representative;
- (H) the Small Business Administration;
- (I) the Agency for International Development;
- (J) the Trade and Development Program;
- (K) the **Overseas Private Investment Corporation** *United States International Development Finance Corporation*;
- (L) the Export-Import Bank of the United States; and
- (M) at the discretion of the President, such other departments or agencies as may be necessary.

(2) REPRESENTATIVES FROM STATE TRADE PROMOTION AGENCIES.—The TPCC shall also include 1 or more members appointed by the President who are representatives of State trade promotion agencies.

(3) CHAIRPERSON.—The Secretary of Commerce shall serve as the chairperson of the TPCC.

(e) MEMBER QUALIFICATIONS.—Members of the TPCC (other than members described in subsection (d)(2)) shall be appointed by the heads of their respective departments or agencies. Such members, as well as alternates designated by any members unable to attend

a meeting of the TPCC, shall be individuals who exercise significant decisionmaking authority in their respective departments or agencies.

(f) **REPORT TO THE CONGRESS.**—The chairperson of the TPCC shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on International Relations of the House of Representatives, not later than March 30 of each year, a report describing—

(1) the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan (including implementation of the survey and analysis described in paragraph (7) of that subsection), and any revisions thereto; and

(2) the implementation of sections 303 and 304 of the Freedom for Russia and Emerging Democracies and Open Markets Support Act of 1992 (22 U.S.C. 5823 and 5824) concerning funding for export promotion activities and the interagency working groups on energy of the TPCC.

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SECTION 5402 OF THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

SEC. 5402. INTERAGENCY TRADE DATA ADVISORY COMMITTEE.

(a) **ESTABLISHMENT.**—There is established the Interagency Trade Data Advisory Committee.

(b) **MEMBERSHIP.**—The Committee shall consist of—

- (1) the United States Trade Representative;
- (2) the Secretary of Agriculture;
- (3) the Secretary of Defense;
- (4) the Secretary of Commerce;
- (5) the Secretary of Labor;
- (6) the Secretary of the Treasury;
- (7) the Secretary of State;
- (8) the Director of the Office of Management and Budget;
- (9) the Director of Central Intelligence;
- (10) the Chairman of the Federal Reserve Board;
- (11) the Chairman of the International Trade Commission;
- (12) the President of the Export-Import Bank;
- (13) **the President of the Overseas Private Investment Corporation** *the Chief Executive Officer of the United States International Development Finance Corporation*; and

(14) such other members as may be appointed by the President from full-time officers or employees of the Federal Government.

(c) **CHAIRMAN.**—The Secretary of Commerce shall be Chairman of the Committee.

(d) **DESIGNEES.**—Any member of the Committee may appoint a designee to serve in place of such member on the Committee.

TITLE 18, UNITED STATES CODE

PART I—CRIMES

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CHAPTER 33—EMBLEMS, INSIGNIA, AND NAMES

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§ 709. False advertising or misuse of names to indicate Federal agency

Whoever, except as permitted by the laws of the United States, uses the words “national”, “Federal”, “United States”, “reserve”, or “Deposit Insurance” as part of the business or firm name of a person, corporation, partnership, business trust, association or other business entity engaged in the banking, loan, building and loan, brokerage, factorage, insurance, indemnity, savings or trust business; or

Whoever falsely advertises or represents, or publishes or displays any sign, symbol or advertisement reasonably calculated to convey the impression that a nonmember bank, banking association, firm or partnership is a member of the Federal reserve system; or

Whoever, except as expressly authorized by Federal law, uses the words “Federal Deposit”, “Federal Deposit Insurance”, or “Federal Deposit Insurance Corporation” or a combination of any three of these words, as the name or a part thereof under which he or it does business, or advertises or otherwise represents falsely by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured or guaranteed by the Federal Deposit Insurance Corporation, or by the United States or by any instrumentality thereof, or whoever advertises that his or its deposits, shares, or accounts are federally insured, or falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which the deposit liabilities of an insured bank or banks are insured by the Federal Deposit Insurance Corporation; or

Whoever, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses as a firm or business name or transacts business using the words “National Credit Union”, “National Credit Union Administration”, “National Credit Union Board”, “National Credit Union Share Insurance Fund”, “Share Insurance”, or “Central Liquidity Facility”, or the letters “NCUA”, “NCUSIF”, or “CLF”, or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product, or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or other-

wise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act; or

Whoever, not being organized under chapter 7 of Title 12, advertises or represents that it makes Federal Farm loans or advertises or offers for sale as Federal Farm loan bonds any bond not issued under chapter 7 of Title 12, or uses the word "Federal" or the words "United States" or any other words implying Government ownership, obligation or supervision in advertising or offering for sale any bond, note, mortgage or other security not issued by the Government of the United States under the provisions of said chapter 7 or some other Act of Congress; or

Whoever uses the words "Federal Home Loan Bank" or any combination or variation of these words alone or with other words as a business name or part of a business name, or falsely publishes, advertises or represents by any device or symbol or other means reasonably calculated to convey the impression that he or it is a Federal Home Loan Bank or member of or subscriber for the stock of a Federal Home Loan Bank; or

Whoever uses the words "Federal intermediate credit bank" as part of the business or firm name for any person, corporation, partnership, business trust, association or other business entity not organized as an intermediate credit bank under the laws of the United States; or

Whoever uses as a firm or business name the words "Department of Housing and Urban Development", "Housing and Home Finance Agency", "Federal Housing Administration", "Government National Mortgage Association", "United States Housing Authority", or "Public Housing Administration" or the letters "HUD", "FHA", "PHA", or "USHA", or any combination or variation of those words or the letters "HUD", "FHA", "PHA", or "USHA" alone or with other words or letters reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely claims that any repair, improvement, or alteration of any existing structure is required or recommended by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, for the purpose of inducing any person to enter into a contract for the making of such repairs, alterations, or improvements, or falsely advertises or falsely represents by any device whatsoever that any housing unit, project, business, or product has been in any way endorsed, authorized, inspected, appraised, or approved by the Department of Housing and Urban Development, the

Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof; or

Whoever, except with the written permission of the Director of the Federal Bureau of Investigation, knowingly uses the words "Federal Bureau of Investigation" or the initials "F.B.I.", or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the Federal Bureau of Investigation; or

Whoever, except with written permission of the Director of the United States Secret Service, knowingly uses the words "Secret Service", "Secret Service Uniformed Division", the initials "U.S.S.S.", "U.D.", or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division; or

Whoever, except with the written permission of the Director of the United States Mint, knowingly uses the words "United States Mint" or "U.S. Mint" or any colorable imitation of such words, in connection with any advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by or associated in any manner with, the United States Mint; or

Whoever uses the words ["Overseas Private Investment", "Overseas Private Investment Corporation", or "OPIC",] "*United States International Development Finance Corporation*" or "*DFC*" as part of the business or firm name of a person, corporation, partnership, business trust, association, or business entity; or

Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words "Drug Enforcement Administration" or the initials "DEA" or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration; or

Whoever, except with the written permission of the Director of the United States Marshals Service, knowingly uses the words

“United States Marshals Service”, “U.S. Marshals Service”, “United States Marshal”, “U.S. Marshal”, “U.S.M.S.”, or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;

Shall be punished as follows: a corporation, partnership, business trust, association, or other business entity, by a fine under this title; an officer or member thereof participating or knowingly acquiescing in such violation or any individual violating this section, by a fine under this title or imprisonment for not more than one year, or both.

This section shall not make unlawful the use of any name or title which was lawful on the date of enactment of this title.

This section shall not make unlawful the use of the word “national” as part of the name of any business or firm engaged in the insurance or indemnity business, whether such firm was engaged in the insurance or indemnity business prior or subsequent to the date of enactment of this paragraph.

A violation of this section may be enjoined at the suit of the United States Attorney, upon complaint by any duly authorized representative of any department or agency of the United States.

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TRADE FACILITATION AND TRADE ENFORCEMENT ACT OF 2015

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TITLE VII—ENGAGEMENT ON CURRENCY EXCHANGE RATE AND ECONOMIC POLICIES

SEC. 701. ENHANCEMENT OF ENGAGEMENT ON CURRENCY EXCHANGE RATE AND ECONOMIC POLICIES WITH CERTAIN MAJOR TRADING PARTNERS OF THE UNITED STATES.

(a) MAJOR TRADING PARTNER REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and not less frequently than once every 180 days thereafter, the Secretary shall submit to the appropriate committees of Congress a report on the macroeconomic and currency exchange rate policies of each country that is a major trading partner of the United States.

(2) ELEMENTS.—

(A) IN GENERAL.—Each report submitted under paragraph (1) shall contain—

(i) for each country that is a major trading partner of the United States—

(I) that country's bilateral trade balance with the United States;

(II) that country's current account balance as a percentage of its gross domestic product;

(III) the change in that country's current account balance as a percentage of its gross domestic product during the 3-year period preceding the submission of the report;

(IV) that country's foreign exchange reserves as a percentage of its short-term debt; and

(V) that country's foreign exchange reserves as a percentage of its gross domestic product; and

(ii) an enhanced analysis of macroeconomic and exchange rate policies for each country that is a major trading partner of the United States that has—

(I) a significant bilateral trade surplus with the United States;

(II) a material current account surplus; and

(III) engaged in persistent one-sided intervention in the foreign exchange market.

(B) ENHANCED ANALYSIS.—Each enhanced analysis under subparagraph (A)(ii) shall include, for each country with respect to which an analysis is made under that subparagraph—

(i) a description of developments in the currency markets of that country, including, to the greatest extent feasible, developments with respect to currency interventions;

(ii) a description of trends in the real effective exchange rate of the currency of that country and in the degree of undervaluation of that currency;

(iii) an analysis of changes in the capital controls and trade restrictions of that country; and

(iv) patterns in the reserve accumulation of that country.

(3) ASSESSMENT FACTORS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publicly describe the factors used to assess under paragraph (2)(A)(ii) whether a country has a significant bilateral trade surplus with the United States, has a material current account surplus, and has engaged in persistent one-sided intervention in the foreign exchange market.

(b) ENGAGEMENT ON EXCHANGE RATE AND ECONOMIC POLICIES.—

(1) IN GENERAL.—The President, through the Secretary, shall commence enhanced bilateral engagement with each country for which an enhanced analysis of macroeconomic and currency exchange rate policies is included in the report submitted under subsection (a), in order to, as appropriate—

(A) urge implementation of policies to address the causes of the undervaluation of its currency, its significant bilateral trade surplus with the United States, and its material

current account surplus, including undervaluation and surpluses relating to exchange rate management;

(B) express the concern of the United States with respect to the adverse trade and economic effects of that undervaluation and those surpluses;

(C) advise that country of the ability of the President to take action under subsection (c); and/or

(D) develop a plan with specific actions to address that undervaluation and those surpluses.

(2) WAIVER.—

(A) IN GENERAL.—The Secretary may waive the requirement under paragraph (1) to commence enhanced bilateral engagement with a country if the Secretary determines that commencing enhanced bilateral engagement with the country—

(i) would have an adverse impact on the United States economy greater than the benefits of such action; or

(ii) would cause serious harm to the national security of the United States.

(B) CERTIFICATION AND REPORT.—The Secretary shall promptly certify to Congress a determination under subparagraph (A) and promptly submit to Congress a report that describes in detail the reasons for the Secretary's determination under subparagraph (A).

(c) REMEDIAL ACTION.—

(1) IN GENERAL.—If, on or after the date that is one year after the commencement of enhanced bilateral engagement by the President, through the Secretary, with respect to a country under subsection (b)(1), the Secretary determines that the country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A) with respect to that country, the President shall take one or more of the following actions:

(A) Prohibit the [Overseas Private Investment Corporation] *United States International Development Finance Corporation* from approving any new financing (including any insurance, reinsurance, or guarantee) with respect to a project located in that country on and after such date.

(B) Except as provided in paragraph (3), and pursuant to paragraph (4), prohibit the Federal Government from procuring, or entering into any contract for the procurement of, goods or services from that country on and after such date.

(C) Instruct the United States Executive Director of the International Monetary Fund to call for additional rigorous surveillance of the macroeconomic and exchange rate policies of that country and, as appropriate, formal consultations on findings of currency manipulation.

(D) Instruct the United States Trade Representative to take into account, in consultation with the Secretary, in assessing whether to enter into a bilateral or regional trade agreement with that country or to initiate or participate in negotiations with respect to a bilateral or regional trade agreement with that country, the extent to which

that country has failed to adopt appropriate policies to correct the undervaluation and surpluses described in subsection (b)(1)(A).

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the requirement under paragraph (1) to take remedial action if the President determines that taking remedial action under paragraph (1) would—

(i) have an adverse impact on the United States economy greater than the benefits of taking remedial action; or

(ii) would cause serious harm to the national security of the United States.

(B) CERTIFICATION AND REPORT.—The President shall promptly certify to Congress a determination under subparagraph (A) and promptly submit to Congress a report that describes in detail the reasons for the President's determination under subparagraph (A).

(3) EXCEPTION.—The President may not apply a prohibition under paragraph (1)(B) in a manner that is inconsistent with United States obligations under international agreements.

(4) CONSULTATIONS.—

(A) OFFICE OF MANAGEMENT AND BUDGET.—Before applying a prohibition under paragraph (1)(B), the President shall consult with the Director of the Office of Management and Budget to determine whether such prohibition would subject the taxpayers of the United States to unreasonable cost.

(B) CONGRESS.—The President shall consult with the appropriate committees of Congress with respect to any action the President takes under paragraph (1)(B), including whether the President has consulted as required under subparagraph (A).

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate; and

(B) the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives.

(2) COUNTRY.—The term “country” means a foreign country, dependent territory, or possession of a foreign country, and may include an association of 2 or more foreign countries, dependent territories, or possessions of countries into a customs union outside the United States.

(3) REAL EFFECTIVE EXCHANGE RATE.—The term “real effective exchange rate” means a weighted average of bilateral exchange rates, expressed in price-adjusted terms.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

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HIGHER EDUCATION ACT OF 1965

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TITLE VI—INTERNATIONAL EDUCATION
PROGRAMS

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PART C—INSTITUTE FOR INTERNATIONAL
PUBLIC POLICY

* * * * *

SEC. 625. INTERNSHIPS.

(a) IN GENERAL.—The Institute shall enter into agreements with historically Black colleges and universities, tribally controlled colleges or universities, Alaska Native-serving, Native Hawaiian-serving, and Hispanic-serving institutions, other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with international, voluntary or government organizations or agencies, including the Agency for International Development, the Department of State, the International Monetary Fund, the National Security Council, the Organization of American States, the Export-Import Bank, the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*, the Department of State, Office of the United States Trade Representative, the World Bank, and the United Nations.

(b) POSTBACCALAUREATE INTERNSHIPS.—The Institute shall enter into agreements with institutions of higher education described in the first sentence of subsection (a) to conduct internships for students who have completed study for a baccalaureate degree. The internship program authorized by this subsection shall—

- (1) assist the students to prepare for a master's degree program;
- (2) be carried out with the assistance of the Woodrow Wilson International Center for Scholars; and
- (3) contain work experience for the students designed to contribute to the students' preparation for a master's degree program.

(c) INTERAGENCY COMMITTEE ON MINORITY CAREERS IN INTERNATIONAL AFFAIRS.—

- (1) ESTABLISHMENT.—There is established in the executive branch of the Federal Government an Interagency Committee on Minority Careers in International Affairs composed of not less than 7 members, including—

- (A) the Under Secretary for Farm and Foreign Agricultural Services of the Department of Agriculture, or the Under Secretary's designee;

(B) the Assistant Secretary and Director General, of the United States and Foreign Commercial Service of the Department of Commerce, or the Assistant Secretary and Director General's designee;

(C) the Under Secretary of Defense for Personnel and Readiness of the Department of Defense, or the Under Secretary's designee;

(D) the Assistant Secretary for Postsecondary Education in the Department of Education, or the Assistant Secretary's designee;

(E) the Director General of the Foreign Service of the Department of State, or the Director General's designee; and

(F) the General Counsel of the Agency for International Development, or the General Counsel's designee.

(2) FUNCTIONS.—The Interagency Committee established by this section shall—

(A) on an annual basis inform the Secretary and the Institute regarding ways to advise students participating in the internship program assisted under this section with respect to goals for careers in international affairs;

(B) locate for students potential internship opportunities in the Federal Government related to international affairs; and

(C) promote policies in each department and agency participating in the Committee that are designed to carry out the objectives of this part.

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ELECTRIFY AFRICA ACT OF 2015

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SEC. 5. PRIORITIZATION OF EFFORTS AND ASSISTANCE FOR POWER PROJECTS IN SUB-SAHARAN AFRICA BY KEY UNITED STATES INSTITUTIONS.

(a) IN GENERAL.—In pursuing the policy goals described in section 3, the Administrator of the United States Agency for International Development, the Director of the Trade and Development Agency, the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*, and the Chief Executive Officer and Board of Directors of the Millennium Challenge Corporation should, as appropriate, prioritize and expedite institutional efforts and assistance to facilitate the involvement of such institutions in power projects and markets, both on- and off-grid, in sub-Saharan Africa and partner with other investors and local institutions in sub-Saharan Africa, including private sector actors, to specifically increase access to reliable, affordable, and sustainable power in sub-Saharan Africa, including through—

(1) maximizing the number of people with new access to power and power services;

(2) improving and expanding the generation, transmission and distribution of power;

(3) providing reliable power to people and businesses in urban and rural communities;

(4) addressing the energy needs of marginalized people living in areas where there is little or no access to a power grid and developing plans to systematically increase coverage in rural areas;

(5) reducing transmission and distribution losses and improving end-use efficiency and demand-side management;

(6) reducing energy-related impediments to business productivity and investment; and

(7) building the capacity of countries in sub-Saharan Africa to monitor and appropriately and transparently regulate the power sector and encourage private investment in power production and distribution.

(b) **EFFECTIVENESS MEASUREMENT.**—In prioritizing and expediting institutional efforts and assistance pursuant to this section, as appropriate, such institutions shall use clear, accountable, and metric-based targets to measure the effectiveness of such guarantees and assistance in achieving the goals described in section 3.

(c) **PROMOTION OF USE OF PRIVATE FINANCING AND ASSISTANCE.**—In carrying out policies under this section, such institutions shall promote the use of private financing and assistance and seek ways to remove barriers to private financing for projects and programs under this Act, including through charitable organizations.

(d) **RULE OF CONSTRUCTION.**—Nothing in this section may be construed to authorize modifying or limiting the portfolio of the institutions covered by subsection (a) in other developing regions.

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SEC. 7. PROGRESS REPORT.

(a) **IN GENERAL.**—Not later than three years after the date of the enactment of this Act, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on progress made toward achieving the strategy described in section 4 that includes the following:

(1) A report on United States programs supporting implementation of policy and legislative changes leading to increased power generation and access in sub-Saharan Africa, including a description of the number, type, and status of policy, regulatory, and legislative changes initiated or implemented as a result of programs funded or supported by the United States in countries in sub-Saharan Africa to support increased power generation and access after the date of the enactment of this Act.

(2) A description of power projects receiving United States Government support and how such projects, including off-grid efforts, are intended to achieve the strategy described in section 4.

(3) For each project described in paragraph (2)—

(A) a description of how the project fits into, or encourages modifications of, the national energy plan of the country in which the project will be carried out, including encouraging regulatory reform in that country;

(B) an estimate of the total cost of the project to the consumer, the country in which the project will be carried out, and other investors;

(C) the amount of financing provided or guaranteed by the United States Government for the project;

(D) an estimate of United States Government resources for the project, itemized by funding source, including from the **【Overseas Private Investment Corporation】** *United States International Development Finance Corporation*, the United States Agency for International Development, the Department of the Treasury, and other appropriate United States Government departments and agencies;

(E) an estimate of the number and regional locations of individuals, communities, businesses, schools, and health facilities that have gained power connections as a result of the project, with a description of how the reliability, affordability, and sustainability of power has been improved as of the date of the report;

(F) an assessment of the increase in the number of people and businesses with access to power, and in the operating electrical power capacity in megawatts as a result of the project between the date of the enactment of this Act and the date of the report;

(G) a description of efforts to gain meaningful local consultation for projects associated with this Act and any significant estimated noneconomic effects of the efforts carried out pursuant to this Act; and

(H) a description of the participation by small and medium enterprises based in sub-Saharan Africa on projects associated with this Act.

FOREIGN AID TRANSPARENCY AND ACCOUNTABILITY ACT OF 2016

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SEC. 2. DEFINITIONS.

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Foreign Affairs of the House of Representatives; and

(D) the Committee on Appropriations of the House of Representatives.

(2) **EVALUATION.**—The term “evaluation” means, with respect to a covered United States foreign assistance program, the systematic collection and analysis of information about the characteristics and outcomes of the program, including projects conducted under such program, as a basis for—

(A) making judgments and evaluations regarding the program;

(B) improving program effectiveness; and

(C) informing decisions about current and future programming.

(3) COVERED UNITED STATES FOREIGN ASSISTANCE.—The term “covered United States foreign assistance” means assistance authorized under—

(A) part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), [except for—]

[(i) title IV of chapter 2 of such part (relating to the Overseas Private Investment Corporation); and

[(ii) chapter 3] *except for chapter 3* of such part (relating to International Organizations and Programs);

(B) chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to Economic Support Fund);

(C) the Millennium Challenge Act of 2003 (22 U.S.C. 7701 et seq.); [and]

(D) the Food for Peace Act (7 U.S.C. 1721 et seq.)[.];
and

(E) *the Better Utilization of Investments Leading to Development Act of 2018.*

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SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) ACT OF 1989

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SEC. 2. SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) PROGRAM.

(a) SEED PROGRAM.—The United States shall implement, beginning in fiscal year 1990, a concerted Program of Support for East European Democracy (which may also be referred to as the “SEED Program”). The SEED Program shall be comprised of diverse undertakings designed to provide cost-effective assistance to those countries of Eastern Europe that have taken substantive steps toward institutionalizing political democracy and economic pluralism.

(b) OBJECTIVES OF SEED ASSISTANCE.—The President should ensure that the assistance provided to East European countries pursuant to this Act is designed—

(1) to contribute to the development of democratic institutions and political pluralism characterized by—

(A) the establishment of fully democratic and representative political systems based on free and fair elections,

(B) effective recognition of fundamental liberties and individual freedoms, including freedom of speech, religion, and association,

(C) termination of all laws and regulations which impede the operation of a free press and the formation of political parties,

(D) creation of an independent judiciary, and

(E) establishment of non-partisan military, security, and police forces;

(2) to promote the development of a free market economic system characterized by—

- (A) privatization of economic entities,
 - (B) establishment of full rights to acquire and hold private property, including land and the benefits of contractual relations,
 - (C) simplification of regulatory controls regarding the establishment and operation of businesses,
 - (D) dismantlement of all wage and price-controls,
 - (E) removal of trade restrictions, including on both unports and exports,
 - (F) liberalization of investment and capital, including the repatriation of profits by foreign investors;
 - (G) tax policies which provide incentives for economic activity and investment,
 - (H) establishment of rights to own and operate private banks and other financial service firms, as well as unrestricted access to private sources of credit, and
 - (I) access to a market for stocks, bonds, and other instruments through which individuals may invest in the private sector; and
- (3) not to contribute any substantial benefit—
- (A) to Communist or other political parties or organizations which are not committed to respect for the democratic process, or
 - (B) to the defense or security forces of any member country of the Warsaw Pact.
- (c) SEED ACTIONS.—Assistance and other activities under the SEED Program (which may be referred to as “SEED Actions”) shall include activities such as the following:
- (1) LEADERSHIP IN THE WORLD BANK AND INTERNATIONAL MONETARY FUND.—United States leadership in supporting—
 - (A) loans by the International Bank for Reconstruction and Development and its affiliated institutions in the World Bank group that are designed to modernize industry, agriculture, and infrastructure, and
 - (B) International Monetary Fund programs designed to stimulate sound economic growth.
 - (2) CURRENCY STABILIZATION LOANS.—United States leadership in supporting multilateral agreement to provide government-to-government loans for currency stabilization where such loans can reduce inflation and thereby foster conditions necessary for the effective implementation of economic reforms.
 - (3) DEBT REDUCTION AND RESCHEDULING.—Participation in multilateral activities aimed at reducing and rescheduling a country’s international debt, when reduction and deferral of debt payments can assist the process of political and economic transition.
 - (4) AGRICULTURAL ASSISTANCE.—Assistance through the grant and concessional sale of food and other agricultural commodities and products when such assistance can ease critical shortages but not inhibit agricultural production and marketing in the recipient country.
 - (5) ENTERPRISE FUNDS.—Grants to support private, nonprofit “Enterprise Funds”, designated by the President pursuant to law and governed by a Board of Directors, which undertake loans, grants, equity investments, feasibility studies, technical

assistance, training, and other forms of assistance to private enterprise activities in the Eastern European country for which the Enterprise Fund so is designated.

(6) LABOR MARKET-ORIENTED TECHNICAL ASSISTANCE.—Technical assistance programs directed at promoting labor market reforms and facilitating economic adjustment.

(7) TECHNICAL TRAINING.—Programs to provide technical skills to assist in the development of a market economy.

(8) PEACE CORPS.—Establishment of Peace Corps programs.

(9) SUPPORT FOR INDIGENOUS CREDIT UNIONS.—Support for the establishment of indigenous credit unions.

(10) GENERALIZED SYSTEM OF PREFERENCES.—Eligibility for trade benefits under the Generalized System of Preferences.

(11) NORMAL TRADE RELATIONS.—The granting of temporary or permanent nondiscriminatory treatment to the products of an East European country through the application of the criteria and procedures established by section 402 of the Trade Act of 1974 (19 U.S.C. 2432; commonly referred to as the “Jackson-Vanik amendment”).

[(12) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Programs of the Overseas Private Investment Corporation.]

(12) UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION.—*Programs of the United States International Development Finance Corporation.*

(13) EXPORT-IMPORT BANK PROGRAMS.—Programs of the Export-Import Bank of the United States.

(14) TRADE AND DEVELOPMENT PROGRAM ACTIVITIES.—Trade and Development Program activities under the Foreign Assistance Act of 1961.

(15) INVESTMENT TREATIES.—Negotiation of bilateral investment treaties.

(16) SPECIAL TAX TREATMENT OF BELOW-MARKET LOANS.—Exempting bonds from Internal Revenue Code rules relating to below-market loans.

(17) EXCHANGE ACTIVITIES.—Expanded exchange activities under the Fulbright, International Visitors, and other programs conducted by the United States Information Agency.

(18) CULTURAL CENTERS.—Contributions toward the establishment of reciprocal cultural centers that can facilitate educational and cultural exchange and expanded understanding of Western social democracy.

(19) SISTER INSTITUTIONS.—Establishment of sister institution programs between American and East European schools and universities, towns and cities, and other organizations in such fields as medicine and health care, business management, environmental protection, and agriculture.

(20) SCHOLARSHIPS.—Scholarships to enable students to study in the United States.

(21) SCIENCE AND TECHNOLOGY EXCHANGES.—Grants for the implementation of bilateral agreements providing for cooperation in science and technology exchange.

(22) ASSISTANCE FOR DEMOCRATIC INSTITUTIONS.—Assistance designed to support the development of legal, legislative, electoral, journalistic, and other institutions of free, pluralist societies.

(23) ENVIRONMENTAL ASSISTANCE.—Environmental assistance directed at overcoming crucial deficiencies in air and water quality and other determinants of a healthful society.

(24) MEDICAL ASSISTANCE.—Medical assistance specifically targeted to overcome severe deficiencies in pharmaceuticals and other basic health supplies.

(25) ENCOURAGEMENT FOR PRIVATE INVESTMENT AND VOLUNTARY ASSISTANCE.—Encouraging private investment and voluntary private assistance, using a variety of means including a SEED Information Center System and the provision by the Department of Defense of transportation for private non-financial contributions.

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TITLE II—PRIVATE SECTOR DEVELOPMENT

SEC. 201. ENTERPRISE FUNDS FOR POLAND AND HUNGARY.

(a) PURPOSES.—The purposes of this section are to promote—

(1) development of the Polish and Hungarian private sectors, including small businesses, the agricultural sector, and joint ventures with United States and host country participants, and

(2) policies and practices conducive to private sector development in Poland and Hungary,

through loans, grants, equity investments, feasibility studies, technical assistance, training, insurance, guarantees, and other measures.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes specified in subsection (a), there are authorized to be appropriated to the President—

(1) \$240,000,000 to support the Polish-American Enterprise Fund; and

(2) \$60,000,000 to support the Hungarian-American Enterprise Fund.

Such amounts are authorized to be made available until expended.

(c) NONAPPLICABILITY OF OTHER LAWS.—The funds appropriated under subsection (b) may be made available to the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund and used for the purposes of this section notwithstanding any other provision of law.

(d) DESIGNATION OF ENTERPRISE FUNDS.—

(1) DESIGNATION.—The President is authorized to designate two private, nonprofit organizations as eligible to receive funds and support pursuant to this section upon determining that such organizations have been established for the purposes specified in subsection (a). For purposes of this Act, the organizations so designated shall be referred to as the Polish-American Enterprise Fund and the Hungarian-American Enterprise Fund (hereinafter in this section referred to as the “Enterprise Funds”).

(2) CONSULTATION WITH CONGRESS.—The President shall consult with the leadership of each House of Congress before designating an organization pursuant to paragraph (1).

(3) BOARD OF DIRECTORS.—(A) Each Enterprise Fund shall be governed by a Board of Directors comprised of private citizens of the United States, and citizens of the respective host country, who have demonstrated experience and expertise in those areas of private sector development in which the Enterprise Fund is involved.

(B) A majority of the members of the Board of Directors of each Enterprise Fund shall be United States citizens.: Provided, That, as to Enterprise Funds established with respect to more than one host country, such Enterprise Fund may, in lieu of the appointment of citizens of the host countries to its Board of Directors, establish an advisory council for the host region comprised of citizens of each of the host countries or establish separate advisory councils for each of the host countries (hereinafter in this section referred to as the 'Advisory Councils'), with which the Enterprise Fund's policies and proposed activities and such host country citizens shall satisfy the experience and expertise requirements of this clause.

(C) A host country citizen who is not committed to respect for democracy and a free market economy may not serve as a member of the Board of Directors of an Enterprise Fund.

(4) ELIGIBILITY OF ENTERPRISE FUNDS FOR GRANTS.—Grants may be made to an Enterprise Fund under this section only if the Enterprise Fund agrees to comply with the requirements specified in this section.

(5) PRIVATE CHARACTER OF ENTERPRISE FUNDS.—Nothing in this section shall be construed to make an Enterprise Fund an agency or establishment of the United States Government, or to make the officers, employees, or members of the Board of Directors of an Enterprise Fund officers or employees of the United States for purposes of title 5, United States Code.

(e) GRANTS TO ENTERPRISE FUNDS.—Funds appropriated to the President pursuant to subsection (b) shall be granted to the Enterprise Funds by the [Agency for International Development] *United States International Development Finance Corporation* to enable the Enterprise Funds to carry out the purposes specified in subsection (a) and for the administrative expenses of each Enterprise Fund.

(f) ELIGIBLE PROGRAMS AND PROJECTS.—

(1) IN GENERAL.—The Enterprise Funds may provide assistance pursuant to this section only for programs and projects which are consistent with the purposes set forth in subsection (a).

(2) EMPLOYEE STOCK OWNERSHIP PLANS.—Funds available to the Enterprise Funds may be used to encourage the establishment of Employee Stock Ownership Plans (ESOPs) in Poland and Hungary.

(3) INDIGENOUS CREDIT UNIONS.—Funds available to the Enterprise Funds may be used for technical and other assistance to support the development of indigenous credit unions in Poland and Hungary. As used in this paragraph, the term "credit

union” means a member-owned, nonprofit, cooperative depository institution—

(A) which is formed to permit individuals in the field of membership specified in such institution’s charter to pool their savings, lend the savings to one another, and own the organization where they save, borrow, and obtain related financial services; and

(B) whose members are united by a common bond and democratically operate the institution.

(4) TELECOMMUNICATION MODERNIZATION IN POLAND.—The Polish-American Enterprise Fund may use up to \$25,000,000 for grants for projects providing for the early introduction in Poland of modern telephone systems and telecommunications technology, which are crucial in establishing the conditions for successful transition to political democracy and economic pluralism.

(5) ECONOMIC FOUNDATION OF NSZZ SOLIDARNOSC.—Funds available to the Polish-American Enterprise Fund may be used to support the Economic Foundation of NSZZ Solidarnosc.

(g) MATTERS TO BE CONSIDERED BY ENTERPRISE FUNDS.—In carrying out this section, each Enterprise Fund shall take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance from the Enterprise Fund.

(h) RETENTION OF INTEREST.—An Enterprise Fund may hold funds granted to it pursuant to this section in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(i) USE OF UNITED STATES PRIVATE VENTURE CAPITAL.—In order to maximize the effectiveness of the activities of the Enterprise Funds, each Enterprise Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital which may be used, separately or together with funds made available pursuant to this section, for any lawful investment purpose that the Board of Directors of the Enterprise Fund may determine in carrying out this section. Financial returns on Enterprise Fund investments that include a component of private venture capital may be distributed, at such times and in such amounts as the Board of Directors of the Enterprise Fund may determine, to the investors of such capital.

(j) FINANCIAL INSTRUMENTS FOR INDIVIDUAL INVESTMENT IN POLAND.—In order to maximize the effectiveness of the activities of the Polish-American Enterprise Fund, that Enterprise Fund should undertake all possible efforts to establish financial instruments that will enable individuals to invest in the private sectors of Poland and that will thereby have the effect of multiplying the impact of United States grants to that Enterprise Fund.

(k) NONAPPLICABILITY OF OTHER LAWS.—Executive branch agencies may conduct programs and activities and provide services in

support of the activities of the Enterprise Funds notwithstanding any other provision of law.

(l) LIMITATION ON PAYMENTS TO ENTERPRISE FUND PERSONNEL.—

(1) No part of the funds of an Enterprise Fund shall inure to the benefit of any board member, officer, or employee of such Enterprise Fund, except as salary or reasonable compensation for services subject to paragraph (2).

(2) An Enterprise Fund shall not pay compensation for services to—

(A) any board member of the Enterprise Fund, except for services as a board member; or

(B) any firm, association, or entity in which a board member of the Enterprise Fund serves as partner, director, officer, or employee.

(3) Nothing in paragraph (2) shall preclude payment for services performed before the date of enactment of this subsection nor for arrangements approved by the grantor and notified in writing to the Committees on Appropriations.

(m) INDEPENDENT PRIVATE AUDITS.—The accounts of each Enterprise Fund shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by this section.

(n) GAO AUDITS.—The financial transactions undertaken pursuant to this section by each Enterprise Fund may be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States, so long as the Enterprise Fund is in receipt of United States Government grants.

(o) RECORDKEEPING REQUIREMENTS.—The enterprise Funds shall ensure—

(1) that each recipient of assistance provided through the Enterprise Funds under this section keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to disclose fully the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit; and

(2) that the Enterprise Funds, or any of their duly authorized representatives, have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Enterprise Funds under this section.

(p) ANNUAL REPORTS.—Each Enterprise Fund shall publish an annual report, which shall include a comprehensive and detailed description of the Enterprise Fund's operations, activities, financial

condition, and accomplishments under this section for the preceding fiscal year. This report shall be published not later than January 31 each year, beginning in 1991.

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SECTION 202 OF THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY (LIBERTAD) ACT OF 1996

SEC. 202. ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President shall develop a plan for providing economic assistance to Cuba at such time as the President determines that a transition government or a democratically elected government in Cuba (as determined under section 203(c)) is in power.

(2) EFFECT ON OTHER LAWS.—Assistance may be provided under this section subject to an authorization of appropriations and subject to the availability of appropriations.

(b) PLAN FOR ASSISTANCE.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan for providing assistance under this section—

(A) to Cuba when a transition government in Cuba is in power; and

(B) to Cuba when a democratically elected government in Cuba is in power.

(2) TYPES OF ASSISTANCE.—Assistance under the plan developed under paragraph (1) may, subject to an authorization of appropriations and subject to the availability of appropriations, include the following:

(A) TRANSITION GOVERNMENT(i) Except as provided in clause (ii), assistance to Cuba under a transition government shall, subject to an authorization of appropriations and subject to the availability of appropriations, be limited to—

(I) such food, medicine, medical supplies and equipment, and assistance to meet emergency energy needs, as is necessary to meet the basic human needs of the Cuban people; and

(II) assistance described in subparagraph (C).

(ii) Assistance in addition to assistance under clause (i) may be provided, but only after the President certifies to the appropriate congressional committees, in accordance with procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961, that such assistance is essential to the successful completion of the transition to democracy.

(iii) Only after a transition government in Cuba is in power, freedom of individuals to travel to visit their relatives without any restrictions shall be permitted.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance to a democratically elected government in Cuba may, subject to an authorization of appropriations and subject to

the availability of appropriations, consist of economic assistance in addition to assistance available under subparagraph (A), together with assistance described in subparagraph (C). Such economic assistance may include—

- (i) assistance under chapter 1 of part I (relating to development assistance), and chapter 4 of part II (relating to the economic support fund), of the Foreign Assistance Act of 1961;
- (ii) assistance under the Food for Peace Act;
- (iii) financing, guarantees, and other forms of assistance provided by the Export-Import Bank of the United States;
- (iv) financial support provided by the **Overseas Private Investment Corporation** *United States International Development Finance Corporation* for investment projects in Cuba;
- (v) assistance provided by the Trade and Development Agency;
- (vi) Peace Corps programs; and
- (vii) other appropriate assistance to carry out the policy of section 201.

(C) **MILITARY ADJUSTMENT ASSISTANCE.**—Assistance to a transition government in Cuba and to a democratically elected government in Cuba shall also include assistance in preparing the Cuban military forces to adjust to an appropriate role in a democracy.

(c) **STRATEGY FOR DISTRIBUTION.**—The plan developed under subsection (b) shall include a strategy for distributing assistance under the plan.

(d) **DISTRIBUTION.**—Assistance under the plan developed under subsection (b) shall be provided through United States Government organizations and nongovernmental organizations and private and voluntary organizations, whether within or outside the United States, including humanitarian, educational, labor, and private sector organizations.

(e) **INTERNATIONAL EFFORTS.**—The President shall take the necessary steps—

- (1) to seek to obtain the agreement of other countries and of international financial institutions and multilateral organizations to provide to a transition government in Cuba, and to a democratically elected government in Cuba, assistance comparable to that provided by the United States under this Act; and

- (2) to work with such countries, institutions, and organizations to coordinate all such assistance programs.

(f) **COMMUNICATION WITH THE CUBAN PEOPLE.**—The President shall take the necessary steps to communicate to the Cuban people the plan for assistance developed under this section.

(g) **REPORT TO CONGRESS.**—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

(h) **REPORT ON TRADE AND INVESTMENT RELATIONS.**—

- (1) **REPORT TO CONGRESS.**—The President, following the transmittal to the Congress of a determination under section

203(c)(3) that a democratically elected government in Cuba is in power, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees a report that describes—

(A) acts, policies, and practices which constitute significant barriers to, or distortions of, United States trade in goods or services or foreign direct investment with respect to Cuba;

(B) policy objectives of the United States regarding trade relations with a democratically elected government in Cuba, and the reasons therefor, including possible—

(i) reciprocal extension of nondiscriminatory trade treatment (most-favored-nation treatment);

(ii) designation of Cuba as a beneficiary developing country under title V of the Trade Act of 1974 (relating to the Generalized System of Preferences) or as a beneficiary country under the Caribbean Basin Economic Recovery Act, and the implications of such designation with respect to trade with any other country that is such a beneficiary developing country or beneficiary country or is a party to the North American Free Trade Agreement; and

(iii) negotiations regarding free trade, including the accession of Cuba to the North American Free Trade Agreement;

(C) specific trade negotiating objectives of the United States with respect to Cuba, including the objectives described in section 108(b)(5) of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3317(b)(5)); and

(D) actions proposed or anticipated to be undertaken, and any proposed legislation necessary or appropriate, to achieve any of such policy and negotiating objectives.

(2) CONSULTATION.—The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate and the appropriate congressional committees and shall seek advice from the appropriate advisory committees established under section 135 of the Trade Act of 1974 regarding the policy and negotiating objectives and the legislative proposals described in paragraph (1).

INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998

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TITLE IV—PRESIDENTIAL ACTIONS

Subtitle I—Targeted Responses to Violations of Religious Freedom Abroad

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SEC. 405. DESCRIPTION OF PRESIDENTIAL ACTIONS.

(a) DESCRIPTION OF PRESIDENTIAL ACTIONS.—Except as provided in subsection (d), the Presidential actions referred to in this subsection are the following:

- (1) A private demarche.
- (2) An official public demarche.
- (3) A public condemnation.
- (4) A public condemnation within one or more multilateral fora.
- (5) The delay or cancellation of one or more scientific exchanges.
- (6) The delay or cancellation of one or more cultural exchanges.
- (7) The denial of one or more working, official, or state visits.
- (8) The delay or cancellation of one or more working, official, or state visits.
- (9) The withdrawal, limitation, or suspension of United States development assistance in accordance with section 116 of the Foreign Assistance Act of 1961.
- (10) Directing the Export-Import Bank of the United States, the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*, or the Trade and Development Agency not to approve the issuance of any (or a specified number of) guarantees, insurance, extensions of credit, or participations in the extension of credit with respect to the specific government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.
- (11) The withdrawal, limitation, or suspension of United States security assistance in accordance with section 502B of the Foreign Assistance Act of 1961.
- (12) Consistent with section 701 of the International Financial Institutions Act of 1977, directing the United States executive directors of international financial institutions to oppose and vote against loans primarily benefiting the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402.
- (13) Ordering the heads of the appropriate United States agencies not to issue any (or a specified number of) specific licenses, and not to grant any other specific authority (or a specified number of authorities), to export any goods or technology to the specific foreign government, agency, instrumentality, or official found or determined by the President to be responsible for violations under section 401 or 402, under—
 - (A) the Export Administration Act of 1979;
 - (B) the Arms Export Control Act;
 - (C) the Atomic Energy Act of 1954; or
 - (D) any other statute that requires the prior review and approval of the United States Government as a condition for the export or reexport of goods or services.
- (14) Prohibiting any United States financial institution from making loans or providing credits totaling more than \$10,000,000 in any 12-month period to the specific foreign government, agency, instrumentality, or official found or deter-

mined by the President to be responsible for violations under section 401 or 402.

(15) Prohibiting the United States Government from procuring, or entering into any contract for the procurement of, any goods or services from the foreign government, entities, or officials found or determined by the President to be responsible for violations under section 401 or 402.

(b) COMMENSURATE ACTION.—Except as provided in subsection (d), the President may substitute any other action authorized by law for any action described in paragraphs (1) through (15) of subsection (a) if such action is commensurate in effect to the action substituted and if the action would further the policy of the United States set forth in section 2(b) of this Act. The President shall seek to take all appropriate and feasible actions authorized by law to obtain the cessation of the violations. If commensurate action is taken, the President shall report such action, together with an explanation for taking such action, to the appropriate congressional committees.

(c) BINDING AGREEMENTS.—The President may negotiate and enter into a binding agreement with a foreign government that obligates such government to cease, or take substantial steps to address and phase out, the act, policy, or practice constituting the violation of religious freedom. The entry into force of a binding agreement for the cessation of the violations shall be a primary objective for the President in responding to a foreign government that has engaged in or tolerated particularly severe violations of religious freedom.

(d) EXCEPTIONS.—Any action taken pursuant to subsection (a) or (b) may not prohibit or restrict the provision of medicine, medical equipment or supplies, food, or other humanitarian assistance.

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TRAFFICKING VICTIMS PROTECTION ACT OF 2000

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DIVISION A—TRAFFICKING VICTIMS PROTECTION ACT OF 2000

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SEC. 103. DEFINITIONS.

In this division:

(1) ABUSE OR THREATENED ABUSE OF LAW OR LEGAL PROCESS.—The term “abuse or threatened abuse of the legal process” means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Foreign Relations and the Committee on the Judiciary of

the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives.

(3) COERCION.—The term “coercion” means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

(4) COMMERCIAL SEX ACT.—The term “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

(5) DEBT BONDAGE.—The term “debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(6) INVOLUNTARY SERVITUDE.—The term “involuntary servitude” includes a condition of servitude induced by means of—

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(7) MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.—The term “minimum standards for the elimination of trafficking” means the standards set forth in section 108.

(8) NONHUMANITARIAN, NONTRADE-RELATED FOREIGN ASSISTANCE.—The term “nonhumanitarian, nontrade-related foreign assistance” means—

(A) any assistance under the Foreign Assistance Act of 1961, other than—

(i) assistance under chapter 4 of part II of that Act in support of programs of nongovernmental organizations that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;

(ii) assistance under chapter 8 of part I of that Act;

(iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(v) antiterrorism assistance under chapter 8 of part II of that Act;

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

[(viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and]

(viii) any support under title II of the Better Utilization of Investments Leading to Development Act of 2018 relating to the United States International Development Finance Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.

(9) SEVERE FORMS OF TRAFFICKING IN PERSONS.—The term “severe forms of trafficking in persons” means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(10) SEX TRAFFICKING.—The term “sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

(11) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(12) TASK FORCE.—The term “Task Force” means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.

(13) UNITED STATES.—The term “United States” means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(14) VICTIM OF A SEVERE FORM OF TRAFFICKING.—The term “victim of a severe form of trafficking” means a person subject to an act or practice described in paragraph (9).

(15) VICTIM OF TRAFFICKING.—The term “victim of trafficking” means a person subjected to an act or practice described in paragraph (9) or (10).

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**SECTION 732 OF THE GLOBAL ENVIRONMENTAL
PROTECTION ASSISTANCE ACT OF 1989**

SEC. 732. REDUCTION OF GREENHOUSE GAS INTENSITY.

(a) **LEAD AGENCY.**—

(1) **IN GENERAL.**—The Department of State shall act as the lead agency for integrating into United States foreign policy the goal of reducing greenhouse gas intensity in developing countries.

(2) **REPORTS.**—

(A) **INITIAL REPORT.**—Not later than 180 days after August 8, 2005, the Secretary of State shall submit to the appropriate authorizing and appropriating committees of Congress an initial report, based on the most recent information available to the Secretary from reliable public sources, that identifies the 25 developing countries that are the largest greenhouse gas emitters, including for each country—

(i) an estimate of the quantity and types of energy used;

(ii) an estimate of the greenhouse gas intensity of the energy, manufacturing, agricultural, and transportation sectors;

(iii) a description of the progress of any significant projects undertaken to reduce greenhouse gas intensity;

(iv) a description of the potential for undertaking projects to reduce greenhouse gas intensity;

(v) a description of any obstacles to the reduction of greenhouse gas intensity; and

(vi) a description of the best practices learned by the Agency for International Development from conducting previous pilot and demonstration projects to reduce greenhouse gas intensity.

(B) **UPDATE.**—Not later than 18 months after the date on which the initial report is submitted under subparagraph (A), the Secretary shall submit to the appropriate authorizing and appropriating committees of Congress, based on the best information available to the Secretary, an update of the information provided in the initial report.

(C) **USE.**—

(i) **INITIAL REPORT.**—The Secretary of State shall use the initial report submitted under subparagraph (A) to establish baselines for the developing countries identified in the report with respect to the information provided under clauses (i) and (ii) of that subparagraph.

(ii) **ANNUAL REPORTS.**—The Secretary of State shall use the annual reports prepared under subparagraph (B) and any other information available to the Secretary to track the progress of the developing countries with respect to reducing greenhouse gas intensity.

(b) **PROJECTS.**— The Secretary of State, in coordination with Administrator of the United States Agency for International Develop-

ment, shall (directly or through agreements with the World Bank, the International Monetary Fund, the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*, and other development institutions) provide assistance to developing countries specifically for projects to reduce greenhouse gas intensity, including projects to—

(1) leverage, through bilateral agreements, funds for reduction of greenhouse gas intensity;

(2) increase private investment in projects and activities to reduce greenhouse gas intensity; and

(3) expedite the deployment of technology to reduce greenhouse gas intensity.

(c) FOCUS.—In providing assistance under subsection (b), the Secretary of State shall focus on—

(1) promoting the rule of law, property rights, contract protection, and economic freedom; and

(2) increasing capacity, infrastructure, and training.

(d) PRIORITY.—In providing assistance under subsection (b), the Secretary of State shall give priority to projects in the 25 developing countries identified in the report submitted under subsection (a)(2)(A).

UKRAINE FREEDOM SUPPORT ACT OF 2014

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SEC. 7. EXPANDED NONMILITARY ASSISTANCE FOR UKRAINE.

(a) ASSISTANCE TO INTERNALLY DISPLACED PEOPLE IN UKRAINE.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit a plan, including actions by the United States Government, other governments, and international organizations, to meet the need for protection of and assistance for internally displaced persons in Ukraine, to—

(A) the Committee on Foreign Relations, the Committee on Appropriations, and the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Appropriations, and the Committee on Energy and Commerce of the House of Representatives.

(2) ELEMENTS.—The plan required by paragraph (1) should include, as appropriate, activities in support of—

(A) helping to establish a functional and adequately resourced central registration system in Ukraine that can ensure coordination of efforts to provide assistance to internally displaced persons in different regions;

(B) encouraging adoption of legislation in Ukraine that protects internally displaced persons from discrimination based on their status and provides simplified procedures for obtaining the new residency registration or other official documentation that is a prerequisite to receiving appropriate social payments under the laws of Ukraine, such as pensions and disability, child, and unemployment benefits; and

(C) helping to ensure that information is available to internally displaced persons about—

(i) government agencies and independent groups that can provide assistance to such persons in various regions; and

(ii) evacuation assistance available to persons seeking to flee armed conflict areas.

(3) ASSISTANCE THROUGH INTERNATIONAL ORGANIZATIONS.—

The President shall instruct the United States permanent representative or executive director, as the case may be, to the relevant United Nations voluntary agencies, including the United Nations High Commissioner for Refugees and the United Nations Office for the Coordination of Humanitarian Affairs, and other appropriate international organizations, to use the voice and vote of the United States to support appropriate assistance for internally displaced persons in Ukraine.

(b) ASSISTANCE TO THE DEFENSE SECTOR OF UKRAINE.—The Secretary of State and the Secretary of Defense should assist entities in the defense sector of Ukraine to reorient exports away from customers in the Russian Federation and to find appropriate alternative markets for those entities in the defense sector of Ukraine that have already significantly reduced exports to and cooperation with entities in the defense sector of the Russian Federation.

(c) ASSISTANCE TO ADDRESS THE ENERGY CRISIS IN UKRAINE.—

(1) EMERGENCY ENERGY ASSISTANCE.—

(A) PLAN REQUIRED.—The Secretary of State and the Secretary of Energy, in collaboration with the Administrator of the United States Agency for International Development and the Administrator of the Federal Emergency Management Agency, shall work with officials of the Government of Ukraine to develop a short-term emergency energy assistance plan designed to help Ukraine address the potentially severe short-term heating fuel and electricity shortages facing Ukraine in 2014 and 2015.

(B) ELEMENTS.—The plan required by subparagraph (A) should include strategies to address heating fuel and electricity shortages in Ukraine, including, as appropriate—

(i) the acquisition of short-term, emergency fuel supplies;

(ii) the repair or replacement of infrastructure that could impede the transmission of electricity or transportation of fuel;

(iii) the prioritization of the transportation of fuel supplies to the areas where such supplies are needed most;

(iv) streamlining emergency communications throughout national, regional, and local governments to manage the potential energy crisis resulting from heating fuel and electricity shortages;

(v) forming a crisis management team within the Government of Ukraine to specifically address the potential crisis, including ensuring coordination of the team's efforts with the efforts of outside governmental and nongovernmental entities providing assistance to address the potential crisis; and

(vi) developing a public outreach strategy to facilitate preparation by the population and communication with the population in the event of a crisis.

(C) ASSISTANCE.—The Secretary of State, the Secretary of Energy, and the Administrator of the United States Agency for International Development are authorized to provide assistance in support of, and to invest in short-term solutions for, enabling Ukraine to secure the energy safety of the people of Ukraine during 2014 and 2015, including through—

- (i) procurement and transport of emergency fuel supplies, including reverse pipeline flows from Europe;
- (ii) provision of technical assistance for crisis planning, crisis response, and public outreach;
- (iii) repair of infrastructure to enable the transport of fuel supplies;
- (iv) repair of power generating or power transmission equipment or facilities;
- (v) procurement and installation of compressors or other appropriate equipment to enhance short-term natural gas production;
- (vi) procurement of mobile electricity generation units;
- (vii) conversion of natural gas heating facilities to run on other fuels, including alternative energy sources; and
- (viii) provision of emergency weatherization and winterization materials and supplies.

(2) REDUCTION OF UKRAINE'S RELIANCE ON ENERGY IMPORTS.—

(A) PLANS REQUIRED.—The Secretary of State, in collaboration with the Secretary of Energy and the Administrator of the United States Agency for International Development, shall work with officials of the Government of Ukraine to develop medium- and long-term plans to increase energy production and efficiency to increase energy security by helping Ukraine reduce its dependence on natural gas imported from the Russian Federation.

(B) ELEMENTS.—The medium- and long-term plans required by subparagraph (A) should include strategies, as appropriate, to—

- (i) improve corporate governance and unbundling of state-owned oil and gas sector firms;
- (ii) increase production from natural gas fields and from other sources, including renewable energy;
- (iii) license new oil and gas blocks transparently and competitively;
- (iv) modernize oil and gas upstream infrastructure; and
- (v) improve energy efficiency.

(C) PRIORITIZATION.—The Secretary of State, the Administrator of the United States Agency for International Development, and the Secretary of Energy should, during fiscal years 2015 through 2018, work with other donors, including multilateral agencies and nongovernmental organi-

zations, to prioritize, to the extent practicable and as appropriate, the provision of assistance from such donors to help Ukraine to improve energy efficiency, increase energy supplies produced in Ukraine, and reduce reliance on energy imports from the Russian Federation, including natural gas.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$50,000,000 in the aggregate for fiscal years 2016 through 2018 to carry out activities under this paragraph.

(3) SUPPORT FROM THE OVERSEAS PRIVATE INVESTMENT CORPORATION.—The **Overseas Private Investment Corporation** *United States International Development Finance Corporation* shall—

(A) prioritize, to the extent practicable, support for investments to help increase energy efficiency, develop domestic oil and natural gas reserves, improve and repair electricity infrastructure, and develop renewable and other sources of energy in Ukraine; and

(B) implement procedures for expedited review and, as appropriate, approval, of applications **by eligible investors** (as defined in section 238 of the Foreign Assistance Act of 1961 (22 U.S.C. 2198)) **for loans, loan guarantees, and insurance for such investments.**

(4) SUPPORT BY THE WORLD BANK GROUP AND THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.—The President shall, to the extent practicable and as appropriate, direct the United States Executive Directors of the World Bank Group and the European Bank for Reconstruction and Development to use the voice, vote, and influence of the United States to encourage the World Bank Group and the European Bank for Reconstruction and Development and other international financial institutions—

(A) to invest in, and increase their efforts to promote investment in, projects to improve energy efficiency, improve and repair electricity infrastructure, develop domestic oil and natural gas reserves, and develop renewable and other sources of energy in Ukraine; and

(B) to stimulate private investment in such projects.

(d) ASSISTANCE TO CIVIL SOCIETY IN UKRAINE.—

(1) IN GENERAL.—The Secretary of State and the Administrator of the United States Agency for International Development shall, directly or through nongovernmental or international organizations, such as the Organization for Security and Co-operation in Europe, the National Endowment for Democracy, and related organizations—

(A) strengthen the organizational and operational capacity of democratic civil society in Ukraine;

(B) support the efforts of independent media outlets to broadcast, distribute, and share information in all regions of Ukraine;

(C) counter corruption and improve transparency and accountability of institutions that are part of the Government of Ukraine; and

(D) provide support for democratic organizing and election monitoring in Ukraine.

(2) STRATEGY REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a strategy to carry out the activities described in paragraph (1) to—

(A) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State \$20,000,000 for fiscal year 2016 to carry out this subsection.

(4) TRANSPARENCY REQUIREMENTS.—Any assistance provided pursuant to this subsection shall be conducted in as transparent of a manner as possible, consistent with the nature and goals of this subsection. The President shall provide a briefing on the activities funded by this subsection at the request of the committees specified in paragraph (2).

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GLOBAL FOOD SECURITY ACT OF 2016

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SEC. 4. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations of the Senate;

(B) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Foreign Affairs of the House of Representatives;

(E) the Committee on Agriculture of the House of Representatives; and

(F) the Committee on Appropriations of the House of Representatives.

(2) FEED THE FUTURE INNOVATION LABS.—The term “Feed the Future Innovation Labs” means research partnerships led by United States universities that advance solutions to reduce global hunger, poverty, and malnutrition.

(3) FOOD AND NUTRITION SECURITY.—The term “food and nutrition security” means access to, and availability, utilization, and stability of, sufficient food to meet caloric and nutritional needs for an active and healthy life.

(4) GLOBAL FOOD SECURITY STRATEGY.—The term “Global Food Security Strategy” means the strategy developed and implemented pursuant to section 5(a).

(5) KEY STAKEHOLDERS.—The term “key stakeholders” means actors engaged in efforts to advance global food security programs and objectives, including—

(A) relevant Federal departments and agencies;

- (B) national and local governments in target countries;
 - (C) other bilateral donors;
 - (D) international and regional organizations;
 - (E) international, regional, and local financial institutions;
 - (F) international, regional, and local private voluntary, nongovernmental, faith-based, and civil society organizations;
 - (G) the private sector, including agribusinesses and relevant commodities groups;
 - (H) agricultural producers, including farmer organizations, cooperatives, small-scale producers, and women; and
 - (I) agricultural research and academic institutions, including land-grant universities and extension services.
- (6) MALNUTRITION.—The term “malnutrition” means poor nutritional status caused by nutritional deficiency or excess.
- (7) RELEVANT FEDERAL DEPARTMENTS AND AGENCIES.—The term “relevant Federal departments and agencies” means the United States Agency for International Development, the Department of Agriculture, the Department of Commerce, the Department of State, the Department of the Treasury, the Millennium Challenge Corporation, the [Overseas Private Investment Corporation] *United States International Development Finance Corporation*, the Peace Corps, the Office of the United States Trade Representative, the United States African Development Foundation, the United States Geological Survey, and any other department or agency specified by the President for purposes of this section.
- (8) RESILIENCE.—The term “resilience” means the ability of people, households, communities, countries, and systems to mitigate, adapt to, and recover from shocks and stresses to food security in a manner that reduces chronic vulnerability and facilitates inclusive growth.
- (9) SMALL-SCALE PRODUCER.—The term “small-scale producer” means farmers, pastoralists, foresters, and fishers that have a low asset base and limited resources, including land, capital, skills and labor, and, in the case of farmers, typically farm on fewer than 5 hectares of land.
- (10) STUNTING.—The term “stunting” refers to a condition that—
- (A) is measured by a height-to-age ratio that is more than 2 standard deviations below the median for the population;
 - (B) manifests in children who are younger than 2 years of age;
 - (C) is a process that can continue in children after they reach 2 years of age, resulting in an individual being “stunted”;
 - (D) is a sign of chronic malnutrition; and
 - (E) can lead to long-term poor health, delayed motor development, impaired cognitive function, and decreased immunity.
- (11) SUSTAINABLE.—The term “sustainable” means the ability of a target country, community, implementing partner, or

intended beneficiary to maintain, over time, the programs authorized and outcomes achieved pursuant to this Act.

(12) **TARGET COUNTRY.**—The term “target country” means a developing country that is selected to participate in agriculture and nutrition security programs under the Global Food Security Strategy pursuant to the selection criteria described in section 5(a)(2), including criteria such as the potential for agriculture-led economic growth, government commitment to agricultural investment and policy reform, opportunities for partnerships and regional synergies, the level of need, and resource availability.

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COUNTERING RUSSIAN INFLUENCE IN EUROPE AND EURASIA ACT OF 2017

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TITLE II—SANCTIONS WITH RESPECT TO THE RUSSIAN FEDERATION AND COMBATING TERRORISM AND ILLICIT FINANCING

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Subtitle B—Countering Russian Influence in Europe and Eurasia

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SEC. 257. UKRAINIAN ENERGY SECURITY.

(a) **STATEMENT OF POLICY.**—It is the policy of the United States—

(1) to support the Government of Ukraine in restoring its sovereign and territorial integrity;

(2) to condemn and oppose all of the destabilizing efforts by the Government of the Russian Federation in Ukraine in violation of its obligations and international commitments;

(3) to never recognize the illegal annexation of Crimea by the Government of the Russian Federation or the separation of any portion of Ukrainian territory through the use of military force;

(4) to deter the Government of the Russian Federation from further destabilizing and invading Ukraine and other independent countries in Central and Eastern Europe and the Caucasus;

(5) to assist in promoting reform in regulatory oversight and operations in Ukraine’s energy sector, including the establishment and empowerment of an independent regulatory organization;

(6) to encourage and support fair competition, market liberalization, and reliability in Ukraine’s energy sector;

(7) to help Ukraine and United States allies and partners in Europe reduce their dependence on Russian energy resources, especially natural gas, which the Government of the Russian Federation uses as a weapon to coerce, intimidate, and influence other countries;

(8) to work with European Union member states and European Union institutions to promote energy security through developing diversified and liberalized energy markets that provide diversified sources, suppliers, and routes;

(9) to continue to oppose the NordStream 2 pipeline given its detrimental impacts on the European Union's energy security, gas market development in Central and Eastern Europe, and energy reforms in Ukraine; and

(10) that the United States Government should prioritize the export of United States energy resources in order to create American jobs, help United States allies and partners, and strengthen United States foreign policy.

(b) PLAN TO PROMOTE ENERGY SECURITY IN UKRAINE.—

(1) IN GENERAL.—The Secretary of State, in coordination with the Administrator of the United States Agency for International Development and the Secretary of Energy, shall work with the Government of Ukraine to develop a plan to increase energy security in Ukraine, increase the amount of energy produced in Ukraine, and reduce Ukraine's reliance on energy imports from the Russian Federation.

(2) ELEMENTS.—The plan developed under paragraph (1) shall include strategies for market liberalization, effective regulation and oversight, supply diversification, energy reliability, and energy efficiency, such as through supporting—

(A) the promotion of advanced technology and modern operating practices in Ukraine's oil and gas sector;

(B) modern geophysical and meteorological survey work as needed followed by international tenders to help attract qualified investment into exploration and development of areas with untapped resources in Ukraine;

(C) a broadening of Ukraine's electric power transmission interconnection with Europe;

(D) the strengthening of Ukraine's capability to maintain electric power grid stability and reliability;

(E) independent regulatory oversight and operations of Ukraine's gas market and electricity sector;

(F) the implementation of primary gas law including pricing, tariff structure, and legal regulatory implementation;

(G) privatization of government owned energy companies through credible legal frameworks and a transparent process compliant with international best practices;

(H) procurement and transport of emergency fuel supplies, including reverse pipeline flows from Europe;

(I) provision of technical assistance for crisis planning, crisis response, and public outreach;

(J) repair of infrastructure to enable the transport of fuel supplies;

(K) repair of power generating or power transmission equipment or facilities; and

(L) improved building energy efficiency and other measures designed to reduce energy demand in Ukraine.

(3) REPORTS.—

(A) IMPLEMENTATION OF UKRAINE FREEDOM SUPPORT ACT OF 2014 PROVISIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report detailing the status of implementing the provisions required under section 7(c) of the Ukraine Freedom Support Act of 2014 (22 U.S.C. 8926(c)), including detailing the plans required under that section, the level of funding that has been allocated to and expended for the strategies set forth under that section, and progress that has been made in implementing the strategies developed pursuant to that section.

(B) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit to the appropriate congressional committees a report detailing the plan developed under paragraph (1), the level of funding that has been allocated to and expended for the strategies set forth in paragraph (2), and progress that has been made in implementing the strategies.

(C) BRIEFINGS.—The Secretary of State, or a designee of the Secretary, shall brief the appropriate congressional committees not later than 30 days after the submission of each report under subparagraph (B). In addition, the Department of State shall make relevant officials available upon request to brief the appropriate congressional committees on all available information that relates directly or indirectly to Ukraine or energy security in Eastern Europe.

(D) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this paragraph, the term “appropriate congressional committees” means—

- (i) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and
- (ii) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(c) SUPPORTING EFFORTS OF COUNTRIES IN EUROPE AND EURASIA TO DECREASE THEIR DEPENDENCE ON RUSSIAN SOURCES OF ENERGY.—

(1) FINDINGS.—Congress makes the following findings:

(A) The Government of the Russian Federation uses its strong position in the energy sector as leverage to manipulate the internal politics and foreign relations of the countries of Europe and Eurasia.

(B) This influence is based not only on the Russian Federation’s oil and natural gas resources, but also on its state-owned nuclear power and electricity companies.

(2) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the United States should assist the efforts of the countries of Europe and Eurasia to enhance their energy security through diversification of energy supplies in order

to lessen dependencies on Russian Federation energy resources and state-owned entities; and

(B) the Export-Import Bank of the United States and the [Overseas Private Investment Corporation] *United States International Development Finance Corporation* should play key roles in supporting critical energy projects that contribute to that goal.

(3) USE OF COUNTERING RUSSIAN INFLUENCE FUND TO PROVIDE TECHNICAL ASSISTANCE.—Amounts in the Countering Russian Influence Fund pursuant to section 254 shall be used to provide technical advice to countries described in subsection (b)(1) of such section designed to enhance energy security and lessen dependence on energy from Russian Federation sources.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of State a total of \$30,000,000 for fiscal years 2018 and 2019 to carry out the strategies set forth in subsection (b)(2) and other activities under this section related to the promotion of energy security in Ukraine.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as affecting the responsibilities required and authorities provided under section 7 of the Ukraine Freedom Support Act of 2014 (22 U.S.C. 8926).

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TITLE 31, UNITED STATES CODE

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SUBTITLE VI—MISCELLANEOUS

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CHAPTER 91—GOVERNMENT CORPORATIONS

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§ 9101. Definitions

In this chapter—

(1) “Government corporation” means a mixed-ownership Government corporation and a wholly owned Government corporation.

(2) “mixed-ownership Government corporation” means—

(A) the Central Bank for Cooperatives.

(B) the Federal Deposit Insurance Corporation.

(C) the Federal Home Loan Banks.

(D) the Federal Intermediate Credit Banks.

(E) the Federal Land Banks.

(F) the National Credit Union Administration Central Liquidity Facility.

(G) the Regional Banks for Cooperatives.

(H) the Rural Telephone Bank when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

- (I) the Financing Corporation.
- (J) the Resolution Trust Corporation.
- (K) the Resolution Funding Corporation.
- (3) “wholly owned Government corporation” means—
 - (A) the Commodity Credit Corporation.
 - (B) the Community Development Financial Institutions Fund.
 - (C) the Export-Import Bank of the United States.
 - (D) the Federal Crop Insurance Corporation.
 - (E) Federal Prison Industries, Incorporated.
 - (F) the Corporation for National and Community Service.
 - (G) the Government National Mortgage Association.
 - (H) the **Overseas Private Investment Corporation** *United States International Development Finance Corporation*.
 - (I) the Pennsylvania Avenue Development Corporation.
 - (J) the Pension Benefit Guaranty Corporation.
 - (K) the Rural Telephone Bank until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).
 - (L) the Saint Lawrence Seaway Development Corporation.
 - (M) the Secretary of Housing and Urban Development when carrying out duties and powers related to the Federal Housing Administration Fund.
 - (N) the Tennessee Valley Authority.
 - (P) the Panama Canal Commission.
 - (Q) the Millennium Challenge Corporation.
 - (R) the International Clean Energy Foundation.

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ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

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TITLE IX—INTERNATIONAL ENERGY PROGRAMS

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Subtitle A—Assistance to Promote Clean and Efficient Energy Technologies in Foreign Countries

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SEC. 914. ACTIONS BY [OVERSEAS PRIVATE INVESTMENT CORPORATION] UNITED STATES INTERNATIONAL DEVELOPMENT FINANCE CORPORATION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the [Overseas Private Investment Corporation] *United States International Development Finance Corporation* should promote greater investment in clean and efficient energy technologies by—

(1) proactively reaching out to United States companies that are interested in investing in clean and efficient energy technologies in countries that are significant contributors to global greenhouse gas emissions;

(2) giving preferential treatment to the evaluation and awarding of projects that involve the investment or utilization of clean and efficient energy technologies; and

(3) providing greater flexibility in supporting projects that involve the investment or utilization of clean and efficient energy technologies, including financing, insurance, and other assistance.

(b) REPORT.—The [Overseas Private Investment Corporation] shall include in its annual report required under section 240A of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a) *United States International Development Finance Corporation shall include in its annual report required under section 403 of the Better Utilization of Investments Leading to Development Act of 2018—*

(1) a description of the activities carried out to implement this section; or

(2) if the Corporation did not carry out any activities to implement this section, an explanation of the reasons therefor.

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SEC. 916. DEPLOYMENT OF INTERNATIONAL CLEAN AND EFFICIENT ENERGY TECHNOLOGIES AND INVESTMENT IN GLOBAL ENERGY MARKETS

(a) TASK FORCE.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall establish a Task Force on International Cooperation for Clean and Efficient Energy Technologies (in this section referred to as the “Task Force”).

(2) COMPOSITION.—The Task Force shall be composed of representatives, appointed by the head of the respective Federal department or agency, of—

(A) the Council on Environmental Quality;

(B) the Department of Energy;

(C) the Department of Commerce;

(D) the Department of the Treasury;

(E) the Department of State;

(F) the Environmental Protection Agency;

(G) the United States Agency for International Development;

(H) the Export-Import Bank of the United States;

(I) the [Overseas Private Investment Corporation:] *United States International Development Finance Corporation;*

(J) the Trade and Development Agency;

(K) the Small Business Administration;

(L) the Office of the United States Trade Representative;
and

(M) other Federal departments and agencies, as determined by the President.

(3) CHAIRPERSON.—The President shall designate a Chairperson or Co-Chairpersons of the Task Force.

(4) DUTIES.—The Task Force—

(A) shall develop and assist in the implementation of the strategy required under subsection (c); and

(B)(i) shall analyze technology, policy, and market opportunities for the development, demonstration, and deployment of clean and efficient energy technologies on an international basis; and

(ii) shall examine relevant trade, tax, finance, international, and other policy issues to assess which policies, in the United States and in developing countries, would help open markets and improve the export of clean and efficient energy technologies from the United States.

(5) TERMINATION.—The Task Force, including any working group established by the Task Force pursuant to subsection (b), shall terminate 12 years after the date of the enactment of this Act.

(b) WORKING GROUPS.—

(1) ESTABLISHMENT.—The Task Force—

(A) shall establish an Interagency Working Group on the Export of Clean and Efficient Energy Technologies (in this section referred to as the “Interagency Working Group”); and

(B) may establish other working groups as may be necessary to carry out this section.

(2) COMPOSITION.—The Interagency Working Group shall be composed of—

(A) the Secretary of Energy, the Secretary of Commerce, and the Secretary of State, who shall serve as Co-Chairpersons of the Interagency Working Group; and

(B) other members, as determined by the Chairperson or Co-Chairpersons of the Task Force.

(3) DUTIES.—The Interagency Working Group shall coordinate the resources and relevant programs of the Department of Energy, the Department of Commerce, the Department of State, and other relevant Federal departments and agencies to support the export of clean and efficient energy technologies developed or demonstrated in the United States to other countries and the deployment of such clean and efficient energy technologies in such other countries.

(4) INTERAGENCY CENTER.—The Interagency Working Group—

(A) shall establish an Interagency Center on the Export of Clean and Efficient Energy Technologies (in this section referred to as the “Interagency Center”) to assist the Interagency Working Group in carrying out its duties required under paragraph (3); and

(B) shall locate the Interagency Center at a site agreed upon by the Co-Chairpersons of the Interagency Working

Group, with the approval of the Chairperson or Co-Chairpersons of the Task Force.

(c) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Task Force shall develop and submit to the President and the appropriate congressional committees a strategy to—

(A) support the development and implementation of programs, policies, and initiatives in developing countries to promote the adoption and deployment of clean and efficient energy technologies, with an emphasis on those developing countries that are expected to experience the most significant growth in energy production and use over the next 20 years;

(B) open and expand clean and efficient energy technology markets and facilitate the export of clean and efficient energy technologies to developing countries, in a manner consistent with United States obligations as a member of the World Trade Organization;

(C) integrate into the foreign policy objectives of the United States the promotion of—

(i) the deployment of clean and efficient energy technologies and the reduction of greenhouse gas emissions in developing countries; and

(ii) the export of clean and efficient energy technologies; and

(D) develop financial mechanisms and instruments, including securities that mitigate the political and foreign exchange risks of uses that are consistent with the foreign policy objectives of the United States by combining the private sector market and government enhancements, that—

(i) are cost-effective; and

(ii) facilitate private capital investment in clean and efficient energy technology projects in developing countries.

(2) UPDATES.—Not later than 3 years after the date of submission of the strategy under paragraph (1), and every 3 years thereafter, the Task Force shall update the strategy in accordance with the requirements of paragraph (1).

(d) REPORT.—

(1) IN GENERAL.—Not later than 3 years after the date of submission of the strategy under subsection (c)(1), and every 3 years thereafter, the President shall transmit to the appropriate congressional committees a report on the implementation of this section for the prior 3-year period.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include the following:

(A) The update of the strategy required under subsection (c)(2) and a description of the actions taken by the Task Force to assist in the implementation of the strategy.

(B) A description of actions taken by the Task Force to carry out the duties required under subsection (a)(4)(B).

(C) A description of assistance provided under this section.

(D) The results of programs, projects, and activities carried out under this section.

(E) A description of priorities for promoting the diffusion and adoption of clean and efficient energy technologies and strategies in developing countries, taking into account economic and security interests of the United States and opportunities for the export of technology of the United States.

(F) Recommendations to the heads of appropriate Federal departments and agencies on methods to streamline Federal programs and policies to improve the role of such Federal departments and agencies in the development, demonstration, and deployment of clean and efficient energy technologies on an international basis.

(G) Strategies to integrate representatives of the private sector and other interested groups on the export and deployment of clean and efficient energy technologies.

(H) A description of programs to disseminate information to the private sector and the public on clean and efficient energy technologies and opportunities to transfer such clean and efficient energy technologies.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2008 through 2020.

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