

United States Code TITLE 22 - FOREIGN RELATIONS AND INTERCOURSE  
CHAPTER 7 - INTERNATIONAL BUREAUS, CONGRESSES, ETC.

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## **Sec. 262m. Congressional findings and policies for multilateral development banks respecting environment, public health, natural resources, and indigenous peoples**

The Congress finds that -

- (1) United States assistance to the multilateral development banks should promote sustainable use of natural resources and the protection of the environment, public health, and the status of indigenous peoples in developing countries;
- (2) multilateral development bank projects, policies, and loans have failed in some cases to provide adequate safeguards for the environment, public health, natural resources, and indigenous peoples;
- (3) many development efforts of the multilateral development banks are more enduring and less costly if based on consultations with directly affected population groups and communities;
- (4) developing country governments sometimes do not ensure that appropriate policies and procedures are in place to use natural resources sustainably or consult with affected population groups and communities, where costs could be reduced or benefits made more enduring; and
- (5) in general, the multilateral development banks do not yet provide systematic and adequate assistance to their borrowers to encourage sustainable resource use and consultation with affected communities, where costs could be reduced or benefits made more enduring.

### **Sec. 262m-1. Environmental performance of banks; mechanisms for improvement**

The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall vigorously promote mechanisms to strengthen the environmental performance of these banks. These mechanisms shall include strengthening organizational, administrative, and procedural arrangements within the banks which will substantially improve management of assistance programs necessary to ensure the sustainable use of natural resources and the protection of indigenous peoples.

### **Sec. 262m-2. Environmental impact of assistance proposals**

- (a) Analysis by agencies, United States embassies and overseas missions of Agency for International Development; factors considered; affirmative investigation of adverse impacts; availability of information to public
  - (1) In the course of reviewing assistance proposals of the multilateral development banks, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall ensure that other agencies and appropriate United States embassies and overseas missions of the Agency for International Development are instructed to analyze, where feasible, the environmental impacts of multilateral development loans well in advance of such loans' approval by the relevant institutions to determine whether the proposals will contribute to the sustainable development of the borrowing country.

- (2) To the extent possible, such reviews shall address the economic viability of the project, adverse impacts on the environment, natural resources, public health, and indigenous peoples, and recommendations as to measures, including alternatives, that could eliminate or mitigate adverse impacts.
  - (3) If there is reason to believe that any such loan is particularly likely to have substantial adverse impacts, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall ensure that an affirmative investigation of such impacts is undertaken in consultation with relevant Federal agencies. If not classified under the national security system of classification, the information collected pursuant to this paragraph shall be made available to the public.
- (b) Evaluation by major shareholder governments prior to bank action on assistance proposals  
The Secretary of the Treasury shall instruct the Executive Directors representing the United States at the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, and the African Development Bank to urge the management and other directors of each such bank, to provide sufficient time between the circulation of assistance proposals and bank action on those proposals, in order to permit their evaluation by major shareholder governments.
- (c) Identification of proposals likely to have adverse impact; transmittal to Congress  
Based on the information obtained during the evaluation referred to in subsection (a) of this section and other available information, the Administrator of the Agency for International Development, in consultation with the Secretary of the Treasury and the Secretary of State, shall identify those assistance proposals likely to have adverse impacts on the environment, natural resources, public health, or indigenous peoples. The proposals so identified shall be transmitted to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, not later than June 30 and December 31 of each year following December 22, 1987.
- (d) Reports to Executive Directors; elimination or mitigation of adverse impacts
- (e) The Secretary of the Treasury shall forward reports concerning information received under subsection (a) of this section to the Executive Director representing the United States in the appropriate bank with instructions to seek to eliminate or mitigate adverse impacts which may result from the proposal.

### **Sec. 262m-3. Cooperative information exchange system**

The Secretary of the Treasury, in consultation with the Secretary of State and the Administrator of the Agency for International Development, shall create a system for cooperative exchange of information with other interested member countries on assistance proposals of the multilateral development banks.

### **Sec. 262m-4. Environmental educational and training programs for mid-level bank managers and officials of borrowing countries**

The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks to support the strengthening of educational programs within each multilateral development bank to improve the capacity of mid-level managers to initiate and manage environmental aspects of development activities, and to train officials of borrowing countries in the conduct of environmental analyses.

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**Sec. 262m-5. Environmental impact statements; factors considered; promotion of activities by United States Executive Directors**

- (a) The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vigorously and continuously urge that each bank identify and develop methods and procedures to insure that in addition to economic and technical considerations, unquantified environmental values be given appropriate consideration in decisionmaking, and include in the documents circulated to the Board of Executive Directors concerning each assistance proposal a detailed statement, to include assessment of the benefits and costs of environmental impacts and possible mitigating measures, on the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided if the proposal is implemented, and alternatives to the proposed action.
- (b) The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vigorously and continuously promote -
- (1) increases in the proportion of loans supporting environmentally beneficial policies, projects, and project components;
  - (2) the establishment of environmental programs in appropriate policy-based loans for the purpose of improving natural resource management, environmental quality, and protection of biological diversity;
  - (3) increases in the proportion of staff with professional training and experience in ecology and related areas and in the areas of anthropological and sociological impact analysis to ensure systematic appraisal and monitoring of environmental and sociocultural impacts of projects and policies;
  - (4) active and systematic encouragement of participation by borrowing countries nongovernmental environmental, community and indigenous peoples' organizations at all stages of preparations for country lending strategies, policy based loans, and loans that may have adverse environmental or sociocultural impacts; and
  - (5) full availability to concerned or affected nongovernmental and community organization, early in the preparation phase and at all subsequent stages of planning of full documentary information concerning details of design and potential environmental and sociocultural impacts of proposed loans.

**Sec. 262m-6. Repealed. Pub. L. 101-240, title V, Sec. 541(d)(4), Dec. 19, 1989, 103 Stat. 2518**

## Sec. 262m-7. Assessment of environmental impact of proposed multilateral development bank actions

### (a) Assessment required before favorable vote on action

#### (1) In general

Beginning 2 years after December 19, 1989, the Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank not to vote in favor of any action proposed to be taken by the respective bank which would have a significant effect on the human environment, unless for at least 120 days before the date of the vote -

(A) an assessment analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the borrower or the institution, and been made available to the board of directors of the institution; and

(B) except as provided in paragraph (2), such assessment or a comprehensive summary of such assessment has been made available to the multilateral development bank, affected groups, and local nongovernmental organizations.

#### (2) Exceptions and reports

##### (A) Exceptions

The requirement of paragraph (1)(B) shall not apply where the Secretary finds compelling reasons to believe that disclosure in any case described in paragraph (1) would jeopardize the confidential relationship between the borrower and the respective bank.

##### (B) Reports by Secretary

The Secretary shall submit a quarterly report in writing to the Committees specified in subsection (f)(1) of this section of the findings described in subparagraph (A).

### (b) Access to assessments in all member countries

The Secretary of the Treasury shall seek the adoption of policies and procedures, through discussions and negotiations with the other member countries of the multilateral development banks and with the management of such banks, which result in access by governmental agencies and interested members of the public of such member countries, to environmental assessments or documentary information containing comprehensive summaries of such assessments which discuss the environmental impact of prospective projects and programs being considered by such banks. Such assessments or summaries should be made available to such governmental agencies and interested members of the public at least 120 days before scheduled board action, and public participation in review of the relevant environmental information should be encouraged.

### (c) Consideration of assessment

The Secretary of the Treasury shall -

(1) ensure that an environmental impact assessment or comprehensive summary of such assessment described in subsection (a) of this section accompanies loan proposals through the agency review process; and

(2) take into consideration recommendations from all other interested Federal agencies and interested members of the public.

### (d) Development of procedures for systematic environmental assessment

The Secretary of the Treasury, in consultation with other Federal agencies, including the Environmental Protection Agency, the Department of State, and the Council on Environmental Quality, shall -

(1) instruct the United States Executive Director of each multilateral development bank to initiate discussions with the other executive directors of the respective bank and to propose that the

respective bank develop and make available to member governments of, and borrowers from, the respective bank, within 18 months after December 19, 1989, a procedure for the systematic environmental assessment of development projects for which the respective bank provides financial assistance, taking into consideration the Guidelines and Principles for Environmental Impact Assessment promulgated by the United Nations Environmental Programme and other bilateral or multilateral assessment procedures; and

- (2) in determining the position of the United States on any action proposed to be taken by a multilateral development bank, develop and prescribe procedures for the consideration of, among other things -
  - (A) the environmental impact assessment of the action described in subsection (a) of this section;
  - (B) interagency and public review of such assessment; and
  - (C) other environmental review and consultation of such action that is required by other law.

(e) Use of United States personnel

The Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, the Administrator of the Agency for International Development, and the Administrator of the National Oceanic and Atmospheric Administration, shall -

- (1) make available to the multilateral development banks, without charge, appropriate United States Government personnel to assist in -
  - (A) training bank staff in environmental impact assessment procedures;
  - (B) providing advice on environmental issues;
  - (C) preparing environmental studies for projects with potentially significant environmental impacts; and
  - (D) preparing documents for public release, and developing procedures to provide for the inclusion of interested nongovernmental organizations in the environmental review process; and
- (2) encourage other member countries of such banks to provide similar assistance.

(f) Reports

(1) In general

The Secretary of the Treasury shall submit to the Committees on Foreign Relations and Environment and Public Works of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives -

- (A) not later than the end of the 1-year period beginning on December 19, 1989, a progress report on the efficacy of efforts by the United States to encourage consistent and timely environmental impact assessment of actions proposed to be taken by the multilateral development banks and on the progress made by the multilateral development banks in developing and instituting environmental assessment policies and procedures; and
- (B) not later than January 1, 1993, a detailed report on the matters described in subparagraph (A).

(2) Availability of reports

The reports required by paragraph (1) shall be made available to the member governments of, and the borrowers from, the multilateral development banks, and to the public.

(g) "Multilateral development bank" defined

For purposes of this section, the term "multilateral development bank" means any of the institutions named in section 262m-2(b) of this title, and the International Finance Corporation.