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2^D SESSION

H. R. 4950

To extend the authorities of the Overseas Private Investment Corporation,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 12, 1994

Mr. GEJDENSON (for himself, Mr. ROTH, Ms. CANTWELL, Mr. JOHNSTON of Florida, Mr. BEREUTER, Mrs. MEYERS of Kansas, Mr. FINGERHUT, Mr. ENGEL, Mr. WYNN, Mr. OBERSTAR, and Mr. SCHUMER) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Jobs Through Trade
5 Expansion Act of 1994”.

1 **TITLE I—OVERSEAS PRIVATE**
2 **INVESTMENT CORPORATION**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Overseas Private In-
5 vestment Corporation Amendments Act of 1994”.

6 **SEC. 102. REAUTHORIZATION OF CORPORATION.**

7 Title IV of chapter 2 of part I of the Foreign Assist-
8 ance Act of 1961 (22 U.S.C. 2191 et seq.) is amended
9 to read as follows:

10 **“TITLE IV—OVERSEAS PRIVATE**
11 **INVESTMENT CORPORATION**

12 **“SEC. 231. PURPOSE AND POLICY.**

13 “(a) PURPOSE.—The Overseas Private Investment
14 Corporation shall be an independent agency of the United
15 States under the foreign policy guidance of the Secretary
16 of State. The purpose of the Corporation is to promote
17 sustainable environmentally sound economic development
18 in developing countries and areas, and countries in transi-
19 tion from nonmarket to market economies, by mobilizing
20 and facilitating the participation of the United States pri-
21 vate sector.

22 “(b) ELIGIBILITY CRITERIA FOR PARTICIPATING
23 COUNTRIES AND AREAS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (3), the Corporation may operate its programs
3 in a country (or an area within a country) only if—

4 “(A) the United States maintains diplo-
5 matic relations with the country;

6 “(B) either—

7 “(i) the country or area is a develop-
8 ing country or area; or

9 “(ii) the country is in transition from
10 a nonmarket to market economy; and

11 “(C) programs in that country are not pro-
12 hibited under section 234(e)(2) (relating to
13 human rights violators).

14 “(2) PREFERENCE FOR CERTAIN COUNTRIES.—
15 In conducting its activities, the Corporation shall—

16 “(A) give preference to projects in coun-
17 tries with per capita incomes of \$1,230 or less
18 in 1992 United States dollars; and

19 “(B) restrict its activities in countries with
20 per capita incomes of \$5,335 or more in 1992
21 United States dollars (other than countries des-
22 ignated as beneficiary countries under section
23 212 of the Caribbean Basin Economic Recovery
24 Act).

1 “(3) PROGRAMS IN INELIGIBLE COUNTRIES.—

2 (A) Except as provided in subparagraph (B), if a
3 country in which the Corporation is operating its
4 programs ceases to meet the criteria set forth in
5 paragraph (1), or if (pursuant to this or any other
6 Act) the government of that country becomes ineli-
7 gible for assistance, the Corporation shall cease to
8 operate its programs in such country, except that
9 the Corporation shall not be required to terminate
10 any contract or commitment entered into prior to
11 the date on which such country is determined to be
12 ineligible for such assistance.

13 “(B) The Corporation may continue to operate
14 its programs in a country which ceases to meet the
15 criteria set forth in paragraph (1) if the President
16 of the United States determines that the operation
17 of such programs would be in the national interest
18 of the United States.

19 “(c) GUIDELINES FOR ACTIVITIES OF OPIC.—In
20 carrying out its purpose, the Corporation shall under-
21 take—

22 “(1) to conduct insurance, reinsurance, and fi-
23 nancing operations on a self-sustaining basis, taking
24 into account in its financing operations the economic
25 and financial soundness of projects;

1 “(2) to broaden private participation by selling
2 its direct investments to private investors whenever
3 it can appropriately do so on satisfactory terms;

4 “(3) to conduct its insurance operations with
5 due regard to principles of risk management, includ-
6 ing efforts to share its insurance risks and reinsur-
7 ance risks;

8 “(4) to consider in the conduct of its operations
9 the extent to which the governments of eligible coun-
10 tries are receptive to private enterprise, domestic
11 and foreign, and their willingness and ability to
12 maintain conditions which enable private enterprise
13 to make its full contribution to the development
14 process;

15 “(5) to foster private initiative and competition
16 and discourage monopolistic practices;

17 “(6) to further to the greatest degree possible,
18 in a manner consistent with its goals, the balance-
19 of-payments and employment objectives of the Unit-
20 ed States;

21 “(7) to consider in the conduct of its operations
22 the extent to which the governments of eligible coun-
23 tries respect human rights, labor rights, and the
24 need to support sound environmental practices and
25 policies;

1 “(8) to conduct its activities in consonance with
2 the international trade, investment, and financial
3 policies of the United States Government, and to
4 seek to support those developmental projects having
5 positive trade benefits for the United States; and

6 “(9) to advise and assist, within its field of
7 competence, interested agencies of the United States
8 and other organizations, both public and private, na-
9 tional and international, with respect to projects and
10 programs relating to the development of private en-
11 terprise in eligible countries and areas.

12 **“SEC. 232. STOCK OF THE CORPORATION; ORGANIZATION**
13 **AND MANAGEMENT.**

14 “(a) STOCK.—The Secretary of the Treasury shall
15 hold the capital stock of the Corporation.

16 “(b) STRUCTURE OF THE CORPORATION.—The Cor-
17 poration shall have a Board of Directors, a President, an
18 Executive Vice President, and such other officers and staff
19 as the President of the Corporation may determine.

20 “(c) BOARD OF DIRECTORS.—

21 “(1) IN GENERAL.—All powers of the Corpora-
22 tion shall vest in and be exercised by or under the
23 authority of the Board, which shall consist of 15 Di-
24 rectors (including the Chair, the Executive Vice

1 Chair, and the Vice Chair). Eight Directors shall
2 constitute a quorum for the transaction of business.

3 “(2) COMPOSITION OF THE BOARD.—

4 “(A) CHAIR.—The Chair of the Board
5 shall be the President of the Corporation, ex
6 officio.

7 “(B) EXECUTIVE VICE CHAIR.—The Exec-
8 utive Vice Chair of the Board shall be the Ad-
9 ministrator of the Agency for International De-
10 velopment, ex officio.

11 “(C) VICE CHAIR.—The Vice Chair of the
12 Board shall be the United States Trade Rep-
13 resentative, ex officio, or, if so designated by
14 the United States Trade Representative, a Dep-
15 uty United States Trade Representative.

16 “(D) PUBLIC SECTOR DIRECTORS.—(i) In
17 addition to the directors provided for in sub-
18 paragraphs (A), (B), and (C), four Directors
19 who are officers or employees of the Govern-
20 ment of the United States, including an officer
21 or employee of the Department of Labor, shall
22 be designated by and shall serve at the pleasure
23 of the President of the United States.

24 “(ii) The Directors designated under this
25 subparagraph shall receive no additional com-

1 pensation by virtue of their service as such a
2 Director.

3 “(E) PRIVATE SECTOR DIRECTORS.—(i)
4 Eight Directors who are not otherwise officers
5 or employees of the Government of the United
6 States shall be appointed by the President of
7 the United States, by and with the advice and
8 consent of the Senate. Of these, at least—

9 “(I) two shall be experienced in small
10 business;

11 “(II) one shall be experienced in orga-
12 nized labor; and

13 “(III) one shall be experienced in so-
14 cial and economic development issues.

15 “(ii) Each Director appointed under this
16 subparagraph shall be appointed for a term of
17 not more than 3 years. The terms of not more
18 than 3 such Directors shall expire in any 1
19 year. Such Directors shall serve until their suc-
20 cessors are appointed and qualified. Directors
21 may be reappointed to subsequent terms.

22 “(iii) Each Director appointed under this
23 subparagraph shall be compensated at the daily
24 equivalent of the annual rate of pay in effect
25 for level IV of the Executive Schedule under

1 section 5315 of title 5, United States Code, for
2 each day (including travel time) during which
3 such Director is actually engaged in the busi-
4 ness of the Corporation, and may be paid travel
5 or transportation expenses to the extent author-
6 ized for employees serving intermittently in the
7 Government service under section 5703 of title
8 5, United States Code. Any such Director may
9 waive any such compensation.

10 “(d) APPOINTMENT OF THE PRESIDENT.—The
11 President of the Corporation shall be appointed by the
12 President of the United States, by and with the advice
13 and consent of the Senate, and shall serve at the pleasure
14 of the President. In making such appointment, the Presi-
15 dent shall take into account the private business experi-
16 ence of the appointee. The President of the Corporation
17 shall be its Chief Executive Officer and shall be respon-
18 sible for the operations and management of the Corpora-
19 tion, subject to bylaws and policies established by the
20 Board.

21 “(e) OFFICERS AND STAFF.—

22 “(1) EXECUTIVE VICE PRESIDENT.—The Exec-
23 utive Vice President of the Corporation shall be ap-
24 pointed by the President of the United States, by

1 and with the advice and consent of the Senate, and
2 shall serve at the pleasure of the President.

3 “(2) OTHER OFFICERS AND STAFF.—(A) The
4 Corporation may appoint such other officers and
5 such employees (including attorneys) and agents as
6 the Corporation considers appropriate.

7 “(B) The officers, employees, and agents ap-
8 pointed under this subsection shall have such func-
9 tions as the Corporation may determine.

10 “(C) Of the officers, employees, and agents ap-
11 pointed under this paragraph, 20 may be appointed
12 without regard to the provisions of title 5, United
13 States Code, governing appointments in the competi-
14 tive service, may be compensated without regard to
15 the provisions of chapter 51 or subchapter III of
16 chapter 53 of such title, and shall serve at the pleas-
17 ure of the Corporation.

18 “(D) Under such regulations as the President
19 of the United States may prescribe, any individual
20 appointed under subparagraph (C) may be entitled,
21 upon removal (except for cause) from the position to
22 which the appointment was made, to reinstatement
23 to the position occupied by that individual at the
24 time of appointment or to a position of comparable
25 grade and pay.

1 **“SEC. 233. INVESTMENT INSURANCE, FINANCING, AND**
2 **OTHER PROGRAMS.**

3 “(a) INVESTMENT INSURANCE.—

4 “(1) RISKS FOR WHICH INSURANCE ISSUED.—

5 The Corporation is authorized to issue insurance,
6 upon such terms and conditions as the Corporation
7 may determine, to eligible investors assuring protec-
8 tion in whole or in part against any or all of the fol-
9 lowing risks with respect to projects which the Cor-
10 poration has approved:

11 “(A) Inability to convert into United
12 States dollars other currencies, or credits in
13 such currencies, received as earnings or profits
14 from the approved project, as repayment or re-
15 turn of the investment in the project, in whole
16 or in part, or as compensation for the sale or
17 disposition of all or any part of the investment.

18 “(B) Loss of investment, in whole or in
19 part, in the approved project due to expropria-
20 tion or confiscation by action of a foreign gov-
21 ernment.

22 “(C) Loss due to war, revolution, insurrec-
23 tion, or civil strife.

24 “(D) Loss due to business interruption
25 caused by any of the risks set forth in subpara-
26 graphs (A), (B), and (C).

1 “(2) RISK SHARING ARRANGEMENTS WITH FOR-
2 EIGN GOVERNMENTS AND MULTILATERAL ORGANIZA-
3 TIONS.—Recognizing that major private investments
4 in eligible countries or areas are often made by en-
5 terprises in which there is multinational participa-
6 tion, including significant United States private par-
7 ticipation, the Corporation may make arrangements
8 with foreign governments (including agencies, instru-
9 mentalities, and political subdivisions thereof) and
10 with multilateral organizations and institutions for
11 sharing liabilities assumed under investment insur-
12 ance for such investments and may, in connection
13 with such arrangements, issue insurance to investors
14 not otherwise eligible for insurance under this title,
15 except that—

16 “(A) liabilities assumed by the Corporation
17 under the authority of this paragraph shall be
18 consistent with the purposes of this title; and

19 “(B) the maximum share of liabilities so
20 assumed shall not exceed the proportionate par-
21 ticipation by eligible investors in the project.

22 “(3) MAXIMUM CONTINGENT LIABILITY WITH
23 RESPECT TO SINGLE INVESTOR.—Not more than 10
24 percent of the maximum contingent liability of in-
25 vestment insurance which the Corporation is per-

1 mitted to have outstanding under section 235(a)(1)
2 shall be issued to a single investor.

3 “(b) INVESTMENT FINANCING.—

4 “(1) DIRECT LENDING.—(A) The Corporation
5 is authorized to make loans in United States dollars,
6 repayable in dollars, and to make loans in foreign
7 currencies, to firms privately owned or of mixed pri-
8 vate and public ownership, upon such terms and
9 conditions as the Corporation may determine.

10 “(B) The Corporation may designate up to 25
11 percent of any loan under this paragraph for use in
12 the development or adaptation in the United States
13 of new technologies or new products or services that
14 are to be used in the project for which the loan is
15 made and are likely to contribute to the economic or
16 social development of less developed countries.

17 “(2) EQUITY INVESTMENT.—(A) The Corpora-
18 tion is authorized to purchase, invest in, or other-
19 wise acquire equity securities or securities with eq-
20 uity characteristics of any firm or entity, upon such
21 terms and conditions as the Corporation may deter-
22 mine, to be funded in the same manner as direct
23 loans under the Federal Credit Reform Act of 1990
24 for the purpose of providing capital for any project

1 which is consistent with the provisions of this title,
2 subject to the limitations in subparagraph (B).

3 “(B)(i) The aggregate amount of the Corpora-
4 tion’s equity investment under this paragraph with
5 respect to any project shall not exceed 30 percent of
6 the aggregate amount of all equity investment made
7 with respect to such project at the time that the
8 Corporation’s equity investment is made (excluding
9 any securities acquired through the enforcement of
10 any lien, pledge, or contractual arrangement as a re-
11 sult of a default by any party under any agreement
12 relating to the terms of the Corporation’s invest-
13 ment).

14 “(ii) The Corporation’s equity investment under
15 this paragraph with respect to any project, when
16 added to any other investments made or guaranteed
17 by the Corporation under this subsection with re-
18 spect to such project, shall not cause the aggregate
19 amount of all such investment to exceed, at the time
20 any such investment is made or guaranteed by the
21 Corporation, 75 percent of the total investment com-
22 mitted to such project, as determined by the Cor-
23 poration. The determination of the Corporation
24 under this clause shall be conclusive for purposes of

1 the Corporation's authority to make or guarantee
2 any such investment.

3 “(C) In making investment decisions under this
4 paragraph, the Corporation shall give consideration
5 to the extent to which the Corporation's equity in-
6 vestment will assist in obtaining the financing re-
7 quired for such projects.

8 “(D) Taking into consideration, among other
9 things, the Corporation's financial interests and the
10 desirability of fostering the development of local cap-
11 ital markets in emerging democracies, economies in
12 transformation, and less developed countries, the
13 Corporation shall endeavor to dispose of any equity
14 interest it may acquire under this paragraph within
15 a period of 10 years from the date of acquisition of
16 such interest.

17 “(3) INVESTMENT GUARANTEES.—(A) The Cor-
18 poration is authorized to issue to eligible investors
19 guarantees of loans and other investments made by
20 such investors assuring against loss due to such
21 risks and upon such terms and conditions as the
22 Corporation may determine, subject to subpara-
23 graphs (B) and (C).

1 “(B) A guarantee issued under subparagraph
2 (A) on other than a loan investment may not exceed
3 75 percent of such investment.

4 “(C) Except for loan investments for credit
5 unions made by eligible credit unions or credit union
6 associations, the aggregate amount of investment
7 (exclusive of interest and earnings) for which guar-
8 antees are issued under subparagraph (A) with re-
9 spect to any project shall not exceed, at the time of
10 issuance of any such guarantee, 75 percent of the
11 total investment committed to any such project as
12 determined by the Corporation. Such determination
13 by the Corporation shall be conclusive for purposes
14 of the Corporation’s authority to issue any such
15 guarantee.

16 “(c) INVESTMENT ENCOURAGEMENT.—The Corpora-
17 tion is authorized to initiate and support through financial
18 participation, incentive grant, or otherwise, and on such
19 terms and conditions as the Corporation may determine,
20 the identification, assessment, surveying, and promotion
21 of private investment opportunities, using wherever fea-
22 sible and effective the facilities of private investors. The
23 Corporation shall not finance any survey to ascertain the
24 existence, location, extent, or quality of oil or gas re-
25 sources.

1 “(d) SPECIAL ACTIVITIES.—The Corporation is au-
2 thorized to administer and manage special projects and
3 programs, including programs of financial and advisory
4 support, which provide private technical, professional, or
5 managerial assistance in the development of human re-
6 sources, skills, technology, capital savings, intermediate fi-
7 nancial and investment institutions, and cooperatives. The
8 funds for these projects and programs may, with the Cor-
9 poration’s concurrence, be transferred to it for such pur-
10 poses under the authority of section 632(a) or from other
11 sources, public or private.

12 “(e) OTHER INSURANCE FUNCTIONS.—

13 “(1) IN GENERAL.—The Corporation is author-
14 ized—

15 “(A) to make and carry out contracts of
16 insurance or reinsurance, or agreements to as-
17 sociate or share risks, with insurance compa-
18 nies, financial institutions, any other persons,
19 or groups thereof; and

20 “(B) to employ such insurance companies,
21 financial institutions, other persons, or groups,
22 where appropriate, as its agent, or to act as
23 their agent, in the issuance and servicing of in-
24 surance, the adjustment of claims, the exercise
25 of subrogation rights, the ceding and accepting

1 of reinsurance, and in any other matter incident
2 to an insurance business.

3 Such agreements and contracts shall be consistent
4 with the purposes of the Corporation set forth in
5 section 231 and shall be on equitable terms.

6 “(2) RISK-SHARING AGREEMENTS.—The Cor-
7 poration is authorized to enter into pooling or other
8 risk-sharing agreements with multinational insur-
9 ance or financing agencies or groups of such agen-
10 cies.

11 “(3) OWNERSHIP INTEREST IN RISK-SHARING
12 ENTITIES.—The Corporation is authorized to hold
13 an ownership interest in any association or other en-
14 tity established for the purposes of sharing risks
15 under investment insurance.

16 “(4) REINSURANCE OF CERTAIN LIABILITIES.—
17 The Corporation is authorized to issue, upon such
18 terms and conditions as it may determine, reinsur-
19 ance of liabilities assumed by other insurers or
20 groups thereof with respect to risks referred to in
21 subsection (a)(1).

22 “(5) LIMITATION ON REINSURANCE.—The
23 amount of reinsurance of liabilities under this title
24 which the Corporation may issue shall not in the ag-
25 gregate exceed at any one time an amount equal to

1 the amount authorized for the maximum contingent
2 liability outstanding at any one time under section
3 235(a)(1). All reinsurance issued by the Corporation
4 under this subsection shall require that the rein-
5 sured party retain for his or her own account speci-
6 fied portions of liability, whether first loss or other-
7 wise.

8 “(6) ENHANCING PRIVATE POLITICAL RISK IN-
9 SURANCE INDUSTRY.—In order to encourage greater
10 availability of political risk insurance for eligible in-
11 vestors by enhancing the private political risk insur-
12 ance industry in the United States, and to the ex-
13 tent consistent with this title, the Corporation shall
14 undertake programs of cooperation with such indus-
15 try, and in connection with such programs may en-
16 gage in the following activities:

17 “(A) Utilizing its statutory authorities, en-
18 courage the development of associations, pools,
19 or consortia of United States private political
20 risk insurers.

21 “(B) Share insurance risks (through coin-
22 surance, contingent insurance, or other means)
23 in a manner that is conducive to the growth
24 and development of the private political risk in-
25 surance industry in the United States.

1 “(C) Notwithstanding section 237(e), upon
2 the expiration of insurance provided by the Cor-
3 poration for an investment, enter into risk-shar-
4 ing agreements with United States private po-
5 litical risk insurers to insure any such invest-
6 ment. In cooperating in the offering of insur-
7 ance under this clause, the Corporation shall
8 not assume responsibility for more than 50 per-
9 cent of the insurance being offered in each sep-
10 arate transaction.

11 **“SEC. 234. GUIDELINES AND CRITERIA FOR OPIC SUPPORT.**

12 “(a) DEVELOPMENT GUIDELINES.—

13 “(1) CRITERIA.—The Corporation, in determin-
14 ing whether to provide insurance, reinsurance, or fi-
15 nancing for a project shall be guided by the eco-
16 nomic, environmental, and social development impact
17 and benefits of such a project and the ways in which
18 such a project complements, or is compatible with,
19 other development assistance programs or projects
20 of the United States or other donors.

21 “(2) DEVELOPMENT IMPACT PROFILE.—In
22 order to carry out the policy set forth in paragraph
23 (1), the Corporation shall prepare and maintain, for
24 each investment project it insures, reinsures, or fi-
25 nances, a development impact profile consisting of

1 data appropriate to measure the projected and ac-
2 tual effects of such project on development.

3 “(b) SMALL BUSINESS DEVELOPMENT.—

4 “(1) BROADENED PARTICIPATION BY SMALL
5 BUSINESSES.—The Corporation shall undertake, in
6 cooperation with appropriate agencies of the United
7 States Government as well as private entities and
8 others, to broaden the participation of United States
9 small business, cooperatives, and other small United
10 States investors in the development of small private
11 enterprise in eligible countries or areas.

12 “(2) PREFERENTIAL CONSIDERATION.—Not-
13 withstanding the requirements of section 231(c)(1),
14 and on such terms and conditions as the Corpora-
15 tion may determine through loans, grants, or other
16 programs authorized by section 233, the Corporation
17 shall undertake, to the maximum degree possible
18 consistent with its purposes—

19 “(A) to give preferential consideration in
20 its investment insurance, reinsurance, and
21 guarantee activities to investment projects spon-
22 sored by or involving United States small busi-
23 ness; and

24 “(B) to maintain the proportion of projects
25 sponsored by or significantly involving United

1 States small business at not less than 30 per-
2 cent of all projects insured, reinsured, or fi-
3 nanced by the Corporation.

4 “(c) ENVIRONMENTAL CONSIDERATIONS.—

5 “(1) ENVIRONMENTAL, HEALTH, OR SAFETY
6 HAZARD.—The Corporation shall refuse to insure,
7 reinsure, or finance any investment in connection
8 with a project which the Corporation determines will
9 pose an unreasonable or major environmental,
10 health, or safety hazard, or will result in the signifi-
11 cant degradation of national parks or similar pro-
12 tected areas.

13 “(2) RESOURCE SUSTAINABLE DEVELOP-
14 MENT.—The Corporation, in determining whether to
15 provide insurance, reinsurance, or financing for a
16 project, shall ensure that the project is consistent
17 with the provisions of section 117 (as so redesign-
18 dated by the Special Foreign Assistance Act of
19 1986), section 118, and section 119 of this Act re-
20 lating to the environment and natural resources of,
21 and tropical forests and endangered species in, de-
22 veloping countries, and consistent with the intent of
23 regulations issued pursuant to sections 118 and 119
24 of this Act.

1 “(3) IMPACT ON ENVIRONMENT AND NATURAL
2 RESOURCES.—The requirements of section 117(c) of
3 this Act relating to environmental impact statements
4 and environmental assessments shall apply to any
5 investment which the Corporation insures, reinsures,
6 or finances under this title.

7 “(4) NOTIFICATION OF FOREIGN GOVERN-
8 MENTS.—Before finally providing insurance, reinsur-
9 ance, or financing under this title for any environ-
10 mentally sensitive investment in connection with a
11 project in a country, the Corporation shall notify ap-
12 propriate government officials of that country of—

13 “(A) all guidelines and other standards
14 adopted by the International Bank for Recon-
15 struction and Development and any other inter-
16 national organization that relate to the public
17 health or safety or the environment and are ap-
18 plicable to the project; and

19 “(B) to the maximum extent practicable,
20 any restriction, under any law of the United
21 States, that relates to public health or safety or
22 the environment and would apply to the project
23 if the project were undertaken in the United
24 States.

1 The notification under the preceding sentence shall
2 include a summary of the guidelines, standards, and
3 restrictions referred to in subparagraphs (A) and
4 (B), and may include any environmental impact
5 statement, assessment, review, or study prepared
6 with respect to the investment pursuant to para-
7 graph (3).

8 “(5) CONSIDERATION OF COMMENTS RE-
9 CEIVED.—Before finally providing insurance, rein-
10 surance, or financing for any investment subject to
11 paragraph (4), the Corporation shall take into ac-
12 count any comments it receives on the project in-
13 volved.

14 “(d) WORKER RIGHTS.—

15 “(1) LIMITATION ON OPIC ACTIVITIES.—The
16 Corporation may insure, reinsure, or finance a
17 project only if the country in which the project is to
18 be undertaken is taking steps to adopt and imple-
19 ment laws that extend internationally recognized
20 worker rights, as defined in section 502(a)(4) of the
21 Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to work-
22 ers in that country (including any designated zone in
23 that country). The Corporation shall also include the
24 following language, in substantially the following
25 form, in all contracts which the Corporation enters

1 into with eligible investors to provide financial sup-
2 port under this title:

3 “‘The investor agrees not to take actions to
4 prevent employees of the foreign enterprise from
5 lawfully exercising their right of association and
6 their right to organize and bargain collectively. The
7 investor further agrees to observe applicable laws re-
8 lating to a minimum age for employment of children,
9 acceptable conditions of work with respect to mini-
10 mum wages, hours of work, and occupational health
11 and safety, and not to use forced labor. The investor
12 is not responsible under this paragraph for the ac-
13 tions of a foreign government.’.

14 “(2) USE OF ANNUAL REPORTS ON WORKERS
15 RIGHTS.—The Corporation shall, in making its de-
16 terminations under paragraph (1), use the reports
17 submitted to the Congress pursuant to section
18 505(c) of the Trade Act of 1974 (19 U.S.C.
19 2465(c)).

20 “(3) WAIVER.—(A) Paragraph (1) shall not
21 prohibit the Corporation from providing any insur-
22 ance, reinsurance, or financing with respect to a
23 country if the President determines that such activi-
24 ties by the Corporation would be in the national eco-
25 nomic interests of the United States. Any such de-

1 termination shall be reported in writing to the ap-
2 propriate congressional committees, together with
3 the reasons for the determination.

4 “(B) As used in subparagraph (A), the term
5 ‘appropriate congressional committees’ means the
6 Committee on Foreign Affairs and the Committee on
7 Appropriations of the House of the Representatives
8 and the Committee on Foreign Relations and the
9 Committee on Appropriations of the Senate.

10 “(e) HUMAN RIGHTS.—

11 “(1) IN GENERAL.—The Corporation shall take
12 into account in the conduct of its programs in a
13 country, in consultation with the Secretary of State,
14 all available information about observance of and re-
15 spect for human rights and fundamental freedoms in
16 such country and the effect the operation of such
17 programs will have on human rights and fundamen-
18 tal freedoms in such country.

19 “(2) HUMAN RIGHTS VIOLATORS.—The provi-
20 sions of section 116 shall apply to any insurance, re-
21 insurance, or financing provided by the Corporation
22 for projects in a country, except that in addition to
23 the exception set forth in subsection (a) of such sec-
24 tion, the Corporation may support a project if the
25 national security interest so requires.

1 “(f) HARM TO EMPLOYMENT IN THE UNITED
2 STATES.—

3 “(1) REPLACEMENT OF UNITED STATES PRO-
4 Duction.—(A) The Corporation shall refuse to in-
5 sure, reinsure, or finance an investment if the Cor-
6 poration determines that—

7 “(i) such investment is likely to cause the
8 investor significantly to reduce the number of
9 the investor’s employees in the United States
10 because the investor is replacing his or her
11 United States production with production from
12 such investment; and

13 “(ii) the production from such investment
14 involves substantially the same product for sub-
15 stantially the same market as the investor’s
16 United States production.

17 “(B) If the Corporation determines that an in-
18 vestment is not likely to have the effects described
19 in subparagraph (A), the Corporation shall monitor
20 conformance with the representations made by the
21 investor on which the Corporation relied in making
22 that determination.

23 “(2) EXPORT PROCESSING ZONES.—The Cor-
24 poration shall refuse to insure, reinsure, or finance
25 an investment for the purpose of establishing or de-

1 veloping in a foreign country any export processing
2 zone or designated area in which the tax, tariff,
3 labor, environment, and safety laws of that country
4 do not apply, in part or in whole, to activities car-
5 ried out within that zone or area, unless such assist-
6 ance is not likely to cause a loss of jobs within the
7 United States as determined in consideration of the
8 restrictions contained in paragraph (1).

9 “(g) PERFORMANCE REQUIREMENTS.—The Corpora-
10 tion shall refuse to insure, reinsure, or finance an invest-
11 ment which is subject to performance requirements which
12 would reduce substantially the positive trade benefits like-
13 ly to accrue to the United States from the investment.

14 “(h) PROHIBITED TRADE PRACTICES.—

15 “(1) PAYMENTS TO VIOLATORS BARRED.—No
16 payment may be made under any insurance or rein-
17 surance which is issued under this title on or after
18 April 24, 1978, for any loss occurring with respect
19 to a project, if the preponderant cause of such loss
20 was an act by the investor seeking such payment, by
21 a person possessing majority ownership and control
22 of the investor at the time of the act, or by any
23 agent of such investor or controlling person, and a
24 court of the United States has entered a final judg-
25 ment that such act constituted a violation of section

1 30A of the Securities Exchange Act of 1934 or sec-
2 tion 104 of the Foreign Corrupt Practices Act of
3 1977.

4 “(2) REGULATIONS.—The Corporation shall
5 have in effect regulations setting forth appropriate
6 conditions under which any person who has been fi-
7 nally determined by a court of the United States to
8 have violated section 30A of the Securities Exchange
9 Act of 1934 or section 104 of the Foreign Corrupt
10 Practices Act of 1977 shall be suspended, for a pe-
11 riod of not more than 5 years, from eligibility to re-
12 ceive any insurance, reinsurance, financing, or other
13 financial support authorized by this title, if that vio-
14 lation related to a project insured, reinsured, fi-
15 nanced, or otherwise supported by the Corporation
16 under this title.

17 “(i) FRAUD OR MISREPRESENTATION.—No payment
18 may be made under any guarantee, insurance, or reinsur-
19 ance issued under this title for any loss arising out of
20 fraud or misrepresentation for which the party seeking
21 payment is responsible.

22 “(j) PENALTIES FOR FRAUD.—Whoever knowingly
23 makes any false statement or report, or willfully
24 overvalues any land, property, or security, for the purpose
25 of influencing in any way the action of the Corporation

1 with respect to any insurance, reinsurance, guarantee,
2 loan, equity investment, or other activity of the Corpora-
3 tion under section 233 or any change or extension of any
4 such insurance, reinsurance, guarantee, loan, equity in-
5 vestment, or activity, by renewal, deferment of action or
6 otherwise, or the acceptance, release, or substitution of se-
7 curity therefor, shall be fined not more than \$1,000,000
8 or imprisoned not more than 30 years, or both.

9 “(k) PUBLIC HEARINGS.—The Board shall hold at
10 least 1 public hearing each year in order to afford an op-
11 portunity for any person to present views as to whether
12 the Corporation is carrying out its activities in accordance
13 with section 231 and this section or whether any invest-
14 ment in a particular country should have been or should
15 be extended insurance, reinsurance, or financing under
16 this title.

17 **“SEC. 235. ISSUING AUTHORITY, DIRECT INVESTMENT AU-**
18 **THORITY, EQUITY FUND, AND RESERVES.**

19 “(a) ISSUING AUTHORITY.—

20 “(1) INSURANCE.—The maximum contingent li-
21 ability outstanding at any one time pursuant to in-
22 surance issued under section 233(a) shall not exceed
23 in the aggregate \$15,000,000,000.

24 “(2) FINANCING.—(A) The maximum contin-
25 gent liability outstanding at any one time pursuant

1 to financing issued under section 233(b) shall not
2 exceed in the aggregate \$14,500,000,000.

3 “(B) Subject to spending authority provided in
4 appropriations Acts pursuant to section 504(b) of
5 the Federal Credit Reform Act of 1990, the Cor-
6 poration is authorized to transfer such sums as are
7 necessary from its noncredit activities to pay for the
8 subsidy cost of a program level for the direct loan
9 and guarantee programs under sections 233(b)(1)
10 and (b)(3)—

11 “(i) \$3,000,000,000 for fiscal year 1995;

12 “(ii) \$4,000,000,000 for fiscal year 1996;

13 and

14 “(iii) \$5,000,000,000 for fiscal year 1997.

15 “(3) TERMINATION OF AUTHORITY.—The au-
16 thority of sections 233(a) and (b)(3) shall continue
17 until September 30, 1997.

18 “(b) CREATION OF FUND FOR ACQUISITION OF EQ-
19 UITY.—The Corporation is authorized to maintain a re-
20 volving fund to be available solely for the purposes speci-
21 fied in section 233(b)(2) and to make transfers to the fund
22 of a total of \$45,000,000 (less amounts transferred to the
23 fund before the effective date of this title) from its
24 noncredit activities. The Corporation shall apply to the
25 fund all amounts received by the Corporation as income

1 on securities acquired under section 233(b)(2) using funds
2 made available under this section, and from the proceeds
3 on the disposition of such securities. Purchases of, invest-
4 ments in, and other acquisitions of equity from the fund
5 are authorized for any fiscal year only to the extent or
6 in such amounts as are provided in advance in appropria-
7 tions Acts or are transferred to the Corporation pursuant
8 to section 632(a).

9 “(c) INSURANCE RESERVES.—

10 “(1) MAINTENANCE AND PURPOSES.—The Cor-
11 poration shall maintain insurance reserves. Such re-
12 serves shall be available for the discharge of liabil-
13 ities, as provided in subsection (d), until such time
14 as all such liabilities have been discharged or have
15 expired or until all such reserves have been expended
16 in accordance with the provisions of this section.

17 “(2) FUNDING.—The insurance reserves shall
18 consist of—

19 “(A) any funds in the insurance reserves of
20 the Corporation on September 30, 1994;

21 “(B) amounts transferred to the reserves
22 pursuant to this Act; and

23 “(C) such sums as are appropriated pursu-
24 ant to subsection (e) of this section for such
25 purposes.

1 “(d) ORDER OF PAYMENTS TO DISCHARGE LIABIL-
2 ITIES.—Any payment made to discharge liabilities under
3 investment insurance or reinsurance issued under section
4 233, or to discharge liabilities under predecessor guaran-
5 tee authority, shall be paid first out of the insurance re-
6 serves, as long as such reserves remain available, and
7 thereafter out of funds made available pursuant to sub-
8 section (e) of this section. Any payments made to dis-
9 charge liabilities under guarantees issued under section
10 233(b)(3) shall be paid in accordance with the Federal
11 Credit Reform Act of 1990.

12 “(e) AUTHORIZATION OF APPROPRIATIONS.—

13 “(1) AUTHORIZATION.—Subject to paragraph
14 (2), there are authorized to be appropriated to the
15 Corporation such amounts as may be necessary from
16 time to time to replenish or increase the insurance
17 reserves, to discharge the liabilities under insurance
18 or reinsurance issued by the Corporation, to dis-
19 charge liabilities under predecessor guarantee au-
20 thority, or to discharge obligations of the Corpora-
21 tion purchased by the Secretary of the Treasury
22 pursuant to subsection (f).

23 “(2) LIMITATION ON APPROPRIATIONS.—No ap-
24 propriation shall be made under paragraph (1) to
25 augment the insurance reserves until the amount of

1 funds in the insurance reserves is less than
2 \$25,000,000. Any appropriations to augment the in-
3 surance reserves shall then only be made either pur-
4 suant to specific authorization enacted after the date
5 of enactment of the Overseas Private Investment
6 Corporation Amendments Act of 1974, or to satisfy
7 the full faith and credit provision of section 237(c).

8 “(f) ISSUANCE OF OBLIGATIONS.—In order to dis-
9 charge liabilities under investment insurance or reinsur-
10 ance, the Corporation is authorized to issue from time to
11 time for purchase by the Secretary of the Treasury its
12 notes, debentures, bonds, or other obligations. The aggre-
13 gate amount of such obligations outstanding at any one
14 time may not exceed \$100,000,000. Any such obligation
15 shall be repaid to the Treasury within 1 year after the
16 date of issue of such obligation. Any such obligation shall
17 bear interest at a rate determined by the Secretary of the
18 Treasury, taking into consideration the current average
19 market yield on outstanding marketable obligations of the
20 United States of comparable maturities during the month
21 preceding the issuance of any obligation authorized by this
22 subsection. The Secretary of the Treasury shall purchase
23 any obligation of the Corporation issued under this sub-
24 section, and for such purchase the Secretary may use as
25 a public debt transaction the proceeds of the sale of any

1 securities issued under chapter 31 of title 31, United
2 States Code. The purpose for which securities may be is-
3 sued under chapter 31 of title 31, United States Code,
4 shall include any such purchase.

5 **“SEC. 236. INCOME AND REVENUES.**

6 “In order to carry out the purposes of the Corpora-
7 tion, all revenues earned by the Corporation from its
8 noncredit activities and amounts transferred to the Cor-
9 poration shall be held by the Corporation and shall be
10 available to carry out its purposes, including without limi-
11 tation—

12 “(1) payment of all credit and noncredit ex-
13 penses of the Corporation;

14 “(2) transfers and additions to the insurance
15 reserves maintained under section 235(c), and such
16 other funds or reserves as the Corporation may es-
17 tablish, at such time and in such amounts as the
18 Board may determine; and

19 “(3) payment of dividends, on capital stock,
20 which shall consist of and be paid from net earnings
21 of the Corporation after payments, transfers, and
22 additions under paragraphs (1) and (2).

1 **“SEC. 237. GENERAL PROVISIONS RELATING TO INSUR-**
2 **ANCE AND FINANCING PROGRAM.**

3 “(a) AGREEMENTS WITH COUNTRIES.—Insurance,
4 guarantees, and reinsurance issued under this title shall
5 cover investment made in connection with projects in any
6 eligible country or area with the government of which the
7 President of the United States has agreed to institute a
8 program for such insurance, guarantees, or reinsurance.

9 “(b) PROTECTION OF INTERESTS OF THE CORPORA-
10 TION.—The Corporation shall determine that suitable ar-
11 rangements exist for protecting the interest of the Cor-
12 poration in connection with any insurance, reinsurance, or
13 guarantee issued under this title, including arrangements
14 concerning ownership, use, and disposition of the cur-
15 rency, credits, assets, or investments on account of which
16 payment under such insurance, guarantee, or reinsurance
17 is to be made, and any right, title, claim, or cause of action
18 existing in connection therewith.

19 “(c) FULL FAITH AND CREDIT PLEDGED.—All guar-
20 antees issued under predecessor guarantee authority, and
21 all insurance, reinsurance, and guarantees issued under
22 this title shall constitute obligations, in accordance with
23 the terms of such insurance, reinsurance, or guarantees,
24 of the United States of America, and the full faith and
25 credit of the United States of America is hereby pledged
26 for the full payment and performance of such obligations.

1 “(d) FEES.—Fees may be charged for providing in-
2 surance, reinsurance, financing, and other services under
3 this title in amounts to be determined by the Corporation.
4 Fees paid for project-specific transaction costs and other
5 transaction costs, including project-related travel and ex-
6 penses for legal representation, associated with services
7 provided to specific investors or potential investors pursu-
8 ant to section 233, including financing, insurance, reinsur-
9 ance, missions, seminars, conferences, and other pre-in-
10 vestment services, shall be available for obligation for the
11 purposes for which they were collected notwithstanding
12 any other provision of law. Transaction costs relating to
13 investment financing commitments entered into pursuant
14 to section 233(b) shall be considered cash flows from the
15 Government resulting from financing commitments and
16 shall be paid out of the appropriate financing account es-
17 tablished pursuant to section 505(b) of the Federal Credit
18 Reform Act of 1990.

19 “(e) INSURANCE, FINANCING, AND REINSURANCE
20 LIMITED TO 20 YEARS.—No insurance, reinsurance, or
21 guarantee of any equity investment under this title shall
22 extend beyond 20 years from the date on which such in-
23 surance, reinsurance, or guarantee is issued.

24 “(f) AMOUNT OF COMPENSATION PAID ON
25 CLAIMS.—Compensation for any insurance, reinsurance,

1 or guarantee issued under this title shall not exceed the
2 dollar value, as of the date of the investment, of the invest-
3 ment made in the project with the approval of the Cor-
4 poration plus interest, earnings, or profits actually ac-
5 crued on such investment to the extent provided by such
6 insurance, reinsurance, or guarantee, except that the Cor-
7 poration may provide that—

8 “(1) appropriate adjustments in the insured
9 dollar value be made to reflect the replacement cost
10 of project assets;

11 “(2) compensation for a claim of loss under in-
12 surance of an equity investment may be computed
13 on the basis of the net book value attributable to
14 such equity investment on the date of loss; and

15 “(3) compensation for loss due to business
16 interruption may be computed on a basis to be de-
17 termined by the Corporation which reflects amounts
18 lost.

19 Notwithstanding the preceding sentence, the Corporation
20 shall limit the amount of direct insurance and reinsurance
21 issued under section 233 so that risk of loss as to at least
22 10 percent of the total investment of the insured and its
23 affiliates in the project is borne by the insured and such
24 affiliates. This limitation shall not apply to direct insur-

1 ance or reinsurance of loans by banks or other financial
2 institutions to unrelated parties.

3 “(g) LIMITATION WITH RESPECT TO FOREIGN
4 CREDIT INSTITUTIONS.—Insurance, guarantees, or rein-
5 surance of a loan or equity investment of an eligible inves-
6 tor in a foreign bank, finance company, or other credit
7 institution shall extend only to such loan or equity invest-
8 ment and not to any individual loan or equity investment
9 made by such foreign bank, finance company, or other
10 credit institution.

11 “(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—
12 Claims arising as a result of insurance, reinsurance, or
13 guarantee operations under this title may be settled, and
14 disputes arising as a result thereof may be arbitrated with
15 the consent of the parties, on such terms and conditions
16 as the Corporation may determine. Payment made pursu-
17 ant to any such settlement, or as a result of an arbitration
18 award, shall be final and conclusive notwithstanding any
19 other provision of law.

20 “(i) CONTRACTS PRESUMED TO COMPLY WITH
21 ACT.—Each guarantee contract executed by such officer
22 or officers as may be designated by the Board shall be
23 conclusively presumed to be issued in compliance with the
24 requirements of this Act.

1 “(j) USE OF LOCAL CURRENCIES.—Direct loans or
2 investments made in order to preserve the value of funds
3 received in inconvertible foreign currency by the Corpora-
4 tion as a result of activities conducted pursuant to section
5 233(a) shall not be considered in determining whether the
6 Corporation has made or has outstanding loans, guaran-
7 tees, or investments to the extent of any limitation on obli-
8 gations and equity investment imposed by or pursuant to
9 this title. The provisions of section 504(b) of the Federal
10 Credit Reform Act of 1990 shall not apply to direct loan
11 obligations made with funds described in this subsection.

12 “(k) PROHIBITION ON NONCOMPETITIVE AWARDED
13 OF INSURANCE CONTRACTS ON OPIC SUPPORTED EX-
14 PORTS.—

15 “(1) REQUIREMENT FOR CERTIFICATION.—(A)
16 Except as provided in subparagraph (C), the inves-
17 tor on whose behalf insurance, reinsurance, guaran-
18 ties, or other financing is provided under this title
19 with respect to a project shall be required to certify
20 to the Corporation that any contract for the export
21 of goods as part of that project will include a clause
22 requiring that United States insurance companies
23 have a fair and open competitive opportunity to pro-
24 vide insurance against risk of loss of such support.

1 “(B) The investor shall be required, in every
2 practicable case, to so certify before the insurance,
3 reinsurance, guarantee, or other financing is pro-
4 vided. In any case in which such a certification is
5 not made in advance, the investor shall include in
6 the certification the reasons for the failure to make
7 a certification in advance.

8 “(C) Subparagraph (A) does not apply with re-
9 spect to an investor who does not, because of the na-
10 ture of the investment, have a controlling interest in
11 fact in the project in question.

12 “(2) REPORTS BY THE UNITED STATES TRADE
13 REPRESENTATIVE.—The United States Trade Rep-
14 resentative shall review the actions of the Corpora-
15 tion under paragraph (1) and, after consultation
16 with representatives of United States insurance com-
17 panies, shall report to the Congress, with respect to
18 such actions, in the report required by section
19 181(b) of the Trade Act of 1974.

20 “(3) DEFINITIONS.—For purposes of this sub-
21 section—

22 “(A) the term ‘United States insurance
23 company’ includes—

24 “(i) an individual, partnership, cor-
25 poration, holding company, or other legal

1 entity which is authorized, or in the case
2 of a holding company, subsidiaries of
3 which are authorized, by a State to engage
4 in the business of issuing insurance con-
5 tracts or reinsuring the risk underwritten
6 by insurance companies; and

7 “(ii) foreign operations, branches,
8 agencies, subsidiaries, affiliates, or joint
9 ventures of any entity described in clause
10 (i);

11 “(B) United States insurance companies
12 shall be considered to have had a ‘fair and open
13 competitive opportunity to provide insurance’ if
14 they—

15 “(i) have received notice of the oppor-
16 tunity to provide insurance; and

17 “(ii) have been evaluated on a non-
18 discriminatory basis; and

19 “(C) the term ‘State’ includes the District
20 of Columbia and any commonwealth, territory,
21 or possession of the United States.

22 **“SEC. 238. GENERAL PROVISIONS AND POWERS.**

23 “(a) **PRINCIPAL OFFICE.**—The Corporation shall
24 have its principal office in the District of Columbia and

1 shall be deemed, for purposes of venue in civil actions, to
2 be a resident of the District of Columbia.

3 “(b) AUDITS.—

4 “(1) IN GENERAL.—The Corporation shall be
5 subject to the applicable provisions of chapter 91 of
6 title 31, United States Code, except as otherwise
7 provided in this title.

8 “(2) INDEPENDENT AUDIT.—An independent
9 certified public accountant shall perform a financial
10 and compliance audit of the financial statements of
11 the Corporation each year, in accordance with gen-
12 erally accepted Government auditing standards for a
13 financial and compliance audit, taking into consider-
14 ation any standards recommended by the Comptrol-
15 ler General. The independent certified public ac-
16 countant shall report the results of such audit to the
17 Board. The financial statements of the Corporation
18 shall be presented in accordance with generally ac-
19 cepted accounting principles. These financial state-
20 ments and the report of the accountant shall be in-
21 cluded in a report which contains, to the extent ap-
22 plicable, the information identified in section 9106
23 of title 31, United States Code. The Corporation
24 shall submit such report to the Congress not later
25 than 6½ months after the end of the last fiscal year

1 covered by the audit. The Comptroller General may
2 review the audit conducted by the accountant and
3 the report to the Congress in the manner and at
4 such times as the Comptroller General considers
5 necessary.

6 “(3) AUDIT BY COMPTROLLER GENERAL.—In
7 lieu of the financial and compliance audit required
8 by paragraph (2), the Comptroller General shall, if
9 the Comptroller General considers it necessary or
10 upon the request of the Congress, audit the financial
11 statements of the Corporation in the manner pro-
12 vided in paragraph (2).

13 “(4) AVAILABILITY OF INFORMATION.—All
14 books, accounts, financial records, reports, files,
15 workpapers, and property belonging to or in use by
16 the Corporation and the accountant who conducts
17 the audit under paragraph (2), which are necessary
18 for purposes of this subsection, shall be made avail-
19 able to the representatives of the General Account-
20 ing Office designated by the Comptroller General.

21 “(c) POWERS.—To carry out the purposes of this
22 title, the Corporation is authorized—

23 “(1) to adopt and use a corporate seal, which
24 shall be judicially noticed;

25 “(2) to sue and be sued in its corporate name;

1 “(3) to adopt, amend, and repeal bylaws gov-
2 erning the conduct of its business and the perform-
3 ance of the powers and duties granted to or imposed
4 upon it by law;

5 “(4) to acquire, hold, or dispose of, upon such
6 terms and conditions as the Corporation may deter-
7 mine, any property, real, personal, or mixed, tan-
8 gible or intangible, or any interest therein;

9 “(5) to invest funds derived from fees and other
10 revenues in obligations of the United States and to
11 use the proceeds therefrom, including earnings and
12 profits, as it considers appropriate;

13 “(6) to indemnify directors, officers, employees,
14 and agents of the Corporation for liabilities and ex-
15 penses incurred in connection with their Corporation
16 activities;

17 “(7) to require bonds of officers, employees,
18 and agents and to pay the premiums for such bonds;

19 “(8) notwithstanding any other provision of
20 law, to represent itself or to contract for representa-
21 tion in all legal and arbitral proceedings;

22 “(9) to enter into limited-terms contracts with
23 nationals of the United States for personal services
24 to carry out activities in the United States and
25 abroad under section 233;

1 “(10) to purchase, discount, rediscount, sell,
2 and negotiate, with or without its endorsement or
3 guarantee, and guarantee notes, participation certifi-
4 cates, and other evidence of indebtedness (except
5 that the Corporation shall not issue its own securi-
6 ties, except participation certificates for the purpose
7 of carrying out section 231(c)(3), participation cer-
8 tificates in connection with transactions authorized
9 by section 233(b), or participation certificates as evi-
10 dence of indebtedness held by the Corporation in
11 connection with settlement of claims under section
12 237(h));

13 “(11) to make and carry out such contracts and
14 agreements as are necessary and advisable in the
15 conduct of its business;

16 “(12) to exercise any priority of the Govern-
17 ment of the United States in collecting debts from
18 the estates of bankrupt, insolvent, or decedent par-
19 ties;

20 “(13) to determine the character of and the ne-
21 cessity for its obligations and expenditures, and the
22 manner in which they shall be incurred, allowed, and
23 paid, subject to provisions of law specifically applica-
24 ble to Government corporations;

1 “(14) to collect or compromise any obligations
2 assigned to or held by the Corporation, including
3 any legal or equitable rights accruing to the Cor-
4 poration; and

5 “(15) to take such actions as may be necessary
6 or appropriate to carry out the powers of the Cor-
7 poration.

8 “(d) EXEMPTION FROM STATE AND LOCAL TAX-
9 ATION.—The Corporation (including its franchise, capital,
10 reserves, surplus, advances, intangible property, and in-
11 come) shall be exempt from all taxation at any time im-
12 posed by any State, the District of Columbia, or any coun-
13 ty, municipality, or local taxing authority.

14 **“SEC. 239. ANNUAL REPORT; MAINTENANCE OF INFORMA-**
15 **TION.**

16 “(a) ANNUAL REPORT.—

17 “(1) REQUIREMENT.—After the end of each fis-
18 cal year, the Corporation shall submit to the Con-
19 gress a complete and detailed report of its oper-
20 ations during such fiscal year. Such report shall in-
21 clude—

22 “(A) an assessment, based upon the devel-
23 opment impact profiles required by section
24 234(a), of the economic and social development
25 impact and benefits of the projects with respect

1 to which such profiles are prepared, and of the
2 extent to which the operations of the Corpora-
3 tion complement or are compatible with the de-
4 velopment assistance programs of the United
5 States and other donors; and

6 “(B) a description of any project for which
7 the Corporation—

8 “(i) refused pursuant to section
9 234(e) to provide insurance, reinsurance,
10 financing, or other financial support on ac-
11 count of violations of human rights; or

12 “(ii) notwithstanding such violations,
13 provided insurance, reinsurance, financing,
14 or financial support on the basis of a de-
15 termination that the exception under sec-
16 tion 116(a) applies, or the national secu-
17 rity so requires.

18 “(2) PROJECTIONS OF EFFECTS ON EMPLOY-
19 MENT.—

20 “(A) IN GENERAL.—Each annual report
21 required by paragraph (1) shall contain projec-
22 tions of the effects on employment in the
23 United States of all projects for which, during
24 the fiscal year covered by the report, the Cor-
25 poration initially issued any insurance or rein-

1 surance or provided financing. Each such report
2 shall include projections of—

3 “(i) the amount of United States ex-
4 ports to be generated by those projects,
5 both during the start-up phase and over a
6 period of years;

7 “(ii) the final destination of the prod-
8 ucts to be produced as a result of those
9 projects; and

10 “(iii) the impact such production will
11 have on the production of similar products
12 in the United States with regard to both
13 domestic sales and exports.

14 “(B) BASIS FOR PROJECTIONS.—The pro-
15 jections required by this paragraph shall be
16 based on an analysis of each of the projects de-
17 scribed in subparagraph (A).

18 “(C) MANNER OF REPORTING EFFECTS ON
19 EMPLOYMENT.—In reporting the projections on
20 employment required by this paragraph, the
21 Corporation shall specify, with respect to each
22 project—

23 “(i) any loss of jobs in the United
24 States caused by the project, whether or
25 not the project itself creates other jobs;

1 “(ii) any jobs created by the project;
2 and
3 “(iii) the country in which the project
4 is located, and the economic sector involved
5 in the project.

6 No proprietary information may be disclosed
7 under this subparagraph.

8 “(3) PROTECTION OF CERTAIN INFORMA-
9 TION.—Paragraph (2) does not require the inclusion
10 in any information which would not be required to
11 be made available to the public pursuant to section
12 552 of title 5, United States Code (relating to free-
13 dom of information).

14 “(b) MAINTENANCE OF INFORMATION.—The Cor-
15 poration shall maintain as part of its records—

16 “(1) all information collected in preparing the
17 report required by section 240A(c) of the Foreign
18 Assistance Act of 1961 (as in effect before the en-
19 actment of the Overseas Private Investment Cor-
20 poration Amendments Act of 1988), whether the in-
21 formation was collected by the Corporation itself or
22 by a contractor; and

23 “(2) a copy of the analysis of each project ana-
24 lyzed in preparing the projections required by sub-
25 section (a)(2) or the report required by section

1 240A(c) of the Foreign Assistance Act of 1961 (as
2 in effect before the enactment of the Overseas Pri-
3 vate Investment Corporation Amendments Act of
4 1988).

5 **“SEC. 240. DEFINITIONS.**

6 “As used in this title, the following terms have the
7 following meanings:

8 “(1) BOARD.—The term ‘Board’ means the
9 Board of Directors of the Corporation.

10 “(2) CORPORATION.—The term ‘Corporation’
11 means the Overseas Private Investment Corporation.

12 “(3) ELIGIBLE INVESTOR.—(A) The term ‘eligi-
13 ble investor’ means—

14 “(i) a United States citizen;

15 “(ii) a corporation, partnership, or other
16 association, including a nonprofit association,
17 which is created under the laws of the United
18 States, any State, the District of Columbia, or
19 any commonwealth, territory, or possession of
20 the United States, and which is substantially
21 beneficially owned by United States citizens;
22 and

23 “(iii) a foreign corporation, partnership, or
24 other association which is wholly owned by one
25 or more United States citizens or corporations,

1 partnerships, or other associations described in
2 clause (ii), except that the eligibility of any such
3 foreign corporation shall be determined without
4 regard to any shares held by other than United
5 States citizens or corporations, partnerships, or
6 other associations described in clause (ii) if, in
7 the aggregate, such shares equal less than 5
8 percent of the total issued and subscribed share
9 capital of such foreign corporation.

10 “(B) For purposes of this title—

11 “(i) in the case of insurance or a guaran-
12 tee for any loan investment, a final determina-
13 tion of whether a person is an eligible investor
14 may be made at the time the insurance or guar-
15 antee is issued; and

16 “(ii) in the case of insurance or a guaran-
17 tee for any other investment, an investor must
18 be an eligible investor at the time a claim arises
19 as well as the time the insurance or guarantee
20 is issued.

21 “(4) EXPROPRIATION.—The term ‘expropria-
22 tion’ includes any abrogation, repudiation, or impair-
23 ment by a foreign government of its own contract
24 with an investor with respect to a project, where
25 such abrogation, repudiation, or impairment is not

1 caused by the investor's own fault or misconduct,
2 and materially adversely affects the continued oper-
3 ation of the project.

4 “(5) INVESTMENT.—The term ‘investment’ in-
5 cludes any contribution or commitment of funds,
6 commodities, services, patents, processes, or tech-
7 niques, in the form of—

8 “(A) a loan or loans to an approved
9 project;

10 “(B) the purchase of a share of ownership
11 in any such project;

12 “(C) participation in royalties, earnings, or
13 profits of any such project; or

14 “(D) the furnishing of commodities or
15 services pursuant to a lease or other contract.

16 “(6) NONCREDIT ACTIVITIES.—The term
17 ‘noncredit activities’ means all activities of the Cor-
18 poration other than its direct loan program under
19 section 233(b)(1) and its guarantee program under
20 section 233(b)(3).

21 “(7) PREDECESSOR GUARANTEE AUTHORITY.—
22 The term ‘predecessor guarantee authority’ means
23 prior guarantee authorities (other than housing
24 guarantee authorities) repealed by the Foreign As-
25 sistance Act of 1969, sections 202(b) and 413(b) of

1 the Mutual Security Act of 1954, and section
2 111(b)(3) of the Economic Cooperation Act of 1948,
3 (exclusive of authority relating to informational
4 media guarantees).”.

5 **TITLE II—TRADE AND** 6 **DEVELOPMENT AGENCY**

7 **SEC. 201. TRADE AND DEVELOPMENT AGENCY.**

8 (a) PURPOSE.—Section 661(a) of the Foreign Assist-
9 ance Act of 1961 (22 U.S.C. 2421(a)) is amended—

10 (1) in the first sentence, by inserting “inde-
11 pendent” before “agency”; and

12 (2) in the second sentence, by striking “develop-
13 ment projects” and all that follows and inserting
14 “developing and middle-income countries in ways
15 consistent with environmentally sound and broad-
16 based sustainable economic development.”.

17 (b) AUTHORITY TO PROVIDE ASSISTANCE.—Section
18 661(b) of such Act (22 U.S.C. 2421(b)) is amended—

19 (1) in paragraph (1)—

20 (A) by striking “, including those in
21 which” and all that follows through “under part
22 I,”; and

23 (B) by inserting “environmental assess-
24 ments,” after “engineering design,”;

1 (2) in the first sentence of the matter preceding
2 subparagraph (A) of paragraph (2), by inserting
3 “environmental assessments” after “to provide sup-
4 port for”; and

5 (3) in paragraph (3)(B)—

6 (A) by striking “Other agencies of the
7 United States Government” and inserting
8 “Other members of the Trade Promotion Co-
9 ordinating Committee”; and

10 (B) by inserting “Director of” before “the
11 Trade and Development Agency”.

12 (c) DIRECTOR AND PERSONNEL.—Section 661(c)(1)
13 of such Act (22 U.S.C. 2421(c)(1)) is amended—

14 (1) by striking “There shall be” and inserting
15 “(A) There shall be”; and

16 (2) by adding at the end the following new sub-
17 paragraph:

18 “(B) The Director shall report directly to the
19 President.”.

20 (d) ANNUAL REPORT.—Section 661(d) of such Act
21 (22 U.S.C. 2421(d)) is amended by striking “President”
22 and inserting “Director of the Trade and Development
23 Agency”.

24 (e) FUNDING.—Section 661(f)(1) of such Act (22
25 U.S.C. 2421(f)(1)) is amended—

1 (1) by striking “There are authorized” and in-
2 serting “(A) There are authorized”;

3 (2) by inserting “to the Trade and Development
4 Agency” after “to be appropriated”;

5 (3) by striking “\$55,000,000” and all that fol-
6 lows and inserting “\$65,000,000 for fiscal year
7 1995, and \$90,000,000 for fiscal year 1996.”; and

8 (4) by adding at the end the following new sub-
9 paragraph:

10 “(B) Amounts appropriated pursuant to the au-
11 thorization of appropriations under subparagraph
12 (A) are authorized to remain available until ex-
13 pended.”.

14 **TITLE III—EXPORT PROMOTION**
15 **PROGRAMS WITHIN THE**
16 **INTERNATIONAL TRADE AD-**
17 **MINISTRATION**

18 **SEC. 301. EXPORT PROMOTION AUTHORIZATION.**

19 Section 202 of the Export Administration Amend-
20 ments Act of 1985 (15 U.S.C. 4052) is amended to read
21 as follows:

22 **“SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

23 “There are authorized to be appropriated to the De-
24 partment of Commerce to carry out export promotion pro-
25 grams—

1 “(1) \$250,000,000 for fiscal year 1995; and

2 “(2) \$275,000,000 for fiscal year 1996.”.

3 **TITLE IV—PROMOTION OF**
4 **UNITED STATES ENVIRON-**
5 **MENTAL EXPORTS**

6 **SEC. 401. SHORT TITLE.**

7 This title may be cited as the “Environmental Export
8 Promotion Act of 1994”.

9 **SEC. 402. PROMOTION OF ENVIRONMENTAL EXPORTS.**

10 (a) ENVIRONMENTAL TECHNOLOGIES TRADE ADVI-
11 SORY COMMITTEE.—Section 2313 of the Export Enhance-
12 ment Act of 1988 (15 U.S.C. 4728) is amended—

13 (1) by striking subsection (d);

14 (2) by redesignating subsection (c) as sub-
15 section (e); and

16 (3) by inserting after subsection (b) the follow-
17 ing:

18 “(c) ENVIRONMENTAL TECHNOLOGIES TRADE ADVI-
19 SORY COMMITTEE.—

20 “(1) ESTABLISHMENT AND PURPOSE.—The
21 Secretary, in carrying out the duties of the chair-
22 person of the TPCC, shall establish the Environ-
23 mental Technologies Trade Advisory Committee
24 (hereafter in this section referred to as the ‘Commit-
25 tee’). The purpose of the Committee shall be to pro-

1 vide advice and guidance to the Working Group in
2 the development and administration of programs to
3 expand United States exports of environmental tech-
4 nologies, goods, and services.

5 “(2) MEMBERSHIP.—The members of the Com-
6 mittee shall be drawn from representatives of—

7 “(A) environmental businesses, including
8 small businesses;

9 “(B) trade associations in the environ-
10 mental sector;

11 “(C) private sector organizations involved
12 in the promotion of environmental exports;

13 “(D) States (as defined in section
14 2301(i)(5)) and associations representing the
15 States; and

16 “(E) other appropriate interested members
17 of the public.

18 The Secretary shall appoint as members of the Com-
19 mittee at least 1 individual under each of subpara-
20 graphs (A) through (E).

21 “(d) EXPORT PLANS FOR PRIORITY COUNTRIES.—

22 “(1) PRIORITY COUNTRY IDENTIFICATION.—

23 The Working Group, in consultation with the Com-
24 mittee, shall annually assess which foreign countries
25 have markets with the greatest potential for the ex-

1 port of United States environmental technologies,
2 goods, and services. Of these countries the Working
3 Group shall select as priority countries 5 with the
4 greatest potential for the application of United
5 States Government export promotion resources relat-
6 ed to environmental exports.

7 “(2) EXPORT PLANS.—The Working Group, in
8 consultation with the Committee, shall annually cre-
9 ate a plan for each priority country selected under
10 paragraph (1), setting forth in detail ways to in-
11 crease United States environmental exports to such
12 country. Each such plan shall—

13 “(A) identify the primary public and pri-
14 vate sector opportunities for United States ex-
15 porters of environmental technologies, goods,
16 and services in the priority country;

17 “(B) analyze the financing and other re-
18 quirements for major projects in the priority
19 country which will use environmental tech-
20 nologies, goods, and services, and analyze
21 whether such projects are dependent upon fi-
22 nancial assistance from foreign countries or
23 multilateral institutions; and

24 “(C) list specific actions to be taken by the
25 member agencies of the Working Group to in-

1 crease United States exports to the priority
2 country.”.

3 (b) ADDITIONAL MECHANISMS TO PROMOTE ENVI-
4 RONMENTAL EXPORTS.—Section 2313 of the Export En-
5 hancement Act of 1988 is further amended by adding at
6 the end the following:

7 “(f) ENVIRONMENTAL TECHNOLOGIES SPECIALISTS
8 IN THE UNITED STATES AND FOREIGN COMMERCIAL
9 SERVICE.—

10 “(1) ASSIGNMENT OF ENVIRONMENTAL TECH-
11 NOLOGIES SPECIALISTS.—The Secretary shall assign
12 a specialist in environmental technologies to the of-
13 fice of the United States and Foreign Commercial
14 Service in each of the 5 priority countries selected
15 under subsection (d)(1), and the Secretary is author-
16 ized to assign such a specialist to the office of the
17 United States and Foreign Commercial Service in
18 any country that is a promising market for United
19 States exports of environmental technologies, goods,
20 and services. Such specialist may be an employee of
21 the Department, an employee of any relevant United
22 States Government department or agency assigned
23 on a temporary or limited term basis to the Com-
24 merce Department, or a representative of the private
25 sector assigned to the Department of Commerce.

1 “(2) DUTIES OF ENVIRONMENTAL TECH-
2 NOLOGIES SPECIALISTS.—Each specialist assigned
3 under paragraph (1) shall provide export promotion
4 assistance to United States environmental busi-
5 nesses, including, but not limited to—

6 “(A) identifying factors in the country to
7 which the specialist is assigned that affect the
8 United States share of the domestic market for
9 environmental technologies, goods, and services,
10 including market barriers, standards-setting ac-
11 tivities, and financing issues;

12 “(B) providing assessments of assistance
13 by foreign governments that is provided to pro-
14 ducers of environmental technologies, goods,
15 and services in such countries in order to en-
16 hance exports to the country to which the spe-
17 cialist is assigned, the effectiveness of such as-
18 sistance on the competitiveness of United
19 States products, and whether comparable
20 United States assistance exists;

21 “(C) training Foreign Commercial Service
22 Officers in the country to which the specialist
23 is assigned, other countries in the region, and
24 United States and Foreign Commercial Service
25 offices in the United States, in environmental

1 technologies and the international environ-
2 mental market;

3 “(D) providing assistance in identifying
4 potential customers and market opportunities in
5 the country to which the specialist is assigned;

6 “(E) providing assistance in obtaining nec-
7 essary business services in the country to which
8 the specialist is assigned;

9 “(F) providing information on environ-
10 mental standards and regulations in the coun-
11 try to which the specialist is assigned; and

12 “(G) providing information on all United
13 States Government programs that could assist
14 the promotion, financing, and sale of United
15 States environmental technologies, goods, and
16 services in the country to which the specialist is
17 assigned.

18 “(g) ENVIRONMENTAL TRAINING IN ONE-STOP
19 SHOPS.—In addition to the training provided under sub-
20 section (f)(2)(C), the Secretary shall establish a mecha-
21 nism to train—

22 “(1) Commercial Service Officers assigned to
23 the one-stop shops provided for in section
24 2301(b)(8), and

1 “(2) Commercial Service Officers assigned to
2 district offices in districts having large numbers of
3 environmental businesses,
4 in environmental technologies and in the international en-
5 vironmental marketplace, and ensure that such officers re-
6 ceive appropriate training under such mechanism. Such
7 training may be provided by officers or employees of the
8 Department of Commerce, and other United States Gov-
9 ernment departments and agencies, with appropriate ex-
10 pertise in environmental technologies and the international
11 environmental workplace, and by appropriate representa-
12 tives of the private sector.

13 “(h) INTERNATIONAL REGIONAL ENVIRONMENTAL
14 INITIATIVES.—

15 “(1) ESTABLISHMENT OF INITIATIVES.—The
16 TPCC shall establish one or more international re-
17 gional environmental initiatives the purpose of which
18 shall be to coordinate the activities of Federal de-
19 partments and agencies in order to build environ-
20 mental partnerships between the United States and
21 the geographic region outside the United States for
22 which such initiative is established. Such partner-
23 ships shall enhance environmental protection and
24 promote sustainable development by using in the re-
25 gion technical expertise and financial resources of

1 United States departments and agencies that pro-
2 vide foreign assistance and by expanding United
3 States exports of environmental technologies, goods,
4 and services to that region.

5 “(2) ACTIVITIES.—In carrying out each inter-
6 national regional environmental initiative, the TPCC
7 shall—

8 “(A) support, through the provision of for-
9 eign assistance, the development of sound envi-
10 ronmental policies and practices in countries in
11 the geographic region for which the initiative is
12 established, including the development of envi-
13 ronmentally sound regulatory regimes and en-
14 forcement mechanisms;

15 “(B) identify and disseminate to United
16 States environmental businesses information re-
17 garding specific environmental business oppor-
18 tunities in that geographic region;

19 “(C) coordinate existing Federal efforts to
20 promote environmental exports to that geo-
21 graphic region, and ensure that such efforts are
22 fully coordinated with environmental export
23 promotion efforts undertaken by the States and
24 the private sector;

1 “(D) increase assistance provided by the
2 Federal Government to promote exports from
3 the United States of environmental tech-
4 nologies, goods, and services to that geographic
5 region, such as trade missions, reverse trade
6 missions, trade fairs, and programs in the
7 United States to train foreign nationals in
8 United States environmental technologies; and

9 “(E) increase high-level advocacy by
10 United States Government officials (including
11 the United States ambassadors to the countries
12 in that geographic region) for United States en-
13 vironmental businesses seeking market opportu-
14 nities in that geographic region.

15 “(i) ENVIRONMENTAL TECHNOLOGIES PROJECT AD-
16 VOCACY CALENDAR AND INFORMATION DISSEMINATION
17 PROGRAM.—The Working Group shall maintain a cal-
18 endar, updated at the end of each calendar quarter, of
19 significant opportunities for United States environmental
20 businesses in foreign markets and trade promotion events,
21 which shall be made available to the public. Such calendar
22 shall—

23 “(1) identify the 50 to 100 environmental infra-
24 structure and procurement projects in foreign mar-
25 kets that have the greatest potential in the calendar

1 quarter for United States exports of environmental
2 technologies, goods, and services; and

3 “(2) include trade promotion events, such as
4 trade missions and trade fairs, in the environmental
5 sector.

6 The Working Group shall also provide, through the Na-
7 tional Trade Data Bank and other information dissemina-
8 tion channels, information on opportunities for environ-
9 mental businesses in foreign markets and information on
10 Federal export promotion programs.

11 “(j) REGIONAL CENTERS.—The Secretary, through
12 the Assistant Secretary of Commerce and Director Gen-
13 eral of the United States and Foreign Commercial Service,
14 is authorized to provide matching funds for the establish-
15 ment in the United States of regional environmental busi-
16 ness and technology cooperation centers that will draw
17 upon the expertise of the private sector and institutions
18 of higher education and existing Federal programs to pro-
19 vide export promotion assistance related to environmental
20 technologies, goods, and services.

21 “(k) DEFINITION.—For purposes of this section, the
22 term ‘environmental business’ means a business that pro-
23 duces environmental technologies, goods, or services.”.

1 **TITLE V—INTERNATIONAL PRO-**
2 **TECTION OF INTELLECTUAL**
3 **PROPERTY**

4 **SEC. 501. ESTABLISHMENT OF PROGRAM.**

5 (a) IN GENERAL.—In carrying out part I of the For-
6 eign Assistance Act of 1961 and other relevant foreign as-
7 sistance laws, the President, acting through the Adminis-
8 trator of the United States Agency for International De-
9 velopment, shall establish a program of training and other
10 technical assistance to assist foreign countries in—

11 (1) developing and strengthening laws and reg-
12 ulations to protect intellectual property; and

13 (2) developing the infrastructure necessary to
14 implement and enforce such laws and regulations.

15 (b) PARTICIPATION OF OTHER AGENCIES.—The Ad-
16 ministrator of the United States Agency for International
17 Development—

18 (1) shall utilize the expertise of the Patent and
19 Trademark Office and other agencies of the United
20 States Government in designing and implementing
21 the program of assistance provided for in this sec-
22 tion;

23 (2) shall coordinate assistance under this sec-
24 tion with efforts of other agencies of the United
25 States Government to increase international protec-

1 tion of intellectual property, including implementa-
2 tion of international agreements containing high lev-
3 els of protection of intellectual property; and
4 (3) shall consult with the heads of such other
5 agencies in determining which foreign countries will
6 receive assistance under this section.



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