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1ST SESSION

H. R. 869

To promote biological diversity conservation and cooperation in the Western Hemisphere, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. TORRICELLI (for himself, Mr. PORTER, Mr. MENENDEZ, Mr. OBERSTAR, Mr. DEUTSCH, Mr. BONIOR, Mr. BROWN of California, Mr. COLEMAN, Mr. TOWNS, Mr. HASTINGS, Mr. WASHINGTON, Mr. MORAN, Mrs. BYRNE, Mr. ANDREWS of Maine, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To promote biological diversity conservation and cooperation in the Western Hemisphere, 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 “Western Hemisphere
5 Environmental Cooperation Act of 1993”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The elements of biological diversity offer
2 many actual and yet-to-be-discovered medical,
3 biotechnological, agricultural, and industrial uses.

4 (2) Tropical forests, which contain 50 to 90
5 percent of the species estimated to exist on the
6 earth, are being cleared at the approximate rate of
7 17,000,000 hectares per year.

8 (3) At the rate that tropical forests are dis-
9 appearing, scientists estimate conservatively that 5
10 to 10 percent of tropical forest species could dis-
11 appear within the next 30 years.

12 (4) Poverty and limited economic opportunity in
13 Latin America and the Caribbean and other areas of
14 the developing world contribute significantly to the
15 loss of tropical forests and other areas important for
16 biodiversity conservation.

17 (5) Cooperation between United States institu-
18 tions interested in the potential applications of bio-
19 logical resources of tropical forests and other areas
20 rich in biodiversity, and governments and nonprofit
21 organizations in Latin America and the Caribbean
22 interested in preserving biological diversity and en-
23 hancing its economic value, can effectively serve the
24 interests of both conservation and economic growth.

1 (6) Maintaining access to a continuing and reli-
2 able supply of biological resources will enhance
3 United States competitiveness.

4 (7) The Convention on Biological Diversity is
5 consistent with the protection of intellectual property
6 rights and with resource exchange agreements.

7 (8) As was made evident through the United
8 Nations Conference on Environment and Develop-
9 ment, there is international recognition of the impor-
10 tant link between the protection of the environment
11 and biodiversity and economic growth.

12 **SEC. 3. PURPOSES.**

13 The purposes of this Act are—

14 (1) to encourage the conservation of biological
15 resources and the sustainable use of tropical forests
16 in Latin America and the Caribbean, and to secure
17 a continuing and reliable supply of biological re-
18 sources for United States companies, research insti-
19 tutes, botanical laboratories, universities, and other
20 institutions interested in the potential uses and ben-
21 efits of such resources, by—

22 (A) assisting the countries of Latin Amer-
23 ica and the Caribbean to establish and
24 strengthen biodiversity management organiza-
25 tions;

1 (B) creating incentives for resource-shar-
2 ing entities to enter into resource exchange
3 agreements with biodiversity management orga-
4 nizations;

5 (C) ensuring that such agreements provide
6 for conservation of biological diversity and for
7 technology transfer and training related to the
8 purposes set forth in the agreements; and

9 (D) ensuring increased understanding of
10 what constitutes properly protected intellectual
11 property rights and fair and equitable distribu-
12 tion of any benefits arising from the commercial
13 or other use of products developed under such
14 agreements; and

15 (2) to provide for a study of the feasibility of
16 establishing a Western Hemisphere Environmental
17 Partnership to promote hemispheric technological co-
18 operation on environmental problems.

19 **SEC. 4. WESTERN HEMISPHERE BIODIVERSITY COOPERA-**
20 **TION PROGRAM.**

21 (a) ESTABLISHMENT.—The Administrator of the
22 Agency for International Development shall establish with-
23 in the Agency a Western Hemisphere Biodiversity Co-
24 operation Program to assist in the establishment and
25 strengthening of biodiversity management organizations.

1 (b) USES OF ASSISTANCE.—Assistance under the
2 program described in subsection (a) shall be used to estab-
3 lish biodiversity management organizations and strength-
4 en the ability of such organizations to study and protect
5 biological diversity and to enhance the economic value of
6 the biological resources of Latin America and the Carib-
7 bean, including assistance for—

8 (1) cataloging and studying biological resources;

9 (2) preparing data bases of biological resources
10 to be used for monitoring the status and distribution
11 of such resources and for commercial purposes;

12 (3) creating the institutional capacity for
13 biodiversity management organizations to negotiate,
14 enter into, and implement resource exchange agree-
15 ments with resource-sharing entities through train-
16 ing in areas such as research, contract law and ne-
17 gotiation, quality control, and management;

18 (4) advising the governments in countries in
19 which biodiversity management organizations oper-
20 ate on legislation and policies that will conserve bio-
21 logical diversity and encourage sustainable economic
22 development;

23 (5) facilitating cooperation and exchange of in-
24 formation among such organizations;

1 (6) developing and studying the uses of biological
2 samples from tropical forests and other areas
3 rich in biodiversity that may provide sustainable economic
4 opportunities for communities located in or
5 near such forests and areas; and

6 (7) facilitating cooperation and close consultation
7 with indigenous peoples in the geographic areas
8 in which biodiversity management organizations
9 operate.

10 (c) DEBT EXCHANGES.—Assistance under this section
11 shall include, where appropriate, assistance to
12 biodiversity management organizations for the purchase
13 on the open market of discounted commercial debt of the
14 governments of the countries in which such organizations
15 operate, pursuant to the section 462 entitled “Assistance
16 for Commercial Debt Exchanges”, of the Foreign Assistance
17 Act of 1961 (22 U.S.C. 2282), in order to provide
18 such organizations with a steady income for accomplishing
19 the purposes of this section.

20 (d) CONSULTATION.—In administering the program
21 described in subsection (a), the Administrator shall consult
22 with and use the expertise of appropriate United
23 States Government agencies and nongovernmental conservation
24 organizations in the United States, Latin America,
25 and the Caribbean.

1 (e) COLLABORATION WITH NATIONAL GOVERN-
2 MENTS.—The Administrator shall, in carrying out the pro-
3 gram described in subsection (a), encourage and seek to
4 facilitate close collaboration between biodiversity manage-
5 ment organizations and the governments of the countries
6 in which the organizations operate.

7 **SEC. 5. WESTERN HEMISPHERE BIODIVERSITY COOPERA-**
8 **TION GRANTS.**

9 (a) ESTABLISHMENT.—In furtherance of section 2(4)
10 and section 3(1)(B) and (C), the Administrator shall es-
11 tablish, as part of the program under section 4, a program
12 of Western Hemisphere Biodiversity Cooperation Grants.

13 (b) PURPOSE.—Grants under the program estab-
14 lished under subsection (a) may be awarded to biodiversity
15 management organizations to encourage the conclusion of
16 resource exchange agreements, between such organiza-
17 tions and resource-sharing entities, that—

18 (1) strengthen the capacity of the organizations
19 to implement such agreements;

20 (2) promote the conservation of tropical forests;
21 and

22 (3) promote sustainable economic development
23 among the communities living in or near areas rich
24 in biodiversity.

1 (c) AUTHORITY.—The Administrator may agree to
2 provide a grant under this section to a biodiversity man-
3 agement organization in support of an agreement with a
4 resource-sharing entity in order to assist the organization
5 in fulfilling its obligations to the entity under the agree-
6 ment if, in the judgment of the Administrator, such a
7 grant would significantly increase the likelihood that an
8 agreement would be concluded or would significantly in-
9 crease the benefits of the agreement for the organization
10 and for the conservation of tropical forests and other areas
11 important for biodiversity conservation.

12 (d) CRITERIA.—Among the criteria that the Adminis-
13 trator should use in determining whether or not to make
14 a grant under this section to an organization with respect
15 to an agreement are whether the agreement will provide—

16 (1) that at least 50 percent of the value of all
17 benefits provided to the organization by the re-
18 source-sharing entity under the agreement will be
19 provided by the organization to the government of
20 the country or countries in which the resources re-
21 ferred to in the agreement originate, for use in the
22 conservation of tropical forests and other areas im-
23 portant for biodiversity conservation;

24 (2) that the entity will—

1 (A) give or lend equipment to the organiza-
2 tion to carry out the agreement; and

3 (B) train staff of the organization, or staff
4 affiliated with the organization, in carrying out
5 the responsibilities assigned to the organization
6 under the agreement; and

7 (3) that the organization assures that intellec-
8 tual property rights will be properly protected and
9 that the resource-sharing entity assures that any
10 benefits arising from the commercial or other use of
11 products developed under such agreements are
12 shared in a fair and equitable way with the country
13 of origin.

14 (e) CHARACTERISTICS OF GRANTS.—A grant under
15 this section shall—

16 (1) be used only to support the purposes of the
17 agreement for which it is provided;

18 (2) be not larger than \$100,000 for any agree-
19 ment; and

20 (3) represent not more than 20 percent of the
21 initial financial investment of the entity under the
22 agreement.

23 (f) UNITED STATES NOT TO RECEIVE PROCEEDS.—
24 The United States shall not make, as a condition of any
25 assistance under section 4 or a grant under this section,

1 that the United States Government receive any part of any
2 proceeds or profits generated under any resource exchange
3 agreement entered into by a biodiversity management
4 organization.

5 (g) TREATMENT OF ASSISTANCE.—Assistance under
6 section 4 and grants under this section shall not be consid-
7 ered assistance for purposes of any provision of law limit-
8 ing assistance to any country.

9 **SEC. 6. WESTERN HEMISPHERE ENVIRONMENTAL PART-**
10 **NERSHIP.**

11 (a) STUDY.—The President shall direct an appro-
12 priate Federal entity to study the feasibility of establishing
13 a Western Hemisphere Environmental Partnership to pro-
14 mote hemispheric technological cooperation on environ-
15 mental problems, the purpose of which would be—

16 (1) to promote public-private sector partner-
17 ships to address environmental problems and to in-
18 crease environmental protection in the Western
19 Hemisphere;

20 (2) to facilitate cooperation between the United
21 States and the countries of Latin America and the
22 Caribbean in the application of technology to envi-
23 ronmental problems;

24 (3) to provide for the training in sound environ-
25 mental practices of appropriate personnel from gov-

1 ernment, industry, and nongovernmental organiza-
2 tions in Latin America and the Caribbean by person-
3 nel with appropriate expertise from similar organiza-
4 tions in the United States;

5 (4) to develop innovative mechanisms for fi-
6 nancing improvements in the environmental protec-
7 tion capacity of countries in Latin America and the
8 Caribbean through debt exchanges, issuance of
9 bonds, and other market-based incentives;

10 (5) to help countries in the region to develop
11 appropriate technologies to meet their specific envi-
12 ronmental needs; and

13 (6) to facilitate information-sharing within the
14 Western Hemisphere on the use of environmental
15 technologies and services to address environmental
16 problems.

17 (b) ROLE OF UNITED STATES GOVERNMENT.—In
18 conducting the study under subsection (a), the Committee
19 shall explore the role of the United States Government in
20 a Western Hemisphere Environmental Partnership.

21 (c) PRECEDENTS.—In conducting the study under
22 subsection (a), the Committee shall take into account the
23 experiences of the United States-Asia Environmental
24 Partnership and the Caribbean Environment and Develop-
25 ment Institute.

1 **SEC. 7. REPORTS.**

2 (a) **FIRST REPORT.**—Not later than 180 days after
3 the date of the enactment of this Act, the President shall
4 submit to the Congress a report on the implementation
5 of this Act, including—

6 (1) the establishment of the Western Hemi-
7 sphere Biodiversity Cooperation Program under sec-
8 tion 4 and the Western Hemisphere Biodiversity Co-
9 operation Grants under section 5; and

10 (2) the results of the study of a Western Hemi-
11 sphere Environmental Partnership under section 6,
12 together with the President’s recommendations for
13 action by the Congress.

14 (b) **SUBSEQUENT ANNUAL REPORTS.**—Each year fol-
15 lowing the report referred to in subsection (a), the Presi-
16 dent shall submit to the Congress a further report on the
17 implementation of this Act.

18 **SEC. 8. DEFINITIONS.**

19 As used in this Act—

20 (1) the term “Administrator” means the Ad-
21 ministrator of the Agency for International Develop-
22 ment;

23 (2) the term “biodiversity management organi-
24 zation” means a nonprofit local or regional organiza-
25 tion in Latin America or the Caribbean whose pur-

1 poses include the study and protection of biological
2 diversity and the enhancement of its economic value;

3 (3) the term “resource-sharing entity” means a
4 public or private institution in the United States, in-
5 cluding a company, research institute, botanical lab-
6 oratory, or university, that is undertaking activities
7 relating to the potential applications of biological re-
8 sources of tropical forests and other areas rich in
9 biodiversity; and

10 (4) the term “resource exchange agreement”
11 means an agreement between a biodiversity manage-
12 ment organization and resource-sharing entity under
13 which the biodiversity management organization pro-
14 vides the resource-sharing entity with information on
15 or samples of biological resources in exchange for
16 benefits (including payment of money, technology
17 transfer, or training) provided to the biodiversity
18 management organization.

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