

103^D CONGRESS
2^D SESSION

H. R. 4950

AN ACT

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”.

6 **TITLE I—OVERSEAS PRIVATE**
7 **INVESTMENT CORPORATION**

8 **SEC. 101. SHORT TITLE.**

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

1 **SEC. 102. REAUTHORIZATION OF CORPORATION.**

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

5 **“TITLE IV—OVERSEAS PRIVATE**
6 **INVESTMENT CORPORATION**

7 **“SEC. 231. PURPOSE AND POLICY.**

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

17 “(b) ELIGIBILITY CRITERIA FOR PARTICIPATING
18 COUNTRIES AND AREAS.—

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

22 “(A) the United States maintains diplo-
23 matic relations with the country;

24 “(B) either—

25 “(i) the country or area is a develop-
26 ing country or area; or

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

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

6 “(2) PREFERENCE FOR CERTAIN COUNTRIES.—

7 In conducting its activities, the Corporation shall—

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

11 “(B) restrict its activities in countries with
12 per capita incomes of \$5,335 or more in 1992
13 United States dollars (other than countries des-
14 ignated as beneficiary countries under section
15 212 of the Caribbean Basin Economic Recovery
16 Act, the Republic of Ireland, and Northern Ire-
17 land).

18 “(3) PROGRAMS IN INELIGIBLE COUNTRIES.—

19 (A) Except as provided in subparagraph (B), if a
20 country in which the Corporation is operating its
21 programs ceases to meet the criteria set forth in
22 paragraph (1), or if (pursuant to this or any other
23 Act) the government of that country becomes ineli-
24 gible for assistance, the Corporation shall cease to
25 operate its programs in such country, except that

1 the Corporation shall not be required to terminate
2 any contract or commitment entered into prior to
3 the date on which such country is determined to be
4 ineligible for such assistance.

5 “(B) The Corporation may continue to operate
6 its programs in a country which ceases to meet the
7 criteria set forth in paragraph (1) if the President
8 of the United States determines that the operation
9 of such programs would be in the national interest
10 of the United States.

11 “(C) GUIDELINES FOR ACTIVITIES OF OPIC.—In
12 carrying out its purpose, the Corporation shall under-
13 take—

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

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

21 “(3) to conduct its insurance operations with
22 due regard to principles of risk management, includ-
23 ing efforts to share its insurance risks and reinsur-
24 ance risks;

1 “(4) to consider in the conduct of its operations
2 the extent to which the governments of eligible coun-
3 tries are receptive to private enterprise, domestic
4 and foreign, and their willingness and ability to
5 maintain conditions which enable private enterprise
6 to make its full contribution to the development
7 process;

8 “(5) to foster private initiative and competition
9 and discourage monopolistic practices;

10 “(6) to further to the greatest degree possible,
11 in a manner consistent with its goals, the balance-
12 of-payments and employment objectives of the
13 United States;

14 “(7) to consider in the conduct of its operations
15 the extent to which the governments of eligible coun-
16 tries respect human rights, labor rights, and the
17 need to support sound environmental practices and
18 policies;

19 “(8) to conduct its activities in consonance with
20 the international trade, investment, and financial
21 policies of the United States Government, and to
22 seek to support those developmental projects having
23 positive trade benefits for the United States; and

24 “(9) to advise and assist, within its field of
25 competence, interested agencies of the United States

1 and other organizations, both public and private, na-
2 tional and international, with respect to projects and
3 programs relating to the development of private en-
4 terprise in eligible countries and areas.

5 **“SEC. 232. STOCK OF THE CORPORATION; ORGANIZATION**
6 **AND MANAGEMENT.**

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

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

13 “(c) BOARD OF DIRECTORS.—

14 “(1) IN GENERAL.—All powers of the Corpora-
15 tion shall vest in and be exercised by or under the
16 authority of the Board, which shall consist of 15 Di-
17 rectors (including the Chair, the Executive Vice
18 Chair, and the Vice Chair). Eight Directors shall
19 constitute a quorum for the transaction of business.

20 “(2) COMPOSITION OF THE BOARD.—

21 “(A) CHAIR.—The Chair of the Board
22 shall be the President of the Corporation, ex
23 officio.

24 “(B) EXECUTIVE VICE CHAIR.—The Exec-
25 utive Vice Chair of the Board shall be the Ad-

1 administrator of the Agency for International De-
2 velopment, ex officio.

3 “(C) VICE CHAIR.—The Vice Chair of the
4 Board shall be the United States Trade Rep-
5 resentative, ex officio, or, if so designated by
6 the United States Trade Representative, a Dep-
7 uty United States Trade Representative.

8 “(D) PUBLIC SECTOR DIRECTORS.—(i) In
9 addition to the directors provided for in sub-
10 paragraphs (A), (B), and (C), four Directors
11 who are officers or employees of the Govern-
12 ment of the United States, including an officer
13 or employee of the Department of Labor, shall
14 be designated by and shall serve at the pleasure
15 of the President of the United States.

16 “(ii) The Directors designated under this
17 subparagraph shall receive no additional com-
18 pensation by virtue of their service as such a
19 Director.

20 “(E) PRIVATE SECTOR DIRECTORS.—(i)
21 Eight Directors who are not otherwise officers
22 or employees of the Government of the United
23 States shall be appointed by the President of
24 the United States, by and with the advice and
25 consent of the Senate. Of these, at least—

1 “(I) two shall be experienced in small
2 business;

3 “(II) one shall be experienced in orga-
4 nized labor; and

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

7 “(ii) Each Director appointed under this
8 subparagraph shall be appointed for a term of
9 not more than 3 years. The terms of not more
10 than 3 such Directors shall expire in any 1
11 year. Such Directors shall serve until their suc-
12 cessors are appointed and qualified. Directors
13 may be reappointed to subsequent terms.

14 “(iii) Each Director appointed under this
15 subparagraph shall be compensated at the daily
16 equivalent of the annual rate of pay in effect
17 for level IV of the Executive Schedule under
18 section 5315 of title 5, United States Code, for
19 each day (including travel time) during which
20 such Director is actually engaged in the busi-
21 ness of the Corporation, and may be paid travel
22 or transportation expenses to the extent author-
23 ized for employees serving intermittently in the
24 Government service under section 5703 of title

1 5, United States Code. Any such Director may
2 waive any such compensation.

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

14 “(e) OFFICERS AND STAFF.—

15 “(1) EXECUTIVE VICE PRESIDENT.—The Exec-
16 utive Vice President of the Corporation shall be ap-
17 pointed by the President of the United States, by
18 and with the advice and consent of the Senate, and
19 shall serve at the pleasure of the President.

20 “(2) OTHER OFFICERS AND STAFF.—(A) The
21 Corporation may appoint such other officers and
22 such employees (including attorneys) and agents as
23 the Corporation considers appropriate.

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

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

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

20 **“SEC. 233. INVESTMENT INSURANCE, FINANCING, AND**
21 **OTHER PROGRAMS.**

22 “(a) INVESTMENT INSURANCE.—

23 “(1) RISKS FOR WHICH INSURANCE ISSUED.—
24 The Corporation is authorized to issue insurance,
25 upon such terms and conditions as the Corporation

1 may determine, to eligible investors assuring protec-
2 tion in whole or in part against any or all of the fol-
3 lowing risks with respect to projects which the Cor-
4 poration has approved:

5 “(A) Inability to convert into United
6 States dollars other currencies, or credits in
7 such currencies, received as earnings or profits
8 from the approved project, as repayment or re-
9 turn of the investment in the project, in whole
10 or in part, or as compensation for the sale or
11 disposition of all or any part of the investment.

12 “(B) Loss of investment, in whole or in
13 part, in the approved project due to expropria-
14 tion or confiscation by action of a foreign gov-
15 ernment.

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

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

21 “(2) RISK SHARING ARRANGEMENTS WITH FOR-
22 EIGN GOVERNMENTS AND MULTILATERAL ORGANIZA-
23 TIONS.—Recognizing that major private investments
24 in eligible countries or areas are often made by en-
25 terprises in which there is multinational participa-

1 tion, including significant United States private par-
2 ticipation, the Corporation may make arrangements
3 with foreign governments (including agencies, instru-
4 mentalities, and political subdivisions thereof) and
5 with multilateral organizations and institutions for
6 sharing liabilities assumed under investment insur-
7 ance for such investments and may, in connection
8 with such arrangements, issue insurance to investors
9 not otherwise eligible for insurance under this title,
10 except that—

11 “(A) liabilities assumed by the Corporation
12 under the authority of this paragraph shall be
13 consistent with the purposes of this title; and

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

17 “(3) MAXIMUM CONTINGENT LIABILITY WITH
18 RESPECT TO SINGLE INVESTOR.—Not more than 10
19 percent of the maximum contingent liability of in-
20 vestment insurance which the Corporation is per-
21 mitted to have outstanding under section 235(a)(1)
22 shall be issued to a single investor.

23 “(b) INVESTMENT FINANCING.—

24 “(1) DIRECT LENDING.—(A) The Corporation
25 is authorized to make loans in United States dollars,

1 repayable in dollars, and to make loans in foreign
2 currencies, to firms privately owned or of mixed pri-
3 vate and public ownership, upon such terms and
4 conditions as the Corporation may determine.

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

12 “(2) EQUITY INVESTMENT.—(A) The Corpora-
13 tion is authorized to purchase, invest in, or other-
14 wise acquire equity securities or securities with eq-
15 uity characteristics of any firm or entity, upon such
16 terms and conditions as the Corporation may deter-
17 mine, to be funded in the same manner as direct
18 loans under the Federal Credit Reform Act of 1990
19 for the purpose of providing capital for any project
20 which is consistent with the provisions of this title,
21 subject to the limitations in subparagraph (B).

22 “(B)(i) The aggregate amount of the Corpora-
23 tion’s equity investment under this paragraph with
24 respect to any project shall not exceed 30 percent of
25 the aggregate amount of all equity investment made

1 with respect to such project at the time that the
2 Corporation's equity investment is made (excluding
3 any securities acquired through the enforcement of
4 any lien, pledge, or contractual arrangement as a re-
5 sult of a default by any party under any agreement
6 relating to the terms of the Corporation's invest-
7 ment).

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

21 “(C) In making investment decisions under this
22 paragraph, the Corporation shall give consideration
23 to the extent to which the Corporation's equity in-
24 vestment will assist in obtaining the financing re-
25 quired for such projects.

1 “(D) Taking into consideration, among other
2 things, the Corporation’s financial interests and the
3 desirability of fostering the development of local cap-
4 ital markets in emerging democracies, economies in
5 transformation, and less developed countries, the
6 Corporation shall endeavor to dispose of any equity
7 interest it may acquire under this paragraph within
8 a period of 10 years from the date of acquisition of
9 such interest.

10 “(3) INVESTMENT GUARANTEES.—(A) The Cor-
11 poration is authorized to issue to eligible investors
12 guarantees of loans and other investments made by
13 such investors assuring against loss due to such
14 risks and upon such terms and conditions as the
15 Corporation may determine, subject to subpara-
16 graphs (B) and (C).

17 “(B) A guarantee issued under subparagraph
18 (A) on other than a loan investment may not exceed
19 75 percent of such investment.

20 “(C) Except for loan investments for credit
21 unions made by eligible credit unions or credit union
22 associations, the aggregate amount of investment
23 (exclusive of interest and earnings) for which guar-
24 antees are issued under subparagraph (A) with re-
25 spect to any project shall not exceed, at the time of

1 issuance of any such guarantee, 75 percent of the
2 total investment committed to any such project as
3 determined by the Corporation. Such determination
4 by the Corporation shall be conclusive for purposes
5 of the Corporation's authority to issue any such
6 guarantee.

7 “(c) INVESTMENT ENCOURAGEMENT.—The Corpora-
8 tion is authorized to initiate and support through financial
9 participation, incentive grant, or otherwise, and on such
10 terms and conditions as the Corporation may determine,
11 the identification, assessment, surveying, and promotion
12 of private investment opportunities, using wherever fea-
13 sible and effective the facilities of private investors. The
14 Corporation shall not finance any survey to ascertain the
15 existence, location, extent, or quality of oil or gas re-
16 sources.

17 “(d) SPECIAL ACTIVITIES.—The Corporation is au-
18 thorized to administer and manage special projects and
19 programs, including programs of financial and advisory
20 support, which provide private technical, professional, or
21 managerial assistance in the development of human re-
22 sources, skills, technology, capital savings, intermediate fi-
23 nancial and investment institutions, and cooperatives. The
24 funds for these projects and programs may, with the Cor-
25 poration's concurrence, be transferred to it for such pur-

1 poses under the authority of section 632(a) or from other
2 sources, public or private.

3 “(e) OTHER INSURANCE FUNCTIONS.—

4 “(1) IN GENERAL.—The Corporation is author-
5 ized—

6 “(A) to make and carry out contracts of
7 insurance or reinsurance, or agreements to as-
8 sociate or share risks, with insurance compa-
9 nies, financial institutions, any other persons,
10 or groups thereof; and

11 “(B) to employ such insurance companies,
12 financial institutions, other persons, or groups,
13 where appropriate, as its agent, or to act as
14 their agent, in the issuance and servicing of in-
15 surance, the adjustment of claims, the exercise
16 of subrogation rights, the ceding and accepting
17 of reinsurance, and in any other matter incident
18 to an insurance business.

19 Such agreements and contracts shall be consistent
20 with the purposes of the Corporation set forth in
21 section 231 and shall be on equitable terms.

22 “(2) RISK-SHARING AGREEMENTS.—The Cor-
23 poration is authorized to enter into pooling or other
24 risk-sharing agreements with multinational insur-

1 ance or financing agencies or groups of such agen-
2 cies.

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

8 “(4) REINSURANCE OF CERTAIN LIABILITIES.—
9 The Corporation is authorized to issue, upon such
10 terms and conditions as it may determine, reinsur-
11 ance of liabilities assumed by other insurers or
12 groups thereof with respect to risks referred to in
13 subsection (a)(1).

14 “(5) LIMITATION ON REINSURANCE.—The
15 amount of reinsurance of liabilities under this title
16 which the Corporation may issue shall not in the ag-
17 gregate exceed at any one time an amount equal to
18 the amount authorized for the maximum contingent
19 liability outstanding at any one time under section
20 235(a)(1). All reinsurance issued by the Corporation
21 under this subsection shall require that the rein-
22 sured party retain for his or her own account speci-
23 fied portions of liability, whether first loss or other-
24 wise.

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

10 “(A) Utilizing its statutory authorities, en-
11 courage the development of associations, pools,
12 or consortia of United States private political
13 risk insurers.

14 “(B) Share insurance risks (through coin-
15 surance, contingent insurance, or other means)
16 in a manner that is conducive to the growth
17 and development of the private political risk in-
18 surance industry in the United States.

19 “(C) Notwithstanding section 237(e), upon
20 the expiration of insurance provided by the Cor-
21 poration for an investment, enter into risk-shar-
22 ing agreements with United States private po-
23 litical risk insurers to insure any such invest-
24 ment. In cooperating in the offering of insur-
25 ance under this clause, the Corporation shall

1 not assume responsibility for more than 50 per-
2 cent of the insurance being offered in each sep-
3 arate transaction.

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

5 **“(a) DEVELOPMENT GUIDELINES.—**

6 **“(1) CRITERIA.—**The Corporation, in determin-
7 ing whether to provide insurance, reinsurance, or fi-
8 nancing for a project shall be guided by the eco-
9 nomic, environmental, and social development impact
10 and benefits of such a project and the ways in which
11 such a project complements, or is compatible with,
12 other development assistance programs or projects
13 of the United States or other donors.

14 **“(2) DEVELOPMENT IMPACT PROFILE.—**In
15 order to carry out the policy set forth in paragraph
16 (1), the Corporation shall prepare and maintain, for
17 each investment project it insures, reinsures, or fi-
18 nances, a development impact profile consisting of
19 data appropriate to measure the projected and ac-
20 tual effects of such project on development.

21 **“(b) SMALL BUSINESS DEVELOPMENT.—**

22 **“(1) BROADENED PARTICIPATION BY SMALL**
23 **BUSINESSES.—**The Corporation shall undertake, in
24 cooperation with appropriate agencies of the United
25 States Government as well as private entities and

1 others, to broaden the participation of United States
2 small business, cooperatives, and other small United
3 States investors in the development of small private
4 enterprise in eligible countries or areas.

5 “(2) PREFERENTIAL CONSIDERATION.—Not-
6 withstanding the requirements of section 231(c)(1),
7 and on such terms and conditions as the Corpora-
8 tion may determine through loans, grants, or other
9 programs authorized by section 233, the Corporation
10 shall undertake, to the maximum degree possible
11 consistent with its purposes—

12 “(A) to give preferential consideration in
13 its investment insurance, reinsurance, and
14 guarantee activities to investment projects spon-
15 sored by or involving United States small busi-
16 ness; and

17 “(B) to maintain the proportion of projects
18 sponsored by or significantly involving United
19 States small business at not less than 30 per-
20 cent of all projects insured, reinsured, or fi-
21 nanced by the Corporation.

22 “(c) ENVIRONMENTAL CONSIDERATIONS.—

23 “(1) ENVIRONMENTAL, HEALTH, OR SAFETY
24 HAZARD.—The Corporation shall refuse to insure,
25 reinsure, or finance any investment in connection

1 with a project which the Corporation determines will
2 pose an unreasonable or major environmental,
3 health, or safety hazard, or will result in the signifi-
4 cant degradation of national parks or similar pro-
5 tected areas.

6 “(2) RESOURCE SUSTAINABLE DEVELOP-
7 MENT.—The Corporation, in determining whether to
8 provide insurance, reinsurance, or financing for a
9 project, shall ensure that the project is consistent
10 with the provisions of section 117 (as so redesign-
11 nated by the Special Foreign Assistance Act of
12 1986), section 118, and section 119 of this Act re-
13 lating to the environment and natural resources of,
14 and tropical forests and endangered species in, de-
15 veloping countries, and consistent with the intent of
16 regulations issued pursuant to sections 118 and 119
17 of this Act.

18 “(3) IMPACT ON ENVIRONMENT AND NATURAL
19 RESOURCES.—The requirements of section 117(c) of
20 this Act relating to environmental impact statements
21 and environmental assessments shall apply to any
22 investment which the Corporation insures, reinsures,
23 or finances under this title.

24 “(4) NOTIFICATION OF FOREIGN GOVERN-
25 MENTS.—Before finally providing insurance, reinsur-

1 ance, or financing under this title for any environ-
2 mentally sensitive investment in connection with a
3 project in a country, the Corporation shall notify ap-
4 propriate government officials of that country of—

5 “(A) all guidelines and other standards
6 adopted by the International Bank for Recon-
7 struction and Development and any other inter-
8 national organization that relate to the public
9 health or safety or the environment and are ap-
10 plicable to the project; and

11 “(B) to the maximum extent practicable,
12 any restriction, under any law of the United
13 States, that relates to public health or safety or
14 the environment and would apply to the project
15 if the project were undertaken in the United
16 States.

17 The notification under the preceding sentence shall
18 include a summary of the guidelines, standards, and
19 restrictions referred to in subparagraphs (A) and
20 (B), and may include any environmental impact
21 statement, assessment, review, or study prepared
22 with respect to the investment pursuant to para-
23 graph (3).

24 “(5) CONSIDERATION OF COMMENTS RE-
25 CEIVED.—Before finally providing insurance, rein-

1 surance, or financing for any investment subject to
2 paragraph (4), the Corporation shall take into ac-
3 count any comments it receives on the project in-
4 volved.

5 “(d) WORKER RIGHTS.—

6 “(1) LIMITATION ON OPIC ACTIVITIES.—The
7 Corporation may insure, reinsure, or finance a
8 project only if the country in which the project is to
9 be undertaken is taking steps to adopt and imple-
10 ment laws that extend internationally recognized
11 worker rights, as defined in section 502(a)(4) of the
12 Trade Act of 1974 (19 U.S.C. 2462(a)(4)), to work-
13 ers in that country (including any designated zone in
14 that country). The Corporation shall also include the
15 following language, in substantially the following
16 form, in all contracts which the Corporation enters
17 into with eligible investors to provide financial sup-
18 port under this title:

19 “‘The investor agrees not to take actions to
20 prevent employees of the foreign enterprise from
21 lawfully exercising their right of association and
22 their right to organize and bargain collectively. The
23 investor further agrees to observe applicable laws re-
24 lating to a minimum age for employment of children,
25 acceptable conditions of work with respect to mini-

1 mum wages, hours of work, and occupational health
2 and safety, and not to use forced labor. The investor
3 is not responsible under this paragraph for the ac-
4 tions of a foreign government.’.

5 “(2) USE OF ANNUAL REPORTS ON WORKERS
6 RIGHTS.—The Corporation shall, in making its de-
7 terminations under paragraph (1), use the reports
8 submitted to the Congress pursuant to section
9 505(c) of the Trade Act of 1974 (19 U.S.C.
10 2465(c)).

11 “(3) WAIVER.—(A) Paragraph (1) shall not
12 prohibit the Corporation from providing any insur-
13 ance, reinsurance, or financing with respect to a
14 country if the President of the United States deter-
15 mines that such activities by the Corporation would
16 be in the national economic interests of the United
17 States. Any such determination shall be reported in
18 writing to the appropriate congressional committees,
19 together with the reasons for the determination.

20 “(B) As used in subparagraph (A), the term
21 ‘appropriate congressional committees’ means the
22 Committee on Foreign Affairs and the Committee on
23 Appropriations of the House of Representatives and
24 the Committee on Foreign Relations and the Com-
25 mittee on Appropriations of the Senate.

1 “(e) HUMAN RIGHTS.—

2 “(1) IN GENERAL.—The Corporation shall take
3 into account in the conduct of its programs in a
4 country, in consultation with the Secretary of State,
5 all available information about observance of and re-
6 spect for human rights and fundamental freedoms in
7 such country and the effect the operation of such
8 programs will have on human rights and fundamen-
9 tal freedoms in such country.

10 “(2) HUMAN RIGHTS VIOLATORS.—The provi-
11 sions of section 116 shall apply to any insurance, re-
12 insurance, or financing provided by the Corporation
13 for projects in a country, except that in addition to
14 the exception set forth in subsection (a) of such sec-
15 tion, the Corporation may support a project if the
16 national security interest so requires.

17 “(f) HARM TO EMPLOYMENT IN THE UNITED
18 STATES.—

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

23 “(i) such investment is likely to cause the
24 investor significantly to reduce the number of
25 the investor’s employees in the United States

1 because the investor is replacing his or her
2 United States production with production from
3 such investment; and

4 “(ii) the production from such investment
5 involves substantially the same product for sub-
6 stantially the same market as the investor’s
7 United States production.

8 “(B) If the Corporation determines that an in-
9 vestment is not likely to have the effects described
10 in subparagraph (A), the Corporation shall monitor
11 conformance with the representations made by the
12 investor on which the Corporation relied in making
13 that determination.

14 “(2) EXPORT PROCESSING ZONES.—The Cor-
15 poration shall refuse to insure, reinsure, or finance
16 an investment for the purpose of establishing or de-
17 veloping in a foreign country any export processing
18 zone or designated area in which the tax, tariff,
19 labor, environment, and safety laws of that country
20 do not apply, in part or in whole, to activities car-
21 ried out within that zone or area, unless such assist-
22 ance is not likely to cause a loss of jobs within the
23 United States as determined in consideration of the
24 restrictions contained in paragraph (1).

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

6 “(h) PROHIBITED TRADE PRACTICES.—

7 “(1) PAYMENTS TO VIOLATORS BARRED.—No
8 payment may be made under any insurance or rein-
9 surance which is issued under this title on or after
10 April 24, 1978, for any loss occurring with respect
11 to a project, if the preponderant cause of such loss
12 was an act by the investor seeking such payment, by
13 a person possessing majority ownership and control
14 of the investor at the time of the act, or by any
15 agent of such investor or controlling person, and a
16 court of the United States has entered a final judg-
17 ment that such act constituted a violation of section
18 30A of the Securities Exchange Act of 1934 or sec-
19 tion 104 of the Foreign Corrupt Practices Act of
20 1977.

21 “(2) REGULATIONS.—The Corporation shall
22 have in effect regulations setting forth appropriate
23 conditions under which any person who has been fi-
24 nally determined by a court of the United States to
25 have violated section 30A of the Securities Exchange

1 Act of 1934 or section 104 of the Foreign Corrupt
2 Practices Act of 1977 shall be suspended, for a pe-
3 riod of not more than 5 years, from eligibility to re-
4 ceive any insurance, reinsurance, financing, or other
5 financial support authorized by this title, if that vio-
6 lation related to a project insured, reinsured, fi-
7 nanced, or otherwise supported by the Corporation
8 under this title.

9 “(i) FRAUD OR MISREPRESENTATION.—No payment
10 may be made under any guarantee, insurance, or reinsur-
11 ance issued under this title for any loss arising out of
12 fraud or misrepresentation for which the party seeking
13 payment is responsible.

14 “(j) PENALTIES FOR FRAUD.—Whoever knowingly
15 makes any false statement or report, or willfully
16 overvalues any land, property, or security, for the purpose
17 of influencing in any way the action of the Corporation
18 with respect to any insurance, reinsurance, guarantee,
19 loan, equity investment, or other activity of the Corpora-
20 tion under section 233 or any change or extension of any
21 such insurance, reinsurance, guarantee, loan, equity in-
22 vestment, or activity, by renewal, deferment of action or
23 otherwise, or the acceptance, release, or substitution of se-
24 curity therefor, shall be fined not more than \$1,000,000
25 or imprisoned not more than 30 years, or both.

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

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

11 “(a) ISSUING AUTHORITY.—

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

16 “(2) FINANCING.—(A) The maximum contin-
17 gent liability outstanding at any one time pursuant
18 to financing issued under section 233(b) shall not
19 exceed in the aggregate \$14,500,000,000.

20 “(B) Subject to spending authority provided in
21 appropriations Acts pursuant to section 504(b) of
22 the Federal Credit Reform Act of 1990, the Cor-
23 poration is authorized to transfer such sums as are
24 necessary from its noncredit activities to pay for the
25 subsidy cost of a program level for the direct loan

1 and guarantee programs under sections 233 (b)(1)
2 and (b)(3)—

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

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

5 and

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

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

10 “(b) CREATION OF FUND FOR ACQUISITION OF EQ-
11 UNITY.—The Corporation is authorized to maintain a re-
12 volving fund to be available solely for the purposes speci-
13 fied in section 233(b)(2) and to make transfers to the fund
14 of a total of \$45,000,000 (less amounts transferred to the
15 fund before the effective date of this title) from its
16 noncredit activities. The Corporation shall apply to the
17 fund all amounts received by the Corporation as income
18 on securities acquired under section 233(b)(2) using funds
19 made available under this section, and from the proceeds
20 on the disposition of such securities. Purchases of, invest-
21 ments in, and other acquisitions of equity from the fund
22 are authorized for any fiscal year only to the extent or
23 in such amounts as are provided in advance in appropria-
24 tions Acts or are transferred to the Corporation pursuant
25 to section 632(a).

1 “(c) INSURANCE RESERVES.—

2 “(1) MAINTENANCE AND PURPOSES.—The Cor-
3 poration shall maintain insurance reserves. Such re-
4 serves shall be available for the discharge of liabil-
5 ities, as provided in subsection (d), until such time
6 as all such liabilities have been discharged or have
7 expired or until all such reserves have been expended
8 in accordance with the provisions of this section.

9 “(2) FUNDING.—The insurance reserves shall
10 consist of—

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

13 “(B) amounts transferred to the reserves
14 pursuant to this Act; and

15 “(C) such sums as are appropriated pursu-
16 ant to subsection (e) of this section for such
17 purposes.

18 “(d) ORDER OF PAYMENTS TO DISCHARGE LIABIL-
19 ITIES.—Any payment made to discharge liabilities under
20 investment insurance or reinsurance issued under section
21 233, or to discharge liabilities under predecessor guaran-
22 tee authority, shall be paid first out of the insurance re-
23 serves, as long as such reserves remain available, and
24 thereafter out of funds made available pursuant to sub-
25 section (e) of this section. Any payments made to dis-

1 charge liabilities under guarantees issued under section
2 233(b)(3) shall be paid in accordance with the Federal
3 Credit Reform Act of 1990.

4 “(e) AUTHORIZATION OF APPROPRIATIONS.—

5 “(1) AUTHORIZATION.—Subject to paragraph
6 (2), there are authorized to be appropriated to the
7 Corporation such amounts as may be necessary from
8 time to time to replenish or increase the insurance
9 reserves, to discharge the liabilities under insurance
10 or reinsurance issued by the Corporation, to dis-
11 charge liabilities under predecessor guarantee au-
12 thority, or to discharge obligations of the Corpora-
13 tion purchased by the Secretary of the Treasury
14 pursuant to subsection (f).

15 “(2) LIMITATION ON APPROPRIATIONS.—No ap-
16 propriation shall be made under paragraph (1) to
17 augment the insurance reserves until the amount of
18 funds in the insurance reserves is less than
19 \$25,000,000. Any appropriations to augment the in-
20 surance reserves shall then only be made either pur-
21 suant to specific authorization enacted after the date
22 of enactment of the Overseas Private Investment
23 Corporation Amendments Act of 1974, or to satisfy
24 the full faith and credit provision of section 237(c).

1 “(f) ISSUANCE OF OBLIGATIONS.—In order to dis-
2 charge liabilities under investment insurance or reinsur-
3 ance, the Corporation is authorized to issue from time to
4 time for purchase by the Secretary of the Treasury its
5 notes, debentures, bonds, or other obligations. The aggre-
6 gate amount of such obligations outstanding at any one
7 time may not exceed \$100,000,000. Any such obligation
8 shall be repaid to the Treasury within 1 year after the
9 date of issue of such obligation. Any such obligation shall
10 bear interest at a rate determined by the Secretary of the
11 Treasury, taking into consideration the current average
12 market yield on outstanding marketable obligations of the
13 United States of comparable maturities during the month
14 preceding the issuance of any obligation authorized by this
15 subsection. The Secretary of the Treasury shall purchase
16 any obligation of the Corporation issued under this sub-
17 section, and for such purchase the Secretary may use as
18 a public debt transaction the proceeds of the sale of any
19 securities issued under chapter 31 of title 31, United
20 States Code. The purpose for which securities may be is-
21 sued under chapter 31 of title 31, United States Code,
22 shall include any such purchase.

23 **“SEC. 236. INCOME AND REVENUES.**

24 “In order to carry out the purposes of the Corpora-
25 tion, all revenues earned by the Corporation from its

1 noncredit activities and amounts transferred to the Cor-
2 poration shall be held by the Corporation and shall be
3 available to carry out its purposes, including without limi-
4 tation—

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

7 “(2) transfers and additions to the insurance
8 reserves maintained under section 235(c), and such
9 other funds or reserves as the Corporation may es-
10 tablish, at such time and in such amounts as the
11 Board may determine; and

12 “(3) payment of dividends, on capital stock,
13 which shall consist of and be paid from net earnings
14 of the Corporation after payments, transfers, and
15 additions under paragraphs (1) and (2).

16 **“SEC. 237. GENERAL PROVISIONS RELATING TO INSUR-**
17 **ANCE AND FINANCING PROGRAM.**

18 “(a) AGREEMENTS WITH COUNTRIES.—Insurance,
19 guarantees, and reinsurance issued under this title shall
20 cover investment made in connection with projects in any
21 eligible country or area with the government of which the
22 President of the United States has agreed to institute a
23 program for such insurance, guarantees, or reinsurance.

24 “(b) PROTECTION OF INTERESTS OF THE CORPORA-
25 TION.—The Corporation shall determine that suitable ar-

1 rangements exist for protecting the interest of the Cor-
2 poration in connection with any insurance, reinsurance, or
3 guarantee issued under this title, including arrangements
4 concerning ownership, use, and disposition of the cur-
5 rency, credits, assets, or investments on account of which
6 payment under such insurance, guarantee, or reinsurance
7 is to be made, and any right, title, claim, or cause of action
8 existing in connection therewith.

9 “(c) FULL FAITH AND CREDIT PLEDGED.—All guar-
10 antees issued under predecessor guarantee authority, and
11 all insurance, reinsurance, and guarantees issued under
12 this title shall constitute obligations, in accordance with
13 the terms of such insurance, reinsurance, or guarantees,
14 of the United States of America, and the full faith and
15 credit of the United States of America is hereby pledged
16 for the full payment and performance of such obligations.

17 “(d) FEES.—Fees may be charged for providing in-
18 surance, reinsurance, financing, and other services under
19 this title in amounts to be determined by the Corporation.
20 Fees paid for project-specific transaction costs and other
21 transaction costs, including project-related travel and ex-
22 penses for legal representation, associated with services
23 provided to specific investors or potential investors pursu-
24 ant to section 233, including financing, insurance, reinsur-
25 ance, missions, seminars, conferences, and other pre-in-

1 vestment services, shall be available for obligation for the
2 purposes for which they were collected notwithstanding
3 any other provision of law. Transaction costs relating to
4 investment financing commitments entered into pursuant
5 to section 233(b) shall be considered cash flows from the
6 Government resulting from financing commitments and
7 shall be paid out of the appropriate financing account es-
8 tablished pursuant to section 505(b) of the Federal Credit
9 Reform Act of 1990.

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

15 “(f) AMOUNT OF COMPENSATION PAID ON
16 CLAIMS.—Compensation for any insurance, reinsurance,
17 or guarantee issued under this title shall not exceed the
18 dollar value, as of the date of the investment, of the invest-
19 ment made in the project with the approval of the Cor-
20 poration plus interest, earnings, or profits actually ac-
21 crued on such investment to the extent provided by such
22 insurance, reinsurance, or guarantee, except that the Cor-
23 poration may provide that—

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

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

8 “(3) compensation for loss due to business
9 interruption may be computed on a basis to be de-
10 termined by the Corporation which reflects amounts
11 lost.

12 Notwithstanding the preceding sentence, the Corporation
13 shall limit the amount of direct insurance and reinsurance
14 issued under section 233 so that risk of loss as to at least
15 10 percent of the total investment of the insured and its
16 affiliates in the project is borne by the insured and such
17 affiliates. This limitation shall not apply to direct insur-
18 ance or reinsurance of loans by banks or other financial
19 institutions to unrelated parties.

20 “(g) LIMITATION WITH RESPECT TO FOREIGN
21 CREDIT INSTITUTIONS.—Insurance, guarantees, or rein-
22 surance of a loan or equity investment of an eligible inves-
23 tor in a foreign bank, finance company, or other credit
24 institution shall extend only to such loan or equity invest-
25 ment and not to any individual loan or equity investment

1 made by such foreign bank, finance company, or other
2 credit institution.

3 “(h) SETTLEMENT AND ARBITRATION OF CLAIMS.—
4 Claims arising as a result of insurance, reinsurance, or
5 guarantee operations under this title may be settled, and
6 disputes arising as a result thereof may be arbitrated with
7 the consent of the parties, on such terms and conditions
8 as the Corporation may determine. Payment made pursu-
9 ant to any such settlement, or as a result of an arbitration
10 award, shall be final and conclusive notwithstanding any
11 other provision of law.

12 “(i) CONTRACTS PRESUMED TO COMPLY WITH
13 ACT.—Each guarantee contract executed by such officer
14 or officers as may be designated by the Board shall be
15 conclusively presumed to be issued in compliance with the
16 requirements of this Act.

17 “(j) USE OF LOCAL CURRENCIES.—Direct loans or
18 investments made in order to preserve the value of funds
19 received in inconvertible foreign currency by the Corpora-
20 tion as a result of activities conducted pursuant to section
21 233(a) shall not be considered in determining whether the
22 Corporation has made or has outstanding loans, guaran-
23 tees, or investments to the extent of any limitation on obli-
24 gations and equity investment imposed by or pursuant to
25 this title. The provisions of section 504(b) of the Federal

1 Credit Reform Act of 1990 shall not apply to direct loan
2 obligations made with funds described in this subsection.

3 “(k) PROHIBITION ON NONCOMPETITIVE AWARDING
4 OF INSURANCE CONTRACTS ON OPIC SUPPORTED EX-
5 PORTS.—

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

16 “(B) The investor shall be required, in every
17 practicable case, to so certify before the insurance,
18 reinsurance, guarantee, or other financing is pro-
19 vided. In any case in which such a certification is
20 not made in advance, the investor shall include in
21 the certification the reasons for the failure to make
22 a certification in advance.

23 “(C) Subparagraph (A) does not apply with re-
24 spect to an investor who does not, because of the na-

1 ture of the investment, have a controlling interest in
2 fact in the project in question.

3 “(2) REPORTS BY THE UNITED STATES TRADE
4 REPRESENTATIVE.—The United States Trade Rep-
5 resentative shall review the actions of the Corpora-
6 tion under paragraph (1) and, after consultation
7 with representatives of United States insurance com-
8 panies, shall report to the Congress, with respect to
9 such actions, in the report required by section
10 181(b) of the Trade Act of 1974.

11 “(3) DEFINITIONS.—For purposes of this sub-
12 section—

13 “(A) the term ‘United States insurance
14 company’ includes—

15 “(i) an individual, partnership, cor-
16 poration, holding company, or other legal
17 entity which is authorized, or in the case
18 of a holding company, subsidiaries of
19 which are authorized, by a State to engage
20 in the business of issuing insurance con-
21 tracts or reinsuring the risk underwritten
22 by insurance companies; and

23 “(ii) foreign operations, branches,
24 agencies, subsidiaries, affiliates, or joint

1 ventures of any entity described in clause
2 (i);

3 “(B) United States insurance companies
4 shall be considered to have had a ‘fair and open
5 competitive opportunity to provide insurance’ if
6 they—

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

9 “(ii) have been evaluated on a non-
10 discriminatory basis; and

11 “(C) the term ‘State’ includes the District
12 of Columbia and any commonwealth, territory,
13 or possession of the United States.

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

15 “(a) **PRINCIPAL OFFICE.**—The Corporation shall
16 have its principal office in the District of Columbia and
17 shall be deemed, for purposes of venue in civil actions, to
18 be a resident of the District of Columbia.

19 “(b) **AUDITS.**—

20 “(1) **IN GENERAL.**—The Corporation shall be
21 subject to the applicable provisions of chapter 91 of
22 title 31, United States Code, except as otherwise
23 provided in this title.

24 “(2) **INDEPENDENT AUDIT.**—An independent
25 certified public accountant shall perform a financial

1 and compliance audit of the financial statements of
2 the Corporation each year, in accordance with gen-
3 erally accepted Government auditing standards for a
4 financial and compliance audit, taking into consider-
5 ation any standards recommended by the Comptrol-
6 ler General. The independent certified public ac-
7 countant shall report the results of such audit to the
8 Board. The financial statements of the Corporation
9 shall be presented in accordance with generally ac-
10 cepted accounting principles. These financial state-
11 ments and the report of the accountant shall be in-
12 cluded in a report which contains, to the extent ap-
13 plicable, the information identified in section 9106
14 of title 31, United States Code. The Corporation
15 shall submit such report to the Congress not later
16 than 6½ months after the end of the last fiscal year
17 covered by the audit. The Comptroller General may
18 review the audit conducted by the accountant and
19 the report to the Congress in the manner and at
20 such times as the Comptroller General considers
21 necessary.

22 “(3) AUDIT BY COMPTROLLER GENERAL.—In
23 lieu of the financial and compliance audit required
24 by paragraph (2), the Comptroller General shall, if
25 the Comptroller General considers it necessary or

1 upon the request of the Congress, audit the financial
2 statements of the Corporation in the manner pro-
3 vided in paragraph (2).

4 “(4) AVAILABILITY OF INFORMATION.—All
5 books, accounts, financial records, reports, files,
6 workpapers, and property belonging to or in use by
7 the Corporation and the accountant who conducts
8 the audit under paragraph (2), which are necessary
9 for purposes of this subsection, shall be made avail-
10 able to the representatives of the General Account-
11 ing Office designated by the Comptroller General.

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

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

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

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

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

1 “(5) to invest funds derived from fees and other
2 revenues in obligations of the United States and to
3 use the proceeds therefrom, including earnings and
4 profits, as it considers appropriate;

5 “(6) to indemnify directors, officers, employees,
6 and agents of the Corporation for liabilities and ex-
7 penses incurred in connection with their Corporation
8 activities;

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

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

14 “(9) to enter into limited-terms contracts with
15 nationals of the United States for personal services
16 to carry out activities in the United States and
17 abroad under section 233;

18 “(10) to purchase, discount, rediscount, sell,
19 and negotiate, with or without its endorsement or
20 guarantee, and guarantee notes, participation certifi-
21 cates, and other evidence of indebtedness (except
22 that the Corporation shall not issue its own securi-
23 ties, except participation certificates for the purpose
24 of carrying out section 231(c)(3), participation cer-
25 tificates in connection with transactions authorized

1 by section 233(b), or participation certificates as evi-
2 dence of indebtedness held by the Corporation in
3 connection with settlement of claims under section
4 237(h));

5 “(11) to make and carry out such contracts and
6 agreements as are necessary and advisable in the
7 conduct of its business;

8 “(12) to exercise any priority of the Govern-
9 ment of the United States in collecting debts from
10 the estates of bankrupt, insolvent, or decedent par-
11 ties;

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

17 “(14) to collect or compromise any obligations
18 assigned to or held by the Corporation, including
19 any legal or equitable rights accruing to the Cor-
20 poration; and

21 “(15) to take such actions as may be necessary
22 or appropriate to carry out the powers of the Cor-
23 poration.

24 “(d) EXEMPTION FROM STATE AND LOCAL TAX-
25 ATION.—The Corporation (including its franchise, capital,

1 reserves, surplus, advances, intangible property, and in-
2 come) shall be exempt from all taxation at any time im-
3 posed by any State, the District of Columbia, or any coun-
4 ty, municipality, or local taxing authority.

5 **“SEC. 239. ANNUAL REPORT; MAINTENANCE OF INFORMA-**
6 **TION.**

7 **“(a) ANNUAL REPORT.—**

8 **“(1) REQUIREMENT.—**After the end of each fis-
9 cal year, the Corporation shall submit to the Con-
10 gress a complete and detailed report of its oper-
11 ations during such fiscal year. Such report shall in-
12 clude—

13 **“(A)** an assessment, based upon the devel-
14 opment impact profiles required by section
15 234(a), of the economic and social development
16 impact and benefits of the projects with respect
17 to which such profiles are prepared, and of the
18 extent to which the operations of the Corpora-
19 tion complement or are compatible with the de-
20 velopment assistance programs of the United
21 States and other donors; and

22 **“(B)** a description of any project for which
23 the Corporation—

24 **“(i)** refused pursuant to section
25 234(e) to provide insurance, reinsurance,

1 financing, or other financial support on ac-
2 count of violations of human rights; or

3 “(ii) notwithstanding such violations,
4 provided insurance, reinsurance, financing,
5 or financial support on the basis of a de-
6 termination that the exception under sec-
7 tion 116(a) applies, or the national secu-
8 rity so requires.

9 “(2) PROJECTIONS OF EFFECTS ON EMPLOY-
10 MENT.—

11 “(A) IN GENERAL.—Each annual report
12 required by paragraph (1) shall contain projec-
13 tions of the effects on employment in the
14 United States of all projects for which, during
15 the fiscal year covered by the report, the Cor-
16 poration initially issued any insurance or rein-
17 surance or provided financing. Each such report
18 shall include projections of—

19 “(i) the amount of United States ex-
20 ports to be generated by those projects,
21 both during the start-up phase and over a
22 period of years;

23 “(ii) the final destination of the prod-
24 ucts to be produced as a result of those
25 projects; and

1 “(iii) the impact such production will
2 have on the production of similar products
3 in the United States with regard to both
4 domestic sales and exports.

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

9 “(C) MANNER OF REPORTING EFFECTS ON
10 EMPLOYMENT.—In reporting the projections on
11 employment required by this paragraph, the
12 Corporation shall specify, with respect to each
13 project—

14 “(i) any loss of jobs in the United
15 States caused by the project, whether or
16 not the project itself creates other jobs;

17 “(ii) any jobs created by the project;
18 and

19 “(iii) the country in which the project
20 is located, and the economic sector involved
21 in the project.

22 No proprietary information may be disclosed
23 under this subparagraph.

24 “(3) PROTECTION OF CERTAIN INFORMA-
25 TION.—Paragraph (2) does not require the inclusion

1 in any information which would not be required to
2 be made available to the public pursuant to section
3 552 of title 5, United States Code (relating to free-
4 dom of information).

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

7 “(1) all information collected in preparing the
8 report required by section 240A(c) of the Foreign
9 Assistance Act of 1961 (as in effect before the en-
10 actment of the Overseas Private Investment Cor-
11 poration Amendments Act of 1988), whether the in-
12 formation was collected by the Corporation itself or
13 by a contractor; and

14 “(2) a copy of the analysis of each project ana-
15 lyzed in preparing the projections required by sub-
16 section (a)(2) or the report required by section
17 240A(c) of the Foreign Assistance Act of 1961 (as
18 in effect before the enactment of the Overseas Pri-
19 vate Investment Corporation Amendments Act of
20 1988).

21 **“SEC. 240. DEFINITIONS.**

22 “As used in this title, the following terms have the
23 following meanings:

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

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

3 “(3) ELIGIBLE INVESTOR.—(A) The term ‘eligible
4 investor’ means—

5 “(i) a United States citizen;

6 “(ii) a corporation, partnership, or other
7 association, including a nonprofit association,
8 which is created under the laws of the United
9 States, any State, the District of Columbia, or
10 any commonwealth, territory, or possession of
11 the United States, and which is substantially
12 beneficially owned by United States citizens;
13 and

14 “(iii) a foreign corporation, partnership, or
15 other association which is wholly owned by one
16 or more United States citizens or corporations,
17 partnerships, or other associations described in
18 clause (ii), except that the eligibility of any such
19 foreign corporation shall be determined without
20 regard to any shares held by other than United
21 States citizens or corporations, partnerships, or
22 other associations described in clause (ii) if, in
23 the aggregate, such shares equal less than 5
24 percent of the total issued and subscribed share
25 capital of such foreign corporation.

1 “(B) For purposes of this title—

2 “(i) in the case of insurance or a guaran-
3 tee for any loan investment, a final determina-
4 tion of whether a person is an eligible investor
5 may be made at the time the insurance or guar-
6 antee is issued; and

7 “(ii) in the case of insurance or a guaran-
8 tee for any other investment, an investor must
9 be an eligible investor at the time a claim arises
10 as well as the time the insurance or guarantee
11 is issued.

12 “(4) EXPROPRIATION.—The term ‘expropria-
13 tion’ includes any abrogation, repudiation, or impair-
14 ment by a foreign government of its own contract
15 with an investor with respect to a project, where
16 such abrogation, repudiation, or impairment is not
17 caused by the investor’s own fault or misconduct,
18 and materially adversely affects the continued oper-
19 ation of the project.

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

24 “(A) a loan or loans to an approved
25 project;

1 “(B) the purchase of a share of ownership
2 in any such project;

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

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

7 “(6) NONCREDIT ACTIVITIES.—The term
8 ‘noncredit activities’ means all activities of the Cor-
9 poration other than its direct loan program under
10 section 233(b)(1) and its guarantee program under
11 section 233(b)(3).

12 “(7) PREDECESSOR GUARANTEE AUTHORITY.—
13 The term ‘predecessor guarantee authority’ means
14 prior guarantee authorities (other than housing
15 guarantee authorities) repealed by the Foreign As-
16 sistance Act of 1969, sections 202(b) and 413(b) of
17 the Mutual Security Act of 1954, and section
18 111(b)(3) of the Economic Cooperation Act of 1948,
19 (exclusive of authority relating to informational
20 media guarantees).”.

21 **TITLE II—TRADE AND** 22 **DEVELOPMENT AGENCY**

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

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

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

3 (2) in the second sentence, by striking “develop-
4 ment projects” and all that follows and inserting
5 “developing and middle-income countries in ways
6 consistent with environmentally sound and broad-
7 based sustainable economic development.”.

8 (b) AUTHORITY TO PROVIDE ASSISTANCE.—Section
9 661(b) of such Act (22 U.S.C. 2421(b)) is amended—

10 (1) in paragraph (1)—

11 (A) by striking “, including those in
12 which” and all that follows through “under part
13 I,”; and

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

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

20 (3) in paragraph (3)(B)—

21 (A) by striking “Other agencies of the
22 United States Government” and inserting
23 “Other members of the Trade Promotion Co-
24 ordinating Committee”; and

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

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

5 (1) by striking “There shall be” and inserting
6 “(A) There shall be”; and

7 (2) by adding at the end the following new sub-
8 paragraph:

9 “(B) The Director shall report directly to the
10 President.”.

11 (d) ANNUAL REPORT.—Section 661(d) of such Act
12 (22 U.S.C. 2421(d)) is amended by striking “President”
13 and inserting “Director of the Trade and Development
14 Agency”.

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

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

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

21 (3) by striking “\$55,000,000” and all that fol-
22 lows and inserting “such sums as are necessary for
23 fiscal years 1995 and 1996.”; and

24 (4) by adding at the end the following new sub-
25 paragraph:

1 “(B) Amounts appropriated pursuant to the au-
2 thorization of appropriations under subparagraph
3 (A) are authorized to remain available until ex-
4 pended.”.

5 **TITLE III—EXPORT PROMOTION**
6 **PROGRAMS WITHIN THE**
7 **INTERNATIONAL TRADE AD-**
8 **MINISTRATION**

9 **SEC. 301. EXPORT PROMOTION AUTHORIZATION.**

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

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

14 “There are authorized to be appropriated to the De-
15 partment of Commerce to carry out export promotion pro-
16 grams such sums as are necessary for fiscal years 1995
17 and 1996.”

18 **TITLE IV—PROMOTION OF**
19 **UNITED STATES ENVIRON-**
20 **MENTAL EXPORTS**

21 **SEC. 401. SHORT TITLE.**

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

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

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

5 (1) by striking subsection (d);

6 (2) by redesignating subsection (c) as sub-
7 section (e); and

8 (3) by inserting after subsection (b) the follow-
9 ing:

10 “(c) ENVIRONMENTAL TECHNOLOGIES TRADE ADVI-
11 SORY COMMITTEE.—

12 “(1) ESTABLISHMENT AND PURPOSE.—The
13 Secretary, in carrying out the duties of the chair-
14 person of the TPCC, shall establish the Environ-
15 mental Technologies Trade Advisory Committee
16 (hereafter in this section referred to as the ‘Commit-
17 tee’). The purpose of the Committee shall be to pro-
18 vide advice and guidance to the Working Group in
19 the development and administration of programs to
20 expand United States exports of environmental tech-
21 nologies, goods, and services.

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

24 “(A) environmental businesses, including
25 small businesses;

1 “(B) trade associations in the environ-
2 mental sector;

3 “(C) private sector organizations involved
4 in the promotion of environmental exports;

5 “(D) States (as defined in section
6 2301(i)(5)) and associations representing the
7 States; and

8 “(E) other appropriate interested members
9 of the public.

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

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

14 “(1) PRIORITY COUNTRY IDENTIFICATION.—

15 The Working Group, in consultation with the Com-
16 mittee, shall annually assess which foreign countries
17 have markets with the greatest potential for the ex-
18 port of United States environmental technologies,
19 goods, and services. Of these countries the Working
20 Group shall select as priority countries 5 with the
21 greatest potential for the application of United
22 States Government export promotion resources relat-
23 ed to environmental exports.

24 “(2) EXPORT PLANS.—The Working Group, in
25 consultation with the Committee, shall annually cre-

1 ate a plan for each priority country selected under
2 paragraph (1), setting forth in detail ways to in-
3 crease United States environmental exports to such
4 country. Each such plan shall—

5 “(A) identify the primary public and pri-
6 vate sector opportunities for United States ex-
7 porters of environmental technologies, goods,
8 and services in the priority country;

9 “(B) analyze the financing and other re-
10 quirements for major projects in the priority
11 country which will use environmental tech-
12 nologies, goods, and services, and analyze
13 whether such projects are dependent upon fi-
14 nancial assistance from foreign countries or
15 multilateral institutions; and

16 “(C) list specific actions to be taken by the
17 member agencies of the Working Group to in-
18 crease United States exports to the priority
19 country.”.

20 (b) ADDITIONAL MECHANISMS TO PROMOTE ENVI-
21 RONMENTAL EXPORTS.—Section 2313 of the Export En-
22 hancement Act of 1988 is further amended by adding at
23 the end the following:

1 “(f) ENVIRONMENTAL TECHNOLOGIES SPECIALISTS
2 IN THE UNITED STATES AND FOREIGN COMMERCIAL
3 SERVICE.—

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

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

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

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

16 “(C) training Foreign Commercial Service
17 Officers in the country to which the specialist
18 is assigned, other countries in the region, and
19 United States and Foreign Commercial Service
20 offices in the United States, in environmental
21 technologies and the international environ-
22 mental market;

23 “(D) providing assistance in identifying
24 potential customers and market opportunities in
25 the country to which the specialist is assigned;

1 “(E) providing assistance in obtaining nec-
2 essary business services in the country to which
3 the specialist is assigned;

4 “(F) providing information on environ-
5 mental standards and regulations in the coun-
6 try to which the specialist is assigned; and

7 “(G) providing information on all United
8 States Government programs that could assist
9 the promotion, financing, and sale of United
10 States environmental technologies, goods, and
11 services in the country to which the specialist is
12 assigned.

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

17 “(1) Commercial Service Officers assigned to
18 the one-stop shops provided for in section
19 2301(b)(8), and

20 “(2) Commercial Service Officers assigned to
21 district offices in districts having large numbers of
22 environmental businesses,
23 in environmental technologies and in the international en-
24 vironmental marketplace, and ensure that such officers re-
25 ceive appropriate training under such mechanism. Such

1 training may be provided by officers or employees of the
2 Department of Commerce, and other United States Gov-
3 ernment departments and agencies, with appropriate ex-
4 pertise in environmental technologies and the international
5 environmental workplace, and by appropriate representa-
6 tives of the private sector.

7 “(h) INTERNATIONAL REGIONAL ENVIRONMENTAL
8 INITIATIVES.—

9 “(1) ESTABLISHMENT OF INITIATIVES.—The
10 TPCC shall establish one or more international re-
11 gional environmental initiatives the purpose of which
12 shall be to coordinate the activities of Federal de-
13 partments and agencies in order to build environ-
14 mental partnerships between the United States and
15 the geographic region outside the United States for
16 which such initiative is established. Such partner-
17 ships shall enhance environmental protection and
18 promote sustainable development by using in the re-
19 gion technical expertise and financial resources of
20 United States departments and agencies that pro-
21 vide foreign assistance and by expanding United
22 States exports of environmental technologies, goods,
23 and services to that region.

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

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

11 “(B) identify and disseminate to United
12 States environmental businesses information re-
13 garding specific environmental business oppor-
14 tunities in that geographic region;

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

21 “(D) increase assistance provided by the
22 Federal Government to promote exports from
23 the United States of environmental tech-
24 nologies, goods, and services to that geographic
25 region, such as trade missions, reverse trade

1 missions, trade fairs, and programs in the
2 United States to train foreign nationals in
3 United States environmental technologies; and

4 “(E) increase high-level advocacy by
5 United States Government officials (including
6 the United States ambassadors to the countries
7 in that geographic region) for United States en-
8 vironmental businesses seeking market opportu-
9 nities in that geographic region.

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

18 “(1) identify the 50 to 100 environmental infra-
19 structure and procurement projects in foreign mar-
20 kets that have the greatest potential in the calendar
21 quarter for United States exports of environmental
22 technologies, goods, and services; and

23 “(2) include trade promotion events, such as
24 trade missions and trade fairs, in the environmental
25 sector.

1 The Working Group shall also provide, through the Na-
2 tional Trade Data Bank and other information dissemina-
3 tion channels, information on opportunities for environ-
4 mental businesses in foreign markets and information on
5 Federal export promotion programs.

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

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

19 **TITLE V—INTERNATIONAL PRO-**
20 **TECTION OF INTELLECTUAL**
21 **PROPERTY**

22 **SEC. 501. ESTABLISHMENT OF PROGRAM.**

23 (a) IN GENERAL.—In carrying out part I of the For-
24 eign Assistance Act of 1961 and other relevant foreign as-
25 sistance laws, the President, acting through the Adminis-

1 trator of the United States Agency for International De-
2 velopment, shall establish a program of training and other
3 technical assistance to assist foreign countries in—

4 (1) developing and strengthening laws and reg-
5 ulations to protect intellectual property; and

6 (2) developing the infrastructure necessary to
7 implement and enforce such laws and regulations.

8 (b) PARTICIPATION OF OTHER AGENCIES.—The Ad-
9 ministrator of the United States Agency for International
10 Development—

11 (1) shall utilize the expertise of the Patent and
12 Trademark Office and other agencies of the United
13 States Government in designing and implementing
14 the program of assistance provided for in this sec-
15 tion;

16 (2) shall coordinate assistance under this sec-
17 tion with efforts of other agencies of the United
18 States Government to increase international protec-
19 tion of intellectual property, including implementa-
20 tion of international agreements containing high lev-
21 els of protection of intellectual property; and

1 (3) shall consult with the heads of such other
2 agencies in determining which foreign countries will
3 receive assistance under this section.

Passed the House of Representatives September 19,
1994.

Attest:

Clerk.

103^D CONGRESS
2^D SESSION

H. R. 4950

AN ACT

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