

106TH CONGRESS
1ST SESSION

H. R. 2969

To prevent United States funds from being used for environmentally destructive projects or projects involving involuntary resettlement funded by any institution of the World Bank Group.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 1999

Mr. COX (for himself, Mr. GILMAN, Mr. KUCINICH, Mr. PORTER, Ms. PELOSI, Mr. ROHRBACHER, Mr. MCGOVERN, Mr. PAUL, Mr. GUTIERREZ, Mr. LEWIS of Georgia, Mr. STARK, Ms. MCKINNEY, Mr. BROWN of Ohio, Ms. LEE, Mr. JACKSON of Illinois, Mr. LANTOS, Mr. UDALL of Colorado, and Mr. EVANS) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To prevent United States funds from being used for environmentally destructive projects or projects involving involuntary resettlement funded by any institution of the World Bank Group.

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 “Ecosystem and Indige-
5 nous Peoples Protection Act”.

1 **SEC. 2. FINDINGS; SENSE OF THE CONGRESS.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) The Congress is pleased that the institu-
4 tions of the World Bank Group have adopted envi-
5 ronmental assessment and information access proce-
6 dures. These policy changes have generated in-
7 creased concern for the environmental impact of
8 projects, and have created a greater environmental
9 awareness at such institutions. However, problems
10 continue to arise in the use by World Bank decision
11 makers of information generated by environmental
12 assessments and the adequacy of their content. Fur-
13 thermore, while environmental information and com-
14 pliance with environmental and social policies has
15 improved substantially, there are inconsistencies and
16 gaps in how the World Bank implements their poli-
17 cies and procedures.

18 (2) Current environmental safeguards in the
19 taxpayer-supported international financial institu-
20 tions are inadequate. The World Bank does not pre-
21 pare a full environmental assessment for a signifi-
22 cant portion of its activities. Even in those cases
23 where an environmental assessment is made, the as-
24 sessment is often not made available in a full or
25 timely manner to the United States Executive Direc-
26 tor of the institution. The World Bank's internal

1 evaluation department found that the environmental
2 assessments have little to no impact on the project
3 design and project decisions. Internal reviews have
4 further determined that more than a third of all
5 World Bank projects either do not adhere to the en-
6 vironmental policies or fail to meet environmental
7 performance goals.

8 (3) Under current law, United States taxpayers
9 are forced to contribute funds even for projects that
10 are opposed by the United States Executive Director
11 of the institution from which funding for the project
12 has been requested. For example, United States tax-
13 payers will contribute \$27,200,000 for a loan that
14 will be used for a project that will result in resettle-
15 ment that will harm Tibetan and Mongolian indige-
16 nous peoples, and despoil the environment of the re-
17 gion, notwithstanding that the United States voted
18 against providing a loan for the project.

19 (4) Projects of the World Bank Group resettle
20 large numbers of people. A world Bank study con-
21 cluded that 543,000 people had been relocated from
22 1986 through 1993. Almost 3,000,000 more people
23 are or will be resettled under the current active port-
24 folio, according to the World Bank. The Bank's in-
25 spection panel has found an imbalance in execution

1 of investment components of Bank-financed projects
2 and resettlement components of the same projects,
3 in large part due to the common practice of leaving
4 resettlement and environmental measures to coun-
5 terpart financing.

6 (5) United States funding should be made con-
7 tingent on evidence that the institutions will not
8 make any loan or provide any financial assistance
9 that will have a significant adverse environmental
10 impact, including involuntary resettlement and the
11 destruction of forests or other natural ecosystems.

12 (6) For several years, the Congress has made it
13 a priority to seek a broader policy framework for en-
14 vironmental and social protection at the World Bank
15 Group. The World Bank Group sets the standards,
16 which other international financial institutions fol-
17 low. In fact, the Congress has made environmental
18 issues a condition for United States contributions to
19 the international financial institutions. The World
20 Bank repeatedly exhibits a failure to comply with
21 these environmental and social policies. Further-
22 more, in 1999, 63 percent of the lending by the
23 World Bank is for macroeconomic adjustment pro-
24 grams that do not have to follow environmental or
25 social policies.

1 (7) The World Bank’s board of directors and
2 management have consistently undermined the effec-
3 tiveness of its only accountability mechanism, the
4 independent inspection panel, by interfering with the
5 ability of the panel to carry out investigations of
6 Bank policy violations in response to legitimate cit-
7 izen claims. The inspection panel was created in re-
8 sponse to calls by the Congress for more, not less,
9 accountability at the Bank.

10 (8) The United States and other donor govern-
11 ments agreed in the replenishment negotiations for
12 IDA 12 that the World Bank Group should make
13 more information publicly available and improve
14 overall transparency.

15 (b) SENSE OF THE CONGRESS.—It is the sense of
16 the Congress that—

17 (1) the World Bank Group has not made sig-
18 nificant progress in complying with environmental
19 policies or mandates;

20 (2) the World Bank Group should seek full
21 compliance with its environmental and social policies
22 and policies on information disclosure;

23 (3) the World Bank Group should apply its en-
24 vironmental and social policies to all lending and fi-
25 nancial instruments; and

1 (4) the World Bank should not interfere with
2 the authority or the independence of its inspection
3 panel, and that panel should have the mandate to
4 cover all institutions in the World Bank Group.

5 **SEC. 3. PREVENTION OF UNITED STATES FUNDS FROM SUP-**
6 **PORTING WORLD BANK GROUP OPERATIONS**
7 **THAT DO NOT FULLY COMPLY WITH WORLD**
8 **BANK GROUP ENVIRONMENTAL AND SOCIAL**
9 **POLICIES.**

10 Title XIII of the International Financial Institutions
11 Act (22 U.S.C. 262m–262m–7) is amended by adding at
12 the end the following:

13 **“SEC. 1308. PREVENTION OF UNITED STATES FUNDS FROM**
14 **SUPPORTING WORLD BANK GROUP OPER-**
15 **ATIONS THAT DO NOT FULLY COMPLY WITH**
16 **WORLD BANK GROUP ENVIRONMENTAL AND**
17 **SOCIAL POLICIES.**

18 “(a) IN GENERAL.—No department, agency, officer,
19 or employee of the United States may make funds avail-
20 able to an institution in the World Bank Group if—

21 “(1) the Secretary of the Treasury, the Admin-
22 istrator of the Environmental Protection Agency, or
23 the Administrator of the Agency for International
24 Development determines that the institution will use
25 any part of the funds to provide financial assistance

1 with respect to a project or activity that will have a
2 significant adverse environmental impact, or that
3 will violate an environmental or social policy of the
4 World Bank Group;

5 “(2) the Secretary of the Treasury or the Ad-
6 ministrator of the Agency for International Develop-
7 ment has certified to the committees specified in
8 subsection (d)(3) that a project funded by the insti-
9 tution has resulted in significant involuntary reset-
10 tlement, unless the Secretary or the Administrator
11 subsequently have certified to such committees that
12 the institution has verified that all of the costs of
13 such resettlement, including all costs incurred by
14 those involuntarily resettled, have been paid by enti-
15 ties other than those involuntarily resettled; or

16 “(3) the institution has not developed and im-
17 plemented a ‘pay-for-performance policy’ which re-
18 quires salary or pay reduction, or termination of em-
19 ployment, for any employee of the institution who is
20 involved in the preparation, appraisal, or implemen-
21 tation of any project or activity which, if conducted,
22 would violate any environmental or social policy of
23 the World Bank Group.

24 “(b) USE OF UNITED STATES INFLUENCE TO
25 ACHIEVE FUNDING CONDITIONS.—The Secretary of the

1 Treasury shall instruct the United States Executive Direc-
2 tor at each institution in the World Bank Group to use
3 the voice, vote, and influence of the United States to—

4 “(1) oppose the provision by the institution of
5 financial assistance of any kind for any project or
6 activity that the Administrator of the Environmental
7 Protection Agency and the Administrator of the
8 Agency for International Development have deter-
9 mined will have a significant adverse environmental
10 impact or violate an environmental or social policy of
11 the World Bank Group;

12 “(2) oppose the provision of financial assistance
13 of any kind for any project if, at least 120 days be-
14 fore the board of directors of the institution votes to
15 approve or disapprove the project, the institution
16 does not make available to the public and to the
17 United States Executive Director at the institution
18 all environmental assessments, technical information,
19 feasibility studies, consultant reports on environ-
20 mental risks, engineering studies, Project Appraisal
21 Reports, Project Information Documents, resettle-
22 ment plans, plans involving indigenous peoples, su-
23 pervision reports, project completion reports, per-
24 formance audit reports, country assistance reviews,
25 draft policy papers, draft and final country assist-

1 ance strategies, quality assurance group reports,
2 compliance unit reports and audits, annual reviews
3 of portfolio performance, Policy Framework Papers,
4 and all documentation related to the categorization
5 of projects and of environmental screening docu-
6 ments relating to the project, and relating to all
7 projects with environmental and social impacts; and

8 “(3) oppose the provision of any financial as-
9 sistance that it would be unlawful for the Export-
10 Import Bank of the United States or the Overseas
11 Private Investment Corporation to provide, and seek
12 to have the institution adopt the same environmental
13 policies limiting the provision of financial assistance
14 as apply to the Export-Import Bank of the United
15 States or the Overseas Private Investment Corpora-
16 tion.

17 “(c) ENFORCEMENT.—If the Secretary of the Treas-
18 ury determines that an international financial institution
19 has provided financial assistance for a project or activity
20 over the opposition of the United States Executive Direc-
21 tor as expressed pursuant to subsection (b), then, in addi-
22 tion to any reduction pursuant to this subsection with re-
23 spect to any other such project or activity, the Secretary
24 shall reduce the amount of any payment required to be
25 made to the institution by any department, agency, or in-

1 strumentality of the United States, during the 5-year pe-
2 riod beginning with the date the financial assistance is so
3 provided, by a percentage equal to—

4 “(1) the total amount of financial assistance to
5 be provided by the institution for the project or ac-
6 tivity, divided by the total amount of financial assist-
7 ance to be provided by the institution to all projects
8 and activities during the period for which financial
9 assistance is to be provided by the institution for the
10 project or activity; multiplied by

11 “(2) the total amount of contributions paid to
12 the institution by any department, agency, or instru-
13 mentality of the United States during the 5-year pe-
14 riod ending on the date the assistance begins to be
15 so provided, divided by the total amount of contribu-
16 tions paid to the institution by all member countries
17 of the institution during such 5-year period.

18 “(d) COMPLIANCE REPORT.—

19 “(1) IN GENERAL.—The Secretary of the
20 Treasury, the Administrator of the Environmental
21 Protection Agency, and the Administrator of the
22 Agency for International Development shall prepare
23 annual reports on the extent to which the United
24 States Executive Directors at the institutions in the
25 World Bank Group have complied with subsection

1 (b), and a statement of the number of projects which
2 were approved by such institutions, notwithstanding
3 opposition or abstention by the United States Execu-
4 tive Directors involved, and a record of the United
5 States Executive Directors' voting records.

6 “(2) EFFORTS TO HAVE PROBLEM PROJECT
7 WATCH LISTS RELEASED.—The United States Exec-
8 utive Directors at the institutions in the World Bank
9 Group and the Secretary of the Treasury shall seek
10 the public release of any list which details problem
11 projects and those projects that do not comply with
12 an environmental or social policy of the World Bank
13 Group.

14 “(3) SUBMISSION.—On October 1 of each fiscal
15 year, the Secretary of the Treasury, the Adminis-
16 trator of the Environmental Protection Agency, and
17 the Administrator of the Agency for International
18 Development shall submit each report required by
19 paragraph (1) to the Committee on Foreign Rela-
20 tions and the Committee on Environment and Public
21 Works of the Senate and the Committee on Banking
22 and Financial Services and the Committee on Inter-
23 national Affairs of the House of Representatives.

24 “(e) DEFINITIONS.—In this section:

1 “(1) ENVIRONMENTAL OR SOCIAL POLICY OF
2 THE WORLD BANK GROUP.—The term ‘environ-
3 mental or social policy of the World Bank Group’ in-
4 cludes Operational Policies (OP), Operational Direc-
5 tives (OD), and Operational Policies Notes (OPN),
6 including the matters set forth in the following docu-
7 ments:

8 “(A) Information Policy.

9 “(B) Environmental assessment (OP
10 4.01).

11 “(C) Natural Habitats (OP 4.04).

12 “(D) Pest Management (OP 4.09).

13 “(E) Forestry (OP 4.36).

14 “(F) Safety of Dams (OP 4.37).

15 “(G) Cultural Property (OPN 4.11).

16 “(H) Indigenous Peoples (OD 4.20).

17 “(I) Involuntary Resettlement (OD 4.30).

18 “(J) Projects in International Waterways
19 (OP 7.50).

20 “(K) Projects in Disputed Areas (OP
21 7.60).

22 “(L) Project Supervision (OD 13.05) .

23 “(M) Project Monitoring And Evaluation
24 (OD 10.70).

1 “(2) INSTITUTION IN THE WORLD BANK
2 GROUP.—The term ‘institution in the World Bank
3 Group’ means the International Bank for Recon-
4 struction and Development, the International Devel-
5 opment Association, the International Finance Cor-
6 poration, and the Multilateral Investment Guarantee
7 Agency.

8 “(3) OPPOSE.—The term ‘oppose’ means, with
9 respect to voting, to vote ‘No’.

10 “(4) SIGNIFICANT.—The term ‘significant’—

11 “(A) in relation to an adverse environ-
12 mental impact, has the meaning given in sec-
13 tion 1508.27 of volume 40, Code of Federal
14 Regulations (in effect as of July 1, 1998); and

15 “(B) in relation to involuntary resettle-
16 ment, means any resettlement that affects in-
17 digenous populations, and any resettlement
18 project that affects more than 500 individ-
19 uals.”.

20 **SEC. 4. ADVANCEMENT OF ENVIRONMENTAL AND SOCIAL**
21 **GOALS.**

22 Title XIII of the International Financial Institutions
23 Act (22 U.S.C. 262m–262m–7) is further amended by
24 adding at the end the following:

1 **“SEC. 1309. ADVANCEMENT OF ENVIRONMENTAL AND SO-**
2 **CIAL GOALS.**

3 “The Secretary of the Treasury shall instruct the
4 United States Executive Director at the institutions of the
5 World Bank Group to use the voice, vote, and influence
6 of the United States to encourage the institutions to—

7 “(1) establish a list of projects and categories
8 of projects for which the institutions will not provide
9 financial assistance because doing so would cause se-
10 rious environmental or social effects; and

11 “(2) work with other donor countries to estab-
12 lish an environmental and social trust fund to ame-
13 liorate the detrimental environmental and social ef-
14 fects caused by projects.”.

15 **SEC. 5. STRENGTHENING OF ENVIRONMENTAL ASSESS-**
16 **MENT REQUIREMENTS.**

17 (a) EXTENSION OF REQUIREMENTS TO ALL INTER-
18 NATIONAL FINANCIAL INSTITUTIONS.—Section 1307 of
19 the International Financial Institutions Act (22 U.S.C.
20 262m) is amended—

21 (1) in subsections (a) through (f), except in
22 subsection (d)(2)—

23 (A) by striking “multilateral development
24 bank” each place it appears and inserting
25 “international financial institution”; and

1 (B) by striking “banks” each place it ap-
2 pears and inserting “institutions”;

3 (2) in subsection (d)(2), by striking “a multilat-
4 eral development bank” and inserting “an inter-
5 national financial institution”; and

6 (3) by striking subsection (g) and inserting the
7 following:

8 “(g) INTERNATIONAL FINANCIAL INSTITUTION DE-
9 FINED.—In this section, the term ‘international financial
10 institution’ has the meaning given in section 1701(c)(2).”.

11 (b) ELIMINATION OF EXCEPTION TO ASSESSMENT
12 REQUIREMENT.—Section 1307(a) of such Act (22 U.S.C.
13 262m(a)) is amended—

14 (1) by striking “(a) ASSESSMENT” and all that
15 follows through “(1) IN GENERAL.—Beginning” and
16 inserting the following:

17 “(a) ASSESSMENT REQUIRED BEFORE FAVORABLE
18 VOTE ON ACTION.—Beginning”;

19 (2) by striking “(A)” and inserting “(1)”;

20 (3) by striking “(B) except as provided in para-
21 graph (2),” and inserting “(2)”;

22 (4) by moving the provisions amended by para-
23 graphs (2) and (3) of this subsection 2 ems to the
24 left; and

25 (5) by striking paragraph (2).

1 (c) ASSESSMENTS TO INCLUDE PROPOSALS FOR
2 MITIGATING POTENTIAL ADVERSE ENVIRONMENTAL IM-
3 PACTS.—Section 1307(a)(1) of such Act (22 U.S.C.
4 262m(a)(1)), as amended by subsection (b) of this section,
5 is amended by inserting “, and proposing methods to miti-
6 gate any potential adverse environmental impacts of the
7 proposed action,” before “has been completed”.

○