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TROPICAL FOREST AND CORAL CONSERVATION REAUTHORIZATION ACT OF 2009

JULY 16, 2009.—Ordered to be printed

Mr. KERRY, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 345]

The Committee on Foreign Relations, having had under consideration the bill (S. 345) to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2012, to rename the Tropical Forest Conservation Act of 1998 as the “Tropical Forest and Coral Conservation Act of 2009,” and for other purposes, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose	1
II. Committee Action	1
III. Discussion	1
IV. Cost Estimate	4
V. Evaluation of Regulatory Impact	6
VI. Changes in Existing Law	6

I. PURPOSE

The purpose of S. 345 is to protect and conserve the world’s tropical forests and coral reefs through debt swap mechanisms.

II. COMMITTEE ACTION

S. 345 was introduced by Senators Lugar and Kerry on January 29, 2009. It is cosponsored by Senators Brownback, Leahy, Durbin, Kaufman, Lieberman, Murray, Bill Nelson, Shaheen, and Whitehouse. On May 5, 2009, the committee ordered the bill reported favorably by voice vote.

III. DISCUSSION

The Tropical Forest and Coral Conservation Act (TFCCA) of 2009 reauthorizes and revises the Tropical Forest Conservation Act

(P.L. 108–323), legislation to protect the world’s most valuable tropical forests and coral reefs by forgiving debts owed the United States by developing countries in exchange for the preservation of significant tropical forests and coral reefs. This market-oriented conservation program is based on the Enterprise for the Americas Initiative (P.L. 102–532), which allowed the President to restructure debt in exchange for conservation efforts in Latin America.

TFCCA will help secure and protect endangered habitats and species faced with extinction due to climate change, deforestation, and other environmental and anthropogenic pressures. The initiative will directly sustain efforts to protect tropical forests, which harbor a major share of the Earth’s biological and terrestrial resources and provide multiple ecological, economic and social benefits, including food, fuel, shelter, clean water, stable soils, medicines, livelihood and employment. It will help slow the extinction of animal and plant species by preserving rare and valuable tropical forest and coral reef habitats that house an estimated 10–30 million plant and animal species, including species essential to medicinal research and continued agricultural productivity in the United States and around the globe. The initiative focuses its efforts in developing countries, where economic pressure, poverty, food insecurity, energy needs, and capital and investment priorities have contributed to rapid deforestation and forest degradation.

An additional benefit of the initiative is its role in mitigating climate change. Tropical forests act as “carbon sinks,” absorbing an estimated 1 billion metric tons of carbon annually from the atmosphere. Conversely, the harvesting and burning of tropical forests adds an estimated 1.6 billion metric tons of carbons to the earth’s atmosphere every year.

The legislation makes coral reefs and associated coastal marine ecosystems, which face extreme vulnerability due to the effects of climate change, eligible for protection. Coral reefs provide a wide range of benefits to mankind; they harbor more species per unit area than any other marine habitat and provide the basis for developing pharmaceutical products and fostering a growing marine tourism sector. They are also a major source of food and jobs for hundreds of millions of coastal residents and serve as natural storm barriers, protecting vulnerable shorelines and communities from storm waves and erosion. Several countries may be well placed to pursue agreements to protect their coral reefs.

It is important to note that the legislation is meant to apply strictly to tropical forests, coral reefs, and associated coastal marine ecosystems. Eligible tropical forests should contain unique biodiversity, or should be representative of a larger tropical forest on a global, continental or regional scale. The legislation is not intended to include other non-tropical forest areas in temperate climates. Associated coastal marine ecosystems are understood to be those areas which surround or directly relate to a coral reef and are important to maintaining the ecological integrity of that coral reef. The committee does not intend for the legislation to be interpreted broadly, and TFCCA does not apply to coastal marine ecosystems that only have a tangential link to a nearby coral reef system.

The legislation achieves its objectives by authorizing the U.S. Government to negotiate agreements with eligible countries to redi-

rect portions of their debt owed to the U.S. Government toward a fund that will provide grants to local organizations to undertake conservation activities in tropical forests and coral reefs. As part of the consultation with appropriate officials of the Federal Government noted in Section 809 of the bill, the committee encourages inclusion of the National Oceanic and Atmospheric Administration (NOAA), in addition to the other relevant agencies, in the consultative process for conservation agreements that include a coral protection component. Funds generated from debt-for-nature transactions will be deposited in a tropical forest or coral reef fund for each country. The fund is overseen by an administering body composed of one or more appointees chosen by the U.S. Government and the government of the beneficiary country, and individuals who represent a broad range of environmental, academic, and scientific organizations in the beneficiary country. Under one version of a debt-for-nature transaction authorized by this legislation, local currency payments accrued on restructured loans are deposited into a tropical forest or coral fund and serve as the fund's principal. Interest earned from this principal balance and the principal itself is usually given in the form of grants to fund conservation projects. Leverage opportunities exist as well; participation of third parties (e.g., non-governmental organizations) under the debt-swap option can increase the amount of funds available to treat debt. In addition, the legislation is intended to build grass roots capacity and help promote and instill a culture of conservation through grants to community and other local non-governmental organizations.

The legislation includes authority for three types of debt mechanisms used to conduct debt-for-nature transactions: debt restructuring and reduction, three-party debt swaps, or debt buyback by the debtor country. In a three-party swap, a conservation group purchases an official debt owed to a creditor government at a discounted rate compared to the face value of the debt. The group then renegotiates the debt obligation with the debtor country. The debt is generally sold back to the debtor country for more than the NGO purchase price, but for less than its secondary market price. The proceeds generated from the renegotiated debt, to be repaid in local currency, are typically put into a fund that allocates grants to local environmental organizations for conservation projects. In these cases, the conservation organization, representatives from local environmental groups, and the debtor government administer the fund. Money to buy the debt initially may come from the NGO, governments, banks, or other private organizations.

In a debt-restructuring agreement, the original debt agreement is cancelled—a percentage of the face value of the debt is reduced—and a new agreement is created with a provision for an annual amount of money, in local currency, to be deposited into an environmental fund. This transaction is bilateral in nature and is conducted between the U.S. Government and the debtor government. The creditor government(s) determine the criteria for eligibility, which usually involve the existence of certain financial and political conditions in the debtor country.

In a debt buyback agreement, the debt is bought back by the debtor country for a discounted price. Money for the environment is generated from a percentage of the buyback price.

The committee understands that oversight mechanisms developed to monitor the tropical forest component of this program will be extended to cover the coral reef component which is being authorized in this bill. The Enterprise for the Americas Initiative Board section was removed because it was effectively defunct. Oversight of TFCA operations has been handled through an inter-agency process for, at least, the past 6 years. The committee supports and encourages the use of financial audits to ensure that funds are appropriately utilized. Current oversight includes the following:

- Funds for this program are subject to periodic formal evaluations and annual fund evaluations recently required as part of OMB's Program Assessment Rating Tool (PART). TFCA Evaluation Scorecard is completed each year on each TFCA Fund. The Evaluation Scorecard was developed to provide for consistent, on-going evaluation and reporting across local TFCA programs. Grant recipients sign agreements that establish the timeline, budget, and reporting requirements for each grant. Grant proposals must meet criteria, including detailed budgets, established by the local board/oversight committee.
- A local board or oversight committee is required to monitor performance under each grant agreement signed to make sure that time schedules and other performance goals are being achieved. All grant agreements include provisions requiring periodic progress reports from the grantee to the Board. These progress reports review all components of the grant which are essential to the successful achievement of the activity for which the grant was awarded. Boards and oversight committees also hold grantees accountable for both financial and programmatic aspects of their activities.
- Local TFCA activities are managed in-country primarily by local NGOs and community groups who live and work in the areas in which they are undertaking the activities. This enables a relatively continuous presence in the forest by those who are implementing approved activities. In addition, the TFCA secretariat manages the TFCA annual management budget. Evaluations undertaken with these funds include local site visits to determine that activities are being carried out consistent with the terms of the TFCA agreement.

V. COST ESTIMATE

In accordance with rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee provides this estimate of the costs of this legislation prepared by the Congressional Budget Office.

UNITED STATES CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 20, 2009.

Hon. JOHN F. KERRY, JR.,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 345, the Tropical Forest and Coral Conservation Reauthorization Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John Chin.

Sincerely,

DOUGLAS W. ELMENDORF.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 20, 2009.

S. 345

**Tropical Forest and Coral Conservation
Reauthorization Act of 2009**

AS ORDERED REPORTED BY THE SENATE COMMITTEE
ON FOREIGN RELATIONS ON MAY 5, 2009

S. 345 would authorize the appropriation of \$25 million in 2009 and \$90 million over the 2010–2012 period to restructure debt owed to the United States in exchange for agreements that the indebted countries would conserve tropical forests, coral reefs, and coastal marine ecosystems. CBO estimates that implementing the bill would cost \$87 million over the 2010–2014 period, assuming that no further appropriations will be provided for such purposes for fiscal year 2009, that the amounts specified for 2010 through 2012 will be appropriated, and that outlays will follow historical spending patterns for those programs.

Enacting the bill would not affect direct spending or revenues. S. 345 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

S. 345 would reauthorize the Tropical Forest Conservation Act of 1998 (TFCA) through 2012 and broaden its scope to include coral reefs and coastal marine ecosystems. The act, which expired in 2007, previously applied only to tropical forests. The Congress extended TFCA programs by providing \$20 million in both 2008 and 2009. TFCA allows the United States to modify concessional debt held by eligible countries and redirect payments in local currency to support forest conservation programs. The debt modifications include authority to reduce and to restructure debt, to swap debt, or to sell debt back to an eligible country in ways that will generate income for conservation efforts. S. 345 would authorize the appropriation of \$25 million in 2009 and \$30 million annually over the 2010–2012 period to cover the cost of loan modifications, as defined by the Federal Credit Reform Act.

The estimated budgetary impact of S. 345 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

Changes in Spending Subject to Appropriation Due to S. 345*
By Fiscal Year, in Millions of Dollars

	2010	2011	2012	2013	2014	2010– 2014
Authorization Level	30	30	30	0	0	90
Estimated Outlays	3	18	27	27	12	87

* S. 345 also would authorize the appropriation of \$25 million for fiscal year 2009, but CBO assumes there would be no additional funding for tropical forest and coral conservation for this year.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has determined that there is no regulatory impact as a result of this legislation.

VI. CHANGES IN EXISTING LAW

In compliance with rule XXVI, paragraph 12 of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman).

The Foreign Assistance Act of 1961

* * * * *

PART IV—ENTERPRISE FOR THE AMERICAS INITIATIVE

* * * * *

SEC. 703. ELIGIBILITY FOR BENEFITS.

(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this part, a country must be a Latin American or Caribbean country—

(1) * * *

* * * * *

(5) that has in effect, has received approval for, **[or, as appropriate in exceptional circumstances,]** *or* is making significant progress toward—

(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, **[or in exceptional circumstances, a Fund monitored program or its equivalent,]** *or a Fund monitored program, or is implementing sound macroeconomic policies*, unless the President determines **[(after consultation with the Enterprise for the Americas Board)]** that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines [(after consultation with the Enterprise for the Americas Board)] that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

* * * * *

PART V—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS

SEC. 801. SHORT TITLE.

This part may be cited as the [“Tropical Forest Conservation Act of 1998”] *“Tropical Forest and Coral Conservation Act of 2009”*.

SEC. 802. FINDINGS AND PURPOSES.

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

(1) It is the established policy of the United States to support and seek protection of [tropical forests] *tropical forests and coral reefs and associated coastal marine ecosystems* around the world.

(2) Tropical forests provide a wide range of benefits to humankind by—

(A) harboring a major share of the Earth’s biological and terrestrial [resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops] *resources*;

(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

(C) regulating hydrological cycles on which [far-flung] agricultural and coastal resources depend.

(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for [tropical forests] *tropical forests and coral reefs and associated coastal marine ecosystems*.

(7) Finding economic benefits to local communities from sustainable uses of tropical forests and coral reefs and associated coastal marine ecosystems is critical to the protection of [tropical forests] *tropical forests and coral reefs and associated coastal marine ecosystems*.

(b) PURPOSES.—The purposes of this part are—

(1) to recognize the values received by United States citizens from protection of **【tropical forests】** *tropical forests and coral reefs and associated coastal marine ecosystems*;

(2) to facilitate greater protection of **【tropical forests】** *tropical forests and coral reefs and associated coastal marine ecosystems* (and to give priority to protecting **【tropical forests】** *areas* with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where **【tropical forests】** *tropical forests and coral reefs and associated coastal marine ecosystems* are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures **【that have led to deforestation】** *on such countries*;

(3) to ensure that resources freed from debt in such countries are targeted to protection of **【tropical forests】** *tropical forests and coral reefs and associated coastal marine ecosystems*; and

(4) to rechannel existing resources to facilitate the protection of **【tropical forests】** *tropical forests and coral reefs and associated coastal marine ecosystems*.

SEC. 803. DEFINITIONS.

As used in this part:

(1) ADMINISTERING BODY.—The term “administering body” means the entity provided for in section 809(c).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) BENEFICIARY COUNTRY.—The term “beneficiary country” means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

【(4) BOARD.—The term “Board” means the board referred to in section 811.**】**

【(5) (4) DEVELOPING COUNTRY WITH A 【TROPICAL FOREST】 TROPICAL FOREST OR CORAL REEF.—The term “developing country with a **【tropical forest】** *tropical forest or coral reef*” means—

(A)(i) a country that has a per capita income of \$725 or less in 1994 United States dollars (commonly referred to as “low-income country”), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

(ii) a country that has a per capita income of more than \$725 but less than \$8,956 in 1994 United States dollars (commonly referred to as “middle-income country”), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

(B) a country that contains at least one **【tropical forest】** *tropical forest or coral reef* that is globally outstanding in terms of its biological diversity or represents one of the

larger intact blocks of **[tropical forests]** *tropical forests or coral reefs* left, on a regional, continental, or global scale.

[(6)] (5) ELIGIBLE COUNTRY.—The term “eligible country” means a country designated by the President in accordance with section 805.

[(7)] (6) [TROPICAL FOREST AGREEMENT] CONSERVATION AGREEMENT.—The term **[(“Tropical Forest Agreement”)]** “*Conservation Agreement*” or “Agreement” means a **[Tropical Forest Agreement]** *Conservation Agreement* provided for in section 809.

[(8)] (7) [TROPICAL FOREST FACILITY] CONSERVATION FACILITY.—The term **[(“Tropical Forest Facility”)]** “*Conservation Facility*” or “Facility” means the **[Tropical Forest Facility]** *Conservation Facility* established in the Department of the Treasury by section 804.

[(9)] (8) [TROPICAL FOREST FUND] CONSERVATION FUND.—The term **[(“Tropical Forest Fund”)]** “*Conservation Fund*” or “Fund” means a **[Tropical Forest Fund]** *Conservation Fund* provided for in section 810.

(10) CORAL.—*The term “coral” means species of the phylum Cnidaria, including—*

(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Alcyonacea (soft corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), and Coenothecalia (blue coral), of the class Anthoza; and

(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

(11) CORAL REEF.—*The term “coral reef” means any reef or shoal composed primarily of coral.*

(12) ASSOCIATED COASTAL MARINE ECOSYSTEM.—*The term “associated coastal marine ecosystem” means any coastal marine ecosystem surrounding, or directly related to, a coral reef and important to maintaining the ecological integrity of that coral reef, such as seagrasses, mangroves, sandy seabed communities, and immediately adjacent coastal areas.*

SEC. 804. ESTABLISHMENT OF THE FACILITY.

There is established in the Department of the Treasury an entity to be known as the **[(“Tropical Forest Facility”)]** “*Conservation Facility*” for the purpose of providing for the administration of debt reduction in accordance with this part.

SEC. 805. ELIGIBILITY FOR BENEFITS.

(a) IN GENERAL.—To be eligible for benefits from the Facility under this part, a country shall be a developing country with a **[tropical forest]** *tropical forest or coral reef*—

(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of this Act; and

(2) that has put in place investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate.

(b) ELIGIBILITY DETERMINATIONS.—

(1) **IN GENERAL.**—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part.

(2) **CONGRESSIONAL NOTIFICATION.**—The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

SEC. 806. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CONCESSIONAL LOANS UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) **AUTHORITY TO REDUCE DEBT.**—

(1) **AUTHORITY.**—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

- (A) \$25,000,000 for fiscal year 1999;
- (B) \$75,000,000 for fiscal year 2000; and
- (C) \$100,000,000 for fiscal year 2001.

(3) **CERTAIN PROHIBITIONS INAPPLICABLE.**—

(A) **IN GENERAL.**—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

(B) **ADDITIONAL REQUIREMENT.**—The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

(b) **IMPLEMENTATION OF DEBT REDUCTION.**—

(1) **IN GENERAL.**—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) **EXCHANGE OF OBLIGATIONS.**—

(A) **IN GENERAL.**—The Facility shall notify the agency primarily responsible for administering part I of this Act of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) **ADDITIONAL REQUIREMENT.**—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

(c) **ADDITIONAL TERMS AND CONDITIONS.**—(1) The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and con-

ditions apply to the reduction of debt under section 704(a)(1) of this Act:

(A) The provisions relating to repayment of principal under section 705 of this Act.

(B) The provisions relating to interest on new obligations under section 706 of this Act.

(2) In addition to the application of the provisions relating to repayment of principal under section 705 of this Act to the reduction of debt under subsection (a)(1) (in accordance with paragraph (1)(A) of this subsection), repayment of principal on a new obligation established under subsection (b) may be made in the local currency of the beneficiary country and deposited in the **【Tropical Forest Fund】** *Conservation Fund* of the country in the same manner as the provisions relating to payment of interest on new obligations under section 706 of this Act.

(d) **AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS AFTER FISCAL YEAR 2001.**—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section or section 807, there are authorized to be appropriated to the President the following:

- (1) \$50,000,000 for fiscal year 2002.
- (2) \$75,000,000 for fiscal year 2003.
- (3) \$100,000,000 for fiscal year 2004.
- (4) \$20,000,000 for fiscal year 2005.
- (5) \$25,000,000 for fiscal year 2006.
- (6) \$30,000,000 for fiscal year 2007.
- (7) \$20,000,000 for fiscal year 2008.
- (8) \$25,000,000 for fiscal year 2009.
- (9) \$30,000,000 for fiscal year 2010.

【(e) USE OF FUNDS TO CONDUCT PROGRAM AUDITS AND EVALUATIONS.—Of the amounts made available to carry out this part for a fiscal year, \$200,000 is authorized to be made available to carry out audits and evaluations of programs under this part, including personnel costs associated with such audits and evaluations.】

(e) USE OF FUNDS TO CONDUCT PROGRAM AUDITS, EVALUATIONS, MONITORING, AND ADMINISTRATION.—*Of the amounts made available to carry out this part for a fiscal year, \$300,000 is authorized to be made available to carry out audits, evaluations, monitoring, and administration of programs under this part, including personnel costs associated with such audits, evaluations, monitoring and administration.*

SEC. 807. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CREDITS EXTENDED UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

(a) **AUTHORITY TO REDUCE DEBT.**—

(1) **AUTHORITY.**—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—

(A) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

- (i) \$25,000,000 for fiscal year 1999;
- (ii) \$50,000,000 for fiscal year 2000; and
- (iii) \$50,000,000 for fiscal year 2001.

(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to this section are made in advance.

(b) IMPLEMENTATION OF DEBT REDUCTION.—

(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

(2) EXCHANGE OF OBLIGATIONS.—

(A) IN GENERAL.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

(c) ADDITIONAL TERMS AND CONDITIONS.—(1) The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

(A) The provisions relating to repayment of principal under section 605 of such Act.

(B) The provisions relating to interest on new obligations under section 606 of such Act.

(2) In addition to the application of the provisions relating to repayment of principal under section 605 of the Agricultural Trade Development and Assistance Act of 1954 to the reduction of debt under subsection (a)(1) (in accordance with paragraph (1)(A) of this subsection), repayment of principal on a new obligation established under subsection (b) may be made in the local currency of the beneficiary country and deposited in the [Tropical Forest Fund] *Conservation Fund* of the country in the same manner as the provisions relating to payment of interest on new obligations under section 606 of such Act.

SEC. 808. AUTHORITY TO ENGAGE IN DEBT-FOR-NATURE SWAPS AND DEBT BUYBACKS.

(a) LOANS AND CREDITS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) DEBT-FOR-NATURE SWAPS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

(B) ELIGIBLE PURCHASER DESCRIBED.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d).

(C) CONSULTATION REQUIREMENT.—Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d).

(D) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to be appropriated under sections 806(a)(2), 807(a)(2), and 806(d) shall be made available for such reduction of debt pursuant to subparagraph (A).

(2) DEBT BUYBACKS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than the lesser of 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 809(d).

(3) LIMITATION.—The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to such paragraphs are made in advance.

(4) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

(5) ADMINISTRATION.—

(A) IN GENERAL.—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

(B) ADDITIONAL REQUIREMENT.—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(C) UNITED STATES GOVERNMENT REPRESENTATION ON THE ADMINISTERING BODY.—*One or more individuals appointed by the United States Government may serve in an official capacity on the administering body that oversees the implementation of grants arising from a debt-for-nature swap or debt buy-back regardless of whether the United States is a party to any agreement between the eligible purchaser and the government of the beneficiary country.*

(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

SEC. 809. [TROPICAL FOREST AGREEMENT] CONSERVATION AGREEMENT.

[(a) AUTHORITY.—

[(1) IN GENERAL.—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

[(2) CONSULTATION.—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.]

(a)(1) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Conservation Agreement with any eligible country concerning the operation and use of the Fund for that country.

(2) CONSULTATION.—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.

(b) CONTENTS OF AGREEMENT.—The requirements contained in section 708(b) of this Act (relating to contents of an agreement) shall apply to an Agreement in the same manner as such requirements apply to an Americas Framework Agreement.

(c) ADMINISTERING BODY.—

(1) IN GENERAL.—Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

(2) COMPOSITION.—

(A) IN GENERAL.—The administering body shall consist of—

- (i) one or more individuals appointed by the United States Government *to serve in an official capacity*;
- (ii) one or more individuals appointed by the government of the beneficiary country; and
- (iii) individuals who represent a broad range of—
 - (I) environmental nongovernmental organizations of, or active in, the beneficiary country;
 - (II) local community development nongovernmental organizations of the beneficiary country; and
 - (III) scientific, academic, or forestry organizations of the beneficiary country.

(B) ADDITIONAL REQUIREMENT.—A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

(3) RESPONSIBILITIES.—The requirements contained in section 708(c)(3) of this Act (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 708(c)(1) of this Act.

(d) ELIGIBLE ACTIVITIES.—Amounts deposited in a Fund shall be used only to provide grants to conserve, maintain, and restore the **【tropical forests】** *tropical forests and coral reefs and associated coastal marine ecosystems related to such coral reefs* in the beneficiary country, through one or more of the following activities:

- (1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.
- (2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.
- (3) Training programs to increase the scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.
- (4) Restoration, protection, or sustainable use of diverse animal and plant species.
- (5) Research and identification of medicinal uses of **【tropical forest】** plant life to treat human diseases, illnesses, and health related concerns.
- (6) Development and support of the livelihoods of individuals **【living in or near a tropical forest in a manner consistent with protecting such tropical forest】** *dependent on a tropical forest or coral reef or an associated coastal marine ecosystem related to such coral reef and related resources in a manner consistent with conserving such resources.*

(e) GRANT RECIPIENTS.—

(1) IN GENERAL.—Grants made from a Fund shall be made to—

- (A) nongovernmental environmental, forestry, conservation, and indigenous peoples organizations of, or active in, the beneficiary country;
- (B) other appropriate local or regional entities of, or active in, the beneficiary country; or
- (C) **【in exceptional circumstances, the government of the beneficiary country】** *in limited circumstances, the govern-*

ment of the beneficiary country when needed to improve governance and enhance management of tropical forests or coral reefs or associated coastal marine ecosystems, without replacing existing levels of financial efforts by the government of the beneficiary country and with priority given to projects that complement grants made under subparagraphs (A) and (B).

(2) PRIORITY.—In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in their planning and execution.

[(f) REVIEW OF LARGER GRANTS.—Any grant of more than \$100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.]

(f) REVIEW OF LARGER GRANTS.—Any grant of more than \$250,000 from a Fund must be approved by the Government of the United States and the government of the beneficiary country.

(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

SEC. 810. [TROPICAL FOREST FUND] CONSERVATION FUND.

(a) ESTABLISHMENT.—Each beneficiary country that enters into a [Tropical Forest Agreement] *Conservation Agreement* under section 809 shall be required to establish a [Tropical Forest Fund] *Conservation Fund* to receive payments of interest and principal on new obligations undertaken by the beneficiary country under this part.

(b) REQUIREMENTS RELATING TO OPERATION OF FUND.—The following terms and conditions shall apply to the Fund in the same manner as such terms as conditions apply to an Enterprise for the Americas Fund under section 707 of this Act:

(1) The provision relating to deposits under subsection (b) of such section.

(2) The provision relating to investments under subsection (c) of such section.

(3) The provision relating to disbursements under subsection (d) of such section.

[SEC. 811. BOARD.]

[(a) ENTERPRISE FOR THE AMERICAS BOARD.—The Enterprise for the Americas Board established under section 610(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(a)) shall, in addition to carrying out the responsibilities of the Board under section 610(c) of such Act, carry out the duties described in subsection (c) of this section for the purposes of this part.]

[(b) ADDITIONAL MEMBERSHIP.—

[(1) IN GENERAL.—The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

[(A) Two representatives from the United States Government, including a representative of the International Forestry Division of the United States Forest Service.

[(B) Two representatives from private nongovernmental environmental, scientific, forestry, or academic organizations with experience and expertise in preservation, maintenance, sustainable uses, and restoration of tropical forests.

[(2) CHAIRPERSON.—Notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)), the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President and shall be the representative from the Department of State appointed under section 610(b)(1)(A) of such Act”.

[(c) DUTIES.—The duties described in this subsection are as follows:

[(1) Advise the Secretary of State on the negotiations of Tropical Forest Agreements.

[(2) Ensure, in consultation with—

[(A) the government of the beneficiary country;

[(B) nongovernmental organizations of the beneficiary country;

[(C) nongovernmental organizations of the region (if appropriate);

[(D) environmental, scientific, forestry, and academic leaders of the beneficiary country; and

[(E) environmental, scientific, forestry, and academic leaders of the region (as appropriate), that a suitable administering body is identified for each Fund.

[(3) Review the programs, operations, and fiscal audits of each administering body.]

SEC. 812. CONSULTATIONS WITH THE CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

SEC. 813. ANNUAL REPORTS TO THE CONGRESS.

[(a) IN GENERAL.—Not later than December 31] *Not later than April 15* of each year, the President shall prepare and transmit to the Congress an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

(1) a description of the activities undertaken by the Facility during the previous fiscal year;

(2) a description of any Agreement entered into under this part;

(3) a report on any Funds that have been established under this part and on the operations of such Funds; and

(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

[(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—Not later than December 15 of each year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by De-

cember 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.】

