



AFRICAN DEVELOPMENT FUND ACT



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October 9, 2012

AFRICAN DEVELOPMENT FUND ACT

[As Amended Through P.L. 112–166, Enacted August 10, 2012]

AN ACT To provide for increased participation by the United States in the Inter-American Development Bank, to provide for the entry of nonregional members and the Bahamas and Guyana in the Inter-American Development Bank, to provide for the participation of the United States in the African Development Fund, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE II—AFRICAN DEVELOPMENT FUND

SEC. 201. [22 U.S.C. 290g note] This Title may be cited as the “African Development Fund Act”.

SEC. 202. [22 U.S.C. 290g] The President is hereby authorized to accept participation for the United States in the African Development Fund (hereinafter referred to as the “Fund”) provided for by the agreement establishing the Fund (hereinafter referred to as the “agreement”) deposited in the Archives of the United Nations.

SEC. 203. [22 U.S.C. 290g–1] (a) The President shall appoint a Governor, and an Alternate Governor, of the Fund—

- (1) by and with the advice and consent of the Senate; or
- (2) from among individuals serving as officials required by law to be appointed by and with the advice and consent of the Senate.

(b) The Governor, or in his absence the Alternate Governor, on the instructions of the President, shall cast the votes of the United States for the Director to represent the United States in the Fund. The Director representing the United States and his Alternate, if they are citizens of the United States, may, in the discretion of the President, receive such compensation, allowances, and other benefits not exceeding those authorized for a chief of mission under the Foreign Service Act of 1980.

SEC. 204. [22 U.S.C. 290g–2] The provisions of section 4 of the Bretton Woods Agreements Act, as amended (22 U.S.C. 286b), shall apply with respect to the Fund to the same extent as with respect to the International Bank for Reconstruction and Development and the International Monetary Fund.

SEC. 205. [22 U.S.C. 290g–3] Unless Congress by law authorizes such action, neither the President nor any person or agency shall, on behalf of the United States:

- (a) agree to an increase in the subscription of the United States to the Fund;

(b) vote for or agree to any amendment of the agreement which increases the obligations of the United States, or which would change the purpose or functions of the Fund; or

(c) make a loan or provide other financing to the Fund, except that funds for technical assistance may be provided to the Fund by a United States agency created pursuant to an Act of Congress which is authorized by law to provide funds to international organizations.

SEC. 206. [22 U.S.C. 290g-4] (a) There is hereby authorized to be appropriated without fiscal year limitation, as the United States subscription, \$25,000,000 to be paid by the Secretary of the Treasury to the Fund in three annual installments of \$9,000,000, \$8,000,000, and \$8,000,000.

(b) Any repayment or distribution of moneys from the Fund to the United States shall be covered into the Treasury as a miscellaneous receipt.

SEC. 207. [22 U.S.C. 290g-5] Any Federal Reserve bank which is requested to do so by the President shall act as a depository for the Fund, and the Board of Governors of the Federal Reserve System shall supervise and direct the carrying out of these functions by the Federal Reserve banks.

SEC. 208. [22 U.S.C. 290g-6] For the purpose of any civil action which may be brought within the United States, its territories or possessions, or the Commonwealth of Puerto Rico, by or against the Fund in accordance with the agreement, the Fund shall be deemed to be an inhabitant of the Federal judicial district in which its principal office or agency appointed for the purpose of accepting service or notice of service is located, and any such action to which the Fund shall be party shall be deemed to arise under the laws of the United States, and the district courts of the United States (including the courts enumerated in title 28, section 460, United States Code) shall have original jurisdiction of any such action. When the Fund is defendant in any action in a State court, it may, at any time before the trial thereof, remove such action into the district court of the United States for the proper district by following the procedure for removal of causes otherwise provided by law.

SEC. 209. [22 U.S.C. 290g-7] The agreement, including without limitation articles 41 through 50, shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon the acceptance of participation by the United States in, and the entry into force of, the Fund. The President, at the time of deposit of the instrument of acceptance of participation of the United States in the Fund, shall also deposit a declaration that the United States retains for itself and its political subdivisions the right to tax salaries and emoluments paid by the Fund to its citizens or nationals and may deposit a declaration providing for reservations on other matters set forth in article 58.

SEC. 210. [22 U.S.C. 290g-8] The President shall instruct the United States Governor of the Fund to cause the Executive Director representing the United States in the Fund to cast the votes of the United States against any loan or other utilization of the funds of the Fund for the benefit of any country which has—

(1) nationalized or expropriated or seized ownership or control of property owned by any United States citizen or by any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens;

(2) taken steps to repudiate or nullify existing contracts or agreements with any United States citizen or any corporation, partnership, or association not less than 50 per centum of which is beneficially owned by United States citizens; or

(3) imposed or enforced discriminatory taxes or other exactions, or restrictive maintenance or operational conditions, or has taken other actions, which have the effect of nationalizing, expropriating, or otherwise seizing ownership or control of property so owned;

unless the President determines that (A) an arrangement for prompt, adequate, and effective compensation has been made, (B) the parties have submitted the dispute to arbitration under the rules of the Convention for the Settlement of Investment Disputes, or (C) good faith negotiations are in progress aimed at providing prompt, adequate, and effective compensation under the applicable principles of international law.

SEC. 211. [22 U.S.C. 290g-10] (a) The United States Governor is hereby authorized to contribute on behalf of the United States \$50,000,000 to the African Development Fund, which would represent an additional United States contribution to the first replenishment. The Secretary of the Treasury is directed to begin discussions with other donor nations to the African Development Fund for the purpose of setting amounts and of reviewing and possibly changing the voting structure within the Fund: *Provided, however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution to the African Development Fund provided for in this section there are authorized to be appropriated without fiscal year limitation \$50,000,000 for payment by the Secretary of the Treasury.

SEC. 212. [22 U.S.C. 290g-11] (a) The United States Governor of the Fund is authorized to contribute on behalf of the United States \$125,000,000 to the Fund as the United States contribution to the second replenishment of the resources of the Fund, except that any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there is authorized to be appropriated, without fiscal year limitation, \$125,000,000 for payment by the Secretary of the Treasury.

(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

(1) shall pay the United States contribution to the African Development Fund authorized by this section by letter of credit in three annual installments; and

(2) shall take the steps necessary to obtain a certification from the Fund that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time

the United States share of expected disbursement requirements for the following three-month period.

SEC. 213. [22 U.S.C. 290g-12] (a)(1) The United States Governor of the Fund is authorized to contribute on behalf of the United States \$150,000,000 to the Fund as the United States contribution to the third replenishment of the resources of the Fund.

(2) Any commitment to make the contribution authorized in paragraph (1) shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, \$150,000,000 for payment by the Secretary of the Treasury.

UNITED STATES CONTRIBUTION

SEC. 214. [22 U.S.C. 290g-13] (a)(1) The United States Governor of the Fund is authorized to contribute \$225,000,000 to the fourth replenishment of the resources of the Fund.

(2) Any commitment to make the contribution authorized in paragraph (1) shall be made subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, \$225,000,000 for payment by the Secretary of the Treasury.

SEC. 215. [22 U.S.C. 290g-14] FIFTH REPLENISHMENT.

(a) **CONTRIBUTION AUTHORIZED.**—The United States Governor of the Fund is authorized to contribute \$315,000,000 to the fifth replenishment of the resources of the Fund, except that such authority shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, \$315,000,000, for payment by the Secretary of the Treasury.

SEC. 216. [22 U.S.C. 290g-15] SIXTH REPLENISHMENT.

(a) **CONTRIBUTION AUTHORIZED.**—The United States Governor of the Fund is authorized to contribute \$405,000,000 to the sixth replenishment of the resources of the Fund, except that such authority shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) **LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.**—In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, \$135,000,000 for payment by the Secretary of the Treasury.

SEC. 217. [22 U.S.C. 290g-16] NINTH REPLENISHMENT.

(a) **CONTRIBUTION AUTHORITY.**—

(1) **IN GENERAL.**—The United States Governor of the Fund may contribute on behalf of the United States an amount equal to the amount appropriated under subsection (b), pursuant to

the resolution of the Fund entitled “The Ninth General Replenishment of Resources of the African Development Fund”.

(2) SUBJECT TO APPROPRIATIONS.—Any commitment to make the contribution authorized by paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the contribution authorized by subsection (a), there are authorized to be appropriated such sums as may be necessary for payment by the Secretary of the Treasury, without fiscal year limitation.

SEC. 218. [22 U.S.C. 290g-17] TENTH REPLENISHMENT.

(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States \$407,000,000 to the tenth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$407,000,000 for payment by the Secretary of the Treasury.

SEC. 219. [22 U.S.C. 290g-18] ELEVENTH REPLENISHMENT.

(a) The United States Governor of the African Development Fund is authorized to contribute on behalf of the United States \$468,165,000 to the eleventh replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$468,165,000 for payment by the Secretary of the Treasury.

SEC. 220. [22 U.S.C. 290g-19] MULTILATERAL DEBT RELIEF INITIATIVE.

(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than \$26,000,000 to the African Development Fund for the purpose of funding debt relief under the Multilateral Debt Relief Initiative in the period governed by the eleventh replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than \$26,000,000 for payment by the Secretary of the Treasury.

SEC. 221. [22 U.S.C. 290g-20] TWELFTH REPLENISHMENT.

(a) The United States Governor of the Fund is authorized to contribute on behalf of the United States \$585,000,000 to the twelfth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, \$585,000,000 for payment by the Secretary of the Treasury.

SEC. 222. [22 U.S.C. 290g-21] MULTILATERAL DEBT RELIEF.

(a) The Secretary of the Treasury is authorized to contribute, on behalf of the United States, not more than \$60,000,000 to the African Development Fund for the purpose of funding debt relief costs under the Multilateral Debt Relief Initiative incurred in the period governed by the twelfth replenishment of resources of the African Development Fund, subject to obtaining the necessary appropriations and without prejudice to any funding arrangements in existence on the date of the enactment of this section.

(b) In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, not more than \$60,000,000 for payment by the Secretary of the Treasury.

(c) In this section, the term “Multilateral Debt Relief Initiative” means the proposal set out in the G8 Finance Ministers’ Communiqué entitled “Conclusions on Development”, done at London, June 11, 2005, and reaffirmed by G8 Heads of State at the Gleneagles Summit on July 8, 2005.