

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. GARY G. MILLER OF
CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Securing American Jobs Through Exports Act of 2011”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings; statement of purpose.
- Sec. 3. Extension of authority.
- Sec. 4. Limitations on outstanding loans, guarantees, and insurance.
- Sec. 5. Content guidelines for the provision of bank financing.
- Sec. 6. Biennial audits of Bank transactions.
- Sec. 7. Use of portion of Bank surplus to update information technology systems.
- Sec. 8. Monitoring of default rates on Bank financing; reports on default rates.
- Sec. 9. Sense of the Congress regarding Bank accountability.
- Sec. 10. Sub-saharan africa advisory committee.
- Sec. 11. Extension of authority to provide financing for the export of nonlethal defense articles or services the primary end use of which will be for civilian purposes.
- Sec. 12. Elimination of obsolete provisions.
- Sec. 13. Effective date.

6 SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

7 (a) FINDINGS.—The Congress finds as follows:

8 (1) Export sales by United States companies
9 are critical to national economic growth.

1 (2) Increased demand for United States exports
2 in emerging markets will help small and large com-
3 panies maintain and create United States jobs.

4 (3) The Export-Import Bank contributes to a
5 stronger national economy by financing the export of
6 United States goods and services in markets where
7 private capital is limited or unavailable.

8 (4) The Export-Import Bank of the United
9 States does not compete with private sector lenders.

10 (5) The Export-Import Bank of the United
11 States helps finance United States exports to 183
12 countries.

13 (6) A large percentage of global growth will be
14 centered in markets served by the Export-Import
15 Bank of the United States, and the Bank will be
16 critical to helping United States companies compete
17 for these opportunities.

18 (7) Through its support for exports, in fiscal
19 year 2010 the Export-Import Bank of the United
20 States supported 227,000 American jobs at over
21 3,300 companies.

22 (8) The Export-Import Bank of the United
23 States helps to level the playing field for United
24 States exporters by matching the financing that
25 other governments provide to their exporters.

1 (9) All the leading exporting nations have offi-
2 cial export credit agencies that are used actively to
3 support their exporters.

4 (10) Through its insurance, loan, and loan
5 guarantee products, the Export-Import Bank of the
6 United States supports the promotion and mainte-
7 nance of high levels of employment and real income
8 and increased development of the productive re-
9 sources of the United States.

10 (11) The Export-Import Bank of the United
11 States requires reasonable assurance of repayment
12 for the transactions it authorizes, and the Bank
13 closely monitors credit and other risks in its port-
14 folio. The Bank prices transactions based on its risk
15 assessment of the buyers.

16 (12) Since 1934, the net loss rate for all long-
17 , medium-, and short-term loans made by the Ex-
18 port-Import Bank of the United States is 1.5 per-
19 cent.

20 (13) The Export-Import Bank of the United
21 States has been a self-sustaining institution since
22 fiscal year 2008, and surpluses of the Bank are re-
23 mitted to the United States Treasury. From fiscal
24 years 2008 through 2010, the Bank generated a
25 surplus of \$551,000,000.

1 (14) In fiscal year 2010, the Export-Import
2 Bank of the United States provided a record
3 \$5,000,000,000 directly supporting United States
4 small business exporters through 3,091 transactions,
5 representing 20 percent of the total value of the
6 Bank's authorizations and nearly 88 percent of the
7 total number of the Bank's authorizations.

8 (b) STATEMENT OF PURPOSE.—The purpose of this
9 Act is to reauthorize the activities and operations of the
10 Export-Import Bank of the United States to ensure that
11 the Bank provides financing, when commercial banks are
12 unable or unwilling to do so, competitive with the financ-
13 ing provided by foreign export credit agencies, in order
14 to enable United States companies to contribute to a
15 stronger national economy by maintaining or increasing
16 the employment of workers in the United States through
17 the export of goods and services.

18 **SEC. 3. EXTENSION OF AUTHORITY.**

19 Section 7 of the Export-Import Bank Act of 1945
20 (12 U.S.C. 635f) is amended by striking “2011” and in-
21 serting “2015”.

22 **SEC. 4. LIMITATIONS ON OUTSTANDING LOANS, GUARAN-**
23 **TEES, AND INSURANCE.**

24 Section 6(a)(2) of the Export-Import Bank Act of
25 1945 (12 U.S.C. 635e(a)(2)) is amended—

1 (1) in subparagraph (D), by striking “and”;

2 (2) in subparagraph (E), by striking the comma
3 at the end and inserting a semicolon; and

4 (3) by adding at the end the following:

5 “(F) during fiscal year 2012,
6 \$120,000,000,000;

7 “(G) during fiscal year 2013,
8 \$140,000,000,000; and

9 “(H) during fiscal year 2014 and each fiscal
10 year thereafter, \$160,000,000,000.”.

11 **SEC. 5. CONTENT GUIDELINES FOR THE PROVISION OF**
12 **BANK FINANCING.**

13 Section 2 of the Export-Import Bank Act of 1945
14 (12 U.S.C. 635) is amended by adding at the end the fol-
15 lowing:

16 “(i) CONTENT GUIDELINES FOR THE PROVISION OF
17 FINANCING.—

18 “(1) IN GENERAL.—The Bank shall, after no-
19 tice and comment and Board approval, establish
20 clear and comprehensive guidelines with respect to
21 the content of the goods and services involved in a
22 transaction for which the Bank will provide financ-
23 ing, which shall be aimed at ensuring that the Bank
24 enables companies with operations in the United
25 States to maintain and create jobs in the United

1 States and contribute to a stronger national econ-
2 omy through the export of their goods and services.

3 “(2) REQUIRED CONSIDERATIONS.—In estab-
4 lishing the guidelines, the Bank shall take into ac-
5 count such considerations as the Bank deems rel-
6 evant to meet the purposes described in paragraph
7 (1), including the following:

8 “(A) The needs of different industry sec-
9 tors to obtain financing from the Bank for ex-
10 porting their products or services in order to
11 create and maintain jobs in the United States.

12 “(B) The ability of companies with oper-
13 ations in the United States to compete effec-
14 tively for export opportunities that will create
15 and maintain jobs in the United States, par-
16 ticularly with respect to the Bank’s content re-
17 quirements and co-financing arrangements.

18 “(C) The totality of support, including fi-
19 nancing and subsidies, extended by export cred-
20 it agencies to support the exports of goods and
21 services, as well as key differences in, types of
22 trade-offs among, and national trade promotion
23 strategies of OECD member countries and of
24 non-OECD member countries.

1 “(D) Recommendations from the advisory
2 committee established under section 3(d), in-
3 cluding any dissenting views.

4 “(E) Any findings or recommendations of
5 the Government Accountability Office per-
6 taining to the ability of the Bank to provide fi-
7 nancing that is competitive with the financing
8 provided by foreign export credit agencies, to
9 enable companies with operations in the United
10 States to contribute to a stronger United States
11 economy by maintaining or increasing the em-
12 ployment of workers in the United States
13 through the export of goods and services.

14 “(F) The effects of the guidelines on the
15 manufacturing workforce and service workforce
16 of the United States.

17 “(G) The effect of changes to current
18 Bank content requirements on the incentive for
19 companies to create and maintain operations in
20 the United States in order to increase the em-
21 ployment of workers in the United States.

22 “(3) SEPARATE GUIDELINES.—

23 “(A) The Bank may establish separate
24 guidelines under this subsection for services and
25 for goods.

1 “(B) The Bank may establish separate
2 guidelines under this subsection for small busi-
3 ness concerns (as defined in section 3(a) of the
4 Small Business Act).

5 “(C) The Bank may continue separate
6 guidelines under this subsection with respect to
7 different terms and products.

8 “(4) CERTIFICATION THAT DOMESTIC CONTENT
9 HAS NOT BEEN REDUCED BECAUSE OF THE GUIDE-
10 LINES.—In determining whether to provide financ-
11 ing for a proposed transaction, the exporter shall
12 certify that the domestic content of a good has not
13 been reduced solely as a result of the guidelines.

14 “(5) PROCEDURAL PROVISIONS.—Within 60
15 days after the date of the enactment of this Act, the
16 Bank shall publish a notice with respect to the
17 issuance or modification of guidelines under this
18 subsection. Within 60 days after the end of the pub-
19 lic comment period otherwise required by law with
20 respect to the issuance or modification of the guide-
21 lines, the Bank shall submit to the Congress, for its
22 review, the guidelines in proposed final form. At the
23 end of the 30-day period that begins with the date
24 the proposed final guidelines are so submitted, the
25 proposed final guidelines shall be considered a final

1 agency action for all purposes and shall take effect
2 and be implemented immediately.

3 “(6) TERM.—Every 2 years, the Bank shall re-
4 view and, as appropriate, modify the guidelines, sub-
5 ject to paragraph (5).

6 “(7) REPORT TO CONGRESS.—Within 1 year
7 after the implementation of new or modified guide-
8 lines under this subsection, the Inspector General of
9 the Bank shall submit to the Congress a report eval-
10 uating the guidelines, which shall include—

11 “(A) a discussion of the considerations re-
12 quired to be taken into account in establishing
13 the guidelines, a comparison of how the guide-
14 lines reflect each consideration, and a descrip-
15 tion of the extent to which the guidelines en-
16 abled companies with operations in the United
17 States who submitted an application for financ-
18 ing from the Bank to maintain and create jobs
19 in the United States and contribute to a strong-
20 er national economy through the export of their
21 goods and services;

22 “(B) a description of the effect of the
23 guidelines on the number of domestic jobs to be
24 supported, the kinds of domestic jobs to be sup-
25 ported, including their duration and geographic

1 location, and the existence and nature of any
2 transfers of technology or production; and

3 “(C) recommendations for how the guide-
4 lines could be modified to better facilitate ex-
5 ports of goods and services from the United
6 States in order to maintain and create jobs in
7 the United States and contribute to a stronger
8 national economy.”.

9 **SEC. 6. BIENNIAL AUDITS OF BANK TRANSACTIONS.**

10 Section 2 of the Export-Import Bank Act of 1945
11 (12 U.S.C. 635), as amended by section 5 of this Act,
12 is amended by adding at the end the following:

13 “(j) AUDITS OF BANK TRANSACTIONS.—Every 2
14 years, the Comptroller General of the United States, in
15 consultation with Inspector General of the Bank, shall
16 audit a representative sample of Bank transactions to en-
17 sure that Bank underwriting, policies, due diligence, and
18 content guidelines are met by applicants who receive Bank
19 support.”.

20 **SEC. 7. USE OF PORTION OF BANK SURPLUS TO UPDATE IN-**
21 **FORMATION TECHNOLOGY SYSTEMS.**

22 Section 3 of the Export-Import Bank Act of 1945
23 (12 U.S.C. 635a) is amended by adding at the end the
24 following:

1 “(j) AUTHORITY TO USE PORTION OF BANK SUR-
2 PLUS TO UPDATE INFORMATION TECHNOLOGY SYS-
3 TEMS.—

4 “(1) IN GENERAL.—Subject to paragraphs (3)
5 and (4), the Bank may use an amount equal to 1.25
6 percent of the surplus of the Bank during each fiscal
7 year to—

8 “(A) seek to remedy any of the operational
9 weakness and risk management vulnerabilities
10 of the Bank which are the result of the infor-
11 mation technology system of the Bank;

12 “(B) remedy data fragmentation, enhance
13 information flow throughout the Bank, and
14 manage data across the Bank; and

15 “(C) enhance the operational capacity and
16 risk management capabilities of the Bank to
17 better enable the Bank to increase exports and
18 grow jobs while protecting the taxpayer.

19 “(2) SURPLUS.—In paragraph (1), the term
20 ‘surplus’ means the amount (if any) by which—

21 “(A) the sum of the interest and fees col-
22 lected by the Bank; exceeds

23 “(B) the sum of—

1 “(i) the funds set aside to cover ex-
2 pected losses on transactions financed by
3 the Bank; and

4 “(ii) the costs incurred to cover the
5 administrative expenses of the Bank.

6 “(3) LIMITATION.—The aggregate of the
7 amounts used in accordance with paragraph (1) for
8 all fiscal years shall not exceed \$20,000,000.

9 “(4) SUBJECT TO APPROPRIATIONS.—The au-
10 thority provided by paragraph (1) may be exercised
11 only to such extent and in such amounts as are pro-
12 vided in advance in appropriations Acts.”.

13 **SEC. 8. MONITORING OF DEFAULT RATES ON BANK FI-**
14 **NANCING; REPORTS ON DEFAULT RATES.**

15 Section 8 of the Export-Import Bank Act of 1945
16 (12 U.S.C. 635g) is amended by adding at the end the
17 following:

18 “(g) MONITORING OF DEFAULT RATES ON BANK FI-
19 NANCING; REPORTS ON DEFAULT RATES.—

20 “(1) MONITORING OF DEFAULT RATES.—Not
21 less frequently than quarterly, the Bank shall cal-
22 culate the rate at which the entities to which the
23 Bank has provided short-, medium-, or long-term fi-
24 nancing are in default on a payment obligation
25 under the financing, by dividing the total amount of

1 the required payments that are overdue by the total
2 amount of the financing involved.

3 “(2) REPORTS.—Within 45 days after a rate
4 calculated under paragraph (1) equals or exceeds 2
5 percent, the Bank shall submit to the Congress a
6 written report that explains the circumstances that
7 have caused the default rate to equal or exceed 2
8 percent, and includes a plan to reduce the default
9 rate to less than 2 percent.”.

10 **SEC. 9. SENSE OF THE CONGRESS REGARDING BANK AC-**
11 **COUNTABILITY.**

12 It is the sense of the Congress that—

13 (1) the Board of Directors of the Export-Im-
14 port Bank of the United States (in this section re-
15 ferred to as the “Bank”) should establish a formal,
16 transparent, and independent accountability mecha-
17 nism that would review, investigate, and report on
18 allegations by affected parties of failure of the Bank
19 to follow its own policies and procedures, including
20 situations where the Bank is alleged to have failed
21 in its follow-up on the borrower’s obligations in fi-
22 nancing agreements with respect to such policies and
23 procedures;

24 (2) such an accountability mechanism should be
25 able to provide advice to management on policies,

1 procedures, guidelines, resources, and systems estab-
2 lished to ensure adequate review and monitoring of
3 projects;

4 (3) in carrying out its mandate, the confiden-
5 tiality of sensitive business information should be re-
6 spected, and, in consultation with affected parties,
7 project sponsors, and Bank management, a flexible
8 process should be followed aimed primarily at cor-
9 recting project failures and achieving better results
10 on the ground; and

11 (4) the accountability mechanism should be
12 independent of the line operations of management,
13 and report its findings and recommendations directly
14 to the Board of Directors of the Bank.

15 **SEC. 10. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.**

16 Section 2(b)(9)(B)(iii) of the Export-Import Bank
17 Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended by
18 striking “2011” and inserting “2015”.

1 **SEC. 11. EXTENSION OF AUTHORITY TO PROVIDE FINANC-**
2 **ING FOR THE EXPORT OF NONLETHAL DE-**
3 **FENSE ARTICLES OR SERVICES THE PRIMARY**
4 **END USE OF WHICH WILL BE FOR CIVILIAN**
5 **PURPOSES.**

6 Section 1(c) of Public Law 103–428 (12 U.S.C. 635
7 note; 108 Stat. 4376) is amended by striking “2011” and
8 inserting “2015”.

9 **SEC. 12. ELIMINATION OF OBSOLETE PROVISIONS.**

10 (a) FOREIGN CREDIT INSURANCE ASSOCIATION.—

11 (1) IN GENERAL.—Section 2(b)(1) of the Ex-
12 port-Import Bank Act of 1945 (12 U.S.C.
13 635(b)(1)) is amended by striking subparagraph (F)
14 and redesignating subparagraphs (G) through (L) as
15 subparagraphs (F) through (K), respectively.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 2(h)(2) of such Act (12 U.S.C.
18 635(h)(2)) is amended by striking “(J)” and
19 inserting “(I)”.

20 (B) Section 3 of such Act (12 U.S.C.
21 635a) is amended in each of subsections
22 (f)(1)(A) and (g)(7) by striking “(I)” and in-
23 serting “(H)”.

24 (C) Section 8 of such Act (12 U.S.C.
25 635g) is amended in each of subsections (c) and
26 (f)(8)(A) by striking “(J)” and inserting “(I)”.

1 (D) Section 8A(a)(5) of such Act (12
2 U.S.C. 635g-1(a)(5)) is amended by striking
3 “2(b)(1)(K)” and inserting “2(b)(1)(J)”.

4 (b) DEFINITION OF MARXIST-LENINIST COUNTRY.—
5 Section 2(b)(2)(B)(ii) of such Act (12 U.S .C.
6 635(b)(2)(B)(ii)) is amended by striking subclause (VII)
7 and redesignating subclauses (VIII) and (IX) as sub-
8 clauses (VII) and (VIII), respectively.

9 **SEC. 13. EFFECTIVE DATE.**

10 This Act and the amendments made by this Act shall
11 take effect on October 1, 2011.

