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112TH CONGRESS
1ST SESSION

H. R. 2072

To reauthorize the Export-Import Bank of the United States, and for other
purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2011

Mr. GARY G. MILLER of California (for himself, Mr. BACHUS, Mr. FRANK of
Massachusetts, and Mrs. MCCARTHY of New York) introduced the fol-
lowing bill; which was referred to the Committee on Financial Services

A BILL

To reauthorize the Export-Import Bank of the United States,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

1 (b) TABLE OF CONTENTS.—The table of contents of
2 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. Improvement of method for calculating the effects of Bank financing on
job creation and maintenance in the United States.
- Sec. 7. Biennial audits of Bank transactions.
- Sec. 8. Use of portion of Bank surplus to update information technology sys-
tems.
- Sec. 9. Monitoring of default rates on Bank financing; reports on default rates.
- Sec. 10. Sense of the Congress regarding Bank accountability.
- Sec. 11. Sub-saharan africa advisory committee.
- Sec. 12. 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. 13. Elimination of obsolete provisions.
- Sec. 14. Effective date.

3 **SEC. 2. FINDINGS; STATEMENT OF PURPOSE.**

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

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

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

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

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

1 (5) The Export-Import Bank of the United
2 States helps finance United States exports to 183
3 countries.

4 (6) A large percentage of global growth will be
5 centered in markets served by the Export-Import
6 Bank of the United States, and the Bank will be
7 critical to helping United States companies compete
8 for these opportunities.

9 (7) Through its support for exports, in fiscal
10 year 2010 the Export-Import Bank of the United
11 States supported 227,000 American jobs at over
12 3,300 companies.

13 (8) The Export-Import Bank of the United
14 States helps to level the playing field for United
15 States exporters by matching the financing that
16 other governments provide to their exporters.

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

20 (10) Through its insurance, loan, and loan
21 guarantee products, the Export-Import Bank of the
22 United States supports the promotion and mainte-
23 nance of high levels of employment and real income
24 and increased development of the productive re-
25 sources of the United States.

1 (11) The Export-Import Bank of the United
2 States requires reasonable assurance of repayment
3 for the transactions it authorizes, and the Bank
4 closely monitors credit and other risks in its port-
5 folio. The Bank prices transactions based on its risk
6 assessment of the buyers.

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

11 (13) The Export-Import Bank of the United
12 States has been a self-sustaining institution since
13 fiscal year 2008, and surpluses of the Bank are re-
14 mitted to the United States Treasury. From fiscal
15 years 2008 through 2010, the Bank generated a
16 surplus of \$551,000,000.

17 (14) In fiscal year 2010, the Export-Import
18 Bank of the United States provided a record
19 \$5,000,000,000 directly supporting United States
20 small business exporters through 3,091 transactions,
21 representing 20 percent of the total value of the
22 Bank's authorizations and nearly 88 percent of the
23 total number of the Bank's authorizations.

24 (b) STATEMENT OF PURPOSE.—The purpose of this
25 Act is to reauthorize the activities and operations of the

1 Export-Import Bank of the United States to ensure that
2 the Bank provides financing, when commercial banks are
3 unable or unwilling to do so, competitive with the financ-
4 ing provided by foreign export credit agencies, in order
5 to enable United States companies to contribute to a
6 stronger national economy by maintaining or increasing
7 the employment of workers in the United States through
8 the export of goods and services.

9 **SEC. 3. EXTENSION OF AUTHORITY.**

10 Section 7 of the Export-Import Bank Act of 1945
11 (12 U.S.C. 635f) is amended by striking “2011” and in-
12 serting “2015”.

13 **SEC. 4. LIMITATIONS ON OUTSTANDING LOANS, GUARAN-**
14 **TEES, AND INSURANCE.**

15 Section 6(a)(2) of the Export-Import Bank Act of
16 1945 (12 U.S.C. 635e(a)(2)) is amended—

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

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

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

21 “(F) during fiscal year 2012,
22 \$120,000,000,000;

23 “(G) during fiscal year 2013,
24 \$140,000,000,000; and

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

3 **SEC. 5. CONTENT GUIDELINES FOR THE PROVISION OF**
4 **BANK FINANCING.**

5 Section 2 of the Export-Import Bank Act of 1945
6 (12 U.S.C. 635) is amended by adding at the end the fol-
7 lowing:

8 “(i) CONTENT GUIDELINES FOR THE PROVISION OF
9 FINANCING.—

10 “(1) IN GENERAL.—The Bank shall, after no-
11 tice and comment and Board approval, establish
12 clear and comprehensive guidelines with respect to
13 the content of the goods and services involved in a
14 transaction for which the Bank will provide financ-
15 ing, which shall be aimed at ensuring that the Bank
16 enables companies with operations in the United
17 States to maintain and create jobs in the United
18 States and contribute to a stronger national econ-
19 omy through the export of their goods and services.

20 “(2) REQUIRED CONSIDERATIONS.—In estab-
21 lishing the guidelines, the Bank shall take into ac-
22 count such considerations as the Bank deems rel-
23 evant to meet the purposes described in paragraph
24 (1), including the following:

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

5 “(B) The ability of companies with oper-
6 ations in the United States to compete effec-
7 tively for export opportunities that will create
8 and maintain jobs in the United States, par-
9 ticularly with respect to the Bank’s content re-
10 quirements and co-financing arrangements.

11 “(C) The totality of support, including fi-
12 nancing and subsidies, extended by export cred-
13 it agencies to support the exports of goods and
14 services, as well as key differences in, types of
15 trade-offs among, and national trade promotion
16 strategies of OECD member countries and of
17 non-OECD member countries.

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

21 “(E) Any findings or recommendations of
22 the Government Accountability Office per-
23 taining to the ability of the Bank to provide fi-
24 nancing that is competitive with the financing
25 provided by foreign export credit agencies, to

1 enable companies with operations in the United
2 States to contribute to a stronger United States
3 economy by maintaining or increasing the em-
4 ployment of workers in the United States
5 through the export of goods and services.

6 “(F) The effects of the guidelines on the
7 manufacturing workforce and service workforce
8 of the United States.

9 “(G) The effect of changes to current
10 Bank content requirements on the incentive for
11 companies to create and maintain operations in
12 the United States in order to increase the em-
13 ployment of workers in the United States.

14 “(3) SEPARATE GUIDELINES.—

15 “(A) The Bank may establish separate
16 guidelines under this subsection for services and
17 for goods.

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

22 “(C) The Bank may continue separate
23 guidelines under this subsection with respect to
24 different terms and products.

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

7 “(5) PROCEDURAL PROVISIONS.—Within 60
8 days after the date of the enactment of this Act, the
9 Bank shall publish a notice with respect to the
10 issuance or modification of guidelines under this
11 subsection. Within 60 days after the end of the pub-
12 lic comment period otherwise required by law with
13 respect to the issuance or modification of the guide-
14 lines, the Bank shall submit to the Congress, for its
15 review, the guidelines in proposed final form. At the
16 end of the 30-day period that begins with the date
17 the proposed final guidelines are so submitted, the
18 proposed final guidelines shall be considered a final
19 agency action for all purposes and shall take effect
20 and be implemented immediately.

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

24 “(7) REPORT TO CONGRESS.—Within 1 year
25 after the implementation of new or modified guide-

1 lines under this subsection, the Inspector General of
2 the Bank shall submit to the Congress a report eval-
3 uating the guidelines, which shall include—

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

15 “(B) a description of the effect of the
16 guidelines on the number of domestic jobs to be
17 supported, the kinds of domestic jobs to be sup-
18 ported, including their duration and geographic
19 location, and the existence and nature of any
20 transfers of technology or production; and

21 “(C) recommendations for how the guide-
22 lines could be modified to better facilitate ex-
23 ports of goods and services from the United
24 States in order to maintain and create jobs in

1 the United States and contribute to a stronger
2 national economy.”.

3 **SEC. 6. IMPROVEMENT OF METHOD FOR CALCULATING**
4 **THE EFFECTS OF BANK FINANCING ON JOB**
5 **CREATION AND MAINTENANCE IN THE**
6 **UNITED STATES.**

7 (a) GAO STUDY.—The Comptroller General of the
8 United States shall conduct a study to analyze the meth-
9 odology used by the Export-Import Bank of the United
10 States (in this section referred to as the “Bank”) to cal-
11 culate the effects of the provision of financing by the Bank
12 on the creation and maintenance of employment in the
13 United States, determine whether there is a more accurate
14 methodology for calculating the effects, and if so, make
15 recommendations with respect to the use of such a meth-
16 odology.

17 (b) REPORT.—Within 6 months after the date of the
18 enactment of this Act, the Comptroller General shall sub-
19 mit to the Congress and the Bank the results of the study
20 required by subsection (a).

21 (c) IMPLEMENTATION OF RECOMMENDATIONS.—If
22 the report submitted pursuant to subsection (b) includes
23 recommendations, the Bank shall establish a more accu-
24 rate methodology of the kind described in subsection (a)
25 based on the recommendations.

1 **SEC. 7. BIENNIAL AUDITS OF BANK TRANSACTIONS.**

2 Section 2 of the Export-Import Bank Act of 1945
3 (12 U.S.C. 635), as amended by section 5 of this Act,
4 is amended by adding at the end the following:

5 “(j) AUDITS OF BANK TRANSACTIONS.—Every 2
6 years, the Comptroller General of the United States, in
7 consultation with Inspector General of the Bank, shall
8 audit a representative sample of Bank transactions to en-
9 sure that Bank underwriting, policies, due diligence, and
10 content guidelines are met by applicants who receive Bank
11 support.”.

12 **SEC. 8. USE OF PORTION OF BANK SURPLUS TO UPDATE IN-**
13 **FORMATION TECHNOLOGY SYSTEMS.**

14 Section 3 of the Export-Import Bank Act of 1945
15 (12 U.S.C. 635a) is amended by adding at the end the
16 following:

17 “(j) AUTHORITY TO USE PORTION OF BANK SUR-
18 PLUS TO UPDATE INFORMATION TECHNOLOGY SYS-
19 TEMS.—

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

24 “(A) seek to remedy any of the operational
25 weakness and risk management vulnerabilities

1 of the Bank which are the result of the infor-
2 mation technology system of the Bank;

3 “(B) remedy data fragmentation, enhance
4 information flow throughout the Bank, and
5 manage data across the Bank; and

6 “(C) enhance the operational capacity and
7 risk management capabilities of the Bank to
8 better enable the Bank to increase exports and
9 grow jobs while protecting the taxpayer.

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

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

14 “(B) the sum of—

15 “(i) the funds set aside to cover ex-
16 pected losses on transactions financed by
17 the Bank; and

18 “(ii) the costs incurred to cover the
19 administrative expenses of the Bank.

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

23 “(4) SUBJECT TO APPROPRIATIONS.—The au-
24 thority provided by paragraph (1) may be exercised

1 only to such extent and in such amounts as are pro-
2 vided in advance in appropriations Acts.”.

3 **SEC. 9. MONITORING OF DEFAULT RATES ON BANK FI-**
4 **NANCING; REPORTS ON DEFAULT RATES.**

5 Section 8 of the Export-Import Bank Act of 1945
6 (12 U.S.C. 635g) is amended by adding at the end the
7 following:

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

10 “(1) MONITORING OF DEFAULT RATES.—Not
11 less frequently than quarterly, the Bank shall cal-
12 culate the rate at which the entities to which the
13 Bank has provided short-, medium-, or long-term fi-
14 nancing are in default on a payment obligation
15 under the financing, by dividing the total amount of
16 the required payments that are overdue by the total
17 amount of the financing involved.

18 “(2) REPORTS.—Within 45 days after a rate
19 calculated under paragraph (1) equals or exceeds 2
20 percent, the Bank shall submit to the Congress a
21 written report that explains the circumstances that
22 have caused the default rate to equal or exceed 2
23 percent, and includes a plan to reduce the default
24 rate to less than 2 percent.”.

1 **SEC. 10. SENSE OF THE CONGRESS REGARDING BANK AC-**
2 **COUNTABILITY.**

3 It is the sense of the Congress that—

4 (1) the Board of Directors of the Export-Im-
5 port Bank of the United States (in this section re-
6 ferred to as the “Bank”) should establish a formal,
7 transparent, and independent accountability mecha-
8 nism that would review, investigate, and report on
9 allegations by affected parties of failure of the Bank
10 to follow its own policies and procedures, including
11 situations where the Bank is alleged to have failed
12 in its follow-up on the borrower’s obligations in fi-
13 nancing agreements with respect to such policies and
14 procedures;

15 (2) such an accountability mechanism should be
16 able to provide advice to management on policies,
17 procedures, guidelines, resources, and systems estab-
18 lished to ensure adequate review and monitoring of
19 projects;

20 (3) in carrying out its mandate, the confiden-
21 tiality of sensitive business information should be re-
22 spected, and, in consultation with affected parties,
23 project sponsors, and Bank management, a flexible
24 process should be followed aimed primarily at cor-
25 recting project failures and achieving better results
26 on the ground; and

1 (4) the accountability mechanism should be
2 independent of the line operations of management,
3 and report its findings and recommendations directly
4 to the Board of Directors of the Bank.

5 **SEC. 11. SUB-SAHARAN AFRICA ADVISORY COMMITTEE.**

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

9 **SEC. 12. EXTENSION OF AUTHORITY TO PROVIDE FINANC-**
10 **ING FOR THE EXPORT OF NONLETHAL DE-**
11 **FENSE ARTICLES OR SERVICES THE PRIMARY**
12 **END USE OF WHICH WILL BE FOR CIVILIAN**
13 **PURPOSES.**

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

17 **SEC. 13. ELIMINATION OF OBSOLETE PROVISIONS.**

18 (a) FOREIGN CREDIT INSURANCE ASSOCIATION.—

19 (1) IN GENERAL.—Section 2(b)(1) of the Ex-
20 port-Import Bank Act of 1945 (12 U.S.C.
21 635(b)(1)) is amended by striking subparagraph (F)
22 and redesignating subparagraphs (G) through (L) as
23 subparagraphs (F) through (K), respectively.

24 (2) CONFORMING AMENDMENTS.—

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

4 (B) Section 3 of such Act (12 U.S.C.
5 635a) is amended in each of subsections
6 (f)(1)(A) and (g)(7) by striking “(I)” and in-
7 serting “(H)”.

8 (C) Section 8 of such Act (12 U.S.C.
9 635g) is amended in each of subsections (c) and
10 (f)(8)(A) by striking “(J)” and inserting “(I)”.

11 (D) Section 8A(a)(5) of such Act (12
12 U.S.C. 635g-1(a)(5)) is amended by striking
13 “2(b)(1)(K)” and inserting “2(b)(1)(J)”.

14 (b) DEFINITION OF MARXIST-LENINIST COUNTRY.—
15 Section 2(b)(2)(B)(ii) of such Act (12 U.S .C.
16 635(b)(2)(B)(ii)) is amended by striking subclause (VII)
17 and redesignating subclauses (VIII) and (IX) as sub-
18 clauses (VII) and (VIII), respectively.

19 **SEC. 14. EFFECTIVE DATE.**

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