

112TH CONGRESS  
1ST SESSION

# H. R. 2072

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

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## 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 following bill; which was referred to the Committee on Financial Services

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## 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”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
7 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.

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

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

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

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

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

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

14 (5) The Export-Import Bank of the United  
15 States helps finance United States exports to 183  
16 countries.

17 (6) A large percentage of global growth will be  
18 centered in markets served by the Export-Import  
19 Bank of the United States, and the Bank will be

1 critical to helping United States companies compete  
2 for these opportunities.

3 (7) Through its support for exports, in fiscal  
4 year 2010 the Export-Import Bank of the United  
5 States supported 227,000 American jobs at over  
6 3,300 companies.

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

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

14 (10) Through its insurance, loan, and loan  
15 guarantee products, the Export-Import Bank of the  
16 United States supports the promotion and mainte-  
17 nance of high levels of employment and real income  
18 and increased development of the productive re-  
19 sources of the United States.

20 (11) The Export-Import Bank of the United  
21 States requires reasonable assurance of repayment  
22 for the transactions it authorizes, and the Bank  
23 closely monitors credit and other risks in its port-  
24 folio. The Bank prices transactions based on its risk  
25 assessment of the buyers.

1           (12) Since 1934, the net loss rate for all  
2 long-, medium-, and short-term loans made by the  
3 Export-Import Bank of the United States is 1.5 per-  
4 cent.

5           (13) The Export-Import Bank of the United  
6 States has been a self-sustaining institution since  
7 fiscal year 2008, and surpluses of the Bank are re-  
8 mitted to the United States Treasury. From fiscal  
9 years 2008 through 2010, the Bank generated a  
10 surplus of \$551,000,000.

11           (14) In fiscal year 2010, the Export-Import  
12 Bank of the United States provided a record  
13 \$5,000,000,000 directly supporting United States  
14 small business exporters through 3,091 transactions,  
15 representing 20 percent of the total value of the  
16 Bank's authorizations and nearly 88 percent of the  
17 total number of the Bank's authorizations.

18           (b) STATEMENT OF PURPOSE.—The purpose of this  
19 Act is to reauthorize the activities and operations of the  
20 Export-Import Bank of the United States to ensure that  
21 the Bank provides financing, when commercial banks are  
22 unable or unwilling to do so, competitive with the financ-  
23 ing provided by foreign export credit agencies, in order  
24 to enable United States companies to contribute to a  
25 stronger national economy by maintaining or increasing

1 the employment of workers in the United States through  
2 the export of goods and services.

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

4 Section 7 of the Export-Import Bank Act of 1945  
5 (12 U.S.C. 635f) is amended by striking “2011” and in-  
6 serting “2015”.

7 **SEC. 4. LIMITATIONS ON OUTSTANDING LOANS, GUARAN-**  
8 **TEES, AND INSURANCE.**

9 Section 6(a)(2) of the Export-Import Bank Act of  
10 1945 (12 U.S.C. 635e(a)(2)) is amended—

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

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

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

15 “(F) during fiscal year 2012,  
16 \$120,000,000,000;

17 “(G) during fiscal year 2013,  
18 \$140,000,000,000; and

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

21 **SEC. 5. CONTENT GUIDELINES FOR THE PROVISION OF**  
22 **BANK FINANCING.**

23 Section 2 of the Export-Import Bank Act of 1945  
24 (12 U.S.C. 635) is amended by adding at the end the fol-  
25 lowing:

1       “(i) CONTENT GUIDELINES FOR THE PROVISION OF  
2 FINANCING.—

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

13           “(2) REQUIRED CONSIDERATIONS.—In estab-  
14 lishing the guidelines, the Bank shall take into ac-  
15 count such considerations as the Bank deems rel-  
16 evant to meet the purposes described in paragraph  
17 (1), including the following:

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

22           “(B) The ability of companies with oper-  
23 ations in the United States to compete effec-  
24 tively for export opportunities that will create  
25 and maintain jobs in the United States, par-

1           particularly with respect to the Bank’s content re-  
2           quirements and co-financing arrangements.

3           “(C) The totality of support, including fi-  
4           nancing and subsidies, extended by export cred-  
5           it agencies to support the exports of goods and  
6           services, as well as key differences in, types of  
7           trade-offs among, and national trade promotion  
8           strategies of OECD member countries and of  
9           non-OECD member countries.

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

13          “(E) Any findings or recommendations of  
14          the Government Accountability Office per-  
15          taining to the ability of the Bank to provide fi-  
16          nancing that is competitive with the financing  
17          provided by foreign export credit agencies, to  
18          enable companies with operations in the United  
19          States to contribute to a stronger United States  
20          economy by maintaining or increasing the em-  
21          ployment of workers in the United States  
22          through the export of goods and services.

23          “(F) The effects of the guidelines on the  
24          manufacturing workforce and service workforce  
25          of the United States.

1           “(G) The effect of changes to current  
2 Bank content requirements on the incentive for  
3 companies to create and maintain operations in  
4 the United States in order to increase the em-  
5 ployment of workers in the United States.

6           “(3) SEPARATE GUIDELINES.—

7           “(A) The Bank may establish separate  
8 guidelines under this subsection for services and  
9 for goods.

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

14           “(C) The Bank may continue separate  
15 guidelines under this subsection with respect to  
16 different terms and products.

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

23           “(5) PROCEDURAL PROVISIONS.—Within 60  
24 days after the date of the enactment of this Act, the  
25 Bank shall publish a notice with respect to the

1 issuance or modification of guidelines under this  
2 subsection. Within 60 days after the end of the pub-  
3 lic comment period otherwise required by law with  
4 respect to the issuance or modification of the guide-  
5 lines, the Bank shall submit to the Congress, for its  
6 review, the guidelines in proposed final form. At the  
7 end of the 30-day period that begins with the date  
8 the proposed final guidelines are so submitted, the  
9 proposed final guidelines shall be considered a final  
10 agency action for all purposes and shall take effect  
11 and be implemented immediately.

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

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

20 “(A) a discussion of the considerations re-  
21 quired to be taken into account in establishing  
22 the guidelines, a comparison of how the guide-  
23 lines reflect each consideration, and a descrip-  
24 tion of the extent to which the guidelines en-  
25 abled companies with operations in the United

1 States who submitted an application for financ-  
2 ing from the Bank to maintain and create jobs  
3 in the United States and contribute to a strong-  
4 er national economy through the export of their  
5 goods and services;

6 “(B) a description of the effect of the  
7 guidelines on the number of domestic jobs to be  
8 supported, the kinds of domestic jobs to be sup-  
9 ported, including their duration and geographic  
10 location, and the existence and nature of any  
11 transfers of technology or production; and

12 “(C) recommendations for how the guide-  
13 lines could be modified to better facilitate ex-  
14 ports of goods and services from the United  
15 States in order to maintain and create jobs in  
16 the United States and contribute to a stronger  
17 national economy.”.

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

19 Section 2 of the Export-Import Bank Act of 1945  
20 (12 U.S.C. 635), as amended by section 5 of this Act,  
21 is amended by adding at the end the following:

22 “(j) AUDITS OF BANK TRANSACTIONS.—Every 2  
23 years, the Comptroller General of the United States, in  
24 consultation with Inspector General of the Bank, shall  
25 audit a representative sample of Bank transactions to en-

1 sure that Bank underwriting, policies, due diligence, and  
2 content guidelines are met by applicants who receive Bank  
3 support.”.

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

6 Section 3 of the Export-Import Bank Act of 1945  
7 (12 U.S.C. 635a) is amended by adding at the end the  
8 following:

9 “(j) AUTHORITY TO USE PORTION OF BANK SUR-  
10 PLUS TO UPDATE INFORMATION TECHNOLOGY SYS-  
11 TEMS.—

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

16 “(A) seek to remedy any of the operational  
17 weakness and risk management vulnerabilities  
18 of the Bank which are the result of the infor-  
19 mation technology system of the Bank;

20 “(B) remedy data fragmentation, enhance  
21 information flow throughout the Bank, and  
22 manage data across the Bank; and

23 “(C) enhance the operational capacity and  
24 risk management capabilities of the Bank to

1 better enable the Bank to increase exports and  
2 grow jobs while protecting the taxpayer.

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

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

7 “(B) the sum of—

8 “(i) the funds set aside to cover ex-  
9 pected losses on transactions financed by  
10 the Bank; and

11 “(ii) the costs incurred to cover the  
12 administrative expenses of the Bank.

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

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

20 **SEC. 8. MONITORING OF DEFAULT RATES ON BANK FI-**  
21 **NANCING; REPORTS ON DEFAULT RATES.**

22 Section 8 of the Export-Import Bank Act of 1945  
23 (12 U.S.C. 635g) is amended by adding at the end the  
24 following:

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

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

11           “(2) REPORTS.—Within 45 days after a rate  
12 calculated under paragraph (1) equals or exceeds 2  
13 percent, the Bank shall submit to the Congress a  
14 written report that explains the circumstances that  
15 have caused the default rate to equal or exceed 2  
16 percent, and includes a plan to reduce the default  
17 rate to less than 2 percent.”.

18 **SEC. 9. SENSE OF THE CONGRESS REGARDING BANK AC-**  
19 **COUNTABILITY.**

20 It is the sense of the Congress that—

21           (1) the Board of Directors of the Export-Im-  
22 port Bank of the United States (in this section re-  
23 ferred to as the “Bank”) should establish a formal,  
24 transparent, and independent accountability mecha-  
25 nism that would review, investigate, and report on

1       allegations by affected parties of failure of the Bank  
2       to follow its own policies and procedures, including  
3       situations where the Bank is alleged to have failed  
4       in its follow-up on the borrower's obligations in fi-  
5       nancing agreements with respect to such policies and  
6       procedures;

7               (2) such an accountability mechanism should be  
8       able to provide advice to management on policies,  
9       procedures, guidelines, resources, and systems estab-  
10      lished to ensure adequate review and monitoring of  
11      projects;

12              (3) in carrying out its mandate, the confiden-  
13      tiality of sensitive business information should be re-  
14      spected, and, in consultation with affected parties,  
15      project sponsors, and Bank management, a flexible  
16      process should be followed aimed primarily at cor-  
17      recting project failures and achieving better results  
18      on the ground; and

19              (4) the accountability mechanism should be  
20      independent of the line operations of management,  
21      and report its findings and recommendations directly  
22      to the Board of Directors of the Bank.

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

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

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

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

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

14 (a) FOREIGN CREDIT INSURANCE ASSOCIATION.—

15 (1) IN GENERAL.—Section 2(b)(1) of the Ex-  
16 port-Import Bank Act of 1945 (12 U.S.C.  
17 635(b)(1)) is amended by striking subparagraph (F)  
18 and redesignating subparagraphs (G) through (L) as  
19 subparagraphs (F) through (K), respectively.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 2(h)(2) of such Act (12 U.S.C.  
22 635(h)(2)) is amended by striking “(J)” and  
23 inserting “(I)”.

24 (B) Section 3 of such Act (12 U.S.C.  
25 635a) is amended in each of subsections

1 (f)(1)(A) and (g)(7) by striking “(I)” and in-  
2 serting “(H)”.

3 (C) Section 8 of such Act (12 U.S.C.  
4 635g) is amended in each of subsections (c) and  
5 (f)(8)(A) by striking “(J)” and inserting “(I)”.

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

9 (b) DEFINITION OF MARXIST-LENINIST COUNTRY.—  
10 Section 2(b)(2)(B)(ii) of such Act (12 U.S.C.  
11 635(b)(2)(B)(ii)) is amended by striking subclause (VII)  
12 and redesignating subclauses (VIII) and (IX) as sub-  
13 clauses (VII) and (VIII), respectively.

14 **SEC. 13. EFFECTIVE DATE.**

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

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