

Calendar No. 164

112TH CONGRESS
1ST SESSION**S. 1547**

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2011

Mr. JOHNSON of South Dakota, from the Committee on Banking, Housing, and Urban Affairs, reported the following original bill; which was read twice and placed on the calendar

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.**

4 This Act may be cited as the “Export-Import Bank
5 Reauthorization Act of 2011”.

1 **SEC. 2. EXTENSION OF AUTHORITY.**

2 Section 7 of the Export-Import Bank Act of 1945
3 (12 U.S.C. 635f) is amended by striking “2011” and in-
4 serting “2015”.

5 **SEC. 3. FOREIGN CREDIT INSURANCE ASSOCIATION.**

6 Section 2(b)(1) of the Export-Import Bank Act of
7 1945 (12 U.S.C. 635(b)(1)) is amended by striking sub-
8 paragraph (F).

9 **SEC. 4. MARXIST-LENINIST COUNTRY DEFINED.**

10 Section 2(b)(2)(B)(ii) of the Export-Import Bank Act
11 of 1945 (12 U.S.C. 635(b)(2)(B)(ii)) is amended by strik-
12 ing subclauses (I), (IV), and (VII) and by redesignating
13 subclauses (II), (III), (V), (VI), (VIII), and (IX) as sub-
14 clauses (I), (II), (III), (IV), (V), and (VI), respectively.

15 **SEC. 5. 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”.

19 **SEC. 6. AGGREGATE LOAN, GUARANTEE, AND INSURANCE**
20 **AUTHORITY.**

21 Section 6(a)(2) of the Export-Import Bank Act of
22 1945 (12 U.S.C. 635e(a)(2)) is amended—

23 (1) by striking “and” at the end of subpara-
24 graph (D);

1 (2) by striking “2011,” at the end of subpara-
2 graph (E) and inserting “2011, \$100,000,000,000;”;
3 and

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

5 “(F) during fiscal year 2012,
6 \$110,000,000,000;

7 “(G) during fiscal year 2013,
8 \$120,000,000,000;

9 “(H) during fiscal year 2014,
10 \$130,000,000,000; and

11 “(I) during fiscal year 2015,
12 \$140,000,000,000.”.

13 **SEC. 7. EXTENSION OF AUTHORITY TO PROVIDE FINANC-**
14 **ING FOR THE EXPORT OF NONLETHAL DE-**
15 **FENSE ARTICLES OR SERVICES THE PRIMARY**
16 **END USE OF WHICH WILL BE FOR CIVILIAN**
17 **PURPOSES.**

18 Section 4 of Public Law 109–438 (12 U.S.C. 635
19 note; 108 Stat. 4376) is amended by striking “2011” and
20 inserting “2015”.

21 **SEC. 8. MODIFICATIONS TO PROVISIONS RELATING TO TEX-**
22 **TILES.**

23 (a) REPRESENTATION OF THE TEXTILE INDUSTRY
24 ON ADVISORY COMMITTEE.—Section 3(d)(1)(B) of the
25 Export-Import Bank Act of 1945 (12 U.S.C.

1 635a(d)(1)(B)) is amended by striking “and State govern-
 2 ment” and inserting “State government, and the textile
 3 industry”.

4 (b) ANNUAL REPORT REGARDING TEXTILE AND AP-
 5 PAREL GOODS.—Section 8 of the Export-Import Bank Act
 6 of 1945 (12 U.S.C. 635g) is amended by adding at the
 7 end the following new subsection:

8 “(g) TEXTILE AND APPAREL SUPPLY CHAIN FI-
 9 NANCING.—The Bank shall include in its annual report
 10 to the Congress—

11 “(1) a description of the efforts of the Bank to
 12 provide financing to the United States textile and
 13 apparel industry for exports of textile and apparel
 14 goods manufactured in the United States that are
 15 used as components in global textile and apparel
 16 supply chains; and

17 “(2) the amount of support the Bank provided
 18 for the export of textiles and apparel goods for each
 19 of the 3 years preceding the report.”.

20 **SEC. 9. REVIEW AND REPORT ON DOMESTIC CONTENT POL-**
 21 **ICY.**

22 (a) IN GENERAL.—The Export-Import Bank of the
 23 United States shall conduct a review of its domestic con-
 24 tent policy for medium- and long-term transactions. The

1 review shall examine and evaluate the effectiveness of the
2 Bank's policy—

3 (1) in maintaining and creating jobs in the
4 United States; and

5 (2) in contributing to a stronger national econ-
6 omy through the export of goods and services.

7 (b) FACTORS TO CONSIDER.—In conducting the re-
8 view under subsection (a), the Bank shall consider the fol-
9 lowing:

10 (1) Whether the domestic content policy accu-
11 rately captures the costs of United States production
12 of goods and services, including the direct and indi-
13 rect costs of manufacturing costs, parts, compo-
14 nents, materials and supplies, research, planning en-
15 gineering, design, development, production, return
16 on investment, marketing and other business costs
17 and the effect of such policy on the maintenance and
18 creation of jobs in the United States.

19 (2) The ability of the Bank to provide financing
20 that is competitive with the financing provided by
21 foreign export credit agencies and the impact that
22 such financing has in enabling companies with oper-
23 ations in the United States to contribute to a
24 stronger United States economy by increasing em-
25 ployment through the export of goods and services.

1 (3) The effects of the domestic content policy
2 on the manufacturing and service workforce of the
3 United States.

4 (4) Any recommendations the members of the
5 Bank’s Advisory Committee have regarding the
6 Bank’s domestic content policy.

7 (5) The effect that changes to the Bank’s do-
8 mestic content requirements would have in providing
9 companies an incentive to create and maintain oper-
10 ations in the United States and to increase jobs in
11 the United States.

12 (c) REPORT.—Not later than 1 year after the date
13 of the enactment of this Act, the Bank shall submit a re-
14 port on the results of the review conducted under this sec-
15 tion to the Committee on Banking, Housing, and Urban
16 Affairs of the Senate, and the Committee on Financial
17 Services of the House of Representatives.

18 **SEC. 10. STRATEGIC PLAN.**

19 Section 8 of the Export-Import Bank Act of 1945
20 (12 U.S.C. 635g), as amended by section 8, is further
21 amended by adding at the end the following new sub-
22 section:

23 “(h) STRATEGIC PLAN FOR THE BANK.—

24 “(1) IN GENERAL.—The Bank shall include in
25 its annual report to the Congress under subsection

1 (a) of this section, not less than every 4 years, be-
2 beginning in 2012, a 5-year strategic plan that pro-
3 vides—

4 “(A) a comprehensive mission statement
5 covering the major functions and operations of
6 the Bank;

7 “(B) general goals and objectives, includ-
8 ing outcome-oriented goals, for the major func-
9 tions of the Bank;

10 “(C) a description of the Bank’s highest-
11 priority goals and how they can be achieved
12 within the 5-year plan period, according to
13 clearly defined milestones; and

14 “(D) a description of how the goals and
15 objectives incorporate views and suggestions ob-
16 tained through congressional consultations;

17 “(2) PROGRESS.—The progress the Bank is
18 making in meeting the milestones established by the
19 strategic plan shall be updated in each annual report
20 the Bank submits to the Congress.

21 “(3) AVAILABILITY OF ANNUAL REPORT.—The
22 Bank shall make its annual report available on its
23 public website.”.

1 **SEC. 11. REVIEW AND REPORT ON BANK'S INFORMATION**
2 **TECHNOLOGY INFRASTRUCTURE.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this Act, the Export-Import
5 Bank of the United States shall conduct a review of the
6 Bank's information technology infrastructure and report
7 to Congress on—

8 (1) how the Bank will modernize and continue
9 to maintain the technology infrastructure, taking
10 into consideration commercially available tech-
11 nologies or other cost-savings measures; and

12 (2) how modernization, maintenance, and other
13 cost-saving measures will result—

14 (A) in improved service delivery to cus-
15 tomers of the Bank;

16 (B) in generally improving the Bank's per-
17 formance; and

18 (C) in mitigating taxpayer exposure to
19 losses.

20 **SEC. 12. STUDY BY THE COMPTROLLER GENERAL ON RISK**
21 **MANAGEMENT.**

22 (a) IN GENERAL.—Not later than 18 months after
23 the date of the enactment of this Act, the Comptroller
24 General of the United States shall complete and submit
25 to the Export-Import Bank of the United States, the Com-
26 mittee on Banking, Housing, and Urban Affairs of the

1 Senate and the Committee on Financial Services of the
2 House of Representatives a report—

3 (1) on the financial position of the Bank and
4 the risks it poses for American taxpayers; and

5 (2) that contains recommendations to the Bank
6 on how to properly account for risk and ensure the
7 solvency of the Bank.

8 (b) REPORT.—The report submitted under subsection
9 (a) shall evaluate—

10 (1) the effectiveness of the Bank’s risk manage-
11 ment;

12 (2) the adequacy of the Bank’s loan loss re-
13 serves;

14 (3) the exposure and potential for exposure to
15 losses from each of the products offered by the
16 Bank;

17 (4) the overall risk of the Bank’s portfolio, tak-
18 ing into account—

19 (A) market risk;

20 (B) credit risk;

21 (C) political risk;

22 (D) industry-concentration risk;

23 (E) geographic-concentration risk;

24 (F) obligor-concentration risk; and

25 (G) foreign-currency risk;

1 (5) the Bank’s use of historical default and re-
2 covery rates to calculate future program costs, tak-
3 ing into consideration cost estimates determined
4 under the Federal Credit Reform Act of 1990 (2
5 U.S.C. 661 et seq.) and whether discount rates ap-
6 plied to cost estimates should reflect the risks de-
7 scribed in paragraph (4);

8 (6) the fees charged by the Bank for the prod-
9 ucts the Bank offers, whether the Bank’s fees prop-
10 erly reflect the risks described in paragraph (4), and
11 how the fees are affected by United States participa-
12 tion in international agreements; and

13 (7) whether the Bank’s loan loss reserves policy
14 is sufficient to cover the risks described in para-
15 graph (4).

16 (c) **RECOMMENDATIONS AND REPORT BY THE**
17 **BANK.**—If the Bank does not adopt the recommendations
18 provided under subsection (a) by the Comptroller General,
19 the Bank shall submit to Congress, not later than 60 days
20 after the Bank receives the report, a report on why the
21 Bank has not adopted the recommendations.

22 **SEC. 13. RENEWABLE ENERGY AND ENERGY EFFICIENCY**
23 **TECHNOLOGIES.**

24 (a) **IN GENERAL.**—The Export-Import Bank of the
25 United States should work to increase the export of renew-

1 able energy technologies and end-use energy efficiency
 2 technologies with a goal of significantly expanding, year-
 3 after-year, the Bank’s annual aggregate loan, guarantee,
 4 and insurance authorizations supporting those tech-
 5 nologies.

6 (b) INCREASED REPORTING REQUIREMENTS.—The
 7 Export-Import Bank of the United States shall include in
 8 its annual report to the Congress an analysis of any bar-
 9 riers to realizing the Bank’s congressional directive to in-
 10 crease the Bank’s financing for renewable energy tech-
 11 nology and end-use energy efficiency technology and any
 12 tools the Bank needs to assist the Bank in overcoming
 13 those barriers. The analysis shall include barriers such
 14 as—

- 15 (1) inadequate staffing;
- 16 (2) inadequate financial products;
- 17 (3) lack of capital authority; and
- 18 (4) limitations imposed by domestic markets.

19 **SEC. 14. TRANSPARENCY AND ACCOUNTABILITY OF BANK**
 20 **FINANCING.**

21 Section 2(b) of the Export-Import Bank Act of 1945
 22 (12 U.S.C. 635(b)) is amended by inserting after para-
 23 graph (3) the following new paragraph:

24 “(3A) TRANSPARENCY AND ACCOUNTABILITY OF
 25 BANK FINANCING.—

1 “(A) PREAPPROVAL NOTICE.—Not later than
2 14 days before any meeting of the Board of Direc-
3 tors for final approval of a transaction the value of
4 which exceeds \$100,000,000, and concurrent with
5 any statement required to be submitted under para-
6 graph (3) with respect to the transaction, the Bank
7 shall post a notice on the Bank’s website that in-
8 cludes—

9 “(i) a description of the transaction pro-
10 posed to be financed;

11 “(ii) the identities of the obligor, principal
12 supplier, and guarantor involved in the trans-
13 action; and

14 “(iii) a description of any item with respect
15 to which Bank financing is being sought.

16 “(B) MANNER OF DISCLOSURE.—Any informa-
17 tion required to be disclosed under subparagraph
18 (A) shall be disclosed in a manner that does not dis-
19 close any information that is confidential or propri-
20 etary business information, that would violate sec-
21 tion 1905 of title 18, United States Code (commonly
22 referred to as the ‘Trade Secrets Act’), or that
23 would jeopardize jobs in the United States by sup-
24 plying information which competitors could use to
25 compete with companies in the United States.

1 “(C) POST CONSIDERATION.—Not later than 30
2 days after the final approval of a transaction the
3 value of which exceeds \$100,000,000, the Bank shall
4 post a notice on the Bank’s website that includes the
5 information required under subparagraph (A) in a
6 manner that complies with subparagraph (B).”.

7 **SEC. 15. ANNUAL COMPETITIVENESS REPORT.**

8 Section 8A(a) of the Export-Import Bank Act of
9 1945 (12 U.S.C. 635g–1(a)) is amended by adding at the
10 end the following:

11 “(11) CASE PROCESSING.—A separate section
12 detailing the Bank’s annual survey of exporters, fi-
13 nancial institutions, and brokers regarding the
14 Bank’s processing of transactions, timeliness in re-
15 viewing transactions and processing applications, ad-
16 herence to financial standards, clarity and ease of
17 use of applications, and general customer service
18 during the application and approval process for each
19 of the Bank’s major programs.

20 “(12) OPERATIONS.—A separate section detail-
21 ing the Bank’s annual survey of exporters, financial
22 institutions, and brokers regarding the Bank’s docu-
23 mentation requirements, certifications, and proc-
24 essing of applications for medium- and long-term

1 program transactions compared to the processing of
2 applications by other export credit agencies.

3 “(13) PROCESS IMPROVEMENT.—A description
4 of the recommendations made by the Bank’s Advi-
5 sory Committee and the advisory committee on Sub-
6 Saharan Africa established under section
7 2(b)(9)(B)(ii) regarding improving the Bank’s proc-
8 essing of transactions and customer service. The
9 Bank shall make every reasonable effort to act on
10 the recommendations of the advisory committees and
11 shall include a separate section detailing the actions
12 taken by the Bank to comply with the recommenda-
13 tions.”.

14 **SEC. 16. PROHIBITIONS ON FINANCING FOR CERTAIN PER-**
15 **SONS INVOLVED IN SANCTIONABLE ACTIVI-**
16 **TIES WITH RESPECT TO IRAN.**

17 (a) PROHIBITION ON FINANCING FOR PERSONS
18 THAT ENGAGE IN CERTAIN SANCTIONABLE ACTIVI-
19 TIES.—

20 (1) IN GENERAL.—Beginning on the date that
21 is 90 days after the date of the enactment of this
22 Act, the Board of Directors of the Export-Import
23 Bank of the United States may not approve any
24 transaction that is subject to approval by the Board
25 with respect to the provision by the Bank of any

1 guarantee, insurance, or extension of credit, or the
2 participation by the Bank in any extension of credit,
3 in connection with the exportation of any good or
4 service by a person unless the person makes the cer-
5 tification described in paragraph (2).

6 (2) CERTIFICATION DESCRIBED.—The certifi-
7 cation described in this paragraph is a certification
8 by a person—

9 (A) that neither the person nor any other
10 person owned or controlled by the person—

11 (i) engages in any activity described
12 in section 5(a) of the Iran Sanctions Act
13 of 1996 (Public Law 104–172; 50 U.S.C.
14 1701 note) for which the person may be
15 subject to sanctions under that Act;

16 (ii) exports sensitive technology, as
17 defined in section 106 of the Comprehen-
18 sive Iran Sanctions, Accountability, and
19 Divestment Act of 2010 (22 U.S.C. 8515),
20 to Iran; or

21 (iii) engages in any activity prohibited
22 by part 560 of title 31, Code of Federal
23 Regulations (commonly known as the “Ira-
24 nian Transactions Regulations”), unless
25 the activity is disclosed to the Office of

1 Foreign Assets Control of the Department
2 of the Treasury when the activity is discov-
3 ered; or

4 (B) if the person or any other person
5 owned or controlled by the person has engaged
6 in an activity described in subparagraph (A),
7 that—

8 (i) in the case of an activity described
9 in subparagraph (A)(i), the President—

10 (I) has waived the imposition of
11 sanctions with respect to the person
12 that engaged in that activity pursuant
13 to section 4(c), 6(b)(5), or 9(c) of the
14 Iran Sanctions Act of 1996 (Public
15 Law 104–172; 50 U.S.C. 1701 note);

16 (II) has determined not to ini-
17 tiate, or has terminated, an investiga-
18 tion under section 4(e)(1) of that Act
19 with respect to the person that en-
20 gaged in that activity pursuant to sec-
21 tion 4(e)(3) of that Act; or

22 (III) has determined that the cri-
23 teria have been met for the exception
24 provided for under section 5(a)(3)(C)
25 of that Act to apply with respect to

1 the person that engaged in that activ-
2 ity; or

3 (ii) in the case of an activity described
4 in subparagraph (A)(ii), the President has
5 waived, pursuant to section 401(b)(1) of
6 the Comprehensive Iran Sanctions, Ac-
7 countability, and Divestment Act of 2010
8 (22 U.S.C. 8551(b)(1)), the application of
9 the prohibition under section 106(a) of
10 that Act (22 U.S.C. 8515(a)) with respect
11 to that person.

12 (b) PROHIBITION ON FINANCINGS.—Beginning on
13 the date that is 90 days after the date of the enactment
14 of this Act, the Board of Directors of the Export-Import
15 Bank of the United States may not approve any trans-
16 action that is subject to approval by the Board with re-
17 spect to the provision by the Bank of any guarantee, in-
18 surance, or extension of credit, or the participation by the
19 Bank in any extension of credit, in connection with a fi-
20 nancing in which a borrower or controlling sponsor, or a
21 person that is owned or controlled by such borrower or
22 controlling sponsor, is subject to sanctions under section
23 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–
24 172; 50 U.S.C. 1701 note).

25 (c) DEFINITIONS.—In this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES; PERSON.—The terms “appropriate congres-
3 sional committees” and “person” have the meanings
4 given those terms in section 14(14) of the Iran
5 Sanctions Act of 1996 (Public Law 104–172; 50
6 U.S.C. 1701 note).

7 (2) CONTROLLING SPONSOR.—The term “con-
8 trolling sponsor” means an entity providing control-
9 ling direct private equity investment (excluding in-
10 vestments made through publicly held investment
11 funds, publicly held securities, public offerings, or
12 similar public market vehicles) in connection with a
13 financing.

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