112TH CONGRESS
2D SESSION

S. 2215

To create jobs in the United States by increasing United States exports to Africa by at least 200 percent in real dollar value within 10 years, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2012

Mr. DURBIN (for himself, Mr. BOOZMAN, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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A BILL

To create jobs in the United States by increasing United States exports to Africa by at least 200 percent in real dollar value within 10 years, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Increasing American Jobs Through Greater Exports to Africa Act of 2012".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Export growth helps United States business grow and create American jobs. In 2010, 60 percent of American exports came from small- and medium-sized businesses.

(2) On January 31, 2011, the President mandated an executive review across agencies to determine where the United States Government could become more competitive and helpful to business, including help with promoting exports.

(3) Several United States Government agencies are involved in export promotion. Coordination of the efforts of these agencies through the Trade Promotion Coordinating Committee lacks sufficient strategic implementation and accountability.

(4) Many other countries have trade promotion programs that aggressively compete against United States exports in Africa and around the world. For example, in 2010, medium- and long-term official export credit general volumes from the Group of 7 countries (Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States) totaled $65,400,000,000. Germany provided the largest level of support at $22,500,000,000, followed by France at $17,400,000,000 and the United States at $13,000,000,000. Official export credit support by

emerging market economies such as Brazil, China, and India are significant as well.

(5) Between 2008 and 2010, China alone provided more than $110,000,000,000 in loans to the developing world, and, in 2009, China surpassed the United States as the leading trade partner of African countries. The Export-Import Bank of the United States substantially increased lending to United States businesses focused on Africa from $400,000,000 in 2009 to an anticipated $1,000,000,000 in 2011, but the Export-Import Bank of China dwarfed this effort with an estimated $12,000,000,000 worth of financing.

(6) Other countries such as India, Turkey, Russia, and Brazil are also aggressively seeking markets in Africa using their national export banks to provide concessional assistance.

(7) The Chinese practice of concessional financing runs contrary to the principles of the Organization of Economic Co-operation and Development related to open market rates, undermines naturally competitive rates, and can allow governments in Africa to overlook the troubling record on labor practices, human rights, and environmental impact.

(8) The African continent is undergoing a period of rapid growth and middle class development, as seen from major indicators such as Internet use and clean water access. In 2000, only 6.7 percent of the population of Africa had access to the Internet. In 2009, 27.1 percent of the population had Internet access. Seventy-eight percent of Africa's rural population now has access to clean water.

(9) Economists have designated Africa as the ''next frontier market'', with profitability and growth rates among many African firms exceeding global averages in recent years. Countries in Africa have a collective spending power of almost $9,000,000,000 and a gross domestic product of $1,600,000,000,000, which are projected to double in the next 10 years.

(10) Sub-Saharan Africa is projected to have the fastest growing economies in the world over the next 5 years, with 7 of the 10 fastest growing economies located in sub-Saharan Africa.

(11) When countries such as China assist with large-scale government projects, they also gain an upper hand in relations with African leaders and access to valuable commodities such as oil and copper,

typically without regard to environmental, human rights, labor, or governance standards.

(12) Unless the United States can offer competitive financing for its firms in Africa, it will be deprived of opportunities to participate in African efforts to close the continent's significant infrastructure gap that amounts to an estimated $100,000,000,000.

(b) PURPOSE.—The purpose of this Act is to create jobs in the United States by expanding programs that will result in increasing United States exports to Africa by 200 percent in real dollar value within 10 years.

SEC. 3. DEFINITIONS.

In this Act:

(1) AFRICA.—The term ''Africa'' refers to the entire continent of Africa and its 54 countries, including the Republic of South Sudan.

(2) AFRICAN DIASPORA.—The term ''African diaspora'' means the people of African origin living in the United States, irrespective of their citizenship and nationality, who are willing to contribute to the development of Africa.

(3) AGOA.—The term ''AGOA'' means the African Growth and Opportunity Act (19 U.S.C. 3701 et seq.).

(4) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘‘appropriate congressional committees’’ means—

(A) the Committee on Appropriations, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Appropriations, the Committee on Energy and Commerce, the Committee on Financial Services, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives.

(5) DEVELOPMENT AGENCIES.—The term ‘‘development agencies’’ includes the Department of State, including the United States Agency for International Development (USAID), the Millennium Challenge Corporation (MCC), the Overseas Private Investment Corporation (OPIC), and the United States Trade and Development Agency (USTDA).

(6) TRADE POLICY STAFF COMMITTEE.—The term ‘‘Trade Policy Staff Committee’’ means the Trade Policy Staff Committee established pursuant to section 2002.2 of title 15, Code of Federal Regulations, and is composed of representatives of Federal agencies in charge of developing and coordi-

nating United States positions on international trade and trade-related investment issues.

(7) MULTILATERAL DEVELOPMENT BANKS.—The term ‘‘multilateral development banks’’ has the meaning given that term in section 1701(c)(4) of the International Financial Institutions Act (22 U.S.C. 262r(c)(4)) and includes the African Development Foundation.

(8) SUB-SAHARAN REGION.—The term ‘‘sub-Saharan region’’ refers to the 49 countries listed in section 107 of the African Growth and Opportunity Act (19 U.S.C. 3706) and includes the Republic of South Sudan.

(9) TRADE PROMOTION COORDINATING COMMITTEE.—The term ‘‘Trade Promotion Coordinating Committee’’ means the Trade Promotion Coordinating Committee established by Executive Order 12870 (58 Fed. Reg. 51753).

(10) UNITED STATES AND FOREIGN COMMERCIAL SERVICE.—The term ‘‘United States and Foreign Commercial Service’’ means the United States and Foreign Commercial Service established by section 2301 of the Export Enhancement Act of 1988 (15 U.S.C. 4721).

SEC. 4. STRATEGY.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall establish a comprehensive United States strategy for public and private investment, trade, and development in Africa.

(b) FOCUS OF STRATEGY.—The strategy required by subsection (a) shall focus on—

(1) increasing exports of United States goods and services to Africa by 200 percent in real dollar value within 10 years from the date of the enactment of this Act;

(2) coordinating United States commercial interests with development priorities in Africa;

(3) developing relationships between the governments of countries in Africa and United States businesses that have an expertise in such issues as infrastructure development, technology, telecommunications, energy, and agriculture;

(4) improving the competitiveness of United States businesses in Africa, including the role the African diaspora can play in enhancing such competitiveness;

(5) exploring ways that African diaspora remittances can help governments in Africa tackle economic, development, and infrastructure financing needs;

(6) promoting economic integration in Africa through working with the subregional economic communities, supporting efforts for deeper integration through the development of customs unions within western and central Africa and within eastern and southern Africa, eliminating time-consuming border formalities into and within these areas, and supporting regionally based infrastructure projects;

(7) encouraging a greater understanding among United States business and financial communities of the opportunities Africa holds for United States exports; and

(8) monitoring—

(A) market loan rates and the availability of capital for United States business investment in Africa;

(B) loan rates offered by the governments of other countries for investment in Africa; and

(C) the policies of other countries with respect to export financing for investment in Africa that are predatory or distort markets.

(c) CONSULTATIONS.—In developing the strategy required by subsection (a), the President shall consult with—

(1) Congress;

(2) each agency that is a member of the Trade Promotion Coordinating Committee;

(3) the multilateral development banks;

(4) each agency that participates in the Trade Policy Staff Committee;

(5) the President's National Export Council;

(6) each of the development agencies;

(7) any other Federal agencies with responsibility for export promotion or financing and development; and

(8) the private sector, including businesses, nongovernmental organizations, and African diaspora groups.

(d) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress the strategy required by subsection (a).

(2) PROGRESS REPORT.—Not later than 3 years after the date of the enactment of this Act, the President shall submit to Congress a report on the implementation of the strategy required by subsection (a).

(3) CONTENT OF REPORT.—The report required by paragraph (2) shall include an assessment

of the extent to which the strategy required by subsection (a)—

(A) has been successful in developing critical analyses of policies to increase exports to Africa;

(B) has been successful in increasing the competitiveness of United States businesses in Africa;

(C) has been successful in creating jobs in the United States, including the nature and sustainability of such jobs;

(D) has provided sufficient United States Government support to meet third country competition in the region;

(E) has been successful in helping the African diaspora in the United States participate in economic growth in Africa;

(F) has been successful in promoting economic integration in Africa; and

(G) has made a meaningful contribution to the transformation of Africa and its full integration into the 21st century world economy, not only as a supplier of primary products but also as full participant in international supply and distribution chains.

SEC. 5. SPECIAL AFRICA STRATEGY COORDINATOR.

The President shall designate an individual to serve as Special Africa Export Strategy Coordinator—

(1) to oversee the development and implementation of the strategy required by section 4; and

(2) to coordinate with the Trade Promotion Coordinating Committee, (the interagency AGOA committees), and development agencies with respect to developing and implementing the strategy.

SEC. 6. TRADE MISSION TO AFRICA.

It is the sense of Congress that, not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce and other high-level officials of the United States Government with responsibility for export promotion, financing, and development should conduct a joint trade mission to Africa.

SEC. 7. PERSONNEL.

(a) UNITED STATES AND FOREIGN COMMERCIAL SERVICE.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Commerce shall ensure that not less than 14 total United States and Foreign Commercial Service officers are assigned to Africa.

(2) ASSIGNMENT.—The Secretary shall, in consultation with the Trade Promotion Coordinating

Committee and the Special Africa Export Strategy Coordinator, assign the United States and Foreign Commercial Service officers described in paragraph (1) to United States embassies in Africa.

(3) MULTILATERAL DEVELOPMENT BANKS.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Commerce shall assign not less than 1 full-time United States and Foreign Commercial Service officer to the office of the United States Executive Director at each multilateral development bank.

(B) RESPONSIBILITIES.—Each United States and Foreign Commercial Service officer assigned under subparagraph (A) shall be responsible for—

(i) increasing the access of United States businesses to procurement contracts with the multilateral development bank to which the officer is assigned; and

(ii) facilitating the access of United States businesses to risk insurance, equity investments, consulting services, and lending provided by that bank.

(b) Export-Import Bank of the United States.—Of the amounts collected by the Export-Import Bank that remain after paying the expenses the Bank is authorized to pay from such amounts for administrative expenses, the Bank shall use sufficient funds to do the following:

(1) Assign, in consultation with the Trade Promotion Coordinating Committee and the Special Africa Export Strategy Coordinator, not less than 3 full-time employees of the Bank to geographically appropriate field offices in Africa.

(2) Increase the number of employees of the Bank assigned to United States field offices of the Bank to not less than 30, to be distributed as geographically appropriate through the United States. Such offices shall coordinate with the related export efforts undertaken by the Small Business Administration regional field offices.

(3) Upgrade the Bank's equipment and software to more expeditiously, effectively, and efficiently process and track applications for financing received by the Bank.

(c) Overseas Private Investment Corporation.—

(1) STAFFING.—Of the net offsetting collections collected by the Overseas Private Investment Corporation used for administrative expenses, the Corporation shall use sufficient funds to increase by not more than 5 the staff needed to promote stable and sustainable economic growth and development in Africa, to strengthen and expand the private sector in Africa, and to facilitate the general economic development of Africa, with a particular focus on helping United States businesses expand into African markets.

(2) REPORT.—The Corporation shall report to the appropriate congressional committees on whether recent technology upgrades have resulted in more effective and efficient processing and tracking of applications for financing received by the Corporation.

SEC. 8. TRAINING.

The President shall develop a plan—

(1) to standardize the training received by United States and Foreign Commercial Service officers, economic officers of the Department of State, and economic officers of the United States Agency for International Development with respect to the programs and procedures of the Export-Import Bank of the United States, the Overseas Private In-

vestment Corporation, the Small Business Administration, and the United States Trade and Development Agency; and

(2) to ensure that, not later than 1 year after the date of the enactment of this Act—

(A) all United States and Foreign Commercial Service officers that are stationed overseas receive the training described in paragraph (1); and

(B) in the case of a country to which no United States and Foreign Commercial Service officer is assigned, any economic officer of the Department of State stationed in that country shall receive that training.

SEC. 9. EXPORT-IMPORT BANK CAPITALIZATION.

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

(1) in subparagraph (D), by striking ''and'';

(2) in subparagraph (E), by striking ''2011,'' and inserting ''2011, $95,000,000,000;''; and

(3) by adding at the end the following:

''(F) during fiscal year 2012 and each fiscal year thereafter through fiscal year 2016, $150,000,000,000; and

"(G) subject to paragraph (4), during fiscal year 2017 and each fiscal year thereafter, $175,000,000,000.".

(b) SPECIAL RULE FOR INCREASE IN APPLICABLE AMOUNT.—Section 6(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)) is amended by adding at the end the following:

"(4) SPECIAL RULE FOR INCREASE IN APPLICABLE AMOUNT.—

"(A) IN GENERAL.—Beginning in fiscal year 2017, and each fiscal year thereafter, the applicable amount under paragraph (1) shall be $175,000,000,000, if the Comptroller General of the United States determines pursuant to subparagraph (B) that the increase in the applicable amount under paragraph (1)(F) has been effective in increasing viable loans to further United States exports, including to Africa.

"(B) REPORT BY GAO.—The Comptroller General of the United States shall conduct a study of the operations of the Bank and the effectiveness of increasing the applicable amount under this subsection. Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit a report to Congress regarding the Comptroller General's determination on the effective use by the Bank of the increase in the applicable amount under this subsection.''.

(c) PERCENT TO BE USED FOR PROJECTS IN AFRICA.—Section 6(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)), as amended by subsection (b), is amended by adding at the end the following:

``(5) PERCENT OF INCREASE TO BE USED FOR PROJECTS IN AFRICA.—Not less than 25 percent of the amount by which the applicable amount under paragraph (1) is increased under paragraph (2) (F) or (G) over the applicable amount for fiscal year 2011 shall be used for loans, guarantees, and insurance for projects in Africa.''.

(d) AVAILABILITY OF PORTION OF CAPITALIZATION TO COMPETE AGAINST FOREIGN CONCESSIONAL LOANS.—Not less than $250,000,000 of the total bank capitalization of the Export-Import Bank shall be available annually for loans that counter below-market rate, preferential, tied aid, or other related non-market loans offered by other nations for which United States companies are also competing or interested in competing.

SEC. 10. TIED AID CREDIT FUND.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Export-Import Bank should use its Tied Aid Credit Fund to aggressively help United States companies compete for projects in which a foreign government is using any type of below market, preferential, or tied aid loan. The Bank shall make use of any loan products available, including pursuant to section 9(d), to counter these foreign offerings.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Export-Import Bank shall report to the appropriate congressional committees if the Bank has not used at least $220,000,000 in tied aid credit during the preceding fiscal year. The report shall include—

(1) a description of all requests for grants from the Tied-Aid Credit Fund or other similar funds (established under section 10 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3)) received by the Bank during that fiscal year;

(2) a description of similar concessional (below market rate) loans made by other countries during that fiscal year; and

(3) a description of any such grant requests that were denied and the reason for such denial.

SEC. 11. SMALL BUSINESS ADMINISTRATION.

Section 22(b) of the Small Business Act (15 U.S.C. 649(b)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''the Trade Promotion Coordinating Committee,'' after ''Director of the United States Trade and Development Agency,''; and

(2) in paragraph (3), by inserting ''regional offices of the Export-Import Bank,'' after ''Retired Executives,''.

SEC. 12. BILATERAL, SUBREGIONAL AND REGIONAL, AND MULTILATERAL AGREEMENTS.

Where applicable, the United States Trade Representative and officials of the Export-Import Bank shall explore opportunities to negotiate bilateral, subregional, and regional agreements that encourage trade and eliminate nontariff barriers to trade between countries, such as negotiating investor friendly double-taxation treaties and investment promotion agreements. United States negotiators in multilateral forum should take into account the objectives of this Act. To the extent any such agreements exist between the United States and an African country, the Trade Representative shall ensure that the agreement is being implemented in a manner that maximizes the positive effects for United States trade, export, and labor interests as well as the economic development of the countries in Africa.

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