

Union Calendar No. 178

107TH CONGRESS
1ST SESSION**H. R. 2871****[Report No. 107-292]**

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2001

Mr. BEREUTER introduced the following bill; which was referred to the Committee on Financial Services

NOVEMBER 15, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 10, 2001]

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 “Ex-*
- 5 *port-Import Bank Reauthorization Act of 2001”.*

1 **(b) TABLE OF CONTENTS.**—*The table of contents of this*
 2 *Act is as follows:*

- Sec. 1. Short title; table of contents.*
- Sec. 2. Clarification that purposes include United States employment.*
- Sec. 3. Extension of authority.*
- Sec. 4. Administrative expenses.*
- Sec. 5. Increase in aggregate loan, guarantee, and insurance authority.*
- Sec. 6. Activities relating to Africa.*
- Sec. 7. Small business.*
- Sec. 8. Technology.*
- Sec. 9. Tied Aid Credit Fund.*
- Sec. 10. Expansion of authority to use Tied Aid Credit Fund.*
- Sec. 11. Renaming of Tied Aid Credit Program and Fund as Export Competitiveness Program and Fund.*
- Sec. 12. Annual competitiveness report.*
- Sec. 13. Renewable energy sources.*
- Sec. 14. GAO reports.*
- Sec. 15. Human rights.*
- Sec. 16. Steel.*
- Sec. 17. Correction of references.*
- Sec. 18. Authority to deny application for assistance based on fraud or corruption by the applicant.*
- Sec. 19. Consideration of foreign country helpfulness in efforts to eradicate terrorism.*
- Sec. 20. Outstanding orders and preliminary injury determinations.*
- Sec. 21. Sense of the Congress relating to renewable energy targets.*

3 **SEC. 2. CLARIFICATION THAT PURPOSES INCLUDE UNITED**
 4 **STATES EMPLOYMENT.**

5 Section 2(a)(1) of the *Export-Import Bank Act of 1945*
 6 *(12 U.S.C. 635(a)(1))* is amended by striking the 2nd sen-
 7 tence and inserting the following: “The objects and purposes
 8 of the Bank shall be to aid in financing and to facilitate
 9 exports of goods and services, imports, and the exchange of
 10 commodities and services between the United States or any
 11 of its territories or insular possessions and any foreign
 12 country or the agencies or nationals of any such country,
 13 and in so doing to contribute to the employment of United
 14 States workers. To further meet the objective set forth in

1 *the preceding sentence, the Bank shall ensure that its loans,*
 2 *guarantees, insurance, and credits are contributing to*
 3 *maintaining or increasing employment of United States*
 4 *workers.”.*

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

6 *Section 7 of the Export-Import Bank Act of 1945 (12*
 7 *U.S.C. 635f) and section 1(c) of Public Law 103–428 (12*
 8 *U.S.C. 635 note; 108 Stat. 4376) are each amended by strik-*
 9 *ing “2001” and inserting “2005”.*

10 **SEC. 4. ADMINISTRATIVE EXPENSES.**

11 *(a) LIMITATIONS ON AUTHORIZATION OF APPROPRIA-*
 12 *TIONS.—Section 3 of the Export-Import Bank Act of 1945*
 13 *(12 U.S.C. 635a) is amended by adding at the end the fol-*
 14 *lowing:*

15 *“(f) LIMITATIONS ON AUTHORIZATION OF APPROPRIA-*
 16 *TIONS FOR ADMINISTRATIVE EXPENSES.—*

17 *“(1) IN GENERAL.—For administrative expenses*
 18 *incurred by the Bank, including technology-related*
 19 *expenses to carry out section 2(b)(1)(E)(x), there are*
 20 *authorized to be appropriated to the Bank not more*
 21 *than—*

22 *“(A) for fiscal year 2002, \$80,000,000; and*

23 *“(B) for each of fiscal years 2003 through*
 24 *2005, the amount authorized by this paragraph*
 25 *to be appropriated for the then preceding fiscal*

1 year, increased by the inflation percentage (as
 2 defined in section 6(a)(2)(B)) applicable to the
 3 then current fiscal year.

4 “(2) *OUTREACH TO SMALL BUSINESSES WITH*
 5 *FEWER THAN 100 EMPLOYEES.*—Of the amount appro-
 6 priated pursuant to paragraph (1), there shall be
 7 available for outreach to small business concerns (as
 8 defined under section 3 of the Small Business Act)
 9 employing fewer than 100 employees, not more
 10 than—

11 “(A) \$2,000,000 for fiscal year 2002; and
 12 “(B) for each of fiscal years 2003 through
 13 2005, the amount required by this paragraph to
 14 be made available for the then preceding fiscal
 15 year, increased by the inflation percentage (as
 16 defined in section 6(a)(2)(B)) applicable to the
 17 then current fiscal year.”.

18 (b) *REQUIRED BUDGET SUBCATEGORIES.*—Section
 19 1105(a) of title 31, United States Code, is amended by add-
 20 ing at the end the following:

21 “(34) with respect to the amount of appropria-
 22 tions requested for use by the Export-Import Bank of
 23 the United States, a separate statement of the amount
 24 requested for its program budget, the amount re-
 25 quested for its administrative expenses, and of the

1 *amount requested for its administrative expenses, the*
 2 *amount requested for technology expenses and the*
 3 *amount requested for expenses for outreach to small*
 4 *business concerns (as defined under section 3 of the*
 5 *Small Business Act) employing fewer than 100 em-*
 6 *ployees.”.*

7 *(c) SENSE OF THE CONGRESS ON THE IMPORTANCE*
 8 *OF TECHNOLOGY IMPROVEMENTS.—*

9 *(1) FINDINGS.—The Congress finds that—*

10 *(A) the Export-Import Bank of the United*
 11 *States is in great need of technology improve-*
 12 *ments;*

13 *(B) part of the amount budgeted for admin-*
 14 *istrative expenses of the Export-Import Bank is*
 15 *used for technology initiatives and systems up-*
 16 *grades for computer hardware and software pur-*
 17 *chases;*

18 *(C) the Export-Import Bank is falling be-*
 19 *hind its foreign competitor export credit agen-*
 20 *cies’ proactive technology improvements;*

21 *(D) small businesses disproportionately ben-*
 22 *efit from improvements in technology;*

23 *(E) small businesses need Export-Import*
 24 *Bank technology improvements in order to ex-*
 25 *port transactions quickly, with as great paper*

1 ease as possible, and with a quick Bank turn-
2 around time that does not overstrain the tight
3 resources of such businesses;

4 (F) the Export-Import Bank intends to de-
5 velop a number of e-commerce initiatives aimed
6 at improving customer service, including web-
7 based application and claim filing procedures
8 which would reduce processing time, speed pay-
9 ment of claims, and increase staff efficiency;

10 (G) the Export-Import Bank is beginning
11 the process of moving insurance applications
12 from an outdated mainframe system to a mod-
13 ern, web-enabled database, with new
14 functionality including credit scoring, portfolio
15 management, work flow and e-commerce features
16 to be added; and

17 (H) the Export-Import Bank wants to con-
18 tinue its e-commerce strategy, including web site
19 development, expanding online applications and
20 establishing a public/private sector technology
21 partnership.

22 (2) SENSE OF THE CONGRESS.—The Congress
23 emphasizes the importance of technology improve-
24 ments for the Export-Import Bank of the United

1 *States, which are of particular importance for small*
 2 *businesses.*

3 **SEC. 5. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND**
 4 **INSURANCE AUTHORITY.**

5 *Section 6(a) of the Export-Import Bank Act of 1945*
 6 *(12 U.S.C. 635e(a)) is amended to read as follows:*

7 “(a) *LIMITATION ON OUTSTANDING AMOUNTS.—*

8 “(1) *IN GENERAL.—The Export-Import Bank of*
 9 *the United States shall not have outstanding at any*
 10 *one time loans, guarantees, and insurance in an ag-*
 11 *gregate amount in excess of the applicable amount.*

12 “(2) *APPLICABLE AMOUNT.—*

13 “(A) *IN GENERAL.—In paragraph (1), the*
 14 *term ‘applicable amount’ means—*

15 “(i) *during fiscal year 2002,*
 16 *\$100,000,000,000, increased by the inflation*
 17 *percentage applicable to fiscal year 2002;*

18 “(ii) *during fiscal year 2003,*
 19 *\$110,000,000,000, increased by the inflation*
 20 *percentage applicable to fiscal year 2003;*

21 “(iii) *during fiscal year 2004,*
 22 *\$120,000,000,000, increased by the inflation*
 23 *percentage applicable to fiscal year 2004;*

24 *and*

1 “(iv) during fiscal year 2005,
2 \$130,000,000,000, increased by the inflation
3 percentage applicable to fiscal year 2005.

4 “(B) INFLATION PERCENTAGE.—For pur-
5 poses of subparagraph (A) of this paragraph, the
6 inflation percentage applicable to any fiscal year
7 is the percentage (if any) by which—

8 “(i) the average of the Consumer Price
9 Index (as defined in section 1(f)(5) of the
10 Internal Revenue Code of 1986) for the 12-
11 month period ending on December 31 of the
12 immediately preceding fiscal year; exceeds

13 “(ii) the average of the Consumer Price
14 Index (as so defined) for the 12-month pe-
15 riod ending on December 31 of the 2nd pre-
16 ceding fiscal year.

17 “(3) SUBJECT TO APPROPRIATIONS.—All spend-
18 ing and credit authority provided under this Act shall
19 be effective for any fiscal year only to such extent or
20 in such amounts as are provided in appropriation
21 Acts.”.

22 **SEC. 6. ACTIVITIES RELATING TO AFRICA.**

23 (a) EXTENSION OF ADVISORY COMMITTEE FOR SUB-
24 SAHARAN AFRICA.—Section 2(b)(9)(B)(iii) of the Export-
25 Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is

1 *amended by striking “4 years after the date of enactment*
 2 *of this subparagraph” and inserting “on September 30,*
 3 *2005”.*

4 *(b) COORDINATION OF AFRICA ACTIVITIES.—Section*
 5 *2(b)(9)(A) of the Export-Import Bank Act of 1945 (12*
 6 *U.S.C. 635(b)(9)(A)) is amended by inserting “, in con-*
 7 *sultation with the Department of Commerce and the Trade*
 8 *Promotion Coordinating Council,” after “shall”.*

9 *(c) CONTINUED REPORTS TO THE CONGRESS.—Sec-*
 10 *tion 7(b) of the Export-Import Bank Reauthorization Act*
 11 *of 1997 (12 U.S.C. 635 note) is amended by striking “4”*
 12 *and inserting “8”.*

13 *(d) CREATION OF OFFICE ON AFRICA.—Section 3 of*
 14 *the Export-Import Bank Act of 1945 (12 U.S.C. 635a) is*
 15 *further amended by adding at the end the following:*

16 *“(g) OFFICE ON AFRICA.—*

17 *“(1) ESTABLISHMENT.—There is established in*
 18 *the Bank an Office on Africa.*

19 *“(2) FUNCTION.—The Office on Africa shall*
 20 *focus on increasing Bank activities in Africa and in-*
 21 *creasing visibility among United States companies of*
 22 *African markets for exports.*

23 *“(3) REPORTS.—The Office on Africa shall, from*
 24 *time to time not less than annually, report to the*
 25 *Board on the matters described in paragraph (2).”.*

1 **SEC. 7. SMALL BUSINESS.**

2 (a) *IN GENERAL.*—Section 2(b)(1)(E)(v) of the Ex-
3 *port-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v))*
4 *is amended—*

5 (1) *by striking “10” and inserting “20”; and*

6 (2) *by inserting “, and from such amount, not*
7 *less than 8 percent of such authority shall be made*
8 *available for small business concerns employing fewer*
9 *than 100 employees” before the period.*

10 (b) *OUTREACH TO BUSINESSES OWNED BY SOCIALLY*
11 *DISADVANTAGED INDIVIDUALS OR WOMEN.*—Section
12 *2(b)(1)(E)(iii)(II) of such Act (12 U.S.C.*
13 *635(b)(1)(E)(iii)(II)) is amended by inserting after “Bank”*
14 *the following: “, with particular emphasis on conducting*
15 *outreach and increasing loans to businesses not less than*
16 *51 percent of which are directly and unconditionally owned*
17 *by 1 or more socially disadvantaged individuals (as defined*
18 *in section 8(a)(5) of the Small Business Act) or women,”.*

19 (c) *OFFICE FOR SMALL BUSINESS EXPORTERS.*—Sec-
20 *tion 3 of such Act (12 U.S.C. 635a) is further amended by*
21 *adding at the end the following:*

22 “(h) *OFFICE FOR SMALL BUSINESS EXPORTERS.*—

23 “(1) *ESTABLISHMENT.*—*There is established in*
24 *the Bank an Office for Small Business Exporters.*

25 “(2) *FUNCTION.*—*The Office for Small Business*
26 *Exporters shall focus on increasing Bank activities to*

1 *enhance small business exports and to meet the*
2 *unique trade finance needs of small business export-*
3 *ers.*

4 *“(3) REPORTS.—The Office for Small Business*
5 *Exporters shall, from time to time not less than an-*
6 *nually, report to the Board on the how the Office for*
7 *Small Business Exporters is achieving the goals as*
8 *described in paragraph (2).*

9 *“(4) SENSE OF CONGRESS.—It is the sense of the*
10 *Congress that the Bank should redirect and prioritize*
11 *existing resources and personnel to establish the Office*
12 *for Small Business Exporters.”.*

13 **SEC. 8. TECHNOLOGY.**

14 *(a) SMALL BUSINESS.—Section 2(b)(1)(E) of the Ex-*
15 *port-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)) is*
16 *amended by adding at the end the following:*

17 *“(x) The Bank shall implement technology improve-*
18 *ments which are designed to improve small business out-*
19 *reach, including allowing customers to use the Internet to*
20 *apply for all Bank programs.”.*

21 *(b) ELECTRONIC TRACKING OF PENDING TRANS-*
22 *ACTIONS.—Section 2(b)(1) of such Act (12 U.S.C.*
23 *635(b)(1)) is amended by adding at the end the following:*

24 *“(J) The Bank shall implement an electronic system*
25 *designed to track all pending transactions of the Bank.”.*

1 (c) *REPORTS.*—

2 (1) *IN GENERAL.*—During each of fiscal years
3 2002 through 2005, the *Export-Import Bank of the*
4 *United States shall submit to the Committees on Fi-*
5 *nancial Services and on Appropriations of the House*
6 *of Representatives and the Committees on Banking,*
7 *Housing, and Urban Affairs and on Appropriations*
8 *of the Senate an interim report and a final report on*
9 *the efforts made by the Bank to carry out subsections*
10 *(E)(x) and (J) of section 2(b)(1) of the Export-Import*
11 *Bank Act of 1945, and on how the efforts are assist-*
12 *ing small businesses.*

13 (2) *TIMING.*—The interim report required by
14 paragraph (1) for a fiscal year shall be submitted
15 April 30 of the fiscal year, and the final report so re-
16 quired for a fiscal year shall be submitted on Novem-
17 ber 1 of the succeeding fiscal year.

18 **SEC. 9. TIED AID CREDIT FUND.**

19 (a) *PROCESS AND STANDARDS.*—Section 10(b) of the
20 *Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(b)) is*
21 *amended—*

22 (1) in paragraph (2)(A), by striking “Secretary’s
23 recommendations” and all that follows and inserting
24 “process and standards developed pursuant to para-
25 graph (5);”; and

1 (2) *by adding at the end the following:*

2 “(5) *PROCESS AND STANDARDS GOVERNING USE*
3 *OF THE FUND.*—

4 “(A) *IN GENERAL.*—*The Secretary shall de-*
5 *velop a process for, and the standards to be used*
6 *in, determining how the amounts in the Tied*
7 *Aid Credit Fund could be used most effectively*
8 *and efficiently to carry out the purposes of sub-*
9 *section (a)(6).*

10 “(B) *CONTENT OF PROCESS AND STAND-*
11 *ARDS.*—

12 “(i) *CONSIDERATION OF CERTAIN*
13 *STANDARDS.*—*In developing the standards*
14 *referred to in subparagraph (A), the Sec-*
15 *retary shall consider administering the Tied*
16 *Aid Credit Fund in accordance with the fol-*
17 *lowing standards:*

18 “(I) *The Tied Aid Credit Fund*
19 *will be used to counter a foreign tied*
20 *aid credit confronted by a United*
21 *States exporter when bidding for a*
22 *capital project.*

23 “(II) *Credible information about*
24 *an offer of foreign tied aid will be re-*
25 *quired before the Tied Aid Credit Fund*

1 *is used to offer specific terms to match*
2 *such an offer.*

3 *“(III) The Tied Aid Credit Fund*
4 *will be used to enable a competitive*
5 *United States exporter to pursue fur-*
6 *ther market opportunities made pos-*
7 *sible by the use of the Fund.*

8 *“(IV) Each use of the Tied Aid*
9 *Credit Fund will be in accordance*
10 *with the Arrangement unless a breach*
11 *of the Arrangement has been committed*
12 *by a foreign export credit agency.*

13 *“(V) The Tied Aid Credit Fund*
14 *will be used to defend potential sales*
15 *by United States companies to a*
16 *project that is environmentally sound.*

17 *“(VI) The Tied Aid Credit Fund*
18 *will be used to preemptively counter*
19 *potential foreign tied aid offers without*
20 *triggering foreign tied aid use.*

21 *“(ii) LIMITATION.—The process and*
22 *standards referred to in subparagraph (A)*
23 *shall not result in the Secretary having the*
24 *authority to veto a specific deal.*

1 “(C) *INITIAL REPORT.*—As soon as is prac-
2 *ticable but not later than 6 months after the date*
3 *of the enactment of this paragraph, the Secretary*
4 *shall submit to the Committee on Financial*
5 *Services of the House of Representatives and the*
6 *Committee on Banking, Housing, and Urban Af-*
7 *airs of the Senate a report on the process and*
8 *standards developed pursuant to subparagraph*
9 *(A).*

10 “(D) *TRANSITIONAL STANDARDS.*—The
11 *standards set forth in subparagraph (B)(i) shall*
12 *govern the use of the Tied Aid Credit Fund until*
13 *the report required by subparagraph (C) is sub-*
14 *mitted.*

15 “(E) *UPDATE AND REVISION; REPORTS.*—
16 *The Secretary should update and revise, as need-*
17 *ed, the process and standards developed pursuant*
18 *to subparagraph (A), and, on doing so, shall sub-*
19 *mit to the Committee on Financial Services of*
20 *the House of Representatives and the Committee*
21 *on Banking, Housing, and Urban Affairs of the*
22 *Senate a report on the process and standards so*
23 *updated and revised.”.*

1 **(b) RECONSIDERATION OF BOARD DECISIONS ON USE**
 2 *OF FUND.*—Section 10(b) of such Act (12 U.S.C. 635i–3(b))
 3 *is further amended by adding at the end the following:*

4 “(6) *RECONSIDERATION OF DECISIONS.*—

5 “(A) *IN GENERAL.*—Taking into consider-
 6 *ation the time sensitivity of transactions, the*
 7 *Board of Directors of the Bank shall expedi-*
 8 *tiously reconsider a decision of the Board to*
 9 *deny an application of the use of the Tied Aid*
 10 *Credit Fund if the applicant submits the request*
 11 *for reconsideration within 3 months of the de-*
 12 *nial.*

13 “(B) *PROCEDURAL RULES.*—In any such
 14 *reconsideration, the applicant may, but shall not*
 15 *be required to, provide new information on the*
 16 *application.”.*

17 **SEC. 10. EXPANSION OF AUTHORITY TO USE TIED AID**
 18 **CREDIT FUND.**

19 **(a) UNTIED AID.**—

20 (1) *NEGOTIATIONS.*—The Secretary of the Treas-
 21 *ury shall seek to negotiate an OECD Arrangement on*
 22 *Untied Aid. In the negotiations, the Secretary shall*
 23 *seek agreement on subjecting untied aid to the rules*
 24 *governing the Arrangement, including the rules gov-*
 25 *erning disclosure.*

1 (2) *REPORT TO THE CONGRESS.*—*Within 1 year*
 2 *after the date of the enactment of this Act, the Sec-*
 3 *retary of the Treasury shall submit to the Committee*
 4 *on Financial Services of the House of Representatives*
 5 *and the Committee on Banking, Housing, and Urban*
 6 *Affairs of the Senate a report on the successes, fail-*
 7 *ures, and obstacles in reaching the agreement de-*
 8 *scribed in paragraph (1).*

9 (b) *MARKET WINDOWS.*—

10 (1) *NEGOTIATIONS.*—*The Secretary of the Treas-*
 11 *ury shall seek to negotiate an OECD Arrangement on*
 12 *Market Windows. In the negotiations, the Secretary*
 13 *shall seek agreement on subjecting market windows to*
 14 *the rules governing the Arrangement, including the*
 15 *rules governing disclosure.*

16 (2) *REPORT TO THE CONGRESS.*—*Within 2 years*
 17 *after the date of the enactment of this Act, the Sec-*
 18 *retary of the Treasury shall submit to the Committee*
 19 *on Financial Services of the House of Representatives*
 20 *and the Committee on Banking, Housing, and Urban*
 21 *Affairs of the Senate a report on the successes, fail-*
 22 *ures, and obstacles in reaching the agreement de-*
 23 *scribed in paragraph (1).*

24 (c) *USE OF TIED AID CREDIT FUND TO COMBAT UN-*
 25 *TIED AID AND MARKET WINDOWS.*—*Section 10 of the Ex-*

1 *port-Import Bank Act of 1945 (12 U.S.C. 635i–3) is*
2 *amended—*

3 *(1) in subsection (a)—*

4 *(A) in paragraph (1), by inserting “, and*
5 *market windows used by” before “other coun-*
6 *tries”;*

7 *(B) in paragraph (4), by striking “and” at*
8 *the end;*

9 *(C) in paragraph (5), by inserting “, or*
10 *market windows,” before “for commercial” the*
11 *1st and 3rd places it appears; and*

12 *(D) by redesignating paragraph (5) as*
13 *paragraph (6) as inserting after paragraph (4)*
14 *the following:*

15 *“(5) the Bank has, at a minimum, the following*
16 *two tasks:*

17 *“(A)(i) First, the Bank should match, and*
18 *even overmatch, foreign export credit agencies*
19 *when they engage in tied aid outside the confines*
20 *of the Arrangement and when they exploit loop-*
21 *holes, such as market windows and untied aid;*

22 *“(ii) such matching and overmatching is*
23 *needed to provide the United States with leverage*
24 *in efforts at the OECD to reduce the overall level*
25 *of export subsidies;*

1 “(iii) only through matching or bettering
 2 foreign export credit offers can the Bank buttress
 3 United States negotiators in their efforts to bring
 4 these loopholes within the disciplines of the Ar-
 5 rangement; and

6 “(iv) in order to bring market windows
 7 within the discipline of the Arrangement, the
 8 Bank should sometimes initiate highly competi-
 9 tive financial support when the Bank learns that
 10 foreign market window support may be part of
 11 a transaction; and

12 “(B) Second, the Bank should support
 13 United States exporters when the exporters face
 14 foreign competition that is consistent with the
 15 letter and spirit of the Arrangement and the
 16 Subsidies Code of the World Trade Organization,
 17 but which nonetheless is more generous than the
 18 terms available from the private financial mar-
 19 ket; and”; and

20 (2) in subsection (b)(1)—

21 (A) in subparagraph (A), by inserting “and
 22 market windows used” after “extended”; and

23 (B) in subparagraph (B)(i), by inserting
 24 “or market windows” after “untied aid credits”.

1 (d) *DEFINITION OF MARKET WINDOW.*—Section 10(h)
 2 of such Act (12 U.S.C. 635i–3(h)) is amended by adding
 3 at the end the following:

4 “(7) *MARKET WINDOW.*—The term ‘market win-
 5 dow’ means the provision of export financing through
 6 an institution (or a part of an institution) that
 7 claims to operate on a commercial basis while bene-
 8 fitting directly or indirectly from some level of govern-
 9 ment support.”.

10 **SEC. 11. RENAMING OF TIED AID CREDIT PROGRAM AND**
 11 **FUND AS EXPORT COMPETITIVENESS PRO-**
 12 **GRAM AND FUND.**

13 Section 10 of the Export-Import Bank Act of 1945 (12
 14 U.S.C. 635i–3) is further amended—

15 (1) by striking all that precedes paragraph (1)
 16 of subsection (a) and inserting the following:

17 **“SEC. 10. EXPORT COMPETITIVENESS FUND.**

18 “(a) *FINDINGS.*—The Congress finds that—”;

19 (2) in subsection (a)(6) (as so redesignated by
 20 section 9(c)(1)(D) of this Act), by striking “tied aid
 21 program” and inserting “export competitiveness pro-
 22 gram”;

23 (3) in the heading of subsection (b), by striking
 24 “TIED AID CREDIT” and inserting “EXPORT COM-
 25 PETITIVENESS”;

1 (4) in subsection (b)(1)—

2 (A) by striking “*tied aid credit program*”
3 and inserting “*export competitiveness program*”;
4 and

5 (B) by striking “*Tied Aid Credit fund*” and
6 inserting “*Export Competitiveness Fund*”;

7 (5) in subsection (b)(2), by striking “*tied aid*
8 *credit program*” and inserting “*export competitive-*
9 *ness program*”;

10 (6) in subsection (b)(3)—

11 (A) by striking “*tied aid credit program*”
12 and inserting “*export competitiveness program*”;
13 and

14 (B) by striking “*Tied Aid Credit Fund*”
15 and inserting “*Export Competitiveness Fund*”;

16 (7) in subsection (b)(5) (as added by section
17 9(a)(2) of this Act), by striking “*Tied Aid Credit*
18 *Fund*” each place it appears and inserting “*Export*
19 *Competitiveness Fund*”;

20 (8) in subsection (b)(6) (as added by section 9(b)
21 of this Act), by striking “*Tied Aid Credit Fund*” and
22 inserting “*Export Competitiveness Fund*”;

23 (9) in subsection (c)—

1 (A) in the subsection heading, by striking
2 “*TIED AID CREDIT*” and inserting “*EXPORT*
3 *COMPETITIVENESS*”; and

4 (B) in paragraph (1), by striking “*Tied*
5 *Aid Credit*” and inserting “*Export Competitive-*
6 *ness*”;

7 (10) in subsection (d), by striking “*tied aid cred-*
8 *it*” and inserting “*export competitiveness*”; and

9 (11) in subsection (g)(2)(C), by striking “*Tied*
10 *Aid Credit*” and inserting “*Export Competitiveness*”.

11 **SEC. 12. ANNUAL COMPETITIVENESS REPORT.**

12 (a) *TIMING.*—

13 (1) *IN GENERAL.*—Section 2(b)(1)(A) of the *Ex-*
14 *port-Import Bank Act of 1945* (12 U.S.C.
15 635(b)(1)(A)) is amended in the 4th sentence by strik-
16 ing “*on an annual basis*” and inserting “*on June 30*
17 *of each year*”.

18 (2) *APPLICABILITY.*—The amendment made by
19 paragraph (1) shall apply to reports for calendar
20 years after calendar year 2000.

21 (b) *ADDITIONAL MATTERS TO BE ADDRESSED.*—Sec-
22 tion 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is
23 amended by adding at the end the following: “*The Bank*
24 *shall include in the annual report a description of the vol-*
25 *ume of financing provided by each foreign export credit*

1 agency, and a description of all Bank transactions which
 2 shall be classified according to their principal purpose, such
 3 as to correct a market failure or to provide matching sup-
 4 port.”.

5 (c) NUMBER OF SMALL BUSINESS SUPPLIERS OF
 6 BANK USERS.—Section 2(b)(1)(A) of such Act (12 U.S.C.
 7 635(b)(1)(A)) is further amended by adding at the end the
 8 following: “The Bank shall estimate on the basis of an an-
 9 nual survey or tabulation the number of entities that are
 10 suppliers of users of the Bank and that are small business
 11 concerns (as defined under section 3 of the Small Business
 12 Act) located in the United States, and shall include the esti-
 13 mate in the annual report.”.

14 (d) OUTREACH TO BUSINESSES OWNED BY SOCIALLY
 15 DISADVANTAGED INDIVIDUALS OR BY WOMEN.—Section
 16 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further
 17 amended by adding at the end the following: “The Bank
 18 shall include in the annual report a description of outreach
 19 efforts made by the Bank to any business not less than 51
 20 percent of which is directly and unconditionally owned by
 21 1 or more socially disadvantaged individuals (as defined
 22 in section 8(a)(5) of the Small Business Act) or women,
 23 and any data on the results of such efforts.”.

1 **SEC. 13. RENEWABLE ENERGY SOURCES.**

2 (a) *PROMOTION*.—Section 2(b)(1) of the *Export-Im-*
 3 *port Bank Act of 1945* (12 U.S.C. 635(b)(1)), as amended
 4 by section 8(b) of this Act, is amended by adding at the
 5 end the following:

6 “(K) The Bank shall promote the export of goods and
 7 services related to renewable energy sources.”.

8 (b) *DESCRIPTION OF EFFORTS TO BE INCLUDED IN*
 9 *ANNUAL COMPETITIVENESS REPORT*.—Section 2(b)(1)(A)
 10 of such Act (12 U.S.C. 635(b)(1)(A)) is further amended
 11 by adding at the end the following: “The Bank shall include
 12 in the annual report a description of the efforts undertaken
 13 under subparagraph (K).”.

14 **SEC. 14. GAO REPORTS.**

15 (a) *POTENTIAL OF WTO TO REMEDY UNTIED AID AND*
 16 *MARKET WINDOWS*.—Within 1 year after the date of the
 17 enactment of this Act, the Comptroller General of the United
 18 States shall submit to the Committee on Financial Services
 19 of the House of Representatives and the Committee on
 20 Banking, Housing, and Urban Affairs of the Senate a re-
 21 port that examines—

22 (1) whether a case could be brought by the
 23 United States in the World Trade Organization seek-
 24 ing relief against untied aid and market windows,
 25 and if so, the kinds of relief that would be available

1 *if the United States were to prevail in such a case;*
 2 *and*

3 *(2) the scope of penalty tariffs that the United*
 4 *States could impose against imports from a country*
 5 *that uses untied aid or market windows.*

6 *(b) COMPARATIVE RESERVE PRACTICES OF EXPORT*
 7 *CREDIT AGENCIES AND PRIVATE BANKS.—Within 1 year*
 8 *after the date of the enactment of this Act, the Comptroller*
 9 *General of the United States shall submit to the Committee*
 10 *on Financial Services of the House of Representatives and*
 11 *the Committee on Banking, Housing, and Urban Affairs*
 12 *of the Senate a report that examines the reserve ratios of*
 13 *the Export-Import Bank of the United States as compared*
 14 *with the reserve practices of private banks and foreign ex-*
 15 *port credit agencies.*

16 **SEC. 15. HUMAN RIGHTS.**

17 *Section 2(b)(1)(B) of the Export-Import Bank Act of*
 18 *1945 (12 U.S.C. 635(b)(1)(B)) is amended by inserting “(as*
 19 *provided in the Universal Declaration of Human Rights*
 20 *adopted by the United Nations General Assembly on Decem-*
 21 *ber 10, 1948)” after “human rights”.*

22 **SEC. 16. STEEL.**

23 *(a) REEVALUATION.—The Export-Import Bank of the*
 24 *United States shall re-assess the effects of the approval by*
 25 *the Bank of an \$18,000,000 medium-term guarantee to sup-*

1 port the sale of computer software, control systems, and
 2 main drive power supplies to Benxi Iron & Steel Company,
 3 in Benxi, Liaoning, China, for the purpose of evaluating
 4 whether the adverse impact test of the Bank sufficiently
 5 takes account of the interests of United States industries.

6 (b) *REPORT TO THE CONGRESS.*—Within 1 year after
 7 the date of the enactment of this Act, the Export-Import
 8 Bank of the United States shall submit to the Committee
 9 on Financial Services of the House of Representatives and
 10 the Committee on Banking, Housing, and Urban Affairs
 11 of the Senate a report on the re-assessment required by sub-
 12 section (a).

13 **SEC. 17. CORRECTION OF REFERENCES.**

14 (a) Section 2(b)(1)(B) of the Export-Import Bank Act
 15 of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by striking
 16 “Banking and”.

17 (b) Each of the following provisions of the Export-Im-
 18 port Bank Act of 1945 is amended by striking “Banking,
 19 Finance and Urban Affairs” and inserting “Financial
 20 Services”:

21 (1) Section 2(b)(6)(D)(i)(III) (12 U.S.C.
 22 635(b)(6)(D)(i)(III)).

23 (2) Section 2(b)(6)(H) (12 U.S.C. 635(b)(6)(H)).

24 (3) Section 2(b)(6)(I)(i)(II) (12 U.S.C.
 25 635(b)(6)(I)(i)(II)).

1 (4) Section 2(b)(6)(I)(iii) (12 U.S.C.
2 635(b)(6)(I)(iii)).

3 (5) Section 10(g)(1) (12 U.S.C. 635i-3(g)(1)).

4 **SEC. 18. AUTHORITY TO DENY APPLICATION FOR ASSIST-**
5 **ANCE BASED ON FRAUD OR CORRUPTION BY**
6 **THE APPLICANT.**

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

9 “(f) *AUTHORITY TO DENY APPLICATION FOR ASSIST-*
10 *ANCE BASED ON FRAUD OR CORRUPTION BY PARTY TO THE*
11 *TRANSACTION.—In addition to any other authority of the*
12 *Bank, the Bank may deny an application for assistance*
13 *with respect to a transaction if the Bank has substantial*
14 *credible evidence that any party to the transaction has com-*
15 *mitted an act of fraud or corruption in connection with*
16 *a transaction involving a good or service that is the same*
17 *as, or substantially similar to, a good or service the export*
18 *of which is the subject of the application.”.*

19 **SEC. 19. CONSIDERATION OF FOREIGN COUNTRY HELPFUL-**
20 **NESS IN EFFORTS TO ERADICATE TER-**
21 **RORISM.**

22 Section 2(b)(1) of the Export-Import Bank Act of 1945
23 (12 U.S.C. 635(b)(1)) is further amended by adding at the
24 end the following:

1 “(L) *It is further the policy of the United States that,*
2 *in considering whether to guarantee, insure, or extend cred-*
3 *it, or participate in the extension of credit in connection*
4 *with the purchase of any product, technical data, or infor-*
5 *mation by a national or agency of any nation, the Bank*
6 *shall take into account the extent to which the nation has*
7 *been helpful or unhelpful in efforts to eradicate terrorism.*
8 *The Bank shall consult with the Department of State to*
9 *determine the degree to which each relevant nation has*
10 *been helpful or unhelpful in efforts to eradicate terrorism.”.*

11 **SEC. 20. OUTSTANDING ORDERS AND PRELIMINARY INJURY**

12 **DETERMINATIONS.**

13 *Section 2(e) of the Export-Import Bank Act of 1945*
14 *(12 U.S.C. 635(e)) is amended—*

15 *(1) in paragraph (2), by striking “Paragraph*
16 *(1)” and inserting “Paragraphs (1) and (2)”;* and

17 *(2) by redesignating paragraphs (2) and (3) as*
18 *paragraphs (3) and (4) and by inserting after para-*
19 *graph (1) the following:*

20 “(2) **OUTSTANDING ORDERS AND PRELIMINARY**
21 **INJURY DETERMINATIONS.—**

22 “(A) **ORDERS.**—*The Bank shall not provide*
23 *any loan or guarantee to an entity for the result-*
24 *ing production of substantially the same product*
25 *that is the subject of—*

1 “(i) a countervailing duty or anti-
2 dumping order under title VII of the Tariff
3 Act of 1930; or

4 “(ii) a determination under title II of
5 the Trade Act of 1974.

6 “(B) AFFIRMATIVE DETERMINATION.—
7 Within 60 days after the date of the enactment
8 of this Act, the Bank shall establish procedures
9 regarding loans or guarantees provided to any
10 entity that is subject to a preliminary deter-
11 mination of a reasonable indication of material
12 injury to an industry under title VII of the Tar-
13 iff Act of 1930. The procedures shall help to en-
14 sure that these loans and guarantees are likely to
15 not result in a significant increase in imports of
16 substantially the same product covered by the
17 preliminary determination and are likely to not
18 have a significant adverse impact on the domes-
19 tic industry. The Bank shall report to the Com-
20 mittee on Financial Services of the House of
21 Representatives and the Committee on Banking,
22 Housing, and Urban Affairs of the Senate on the
23 implementation of these procedures.

24 “(C) COMMENT PERIOD.—The Bank shall
25 establish procedures under which the Bank shall

1 *notify interested parties and provide a comment*
 2 *period with regard to loans or guarantees re-*
 3 *viewed pursuant to subparagraph (B).”.*

4 **SEC. 21. SENSE OF THE CONGRESS RELATING TO RENEW-**
 5 **ABLE ENERGY TARGETS.**

6 (a) *ALLOCATION OF ASSISTANCE AMONG ENERGY*
 7 *PROJECTS.—It is the sense of the Congress that, of the total*
 8 *amount available to the Export-Import Bank of the United*
 9 *States for the extension of credit for transactions related*
 10 *to energy projects, the Bank should, not later than the be-*
 11 *ginning of fiscal year 2006, use—*

12 (1) *not more than 95 percent for transactions re-*
 13 *lated to fossil fuel projects; and*

14 (2) *not less than 5 percent for transactions re-*
 15 *lated to renewable energy and energy efficiency*
 16 *projects.*

17 (b) *DEFINITION OF RENEWABLE ENERGY.—In this*
 18 *section, the term “renewable energy” means projects related*
 19 *to solar, wind, biomass, fuel cell, landfill gas, or geothermal*
 20 *energy sources.*

Union Calendar No. 178

107TH CONGRESS
1ST SESSION

H. R. 2871

[Report No. 107-292]

A BILL

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

NOVEMBER 15, 2001

Reported with an amendment, committed to the Com-
mittee of the Whole House on the State of the Union,
and ordered to be printed