

EXPORT-IMPORT BANK OF THE UNITED STATES
REAUTHORIZATION

NOVEMBER 7, 1997.—Ordered to be printed

Mr. LEACH, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 1026]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1026), to reauthorize the Export-Import Bank of the United States, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—*This Act may be cited as the “Export-Import Bank Reauthorization Act of 1997”.*

(b) **TABLE OF CONTENTS.**—

Sec. 1. *Short title; table of contents.*

Sec. 2. *Extension of authority.*

Sec. 3. *Tied aid credit fund authority.*

Sec. 4. *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. 5. *Clarification of procedures for denying credit based on the national interest.*

Sec. 6. *Administrative Counsel.*

Sec. 7. *Advisory Committee for sub-Saharan Africa.*

Sec. 8. *Increase in labor representation on the Advisory Committee of the Export-Import Bank.*

Sec. 9. *Outreach to companies.*

Sec. 10. *Clarification of the objectives of the Export-Import Bank.*

Sec. 11. *Including child labor as a criterion for denying credit based on the national interest.*

Sec. 12. *Prohibition relating to Russian transfers of certain missiles to the People’s Republic of China.*

SEC. 2. EXTENSION OF AUTHORITY.

(a) *IN GENERAL.*—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking “until” and all that follows through the end period and inserting “until the close of business on September 30, 2001.”

(b) *EFFECTIVE DATE.*—The amendment made by this section shall take effect on September 30, 1997.

SEC. 3. TIED AID CREDIT FUND AUTHORITY.

(a) *EXPENDITURES FROM FUND.*—Section 10(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking “through” and all that follows through “1997”.

(b) *AUTHORIZATION.*—Section 10(e) of such Act (12 U.S.C. 635i–3(e)) is amended by striking the first sentence and inserting the following: “There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of this section.”

SEC. 4. 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.

Section 1(c) of Public Law 103–428 (12 U.S.C. 635 note; 108 Stat. 4376) is amended by striking “1997” and inserting “2001”.

SEC. 5. CLARIFICATION OF PROCEDURES FOR DENYING CREDIT BASED ON THE NATIONAL INTEREST.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended—

(1) in the last sentence, by inserting “, after consultation with the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate,” after “President”; and

(2) by adding at the end the following: “Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.”

SEC. 6. ADMINISTRATIVE COUNSEL.

Section 3(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(e)) is amended—

(1) by inserting “(1)” after “(e)”; and

(2) by adding at the end the following:

“(2) The General Counsel of the Bank shall ensure that the directors, officers, and employees of the Bank have available appropriate legal counsel for advice on, and oversight of, issues relating to personnel matters and other administrative law matters by designating an attorney to serve as Assistant General Counsel for Administration, whose duties, under the supervision of the General Counsel, shall be concerned solely or primarily with such issues.”

SEC. 7. ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.

(a) *IN GENERAL.*—Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting after paragraph (8) the following:

“(9)(A) The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required

by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

“(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

“(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

“(iii) The advisory committee shall terminate 4 years after the date of enactment of this subparagraph.”.

(b) **REPORTS TO CONGRESS.**—Within 6 months after the date of enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Export-Import Bank of the United States shall submit to Congress a report on the steps that the Board has taken to implement section 2(b)(9)(B) of the Export-Import Bank Act of 1945 and any recommendations of the advisory committee established pursuant to such section.

SEC. 8. INCREASE IN LABOR REPRESENTATION ON THE ADVISORY COMMITTEE OF THE EXPORT-IMPORT BANK.

Section 3(d)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(2)) is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following:

“(B) Not less than 2 members appointed to the Advisory Committee shall be representative of the labor community, except that no 2 representatives of the labor community shall be selected from the same labor union.”.

SEC. 9. OUTREACH TO COMPANIES.

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

“(I) The President of the Bank shall undertake efforts to enhance the Bank's capacity to provide information about the Bank's programs to small and rural companies which have not previously participated in the Bank's programs. Not later than 1 year after the date of enactment of this subparagraph, the President of the Bank shall submit to Congress a report on the activities undertaken pursuant to this subparagraph.”.

SEC. 10. CLARIFICATION OF THE OBJECTIVES OF THE EXPORT-IMPORT BANK.

Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)) is amended in the first sentence by striking “real income” and all that follows to the end period and inserting: “real income, a commitment to reinvestment and job creation, and the increased development of the productive resources of the United States”.

SEC. 11. INCLUDING CHILD LABOR AS A CRITERION FOR DENYING CREDIT BASED ON THE NATIONAL INTEREST.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)), as amended by section 5, is amended in the

next to the last sentence by inserting “(including child labor)” after “human rights”.

SEC. 12. PROHIBITION RELATING TO RUSSIAN TRANSFERS OF CERTAIN MISSILES TO THE PEOPLE’S REPUBLIC OF CHINA.

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

“(12) PROHIBITION RELATING TO RUSSIAN TRANSFERS OF CERTAIN MISSILE SYSTEMS.—If the President of the United States determines that the military or Government of the Russian Federation has transferred or delivered to the People’s Republic of China an SS-N-22 missile system and that the transfer or delivery represents a significant and imminent threat to the security of the United States, the President of the United States shall notify the Bank of the transfer or delivery as soon as practicable. Upon receipt of the notice and if so directed by the President of the United States, the Board of Directors of the Bank shall not give approval to guarantee, insure, extend credit, or participate in the extension of credit in connection with the purchase of any good or service by the military or Government of the Russian Federation.”.

And the House agree to the same.

JAMES A. LEACH,
MICHAEL N. CASTLE,
DOUGLAS BEREUTER,
JOHN J. LAFALCE,
FLOYD H. FLAKE,

Managers on the Part of the House.

ALFONSE D’AMATO,
ROD GRAMS,
CHUCK HAGEL,
PAUL SARBANES,
CAROL MOSELEY-BRAUN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF
CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1026) to reauthorize the Export-Import Bank of the United States, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

SECTION 1—SHORT TITLE; TABLE OF CONTENTS

Present Law

No provision.

Senate bill

The Senate bill (sec. 1) titles this Act the “Export-Import Bank Reauthorization Act of 1997.”

House amendment

No provision.

Conference agreement

The conference agreement is the Senate provision.

SECTION 2—EXTENSION OF AUTHORITY

Present law

The charter of the Export-Import Bank of the United States (Eximbank), which expired on September 30, 1997, was extended by continuing resolutions through November 7, 1997.

Senate bill

The Senate bill (sec. 2) extends the charter of Eximbank for four years through September 30, 2001.

House amendment

The House amendment (sec. 1) has an identical provision.

Conference agreement

The conference agreement extends the Eximbank’s charter through September 30, 2001.

SECTION 3—TIED AID CREDIT FUND AUTHORITY

Present law

Eximbank's authority to use the Tied Aid Credit Fund pursuant to section 10 of the Export-Import Bank Act of 1945 (Eximbank Act) expired on September 30, 1997.

Senate bill

The Senate bill (sec. 3) extends Eximbank's authority to use the Tied Aid Credit Fund for four years through September 30, 2001.

House amendment

The House amendment (sec. 2) has a similar provision extending Eximbank's authority to use the Tied Aid Credit Fund through September 30, 2001.

Conference agreement

The conference agreement extends Eximbank's authority to use the Tied Aid Credit Fund through September 30, 2001.

SECTION 4—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

Present law

Eximbank's authority pursuant to section 2(b)(6)(I)(i) of the Eximbank Act to provide finance for dual-use items (i.e., nonlethal defense articles or services the primary end use of which will be for civilian purposes) expired on September 30, 1997.

Senate bill

The Senate bill (sec. 4) extends Eximbank's authority to finance the export of dual-use items for four years through September 30, 2001.

House amendment

The House amendment (sec. 3) has an identical provision.

Conference agreement

The conference agreement extends the Eximbank's authority to finance the export of dual-use items through September 30, 2001.

SECTION 5—CLARIFICATION OF PROCEDURES FOR DENYING CREDIT BASED ON THE NATIONAL INTEREST

Present law

Section 2(b)(1)(B) of the Eximbank Act provides that the President of the United States may instruct Eximbank to deny an application for credit for non-financial or non-commercial considerations only in cases where the President determines that such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection, and human rights.

Senate bill

No provision.

House amendment

The House bill (sec. 4) amends section 2(b)(1)(B) of the Eximbank Act to provide that (1) the President, when considering whether to deny Eximbank credit based on the national interest, must consult with the Committee on Banking and Financial Services of the House of Representatives and Committee on Banking, Housing and Urban Affairs of the Senate and (2) the determination to deny credit must be delivered to the President of Eximbank in writing, state that the determination is made pursuant to this section, and specify the applications, or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.

Conference agreement

The conference agreement is the House provision.

SECTION 6—ADMINISTRATIVE COUNSEL

Present law

No provision.

Senate bill

No provision.

House amendment

The House amendment (sec. 5) amends section 3(e) of the Eximbank Act to instruct the General Counsel of Eximbank to designate an attorney to serve as Assistant General Counsel for Administration whose sole or primary duty shall consist of providing directors, officers and employees of the Bank with appropriate legal counsel for advice on, and oversight of, issues relating to ethics, conflicts of interest, personnel matters, and other administrative law matters.

Conference agreement

The conference agreement is the House provision with an amendment limiting the authority of the Assistant General Counsel for Administration to personnel matters and other administrative law matters.

SECTION 7—ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA

Present law

No provision.

Senate bill

No provision.

House amendment

The House amendment (sec. 6) amends section 2(b) of the Eximbank Act to instruct the Eximbank Board of Directors to (1)

take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of Eximbank's financial commitments to sub-Saharan Africa, (2) establish and use an advisory committee, to exist for a duration of 4 years, to advise the Board on implementation of this expansion of credit and recommend to the Board on how Eximbank can facilitate greater support by U.S. commercial banks for trade with sub-Saharan Africa, and (3) report to the Congress within 6 months after enactment of this Act, and annually for 4 years thereafter, on steps the Board has taken to implement this provision and any recommendations of the advisory committee.

Conference agreement

The conference agreement is the House provision.

SECTION 8—INCREASE IN LABOR REPRESENTATION ON THE ADVISORY COMMITTEE OF THE EXPORT-IMPORT BANK

Present law

Section 3(d)(2) of the Eximbank Act establishes an Advisory Committee, which is to consist of 15 members broadly representative of production, commerce, finance, agriculture, labor, services, and State government, no fewer than three of which shall be representative of the small business community.

Senate bill

No provision.

House amendment

The House amendment (sec. 7) amends section 3(d)(2) of the Eximbank Act to require that no fewer than two of the members of the Advisory Committee be representative of the labor community.

Conference agreement

The conference agreement is the House amendment, with an amendment requiring that no two representatives of the labor community appointed to the Advisory Committee shall be selected from the same labor union.

SECTION 9—OUTREACH TO COMPANIES

Present law

Section 2(b)(1)(E)(i)(I) of the Eximbank Act instructs Eximbank to encourage the participation of small business in international commerce by developing a program which gives fair consideration to making loans and providing guarantees for the export of goods and services by small business.

Senate bill

The Senate bill (sec. 5) amends section 2(b)(1) of the Eximbank Act to instruct the Chairman of the Bank to enhance Eximbank's capacity to provide information about Eximbank's programs to small and rural companies which have not previously participated

in Eximbank's programs, and to report within 1 year on actions taken pursuant to this provision.

House amendment

The House amendment (sec. 8) amends section 2(b)(1) of the Eximbank Act to instruct the Chairman of the Bank to design and implement a program to provide information about Bank programs to companies which have not yet participated in its programs, and to report within 1 year on actions taken pursuant to this provision.

Conference agreement

The conference agreement is the Senate provision.

SECTION 10—CLARIFICATION OF THE OBJECTIVES OF THE EXPORT-IMPORT BANK

Present law

No provision.

Senate bill

No provision.

House amendment

The House amendment (sec. 9) amends section 2(b)(1) of the Eximbank Act to instruct Eximbank and its Board of Directors to prescribe regulations and implement procedures to ensure that, in selecting from among firms to which to provide financial assistance, Eximbank gives preference to any firm that has shown a commitment to reinvestment and job creation in the United States.

Conference agreement

The conference agreement amends section 2(b)(1)(A) of the Eximbank Act to state that it is the policy of the United States to foster the expansion of exports, thereby contributing to a commitment to reinvestment and job creation in the United States.

SECTION 11—INCLUDING CHILD LABOR AS A CRITERION FOR DENYING CREDIT BASED ON THE NATIONAL INTEREST

Present law

No provision.

Senate bill

No provision.

House amendment

The House amendment (sec. 13) amends section 2 of the Eximbank Act to prohibit Eximbank from providing assistance in support of exports to entities that employ children in a manner that would violate United States law regarding child labor if the entity were located in the United States or has not made a binding commitment to not employ children in such manner.

Conference agreement

The conference agreement amends the “Chafee Amendment” in section 2(b)(1)(B) of the Eximbank Act to identify child labor as a human right that could serve as the basis for a Presidential determination to deny applications for credit for non-financial or non-commercial considerations.

SECTION 12—PROHIBITION RELATING TO RUSSIAN TRANSFERS OF
CERTAIN MISSILES TO THE PEOPLE’S REPUBLIC OF CHINA

Present law

No provision.

Senate bill

No provision.

House amendment

The House amendment (sec. 12) amends section 2(b) of the Eximbank Act to require the President, if made aware that Russia has transferred or delivered to the People’s Republic of China an SS–N–22 or SS–N–26 missile system, to notify Eximbank which, upon receipt of such notification, shall discontinue financing exports to Russia.

Conference agreement

The conference agreement amends section 2(b) of the Eximbank Act to require the President, upon determining that the Russian Government or military has transferred or delivered to the People’s Republic of China an SS–N–22 missile system and that the transfer or delivery represents a significant and imminent threat to the security of the United States, to notify Eximbank which, upon receipt of such notification and if so directed by the President, shall discontinue providing finance in connection with the purchase of any good or service by the Russian Government or military.

For purposes of this provision, the definition of “Russian Government or military” shall include state-owned enterprises.

PREFERENCE IN EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO
CHINA TO BE PROVIDED TO COMPANIES ADHERING TO CODE OF CONDUCT

Present law

No provision.

Senate bill

No provision.

House amendment

The House amendment (sec. 10) amends section 2 of the Eximbank Act to instruct the Board of Directors, when determining whether to provide financial support for exports to the People’s Republic of China, to give preference to entities that the Board deter-

mines have established and are adhering to a code of conduct set forth in the provision.

Conference agreement

The conference agreement has no provision.

The Committee urges the Government of the United States, consistent with the primary mission of export finance to protect and expand jobs in the United States by supporting exports that would not otherwise go forward, to promote efforts among recipients to respect internationally recognized human and worker rights. These would include a recipient's good faith effort to provide a safe and healthy workplace; avoid child and forced labor; avoid discrimination based on race, gender, national origin, or religious beliefs; respect freedom of association, the right to organize and bargain collectively; pay not less than a country's minimum wage required by local law; provide all legally mandated benefits; obey all applicable environmental laws; comply with international standards regarding illicit payments; respect free expression; encourage good corporate citizenship and make a positive contribution to the communities in which the entity operates; and encourage similar behavior by partners and suppliers.

Especially regarding China, the Committee expects the Government to carefully consider the business practices of those entities receiving financing. The Committee believes that promoting and recognizing good corporate citizenship will ensure that a "constructive engagement" policy towards China indeed promotes democracy and human rights.

RENAMING OF THE U.S. EXPORT-IMPORT BANK

Present law

The first section of the Eximbank Act names Eximbank the "Export-Import Bank of the United States."

Senate bill

No provision.

House amendment

The House amendment (sec. 11) amends the first section of the Eximbank Act to rename Eximbank as the "United States Export Bank."

Conference agreement

The conference agreement has no provision.

JAMES A. LEACH,
MICHAEL N. CASTLE,
DOUGLAS BEREUTER,
JOHN J. LAFALCE,
FLOYD H. FLAKE,

Managers on the Part of the House.

ALFONSE D'AMATO,
ROD GRAMS,
CHUCK HAGEL,
PAUL SARBANES,
CAROL MOSELEY-BRAUN,

Managers on the Part of the Senate.

