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104TH CONGRESS *1st Session*	SENATE	REPORT 104–154

REAUTHORIZATION OF THE TIED AID CREDIT PROGRAM AND AUTHORIZATION OF AN EXPORT-IMPORT BANK DEMONSTRATION PROJECT

R E P O R T

OF THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1309

OCTOBER 11 (legislative day, OCTOBER 10), 1995.—Ordered to be printed

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Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

REPORT

[To accompany S. 1309]

INTRODUCTION

On September 20, 1995, the Senate Banking Committee marked up and ordered to be reported a bill to extend the expiration date of the Tied Aid Credit Fund in the Export-Import Bank Act of 1945 from September 30, 1995 to September 30, 1997, to authorize to be appropriated to the fund such sums as may be necessary for fiscal years 1996 and 1997, and to authorize a demonstration project at the Export-Import Bank. The measure was approved by voice vote.

Tied aid credit fund

Tied aid is financing offered at below market rates that is tied to procurement of goods or services from the donor country. Typically, rich country governments offer aid to developing country governments provided such aid is used to purchase capital goods manufactured in the rich country. It is in this sense that the aid is "tied." Although the tied aid is ostensibly for the development of the recipient country, the real effect of the concessional financing is to provide exporters in the donor country with a competitive advantage in emerging markets.

The policy of the United States has been to oppose the use of tied aid because it is a market distortion. Tied aid credits cause trade to shift from exporters who have price, quantity and service advantages to less competitive exporters who benefit from financing offered by their government. Moreover, exporters who win capital projects contracts based, in part, on the availability of tied aid fi-

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nancing gain a "foot in the door," and are favorably situated to win future sales.

The United States has worked within the Organization for Economic Cooperation and Development (OECD) to establish limits on concessional financing for the purpose of reducing export subsidies and ending competition on export financing terms. In 1992, the OECD concluded the "Helsinki Package," an agreement strengthening guidelines on tied previously established by the organization.

In 1986, Congress established the tied aid credit fund within the Export-Import Bank "for the purpose of facilitating the negotiation of a comprehensive international agreement restricting the use of tied aid and partially untied aid credits for commercial purposes..." Prior to 1992, the fund was used for enforcing existing restrictions on the use of tied aid and facilitating efforts to negotiate new restrictions. In 1992, Congress gave the Export-Import Bank authority to use the fund to match tied aid credits offered by foreign governments, under certain conditions, and to use tied aid credits offensively in markets where countries are engaging in predatory use of tied aid and are impeding negotiations to end their use for commercial purposes.

This new authority, contained in the Export Enhancement Act of 1992, was given for a period of three years and will expire on September 30, 1995. The purpose of the three year authorization, which is two years short of the expiration of the Export-Import Bank Act of 1945, was to give Congress an opportunity to assess the use of the new authority and the extent to which other governments were continuing to use tied aid financing.

In July of 1995, the Banking Committee received a letter from the President of the Export-Import Bank submitting a draft of legislation amending the Export-Import Bank Act of 1945. The legislation would reauthorize the tied aid credit program and allow the Export-Import Bank of the United States to conduct a demonstration project for human resource management.

Export-Import Bank demonstration project

The demonstration project is an Export-Import Bank plan to develop classification, pay-for-performance and compensation systems that differ from the currently established government-wide systems. The Bank will institute "broadbanding," replacing the existing job classification system with wider classifications to allow for promotions. With these new systems, the Bank will be able to compete with other employers inside and outside the public sector for high-quality employees.

Demonstration projects are carried out jointly with the Office of Personnel Management. Each project is limited to no more than 5000 employees, and must be evaluated on an ongoing basis. Projects last for five years, but may be extended by law. Under Demonstration Project authority, laws and regulations under Title V of the U.S. Code may be waived, except those dealing with leave, benefits, political activity, merit principles and equal employment opportunity.

Committee action

SUBCOMMITTEE HEARING

On March 28, 1995, the Subcommittee on International Finance, which is chaired by Senator Bond and has Senator Boxer as its ranking minority member, held a hearing on reauthorization of the tied aid credit fund. The following witnesses testified at this hearing: Honorable Kenneth E. Brody, President and Chairman, Export-Import Bank of the United States; Honorable William E. Barreda, Deputy Assistant Secretary for Trade and Investment Policy, United States Department of the Treasury; Peter A. Bowe, Ellicot Machine Corporation International; Peggy A. Houlihan, President, Coalition for Employment Through Exports; and Jayetta Z. Hecker, Director, International Trade, Finance and Competitiveness, General Accounting Office.

At this hearing, there was general consensus that tied aid is a market distortion that harms U.S. companies and must be countered with government intervention in the form of matching offers. One of the witnesses expressed the view that the United States should consider initiating tied aid offers. There was also consensus that continued use of tied aid by other governments requires the reauthorization of the tied aid credit fund.

Mr. Brody testified that the Export-Import Bank has aggressively pursued its strategy of matching tied aid offers, but stressed that the Bank does not initiate tied aid. He said that, since putting the strategy in place, the Bank had succeeded in getting foreign governments to back off from potential tied aid offers on seven occasions. In twenty two other cases, the Bank is pursuing tied aid offers. Four tied aid offers existed prior to formal inception of the program, bringing the total to twenty four cases worth $1.2 billion.

Mr. Barreda summarized for the Subcommittee the OECD rules governing the use of tied aid. In his judgement, the rules are beginning to work because the richer developing countries are not receiving tied aid and the universe of projects for which tied aid is used is shrinking. Nevertheless, the fund is needed to deal with countries who violate the rules or to provide matching aid in cases where the OECD rules are followed but American exporters are still disadvantaged.

Mr. Barreda pointed out that tied aid is expensive. He said that every dollar used for tied aid supports three dollars in exports, as opposed to twenty dollars in the Bank's regular financing programs. The real benefit of the tied aid program is that, by matching other countries' tied aid offers, the United States is removing the commercial incentive to offer the aid.

Mr. Bowe, the President of a company that manufactures and exports dredging equipment, recounted for the subcommittee his experiences with tied aid. He said that a competitor in Germany had won a contract valued at $150 million in Indonesia, and a Dutch competitor had won a $100 million contract in India. He cited other cases and made the point that his competition has made aggressive use of tied aid. In addition to tied aid financing, he said his competition has been able to bring in very high level government intercession.

Mr. Bowe said that amendments to the tied aid fund contained in the Export Enhancement Act of 1992 have given clout and credibility to the Government's attempts to combat the use of tied aid. He stated that conditional tied aid offers are a major improvement because they help companies compete for contracts before they are lost to better financed foreign competitors. He said that his company was on the verge of signing a $20 million contract, and that the Export-Import Bank's willingness to provide financing was a major factor in winning this order. Nevertheless, he said the use of tied aid by other governments continues to be a problem for his company.

Ms. Houlihan voiced the opinion that, from a practical point of view, not much has changed over the past 15 years, despite the fact that recent progress has been made in curtailing the use of tied aid. She pointed out that foreign governments often work out in advance with host governments their participation in development projects. She said her organization has encouraged the Trade Promotion Coordinating Committee to look into this process with the goal of getting U.S. Government agencies involved early on.

According to Ms. Houlihan, a major problem is that the U.S. foreign assistance program does not have the same goals as assistance programs of other countries. These countries recognize that they can help the developing country and help their exporters at the same time. She said she believes the United States should provide more funding for feasibility studies and that there should be a stronger tied aid credit program. She also believes the United States should consider initiating and not just matching tied aid credit offers in some circumstances.

Ms. Hecker testified regarding the harm done by tied aid, the efforts to deal with the problem, and GAO's view of the effectiveness of these efforts. Last year, the GAO documented almost $2 billion worth of lost exports for the period 1989 to 1991 due to foreign companies having a competitive advantage because of their governments' concessional financing. However, this understates the real loss because the purpose of concessional financing is to get into a market early and thus be in a position to benefit from longer term business. So the problem is serious, and federal intervention is needed to even the playing field. She said the OECD agreement was helpful, but it did not end tied aid, which continues to substantially harm U.S. business. The new authority in 1992 and the Export-Import Bank's more flexible policy, which was instituted in 1994, were very important because they allowed a proactive effort to counter tied aid offers. In particular, the willingness to match allows U.S. business to get into the game early and deter other countries's tied aid offers.

Ms. Hecker said it is too early to fully evaluate the efforts to end the use of tied aid. She said that GAO believes reauthorization of the tied aid credit fund has merit and would clearly appear to contribute to the long-term U.S. goal of reducing tied aid and providing a level playing field for U.S. competitors.

A related issue raised at the hearing was the extent to which untied aid, which is aid that is not contingent upon the purchase of goods or services from the donor country, could be implicitly or explicitly tied. An example of this is the funding by the donor country of feasibility studies which may contain specifications that match the manufacturing specifications of companies in the donor country, thereby giving these companies a competitive advantage in the bidding process.

Mr. Brody and Mr. Barreda described what the Government is doing to deal with the untied aid problem. Mr. Brody said that the Export-Import Bank is ready to match so-called "untied aid" if the Bank determines that it is actually tied. Mr. Barreda said the United States can challenge whether aid is in fact untied; in one case such a challenge resulted in the donor country admitting its aid was tied and agreeing to follow the tied aid rules. He said the United States is also seeking greater transparency in the area of untied aid, including advanced notice of offers and international competitive bidding.

Mr. Bowe and Ms. Houlihan expressed the opinion that untied aid is a serious problem, and that the Government response should be more aggressive and proactive. Mr. Bowe related his experiences with the use of feasibility studies to tie ostensibly untied aid. He described how one feasibility study produced by a foreign company specified certain horsepower, RPM, and fuel consumption for an engine, and that an engine with these specifications could only be provided by a company in that foreign country. Ms. Houlihan said the Government's response of seeking greater transparency is not sufficient, and that the Government should help American companies develop projects at the earliest stage through feasibility studies and engineering design services.

Ms. Hecker said there is widespread agreement that a substantial amount of untied aid really could be tied either implicitly or explicitly, and that this is an important area for future attention. In addition to the use of feasibility studies, the relationships between companies in the donor and donee countries should be investigated as a possible way in which untied aid can be tied.

FULL COMMITTEE MARKUP

On September 20, 1995, the Banking Committee approved a measure to reauthorize the tied aid credit fund and to authorize a demonstration project at the Export-Import Bank. The measure was approved by voice vote.

The committee expresses the strong opinion that tied aid is a serious threat to the competitiveness of U.S. companies in important overseas markets. Although the use of tied aid has decreased, foreign governments continue to extend tied aid offers and the United States must be prepared to match these offers to level the playing field for U.S. exporters. The committee applauds the aggressive use of the tied aid credit fund by the Export-Import Bank and the Bank's proactive policies that have preempted tied aid offers from other governments. The committee believes that the Bank should continue these policies and thus voted to extend for two more years the Export-Import Bank's tied aid credit fund until September 30, 1997, when the Export-Import Bank Act of 1945 expires. The committee will examine this issue again in 1997 when it will have to consider reauthorizing the Export-Import Bank's charter.

The Committee also believes that untied aid which is implicitly or explicitly tied is a serious problem that must be addressed once the Government has more information on the extent of its use. This will be a source of ongoing interest of the Committee in the future.

Section-by-section analysis

Section 1 provides for an extension of the Tied Aid Credit Fund in the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) for a period of two years from September 30, 1995 to September 30, 1997. This section also authorizes to be appropriated to the fund such sums as may be necessary for fiscal years 1996 and 1997.

Section 2 authorizes the Export-Import Bank to carry out a demonstration project in accordance with section 4703 of title 5 of the United States Code.

Regulatory impact statement

Pursuant to rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the Committee has evaluated the regulatory impact of the bill and concludes it would result in no net increase in the regulatory burden imposed by the Government.

Changes in existing law

The Committee has determined that it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of rule XXVI, paragraph 12, of the Standing Rules of the Senate, with respect to this legislation.

Cost of legislation

The cost estimate of the Congressional Budget Office appears below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 21, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate on a bill to reauthorize the tied-aid credit program of the Export-Import Bank of the United States and to allow the Export-Import Bank to conduct a demonstration project, as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on September 20, 1995.

The bill would not affect direct spending or receipts and thus would not be subject to pay-as-you-go procedures under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
(For June E. O'Neill, *Director*.)

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE, SEPTEMBER 21, 1995

1. Bill number: unassigned.

2. Bill title: a bill to reauthorize the tied-aid credit program of the Export-Import Bank of the United States and to allow the Export-Import Bank to conduct a demonstration project.

3. Bill status: as ordered reported by the Senate Committee on Banking, Housing, and Urban Affairs on September 20, 1995.

4. Bill purpose: the bill would authorize the appropriation of $500 million for the bank's tied-aid credit program in fiscal years 1996 and 1997. In addition, the bill would permit the bank to undertake a demonstration project on personnel management.

5. Estimated cost to the Federal Government: the following table summarizes the estimated budgetary impact of the bill which would depend upon subsequent appropriations action. The spending falls in budget function 150 (international affairs).

SPENDING SUBJECT TO APPROPRIATIONS ACTION

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Spending Under Current Law:						
Budget Authority [1]	100	0	0	0	0	0
Estimated Outlays	20	19	13	9	3	1
Proposed Changes:						
Authorization Level	0	500	500	0	0	0
Estimated Outlays	0	52	172	235	203	123
Spending Under the Bill:						
Authorization Level	100	500	500	0	0	0
Estimated Outlays	20	71	186	244	205	124

[1] The 1995 figure is the amount already appropriated.

6. Basis of estimate: the tied-aid credit program permits the bank to finance exports on highly concessional terms. In 1995, Congress appropriated $100 million for the program. The bill would extend the program through 1997 and authorize the appropriation of $500 million in fiscal years 1996 and 1997. The estimate assumes enactment of the bill and appropriation of the authorized amounts of each fiscal year. CBO used historical spending rates for estimating outlays.

CBO estimates that the demonstration project for personnel management would not increase the bank's administrative expenses.

7. Pay-as-you-go considerations: None.

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: On September 8, 1995, CBO prepared an estimate for a companion bill, H.R. 2203, as introduced in the House of Representatives.

11. Estimate prepared by: Joseph C. Whitehill (202) 226–2840.

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

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