

107TH CONGRESS
1ST SESSION

H. R. 1690

To amend the Export-Import Bank Act of 1945 to prohibit the Export-Import Bank of the United States from assisting the export of any good or service to or by any company that is challenging an intellectual property law or government policy of a developing country, which regulates and promotes access to an HIV/AIDS pharmaceutical or medical technology.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2001

Ms. WATERS (for herself and Mr. SANDERS) introduced the following bill;
which was referred to the Committee on Financial Services

A BILL

To amend the Export-Import Bank Act of 1945 to prohibit the Export-Import Bank of the United States from assisting the export of any good or service to or by any company that is challenging an intellectual property law or government policy of a developing country, which regulates and promotes access to an HIV/AIDS pharmaceutical or medical technology.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Export-Import Bank
3 HIV/AIDS Medicine Access Promotion Act”.

4 **SEC. 2. BAN ON EXPORT-IMPORT BANK ASSISTANCE FOR**
5 **COMPANIES CHALLENGING INTELLECTUAL**
6 **PROPERTY LAW OR GOVERNMENT POLICY OF**
7 **A DEVELOPING COUNTRY, WHICH REGU-**
8 **LATES AND PROMOTES ACCESS TO HIV/AIDS**
9 **PHARMACEUTICAL OR MEDICAL TECH-**
10 **NOLOGY.**

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

14 “(13) PROHIBITION RELATING TO COMPANIES CHAL-
15 LENGING INTELLECTUAL PROPERTY LAW OR GOVERN-
16 MENT POLICY OF A DEVELOPING COUNTRY, WHICH REGU-
17 LATES AND PROMOTES ACCESS TO HIV/AIDS PHARMA-
18 CEUTICAL OR MEDICAL TECHNOLOGY.—

19 “(A) IN GENERAL.—The Bank may not
20 guarantee, insure, or extend (or participate in
21 the extension of) credit in connection with the
22 export of any good or service by or to a restric-
23 tive company or the parent or a subsidiary of
24 such a company.

25 “(B) DEFINITIONS.—In this paragraph:

1 “(i) RESTRICTIVE COMPANY.—The
2 term ‘restrictive company’ means a com-
3 pany that—

4 “(I) is challenging the validity of
5 a qualified HIV/AIDS access law or
6 policy in a court of law;

7 “(II) is a complaining party with
8 respect to such a law or policy, pursu-
9 ant to any provision of the Agreement
10 on Trade-Related Aspects of Intellec-
11 tual Property Rights (as described in
12 section 101(d)(15) of the Uruguay
13 Round Agreements Act (19 U.S.C.
14 3511(d)(15))), or any provision of any
15 other international agreement relating
16 to intellectual property rights; or

17 “(III) has made a formal com-
18 plaint to the United States Trade
19 Representative about such a law or
20 policy, which complaint has not been
21 withdrawn.

22 “(ii) QUALIFIED HIV/AIDS ACCESS
23 LAW OR POLICY.—The term ‘qualified
24 HIV/AIDS access law or policy’ means a
25 law or government policy of a developing

1 country, relating to intellectual property,
2 which—

3 “(I) has the effect of regulating
4 the use of a pharmaceutical or tech-
5 nology that may be used in the treat-
6 ment of human immunodeficiency
7 virus or acquired immune deficiency
8 syndrome, or an associated opportun-
9 istic disease; and

10 “(II) promotes access to the
11 pharmaceutical or technology by the
12 population of any such country.

13 “(iii) DEVELOPING COUNTRY.—The
14 term ‘developing country’ means a country
15 that has a per capita income which does
16 not exceed that of an upper middle income
17 country, as defined in the World Develop-
18 ment Report published by the Inter-
19 national Bank for Reconstruction and De-
20 velopment.”.

○