

Calendar No. 317

106TH CONGRESS
1ST SESSION

H. R. 1993

AN ACT

To reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes.

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AN ACT

To reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Export Enhancement
3 Act of 1999”.

4 **SEC. 2. FINDINGS.**

5 The Congress makes the following findings:

6 (1) Since it began operations in 1971, the Over-
7 seas Private Investment Corporation (in this Act re-
8 ferred to as “OPIC”) has sold investment services
9 and mobilized private sector resources to assist de-
10 veloping countries and emerging democracies in the
11 transition from nonmarket to market economies.

12 (2) In an era of declining Federal budgetary re-
13 sources, OPIC has consistently demonstrated an
14 ability to operate on a self-sustaining basis to sup-
15 port United States companies and promote economic
16 reform in emerging economies in Africa, the newly
17 independent states of the former Soviet Union,
18 Latin America, and the Caribbean.

19 (3) OPIC has played an important role in rein-
20 forcing United States foreign policy goals and in
21 strengthening the United States economy by cre-
22 ating jobs and promoting exports.

23 (4) Over the past 28 years, projects supported
24 by OPIC have generated over \$58,000,000,000 in
25 United States exports, mobilized \$121,000,000,000

1 of United States private sector investment, and cre-
2 ated more than 237,000 United States jobs.

3 (5) OPIC has been run on a sound financial
4 basis with reserves totaling approximately
5 \$3,300,000,000 and with an estimated net budget
6 contribution to the international affairs account of
7 some \$204,000,000 in fiscal year 2000.

8 (6) OPIC has maintained a claims recovery rate
9 of 95 percent, settling 254 insurance claims for
10 \$541,000,000 and recovering all but \$29,000,000
11 since 1971.

12 (7) OPIC programs have served to rectify mar-
13 ket failures, including limited market information in
14 developing countries and underdeveloped capital
15 markets, by insuring United States firms against
16 economic and market uncertainties.

17 (8) The Trade and Development Agency (in
18 this Act referred to as “TDA”) promotes United
19 States business involvement in infrastructure
20 projects in developing and middle income countries.

21 (9) TDA has generated \$12,300,000,000 in ex-
22 ports since its inception, with every \$1 in spending
23 for TDA projects leading to the sale of \$32 in
24 United States goods and services overseas.

1 (10) The United States and Foreign Commer-
2 cial Service (in this Act referred to as the “Commer-
3 cial Service”) plays an important role in helping
4 United States businesses identify export opportuni-
5 ties and develop reliable sources of information on
6 commercial prospects in foreign countries.

7 (11) The Congress has, on several occasions,
8 encouraged the Commercial Service to focus its re-
9 sources and efforts in countries or regions in Europe
10 and Asia to promote greater United States export
11 activity in those markets.

12 (12) The Congress supports the expansion of
13 the Rural Export Initiative by the International
14 Trade Administration (in this Act referred to as the
15 “ITA”) of the Department of Commerce, particu-
16 larly those elements related to the use of information
17 technology and electronic commerce techniques.

18 (13) The Congress is encouraged by the success
19 of the Market Access and Compliance Unit of the
20 ITA and supports the Unit’s efforts to develop mo-
21 bile teams to resolve market access problems and en-
22 sure compliance by United States trading partners
23 with trade agreements and commitments.

24 (14) The Congress acknowledges the demands
25 upon the Market Access and Compliance Unit of the

1 ITA and recommends that priority be given to fund-
2 ing for this unit to ensure that adequate resources
3 are available for it to fully implement its mission.

4 **SEC. 3. POLICY RECOMMENDATIONS.**

5 The Congress makes the following declarations:

6 (1) OPIC should set its fees at levels sufficient
7 to cover all operating costs, repay any subsidy ap-
8 propriations, and set aside adequate reserves against
9 future losses.

10 (2) OPIC should maintain a conservative ratio
11 of reserves to contingent liabilities and limit its obli-
12 gations in any one country in its worldwide finance
13 or insurance portfolio.

14 (3) Projects supported by OPIC should not dis-
15 place commercial finance or insurance offerings and
16 should encourage private sector financing and insur-
17 ance participation.

18 (4) Independent auditors should report annually
19 to the Congress on the level of OPIC's reserves in
20 relation to its liabilities and provide an analysis of
21 the trends in the levels of reserves and liabilities and
22 the composition of its insurance and finance port-
23 folios, including OPIC's investment funds.

24 (5) OPIC should double the dollar value of its
25 support for small businesses over the next 4 years.

1 (6) In administering the programs and activi-
2 ties of the ITA, the Secretary of Commerce should
3 give particular emphasis to obtaining market access
4 for United States firms and to securing full compli-
5 ance with bilateral and multilateral trade agree-
6 ments.

7 (7) The ITA should facilitate the entrance of
8 United States businesses into the countries of sub-
9 Saharan Africa and Latin America.

10 (8) The Commercial Service, within the ITA,
11 should consider expanding its presence in urban
12 areas and in urban enterprise areas.

13 (9) OPIC must address concerns that it does
14 not promptly dispose of legitimate claims brought
15 with respect to projects insured or guaranteed by
16 OPIC. The Congress understands the desire of
17 OPIC to explore all possible arrangements with for-
18 eign parties. However, OPIC must be aware that
19 private parties with legitimate claims face financial
20 obligations that cannot be deferred indefinitely.

21 **SEC. 4. OPIC ISSUING AUTHORITY.**

22 Section 235(a)(2) of the Foreign Assistance Act of
23 1961 (22 U.S.C. 2195(a)(3)) is amended by striking
24 “1999” and inserting “2003”.

1 **SEC. 5. ENVIRONMENTAL IMPACT OF OPIC PROGRAMS.**

2 (a) **ADDITIONAL REQUIREMENTS.**—Section 231A of
3 the Foreign Assistance Act of 1961 (22 U.S.C. 2191a)
4 is amended—

5 (1) by redesignating subsection (b) as sub-
6 section (c);

7 (2) by inserting after subsection (a) the fol-
8 lowing new subsection:

9 “(b) **ENVIRONMENTAL IMPACT.**—

10 “(1) **ENVIRONMENTAL ASSESSMENT OR**
11 **AUDIT.**—The Board of Directors of the Corporation
12 shall not vote in favor of any action proposed to be
13 taken by the Corporation that is likely to have sig-
14 nificant adverse environmental impacts that are sen-
15 sitive, diverse, or unprecedented, unless for at least
16 60 days before the date of the vote—

17 “(A) an environmental impact assessment
18 or initial environmental audit, analyzing the en-
19 vironmental impacts of the proposed action and
20 of alternatives to the proposed action has been
21 completed by the project applicant and made
22 available to the Board of Directors; and

23 “(B) such assessment or audit has been
24 made available to the public of the United
25 States, locally affected groups in the host coun-

1 try, and host country nongovernmental organi-
2 zations.

3 “(2) DISCUSSIONS WITH BOARD MEMBERS.—

4 Prior to any decision by the Corporation regarding
5 insurance, reinsurance, guarantees, or financing for
6 any project, the President of the Corporation or the
7 President’s designee shall meet with at least one
8 member of the public who is representative of indi-
9 viduals who have concerns regarding any significant
10 adverse environmental impact of that project.

11 “(3) CONSIDERATION AT BOARD MEETINGS.—

12 In making its decisions regarding insurance, reinsur-
13 ance, guarantees, or financing for any project, the
14 Board of Directors shall fully take into account any
15 recommendations made by other interested Federal
16 agencies, interested members of the public, locally
17 affected groups in the host country, and host coun-
18 try nongovernmental organizations with respect to
19 the assessment or audit described in paragraph (1)
20 or any other matter related to the environmental ef-
21 fects of the proposed support to be provided by the
22 Corporation for the project.”; and

23 (3) in subsection (c), as so redesignated, by
24 striking “each year” and inserting “every 6
25 months”.

1 (b) STUDY ON PROCESS FOR OPIC ASSISTANCE.—
2 The Inspector General of the Agency for International De-
3 velopment shall review OPIC's procedures for undertaking
4 to conduct financing, insurance, and reinsurance oper-
5 ations in order to determine whether OPIC receives suffi-
6 cient information from project applicants, agencies of the
7 United States Government, and members of the public of
8 the United States and other countries on the environ-
9 mental impact of investments insured, reinsured, or fi-
10 nanced by OPIC. Not later than 120 days after the date
11 of the enactment of this Act, the Inspector General shall
12 report to the Committee on International Relations of the
13 House of Representatives and the Committee on Foreign
14 Relations of the Senate on the results of its review. The
15 report shall include—

16 (1) recommendations for ways in which the
17 views of the public could be better reflected in
18 OPIC's procedures;

19 (2) recommendations for what additional infor-
20 mation should be required of project applicants; and

21 (3) recommendations for environmental stand-
22 ards that should be used by OPIC in conducting its
23 financing, insurance, and reinsurance operations.

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect 90 days after the date of
3 the enactment of this Act.

4 **SEC. 6. PROHIBITION ON OPIC FUNDING FOR FOREIGN**
5 **MANUFACTURING ENTERPRISES.**

6 Section 231 of the Foreign Assistance Act of 1961
7 (21 U.S.C. 2191) is amended by adding at the end the
8 following flush sentence:

9 “In addition, the Corporation shall decline to issue any
10 contract of insurance or reinsurance, or any guaranty, or
11 to enter into any agreement to provide financing for an
12 eligible investor’s investment if the investment is to be
13 made in a manufacturing enterprise in a foreign country,
14 if such investment would cause a reduction in manufac-
15 turing in the United States.”.

16 **SEC. 7. REVIEW OF CLAIMS PROCESSING FOR OPIC.**

17 The General Accounting Office is requested to pro-
18 vide a report not later than 6 months after the date of
19 the enactment of this Act to the Committee on Inter-
20 national Relations of the House of Representatives and
21 the Committee on Foreign Relations of the Senate, which
22 reviews the claims activity of the Overseas Private Invest-
23 ment Corporation. The report shall include—

24 (1) an analysis of claims paid, settled and de-
25 nied by OPIC;

1 (2) the number of claims determinations made
2 by OPIC which are challenged in arbitration;

3 (3) the number of OPIC's claims denials which
4 are reversed in arbitration;

5 (4) the number of claims which are withdrawn;
6 and

7 (5) recommendations for ways in which the in-
8 terests of OPIC insureds and the public could be
9 better served by OPIC's claims procedures.

10 **SEC. 8. RESTRICTION ON CONTACTS RELATING TO OPIC**
11 **CLAIMS SETTLEMENTS.**

12 (a) PUBLICATION OF FEDERAL AGENCY INTERVEN-
13 TIONS.—Section 237(i) of the Foreign Assistance Act of
14 1961 (22 U.S.C. 2197(i)) is amended—

15 (1) by inserting “(1)” after “(i)”; and

16 (2) by adding at the end the following:

17 “(2) No other department or agency of the United
18 States, or officer or employee thereof, may intervene with
19 the intent to impede or delay in any pending settlement
20 determination on any claim arising as a result of insur-
21 ance, reinsurance, or guaranty operations under this title
22 or under predecessor guaranty authority unless such inter-
23 vention is published in the Federal Register.

24 “(3) The Corporation shall report to the Congress on
25 any intervention, with the intent to impede to delay a set-

1 tlement determination by any other department or agency
2 of the United States, or officer or employee thereof, re-
3 garding the timing or settlement of any claim arising as
4 a result of insurance, reinsurance, or guaranty operations
5 under this title or under predecessor guaranty authority.
6 The report shall be submitted within 30 days after the
7 intervention is made.”.

8 **SEC. 9. TRADE AND DEVELOPMENT AGENCY.**

9 (a) PURPOSE.—Section 661(a) of the Foreign Assist-
10 ance Act of 1961 (22 U.S.C. 2421(a)) is amended by in-
11 serting before the period at the end of the second sentence
12 the following: “, with special emphasis on economic sectors
13 with significant United States export potential, such as
14 energy, transportation, telecommunications, and environ-
15 ment”.

16 (b) CONTRIBUTIONS OF COSTS.—Section 661(b) of
17 the Foreign Assistance Act of 1961 (22 U.S.C. 2421(b))
18 is amended by adding at the end the following:

19 “(5) CONTRIBUTIONS TO COSTS.—The Trade
20 and Development Agency shall, to the maximum ex-
21 tent practicable, require corporations and other enti-
22 ties to—

23 “(A) share the costs of feasibility studies
24 and other project planning services funded
25 under this section; and

1 “(B) reimburse the Trade and Develop-
2 ment Agency those funds provided under this
3 section, if the corporation or entity concerned
4 succeeds in project implementation.”.

5 (c) FUNDING.—Section 661(f) of the Foreign Assist-
6 ance Act of 1961 (22 U.S.C. 2421(f)) is amended—

7 (1) in paragraph (1)(A) by striking
8 “\$77,000,000” and all that follows through “1996”
9 and inserting “\$48,000,000 for fiscal year 2000 and
10 such sums as may be necessary for each fiscal year
11 thereafter”; and

12 (2) in paragraph (2)(A), by striking “in fiscal
13 years” and all that follows through “provides” and
14 inserting “in carrying out its program, provide, as
15 appropriate, funds”.

16 **SEC. 10. PROGRAMS OF THE INTERNATIONAL TRADE AD-**
17 **MINISTRATION.**

18 (a) FUNDING.—There are authorized to be appro-
19 priated to the ITA—

20 (1) for fiscal year 2000, \$24,000,000 for its
21 Market Access and Compliance program,
22 \$68,000,000 for its Trade Development program,
23 and \$202,000,000 for the Commercial Service pro-
24 gram; and

1 (2) for each fiscal year thereafter, such sums as
2 may be necessary for the programs referred to in
3 paragraph (1).

4 (b) APPOINTMENTS.—Subject to the availability of
5 appropriations, the Secretary of Commerce, acting
6 through the Assistant Secretary of Commerce and Direc-
7 tor General of the United States and Foreign Commercial
8 Service, shall take steps to ensure that Commercial Serv-
9 ice employees are stationed in no fewer than 10 sub-Saha-
10 ran African countries and one full-time Commercial Serv-
11 ice employee is stationed in the Baltic states, and that
12 the Commercial Service has full-time employees in each
13 country in South and Central America and an adequate
14 number of employees in the Caribbean to ensure that
15 United States businesses are made aware of existing mar-
16 ket opportunities for goods and services.

17 (c) INITIATIVE FOR SUB-SAHARAN AFRICA AND
18 LATIN AMERICA.—The Secretary of Commerce, acting
19 through the Undersecretary of Commerce for the Inter-
20 national Trade Administration, shall make a special effort
21 to—

22 (1) identify those goods and services of United
23 States companies which are not being exported to
24 Latin America and sub-Saharan Africa but which

1 are being exported to countries in those regions by
2 competitor nations;

3 (2) identify trade barriers and noncompetitive
4 actions, including violations of intellectual property
5 rights, that are preventing or hindering the oper-
6 ation of United States companies in sub-Saharan
7 Africa and Latin America;

8 (3) publish on an annual basis the information
9 obtained under paragraphs (1) and (2);

10 (4) bring such information to the attention of
11 authorities in sub-Saharan Africa and Latin Amer-
12 ica with the goal of securing greater market access
13 for United States exporters of goods and services;
14 and

15 (5) report to the Speaker of the House of Rep-
16 resentatives and the President of the Senate the re-
17 sults of the efforts to increase the sales of United
18 States goods and services in sub-Saharan Africa and
19 Latin America.

20 (d) REPORTS ON MARKET ACCESS.—

21 (1) ANNUAL REPORTS.—Not later than March
22 30 after the date of the enactment of this Act, and
23 annually thereafter, the TPCC should submit to the
24 Congress, and make available to the public, a report
25 with respect to those countries selected by the TPCC

1 in which goods or services produced or originating in
2 the United States, that would otherwise be competi-
3 tive in those countries, do not have market access.
4 Each report should contain the following with re-
5 spect to each such country:

6 (A) ASSESSMENT OF POTENTIAL MARKET
7 ACCESS.—An assessment of the opportunities
8 that would, but for the lack of market access,
9 be available in the market in that country, for
10 goods and services produced or originating in
11 the United States in those sectors selected by
12 the TPCC. In making such assessment, the
13 TPCC should consider the competitive position
14 of such goods and services in similarly devel-
15 oped markets in other countries. Such assess-
16 ment should specify the time periods within
17 which such market access opportunities should
18 reasonably be expected to be obtained.

19 (B) CRITERIA FOR MEASURING MARKET
20 ACCESS.—Objective criteria for measuring the
21 extent to which those market access opportuni-
22 ties described in subparagraph (A) have been
23 obtained. The development of such objective cri-
24 teria may include the use of interim objective

1 criteria to measure results on a periodic basis,
2 as appropriate.

3 (C) COMPLIANCE WITH TRADE AGREE-
4 MENTS.—An assessment of whether, and to
5 what extent, the country concerned has materi-
6 ally complied with existing trade agreements be-
7 tween the United States and that country. Such
8 assessment should include specific information
9 on the extent to which United States suppliers
10 have achieved additional access to the market in
11 the country concerned and the extent to which
12 that country has complied with other commit-
13 ments under such agreements and under-
14 standings.

15 (D) ACTIONS TAKEN BY ITA.—An identi-
16 fication of steps taken by the USTR and ITA
17 on behalf of United States companies affected
18 by the lack of market access in that country.

19 (2) SELECTION OF COUNTRIES AND SECTORS.—

20 (A) IN GENERAL.—In selecting countries
21 and sectors that are to be the subject of a re-
22 port under paragraph (1), the USTR and ITA
23 should give priority to—

24 (i) any country with which the United
25 States has a trade deficit if access to the

1 markets in that country is likely to have
2 significant potential to increase exports of
3 United States goods and services; and

4 (ii) any country, and sectors therein,
5 in which access to the markets will result
6 in significant employment benefits for pro-
7 ducers of United States goods and services.

8 The USTR and ITA should also give priority to
9 sectors which represent critical technologies, in-
10 cluding those identified by the National Critical
11 Technologies Panel under section 603 of the
12 National Science and Technology Policy, Orga-
13 nization, and Priorities Act of 1976 (42 U.S.C.
14 6683).

15 (B) FIRST REPORT.—The first report sub-
16 mitted under paragraph (1) should include
17 those countries with which the United States
18 has a substantial portion of its trade deficit.

19 (C) TRADE SURPLUS COUNTRIES.—The
20 TPCC may include in reports after the first re-
21 port such countries as the USTR and ITA con-
22 siders appropriate with which the United States
23 has a trade surplus but which are otherwise de-
24 scribed in paragraph (1) and subparagraph (A)
25 of this paragraph.

1 (e) GLOBAL DIVERSITY AND URBAN EXPORT INITIA-
2 TIVE FOR THE ITA.—The ITA shall undertake an initia-
3 tive entitled the “Global Diversity and Urban Export Ini-
4 tiative” to increase exports from businesses that, because
5 of their minority ownership, may have been excluded from
6 export trade, and from businesses in under-served areas,
7 including inner-city urban areas and urban enterprise
8 zones. The initiative should use electronic commerce tech-
9 nology and products as another means of helping such
10 businesses export overseas.

11 (f) STANDARDS ATTACHES.—Subject to the avail-
12 ability of appropriations, the International Trade Admin-
13 istration shall take the necessary steps to increase the
14 number of standards attaches in the European Union and
15 in developing countries.

16 (g) EXPANSION OF PROGRAMS TO ASSIST SMALL
17 BUSINESSES.—The International Trade Administration
18 shall expand its efforts to assist small businesses in ex-
19 porting their products and services abroad by using elec-
20 tronic commerce technology and other electronic means—

21 (1) to communicate with significantly larger
22 numbers of small businesses about the assistance of-
23 fered by the ITA to small businesses in exporting
24 their products and services abroad; and

25 (2) to provide such assistance.

1 (h) AUTHORIZATION FOR ADVERTISING.—The ITA is
2 authorized to advertise in newspapers, business journals,
3 and other relevant publications and related media to in-
4 form businesses about the services offered by the ITA.

5 **SEC. 11. BOARD OF DIRECTORS.**

6 Section 233(b) of the Foreign Assistance Act of 1961
7 (22 U.S.C. 2193(b)) is amended—

8 (1) by striking the second and third sentences;

9 (2) in the fourth sentence by striking “(other
10 than the President of the Corporation, appointed
11 pursuant to subsection (c) who shall serve as a Di-
12 rector, ex officio)”;

13 (3) in the second undesignated paragraph—

14 (A) by inserting “the President of the Cor-
15 poration, the Administrator of the Agency for
16 International Development, the United States
17 Trade Representative, and” after “including”;
18 and

19 (B) by adding at the end the following:
20 “The United States Trade Representative may
21 designate a Deputy United States Trade Rep-
22 resentative to serve on the Board in place of the
23 United States Trade Representative.”; and

24 (4) by inserting after the second undesignated
25 paragraph the following:

1 “There shall be a Chairman and a Vice Chairman
2 of the Board, both of whom shall be designated by the
3 President of the United States from among the Directors
4 of the Board other than those appointed under the second
5 sentence of the first paragraph of this subsection.”.

6 **SEC. 12. STRATEGIC EXPORT PLAN.**

7 Section 2312(e) of the Export Enhancement Act of
8 1988 (15 U.S.C. 4727(e)) is amended—

9 (1) by striking “and” at the end of paragraph
10 (5);

11 (2) by striking the period at the end of para-
12 graph (6) and inserting a semicolon; and

13 (3) by adding at the end the following:

14 “(7) ensure that all export promotion activities
15 of the Agency for International Development are
16 fully coordinated and consistent with those of other
17 agencies;

18 “(8) identify means for providing more coordi-
19 nated and comprehensive export promotion services
20 to, and on behalf of, small and medium-sized busi-
21 nesses; and

22 “(9) establish a set of priorities to promote
23 United States exports to, and free market reforms
24 in, the Middle East, Africa, Latin America, and
25 other emerging markets, that are designed to stimu-

1 late job growth both in the United States and those
2 regions and emerging markets.”.

3 **SEC. 13. IMPLEMENTATION OF PRIMARY OBJECTIVES.**

4 The Trade Promotion Coordinating Committee
5 shall—

6 (1) report on the actions taken or efforts cur-
7 rently underway to eliminate the areas of overlap
8 and duplication identified among Federal export pro-
9 motion activities;

10 (2) coordinate efforts to sponsor or promote
11 any trade show or trade fair;

12 (3) work with all relevant State and national
13 organizations, including the National Governors’ As-
14 sociation, that have established trade promotion of-
15 fices;

16 (4) report on actions taken or efforts currently
17 underway to promote better coordination between
18 State, Federal, and private sector export promotion
19 activities, including co-location, cost sharing between
20 Federal, State, and private sector export promotion
21 programs, and sharing of market research data; and

22 (5) by not later than March 30, 2000, and an-
23 nually thereafter, include the matters addressed in
24 paragraphs (1), (2), (3), and (4) in the annual re-
25 port required to be submitted under section 2312(f)

1 of the Export Enhancement Act of 1988 (15 U.S.C.
2 4727(f)).

3 **SEC. 14. TIMING OF TPCC REPORTS.**

4 Section 2312(f) of the Export Enhancement Act of
5 1988 (15 U.S.C. 4727(f)) is amended by striking “Sep-
6 tember 30, 1995, and annually thereafter,” and inserting
7 “March 30 of each year.”

Passed the House of Representatives October 13,
1999.

Attest:

JEFF TRANDAHL,

Clerk.