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SMALL BUSINESS EXPORT ENHANCEMENT AND INTERNATIONAL TRADE ACT OF 2009

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Ms. LANDRIEU, from the Committee on Small Business and Entrepreneurship, submitted the following

REPORT

[To accompany S. 2862]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 2862) to improve the Office of International Trade and for other purposes, having considered the same, reports favorably thereon and recommends that the bill pass.

I. INTRODUCTION

The *Small Business Export Enhancement and International Trade Act of 2009* (S. 2862) was introduced by the Committee's Ranking Member, Senator Olympia J. Snowe, for herself and the Chair, Senator Mary L. Landrieu, on December 9, 2009.

The bill elevates the U.S. Small Business Administration's (SBA) Office of International Trade (OIT) and updates the Agency's international trade and export promotion programs administered through the office. Additionally, the bill authorizes one new pilot program and seeks to improve coordination between the SBA and other federal agencies involved in promoting export opportunities for small business.

During markup of the bill, the Committee approved the legislation by a roll call vote of 18–0.

II. PURPOSE AND NEED FOR LEGISLATION

The purpose of the *Small Business Export Enhancement and International Trade Act* is to improve and modernize the SBA's international trade and export assistance programs. These programs, administered through OIT, assist small businesses seeking to export their goods and services by providing them with vital

89–010

international trade financing assistance and business counseling services. Through these programs, the SBA reaches several thousand small businesses annually.

The Committee is concerned that the SBA is not reaching enough small businesses through these programs, nor is the Agency doing enough to provide small businesses with the resources and tools they need to become successful exporters. For example, in FY 2009, the SBA funded more than 1,393 loan guarantees to small exporters and counseled 5,100 small businesses on export-related activities.[1] While the SBA's programs enabled these 6,493 small exporters to post more than $1.6 billion in export sales in FY 2009, SBA-supported export sales accounted for less than 1 percent of the total export volume produced by all U.S. small businesses during that fiscal year. Furthermore, the 6,493 small businesses assisted by the SBA in FY 2009 represented fewer than 3 percent of all identified small U.S. exporters.[2]

Overall, U.S. small businesses represent 97 percent of all identified U.S. exporting companies. These 259,381 small businesses account for 30.2 percent, or about $312 billion, of our nation's annual export volume.[3] According to the U.S. Department of Treasury, approximately 57 million American workers are employed by firms that engage in international trade, representing about 40 percent of the private sector workforce.[4]

While these statistics are impressive, they do not accurately portray the small business exporting landscape. For example, while small businesses make up a majority of U.S. exporting companies, of our nation's nearly 29 million small businesses, less than 1 percent currently exports their goods and services. The Committee believes that more needs to be done to encourage small businesses to export and, specifically, to increase the number of small businesses that do not currently sell to foreign customers.

The Committee also believes in the vigorous promotion of those small businesses that currently export by helping them expand to additional foreign markets and increase the value of their exports. Overall, U.S. export volume has grown from $500.7 billion in 1996 to $1.287 trillion in 2008, an increase of nearly 100 percent.[5] Unfortunately, small businesses have not benefited from this tremendous growth in export volume. While the number of small exporters more than doubled during this same time period, their share of the total known value of exports has fallen from 31.1 to 30.2 percent.[6]

This suggests that small businesses, particularly those that are already involved in exporting, have not fully taken advantage of their global export potential. According to data from the U.S. Department of Commerce, this is indeed the case. At present, 59 per-

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[1] United States Small Business Administration, *Fiscal Year 2011 Congressional Budget Justification,* pg. 48.

[2] United States Department of Commerce, Exporter Database, *Small and Medium-Sized Exporting Companies: Statistical Overview 2007.*

[3] United States Department of Commerce, Exporter Database, *Small and Medium-Sized Exporting Companies: Statistical Overview 2007.*

[4] United States Senate Committee on Commerce, Science and Transportation, Subcommittee on Competitiveness, Innovation, and Export Promotion. *Hearing: "A World of Opportunity: Promoting Export Success for Small and Medium-Sized Businesses."* Congressional Testimony of Ms. Liz Reilly, U.S. Chamber of Commerce, October 6, 2009, pg. 1.

[5] United States Department of Commerce, Profile of U.S. Exporting Companies, 2007–2008. Released April 13, 2010, pg. 1.

[6] United States Department of Commerce, Exporter Database, *Overview: SME Exporters by State 2007.*

cent of all small exporters posted sales to only one foreign market. This figure stands in stark contrast to large exporters (defined as exporting companies with more than 500 employees), 55 percent of who recorded export sales to five or more foreign markets in 2008.[7] The ability of large exporters to reach multiple markets is what allows them to account for 60 percent of our nation's export volume annually, despite representing less than 3 percent of all identified U.S. exporters.[8] With 95 percent of the world's population living outside of the United States, small exporters stand to benefit immensely by exporting to numerous foreign markets.[9]

The Committee believes that encouraging more small businesses to export will not only help these businesses increase their customer base and create new jobs, it will also have tremendous economic benefits for our economy. Jobs created or supported by exporting pay, on average, 13 to 18 percent more than domestically created jobs and thus help to reduce the trade deficit.[10] Further, there is substantive evidence to suggest that every dollar invested in government-sponsored export promotion programs results in a considerable return on investment. A recent World Bank study estimated that every dollar invested in export promotion brings back an average 40-fold increase in exports. According to the study, the U.S. currently spends one-sixth of the international average on export promotion, suggesting that the U.S. would stand to benefit exponentially from even a minimal change in expenditures supporting export promotion.[11]

Additionally, investing in small exporters could help to lead the country out of its current recession. A recent study by the U.S. Census Bureau found that small businesses, especially very small firms with fewer than 20 employees, create jobs faster than their larger counterparts following a recession.[12] Presently, more than 83 percent of all U.S. exporting firms have fewer than 20 employees, suggesting that small exporters are uniquely positioned to help lead us out of our current economic recession by creating new and higher paying jobs.

Finally, with more than 20 federal agencies involved in export promotion, many small businesses do not know where to start when seeking assistance to export their goods and services. To help fill this void, the Committee believes that as the primary federal agency responsible for assisting U.S. small businesses, the SBA should take a more proactive role in export promotion. However, for the SBA to successfully do so, the Committee believes that the following changes to SBA programs are needed: Elevation of OIT; the establishment of an Associate Administrator position to head OIT; updates to SBA trade finance programs; expansion of the export finance specialist program; improvements to coordination processes and efforts undertaken with other federal agencies; improve-

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[7] United States Department of Commerce, *Small & Medium-Sized Exporting Companies: Statistical Overview, 2008.*

[8] United States Department of Commerce, Exporter Database, *Small and Medium-Sized Exporting Companies: Statistical Overview, 2008.*

[9] United States Department of Commerce, International Trade Administration, *Benefits of Exporting—Why Consider Exporting?,* <www.export.gov>, 2009.

[10] Office of the United States Trade Representative, Executive Office of the President, *Benefits of Trade,* <www.ustr.gov>, *2009.*

[11] The World Bank, Development Economics Research Group, *Export Promotion Agencies: What Works and What Doesn't,* Lerderman, Olarreaga, Payton, ed. 2008.

[12] United States Small Business Administration, Office of Advocacy, *Small Business Economy Report to the President,* 2009 Edition, p. 10.

ments to internal performance and oversight metrics; and, the creation of new outreach and assistance initiatives to help existing small exporters and small businesses with export potential. The *Small Business Export Enhancement and International Trade Act of 2009* makes these changes to ensure that the SBA is a more robust and practical resource for existing and potential small exporters.

III. HISTORY OF LEGISLATION

S. 2862 draws its provisions from two separate bills introduced by the Committee Chair and Ranking Member on June 8, 2009: S. 1196, the *Small Business International Trade Enhancements Act of 2009,* introduced by Chair Landrieu and cosponsored by Senator Jeanne Shaheen, and S. 1208, the *Small Business Export Opportunity Development Act of 2009,* introduced by Ranking Member Snowe.

S. 1196, building upon legislation introduced and passed by the Committee in previous Congresses, sought to elevate OIT, establish an Associate Administrator position to head the office, improve the SBA's international trade financing programs, increase staff, improve inter-agency coordination, and establish new goals to ensure the success of the office. Also expanding upon legislation from previous Congresses, S. 1208 sought to establish an Office of Export Development and Promotion within the SBA, led by an Associate Administrator for Export Development and Promotion. The purpose of the office was to undertake specified activities, such as financing and counseling, to facilitate the development and promotion of small business goods and services abroad. S. 2862, introduced by Ranking Member Snowe and cosponsored by Chair Landrieu, Senators Shaheen, Bayh and Cardin, combines provisions from both S. 1196 and S. 1208, and builds upon the Committee's bipartisan work from the current and previous Congresses as described below.

During the 110th Congress, Senator Landrieu introduced S. 738, the *Small Business International Trade Enhancements Act of 2007,* cosponsored by Ranking Member Snowe, then Chairman Kerry, and Senators Coleman and Pryor. Containing many provisions similar to those included in bills introduced this Congress (S. 2862, S. 1196, and S. 1208, S. 738), S. 738 included improvements to the operations and structure of the SBA's Office of International Trade, changes to SBA's trade and export financing programs, increased staffing levels, and improved coordination between the SBA and other Agencies involved in export promotion.

Provisions from S. 738 were ultimately included in three of the Committee's reauthorization bills during the 110th Congress: S. 1256, the *Small Business Lending Reauthorization and Improvements Act of 2007;* S. 1671, the *Entrepreneurial Development Reauthorization Act of 2007;* and S. 2920, the *SBA Reauthorization and Improvements Act of 2008.* S. 1256 was reported favorably out of Committee by a unanimous vote of 19–0 on May 16, 2007, and S. 1671 was reported out of Committee unanimously by a vote of 19–0 on June 26, 2007. However, neither S. 1256 nor S. 1671 made it out of the Senate before the adjournment of the 110th Congress. An attempt to move these bills by combining them into a comprehensive and bipartisan reauthorization bill, S. 2920, also did not advance through the Senate before the adjournment of the 110th Congress.

In the 109th Congress, Senator Landrieu, along with then Ranking Member Kerry and Senators Bayh and Pryor, introduced S. 3663, the *Small Business International Trade Enhancement Act of 2006.* A number of the provisions from S. 2862, S. 1196, and S. 738 originated in S. 3663. Many of these provisions were also included in the Committee's comprehensive reauthorization bill, S. 3778, the *Small Business Reauthorization and Improvements Act of 2006,* introduced by then Chair Snowe. Despite passing out of Committee by a vote of 18–0 on August 2, 2006, S. 3778 was not considered by the full Senate before the close of the 109th Congress.

Additionally, during the 109th Congress, Senator Landrieu introduced S. 2482, the *Gulf Coast Open for Business Act of 2006,* which contained provisions requiring the SBA to hire a full-time international finance specialist to carry out export promotion efforts in Louisiana, Mississippi, Alabama, and Arkansas during recovery efforts resulting from Hurricanes Katrina and Rita. This legislation was cosponsored by then Ranking Member Kerry and Senator Bayh. Finally, during the 109th Congress, Senator Landrieu introduced S. 1765, the *Louisiana Katrina Reconstruction Act,* which was cosponsored by Senator Vitter. Section 530 of this legislation created a new grant program at the Department of Commerce to assist businesses impacted by the 2005 hurricanes with export-related opportunities.

In the 108th Congress, then Chair Snowe introduced S. 2821, the *Small Business Reauthorization and Manufacturing Assistance Act of 2004.* S. 2821 served to amend the Small Business Act through the modification of international trade loan program provisions. Cosponsored by Senators Bond and Roberts, provisions included financing for acquisition, construction, renovation, modernization, improvement, or expansion of facilities or equipment to be used in the United States in the production of goods and services involved in international trade as well as the refinancing of existing indebtedness to ensure reasonable terms and conditions.

Additionally, during the 108th Congress, then Chair Snowe introduced S. 1977, the *Small Manufacturers Assistance, Recovery, and Trade Act,* cosponsored by Senators Voinovich, Collins, and Cochran, to established an Assistant United States Trade Representative (AUSTR) for Small Business. This legislation also contained provisions to include small business manufacturing within the SBA loan and international trade programs. Finally, Chair Snowe introduced S. 2193, the *Small Business Loan Revitalization Act,* requiring any small businesses that received SBA export working capital financing previous to January 1, 2004 and requesting a financing renewal, have their request approved regardless of the size of such financing, if the small business was otherwise eligible.

IV. HEARINGS AND ROUNDTABLES

On June 30, 2009, the Committee held a field hearing titled, "Keeping America Competitive: Federal Programs that Promote Small Business Exporting." SBA Administrator Karen G. Mills, United States Trade Representative (USTR) Ronald Kirk, U.S. Export-Import Bank (Ex–Im Bank) Chairman and President Fred Hochberg, and Acting Deputy Assistant Secretary for Domestic Operations of the International Trade Administration (ITA) Patricia Sefcik, all testified on the first hearing panel. Representatives from the World Trade Center of New Orleans (WTCNO), the Ark-LA-Tex Export & Technology Center, the Louisiana District Export Council (LA–DEC), and the Southern United States Trade Association (SUSTA) testified on the second panel.

The purpose of the hearing was to raise awareness of export promotion programs and opportunities available through the Federal government, as well as to explore the challenges faced by small exporters. Two themes emerged from witness testimony: first, many small exporters are unaware of the programs and resources available to them through the Federal government; and second, that many of these programs, particularly those offered by the SBA, are in need of modernization and overall improvement to reflect the high cost of doing business internationally. The Committee has attempted to address those two issues in S. 2862.

On June 11, 2009, the Committee held a roundtable titled, "Investing in Small Business." The purpose of the roundtable was to discuss the state of the SBA's Entrepreneurial Development programs. Trade issues were addressed in a portion of the roundtable and representatives from the SBA, Small Business Exporters Association (SBEA), U.S. Chamber of Commerce, and the Branch Banking and Trust Company (BB&T Bank) participated in the roundtable. Specific topics discussed during the roundtable included the elevation of OIT, staffing levels of SBA export finance specialists assigned to U.S. Export Assistance Centers (USEACs) operated by the Department of Commerce, improvements to the Agency's export and trade finance programs, as well as a discussion of a proposed small business export promotion grant program designed to remove trade barriers for small businesses who wish to export.

During the 110th Congress under the Chairmanship of Senator Kerry, on May 2, 2007, the Committee held a roundtable titled, "SBA Reauthorization: Small Business Loan Programs." The purpose of this hearing was to discuss proposals to improve and reauthorize the SBA's lending programs, including the Agency's international trade loan programs. An array of stakeholders participated in the roundtable, including representatives of the SBEA and National Black Chamber of Commerce. Both groups expressed their support for increasing the maximum amount of financing available through the Agency's international trade programs.

SBEA also expressed their support for the trade loan provisions modifying the SBA's International Trade Loan program (ITL) included in S. 1256, the *Small Business Lending Reauthorization and Improvements Act of 2007,* that increased the maximum amount of financing available, adjusted the guarantee amount of loans made through the program, and established improved collateral and refinancing requirements for the program. These provisions originated in S. 3663, the *Small Business International Trade Enhancement Act of 2006* introduced by Senator Landrieu in the 109th Congress, and were also included in S. 738, the *Small Business International Trade Enhancements Act of 2007*, introduced by Senator Landrieu during the 110th Congress.

On February 28, 2007, the Committee held a hearing titled, "The President's Fiscal Year 2008 Budget Request for the Small Business Administration." The purpose of this hearing was to review the President's FY 2008 budget request for the SBA. During the hearing and in follow-up questions for the record posed by Senator Landrieu, staffing levels of the Agency's international trade programs were addressed. Specifically, the SBA's failure to fully staff export finance specialist vacancies at USEACs located in high export volume areas, such as Louisiana, New York, and other states that had been without a specialist since 2003, were addressed.

V. DESCRIPTION OF BILL

Section 1—Short title

Section 2—Definitions

Section 3—Office of International Trade

Section 3 of the bill seeks to update and improve OIT. OIT was established by the *Small Business Export Expansion Act of 1980* (P.L. 96–481) and was later modified by provisions in the *Small Business International Trade and Competitiveness Act of 1988* (P.L. 100–418). In the late 1990's, OIT was folded into the SBA's Office of Capital Access (OCA) where it has remained since that time. Although the Agency has made internal improvements to the office, the statutes authorizing and dictating the responsibilities of the office have not been significantly updated since 1988.

The Committee is concerned that since being folded into OCA, OIT has not received adequate attention or resources to fulfill its mission. In an effort to raise its profile within the Agency, this bill elevates OIT by removing it from within OCA, thus creating a new office headed by an Associate Administrator for International Trade who would be directly accountable to the SBA Administrator. The bill also clarifies that the primary focus and mission of the office should be to increase the number of small businesses that export, as well as to increase the volume of exports by small businesses.

Section 4—Duties of the Office of International Trade

Section 4 of the bill seeks to update the duties and responsibilities of the office. Currently, the Small Business Act requires that the SBA, "assist in developing a distribution network for existing trade promotion, finance, trade adjustment, trade remedy assistance and data collection programs." This concept originated with P.L. 100–418.

As the primary Federal agency responsible for assisting U.S. small businesses, the Committee believes that the SBA should take a more active role in maintaining a distribution network in coordination with other federal agencies involved in promoting export opportunities for small businesses. Specifically, this network should incorporate the Department of Commerce, the USTR, Ex-Im Bank, and the Overseas Private Investment Corporation (OPIC). This network should also be extended to include all SBA resource partners that provide business counseling or technical assistance services, including regional and district offices of the Administration, Small Business Development Centers (SBDC), Women's Business Centers (WBC), the Service Corps of Retired Executives (SCORE), and USEACs operated by the Department of Commerce. OIT is also required to provide information on exporting trends, market-specific growth, industry trends and international prospects for exports, and to aggressively market and promote export assistance and trade programs available to small businesses.

Current statute dictates that the SBA is required to maintain a full-time export development specialist in every Agency regional office, responsible for overseeing and performing export development in each region. To complement this, current statute also requires that the SBA designate one individual in each district office to be accountable for export development on a more localized basis. The Committee is concerned that the SBA has not properly staffed these positions in recent years, and it is unclear how the Agency has compensated for any resulting vacancies. To provide a more complete network of trade and export assistance services, this bill directs the SBA to ensure that these positions are fully staffed and requires that the names and contact information of SBA personnel assigned to these positions or designated with these responsibilities, are published on the Agency's Web site.

The bill also establishes new training requirements for OIT personnel. Specifically, the bill directs the SBA to establish annual training programs for employees that focus on the current needs of small businesses. Additionally, the bill requires the SBA to lead and conduct annual training programs for exporters and lenders in conjunction with representatives from other federal agencies involved in export promotion, including Commerce, Ex-Im Bank, and OPIC, as well as SBA resource partners and staff assigned to USEACs.

To complement the SBA's export finance specialist program and other SBA export development staff, S. 2862 seeks to assist the Agency in improving its outreach mechanisms to small exporters by requiring employees of each state SBDC network to become certified in providing export assistance. Specifically, the bill requires that either 5 employees or 10 percent of the total number of employees in a state network (or whichever is lesser, as appropriate) become certified in providing export assistance under criteria developed by the Administrator. Networks of WBCs are also eligible to participate in the program, but are not required to have a certain number of employees certified. Additionally, this section allows the Administrator, subject to appropriations, to reimburse participating SBDCs and WBCs for all costs related to the certification process as developed by the Agency.

To ensure that the OIT is achieving the mission and goals set forth by S. 2862, this section of the bill establishes a variety of new performance metrics and reporting requirements. Specifically, the Committee believes that the SBA needs to establish a better system to collect data and information related to how they serve small exporters. Accordingly, the bill directs the SBA to track, in coordination with other federal agencies and departments represented on the Trade Promotion Coordinating Committee (TPCC): The number of small businesses that are new to exporting; the number of small business that have previously received assistance from other federal export promotion resources; the number of small businesses referred to or from other federal export promotion resources; the export revenues of those small businesses assisted by the SBA; and the number of small businesses referred to various SBA resource partners for assistance.

According to a recent report by the SBA's Office of Advocacy, small exporters often face a variety of barriers to trade including exchange rate risk, strong global competition, a variety of regulatory and legal frameworks, and intellectual property concerns. While the removal of trade barriers is crucial to the opening of previously untapped markets and encouraging more small businesses to become involved in international trade, many firms still do not feel it is worth the risk to export. The same study also found that small exporters, who produce 13 times more patents per employee than large patenting firms, are less likely to seek copyright protection making them vulnerable to piracy or intellectual property theft.

Consequently, this bill directs the Administrator to carry out a comprehensive program to provide technical assistance, counseling services, and reference materials to assist in the resolution of international trade disputes, or to address unfair international trade practices. As part of the program, the bill directs SBA District Offices to provide information on services that assist small businesses with the resolution of international trade disputes and also to provide them with referrals to other existing providers or programs. This bill also requires the SBA to establish relationships with providers of legal services and, working in conjunction with the United States Patent and Trademark Office (PTO) and the Register of Copyrights, to establish counseling services and materials for small business concerns regarding intellectual property protection in other countries.

This section of the bill also requires the SBA to develop joint performance measures for District Offices and USEACs. Specifically, the SBA is required to develop metrics to track the number of loans made under each of the Agency's international trade financing programs, including the International Trade Loan program (ITL), the Export Working Capital program (EWCP), the Preferred Lenders Program (PLP), and the Export Express Loan Program, at each District Office and USEAC.

Finally, in addition to establishing annual reporting requirements for OIT, the bill requires the SBA to report back to its Congressional authorizing committees within 60 days of enactment regarding any official travel undertaken by employees of the office, dating back to FY 2004. The Committee believes that employees of the office, particularly export finance specialists assigned to USEACs, should continue to perform outreach and travel within their assigned areas. However, as an Agency with a primarily domestic focus, the Committee believes that international travel undertaken by employees of the office should be limited and that more emphasis should be placed on domestic outreach.

Section 5—Export assistance centers

The SBA currently employs 18 export finance specialists who provide small or medium-sized businesses with technical assistance and business counseling services. Working in conjunction with Commerce, the specialists are posted in USEACs located throughout the country. In FY09, at a minimal cost to the taxpayer, these specialists helped to facilitate 1,498 SBA export finance loans worth approximately $582,783,928, creating or saving approximately 17,660 jobs. However, it is important to note that the SBA's trade finance programs were not immune to the global credit crisis and these programs experienced a nearly 53-percent decrease in the volume of loans made. Due to a thawing credit market, it is likely that changes made to the SBA's trade and export financing programs by this bill, coupled with an increase in the number of specialists, will lead to a substantial increase in the volume of loans and subsequently, the creation of more jobs in FY2010 and beyond.

The Committee is concerned that SBA has not devoted sufficient resources to the USEAC program. As recently as 2003, the SBA employed 22 specialists. Currently, the SBA maintains only 18 specialists and, in 2007, the program experienced a record staffing low of 16 specialists. These vacancies force the current staff of specialists to cover more extensive territory often with limited travel budgets, thus negatively impacting the export potential of small businesses in high export markets. Despite repeated requests by the Committee to increase the number of specialists, the SBA has only recently begun to re-staff these long vacant positions.

To address concerns about this program, the Committee has included provisions in the bill establishing a base staff of 22 specialists. This will ensure that the SBA maintains an export assistance network encompassing several of the highest exporting areas of the country. The bill also requires that the SBA assign no fewer than three specialists to USEACs in each of the SBA's 10 regions, bringing the total number of specialists to at least 30 within two years of the enactment of the legislation, providing more complete coverage of the country. In an effort to ensure that staffing levels are maintained, the bill also requires the SBA to designate an individual within the Office to oversee all activities conducted by SBA employees assigned to USEACs. To better leverage other existing federal resources designed to assist small businesses, the bill requires the SBA, Commerce, Ex-Im Bank, and OPIC to develop shared annual goals for USEACs.

Finally, to help the SBA identify current gaps in coverage due to the lack of specialists and guide future assignments, the bill requires the SBA to conduct a study of the availability of export finance specialists in both high and low export volume areas. This will ensure that future assignments are made to those areas most in need of federal export assistance resources. The study also requires the SBA to take into account the number of small exporters, the percentage of small businesses that are exporters, and growth in the number of small exporters in recent years when putting together their recommendations. The Administrator is required to submit a report to Congress on the results of the study, as well as recommendations regarding future assignments of export finance specialists.

Section 6—International trade finance programs

One issue consistently raised by small business owners testifying before the Committee is the inability to access adequate amounts of capital. This is especially true of small businesses involved in exporting due to the inherent risks of doing business internationally. Currently, several Agencies including the SBA, Ex-Im Bank and OPIC provide various financing solutions for small exporters. However, as the largest of these agencies and the primary Agency responsible for assisting U.S. small businesses, the Committee believes that the SBA should be a leading source of export financing for small businesses.

SBA lending programs provide an estimated 40 percent of all long-term financing to our nation's entrepreneurs. However, many of the SBA lending programs, in particular their trade and export loan programs, have not been updated in some time. As a result, these programs no longer represent viable financing solutions for small businesses seeking trade or export financing. In FY 2009, the SBA funded only 1,498 loans to small exporters, reaching less than one half of one percent of our nation's approximately 259,381 small exporters. Although neither the SBA nor the export community were immune to the global credit crisis in FY 2009, the number of export loans made by the Agency in FY 2008 was 3,234, the largest number of trade and export loans made by the SBA in recent years. However, despite making a record number of loans in FY 2008, the SBA was only able to reach or assist just over one percent of our nation's small exporters.

In testimony before the Committee, numerous small business owners and advocacy groups have verified that while the SBA could be an excellent resource for small exporters, their trade and export finance programs have two significant issues that prevent this. First, the programs do not offer a sufficient amount of financing. Currently, the SBA's trade finance programs offer exporters up to $2 million in loans, an amount that is no longer sufficient to finance international business transactions. Second, due to the inherent risk of conducting business internationally, low loan guarantees by the SBA leave lenders with little incentive to participate in or promote these programs to small businesses. S. 2862 attempts to address both of these issues by making key changes to the SBA's three trade and export loan programs.

Since FY 2003, the International Trade Loan (ITL) program has experienced a 90-percent decline in its loan volume, from a high of 71 loans made in 2003 down to seven loans in 2009. In 2007, this program experienced a record low of three loans made, representing a decrease of nearly 97 percent from 2003. In testimony before the Committee, small business owners and trade associations alike expressed their belief that this program no longer a viable financing option for small businesses seeking export financing.

The provisions in the bill that address the ITL program seek to revitalize the program and create a more attractive and practical option for small businesses seeking trade and export financing, while providing lenders with further incentive to participate in the program. Current statute inadvertently has the maximum loan guaranty and maximum loan amount working at cross purposes and, as a result, small businesses no longer consider this program a viable source of export and trade financing.

To correct these problems, the bill seeks to expand financing to small exporters by increasing the maximum amount of an ITL from $2 million to $5 million, which is consistent with other legislative changes that both the current Administration and the Committee have advocated for. Additionally, the bill establishes a maximum guarantee percentage of 90 percent for the ITL program. When the program was first established by Congress in 1980 by PL 96–487, it was Congressional intent that the SBA would establish a 90-percent guarantee for the program. However, the guarantee was never established in statute, and it is currently set at 75 percent. The Committee believes that a 90-percent guarantee for the program is needed to provide incentive for both borrowers and lenders to participate in this program, as well as to make the program consistent with Export Working Capital Program (EWCP).

The bill also allows working capital—one of the most frequently needed types of capital for exporters—to be permitted as an eligible use of loan proceeds. Participants of the program would be able to use up to $4.5 million of the loan for that purpose. This bill also makes ITL's consistent with regular SBA 7(a) loans by allowing the same collateral and refinancing terms offered to borrowers through the 7(a) program.

Much like the ITL program, the EWCP program has also experienced a significant decline in recent years. In FY 2009, 142 loans were made through the program, representing a 31-percent decrease from FY 2003. The Committee is also concerned about the EWCP Co-Guaranty program operating in conjunction with Ex-Im Bank. Since signing a memorandum of understanding with the Ex-Im Bank in 2006, the volume of this program has remained stagnant, with the SBA making a high of 14 loans per year. In FY 2009, only 10 loans were made through this program.

As with the ITL program, this section seeks to improve the EWCP program by making it a more attractive and user friendly financing option for small businesses. To that end, the legislation increases the maximum amount of an EWCP loan from $2 million to $5 million. The legislation also allows any lender participating in Ex-Im Bank's Delegated Authority Lender Program to participate in the SBA's Preferred Lenders Program.

Additionally, this section prohibits the Administrator from collecting a fee on a EWCP loan more than once a year and prevents the Administration from assessing a fee on capital that is not accessed by a small business. Currently, the SBA fee on the EWCP loan is assessed on a monthly basis for the loan amount draw down. Due to the inherent risk of export and trade finance loans, the current arrangement places a significant burden on borrowers and also creates problems for lenders administering the loan.

This section of the legislation also updates and codifies the SBA's Export Express Loan Program. The Export Express Loan program enables small exporters to obtain SBA backed financing, loans, and lines of credit of up to $250,000. The SBA provides expedited eligibility review and provides a response in less than 24 hours enabling small exporters to obtain access to their funds faster. Currently, the maximum Export Express line of credit or loan amount is $250,000. Participating banks receive an 85-percent guarantee on loan amounts up to $150,000, and 75 percent on loan amounts between $150,000 and $250,000.

Despite several years of declining loan volume for the program, in FY 2009 the Export Express Loan Program doubled in volume and was by far the most popular SBA trade loan program that fiscal year. Accordingly, this section of the bill establishes the Export Express Loan Program as a permanent SBA international trade finance program. The bill also raises the maximum amount of an Export Express loan from $250,000 to $500,000, and adjusts the guarantee percentage on a loan made through the program, increasing the guarantee from 85 percent to 90 percent for a loan of less than $350,000, and sets a 75-percent guarantee for a loan of $350,000 to $500,000.

Finally, in an effort to facilitate an awareness for the SBA's export and trade financing programs among the small business community, this legislation requires the SBA to publish an annual listing of banks or lending institutions that have participated in any of the SBA's export or trade finance programs in the previous fiscal year, including the ITL, EWCP, and Export Express loan programs. Currently, each SBA District Office publishes a list of lenders or lending institutions that participate in the Agency's major lending programs, such as the 7(a) and 504 loan programs.

However, the list does not specify lenders that participate in these specific programs and knowledge of the SBA's export and trade financing lies primarily with the 18 export finance specialists assigned to USEACs and 9 OIT staff members based in Washington, DC. As part of the SBA's efforts to better market and promote their trade financing programs and reach more small businesses with export potential, the Committee would like to see a renewed emphasis on making this and other information related to export opportunities for small businesses, readily available among District Office staff and also on the SBA's Web site.

Section 7—State Trade and Export Promotion Program (STEP)

While the SBA should be doing more to reach out to small businesses with export potential, the Committee realizes that presently, the Agency has limited resources for this purpose. Although the improvements made by S. 2862 will, in time, enable the SBA to perform more outreach to the small business community, the Committee believes the Agency should attempt to bridge this gap through programs operated in conjunction with existing trade and export promotion programs, particularly on the state level.

In an effort to accomplish these goals, S. 2862 establishes a three-year State Trade and Export Promotion (STEP) pilot program to be administered by the SBA. Modeled after the SBA's Small Business Innovation Research (SBIR) Federal and State Technology (FAST) program, this program will allow the SBA to make grants to states with the goal of establishing or supplementing existing export promotion programs. Specifically, grants made through the program can be used by states to assist eligible small businesses in obtaining or using export related resources, removing trade barriers, participation in foreign trade missions, foreign market sales trips, subscriptions to Department of Commerce services, payment of Web site translation fees, design of international marketing media, trade show exhibitions, participation in training workshops, and other initiatives or other export related activities, as defined by the SBA.

The Committee intends for the STEP program to be accessible to all states, but particularly those that have demonstrated success in promoting export opportunities for small businesses, as well as those states that have demonstrated success in promoting exports from small businesses in underserved populations. Accordingly, the STEP program gives priority to applications by states that: operate existing export promotion programs with a focus on small business; have demonstrated success in promoting exports for socially and economically disadvantaged small businesses, including small businesses owned or controlled by women and rural small businesses; a state that does not have one of the top 10 highest percentages of small exporters; or a state that promotes new-to-market export opportunities to the People's Republic of China.

To protect taxpayer dollars and mitigate the SBA's risk, states participating in the program are required to provide matching funds. Grants are made on a competitive basis and states may only submit one application per fiscal year. For states with a high export volume, the federal share of the program cost is 65 percent. For states that do not have a high export volume, the federal share of the cost is 75 percent. The program also includes numerous performance metrics and oversight mechanisms, including annual reports to congressional authorizing Committees detailing the number and amount of grants made by the program during the preceding year, a list of the states receiving grants through the program, and the activities being performed with the grant by each state. Additionally, the SBA Inspector General is required to conduct a review of the program and report back to Congressional authorizing Committees on the program's effectiveness, management structure and oversight mechanisms.

Section 8—Rural export promotion

The SBA's Office of Advocacy estimates that 20 percent, or about 5.5 million of our nation's 27.7 million small businesses, are located in rural areas. Small businesses located in or serving rural communities often faced high fixed costs when doing business due in large part to difficulties accessing basic resources such as technology, transportation, and other business services. As a result, many small businesses located in rural areas face significant obstacles when attempting to expand their customer base.

The total number of small businesses located in rural areas that currently export their goods and services is unclear. However, according to the most recent data available, the known value of exports from non-metropolitan statistical areas (rural regions) equaled $79.7 billion, accounting for about 10 percent of total U.S. export volume. Despite high, fixed costs associated with operating a business located in a rural area, this data suggests that a significant number of businesses located in rural areas have not only surmounted these obstacles, but they have also overcome traditional barriers to trade. This also suggests many other small businesses located in rural areas have the potential to expand their businesses through exporting, if provided adequate access to resources and services to overcome traditional barriers to trade.

The Committee believes that more should be done to assist small businesses located in rural areas, particularly those looking to expand their customer base through exporting. Accordingly, this section of the bill requires those agencies most closely involved with either export promotion or rural development for small business, including Department of Commerce, the Department of Agriculture (USDA) and the SBA, to report back to the Committee detailing any programs or services that promote exporting opportunities for rural small businesses. The report will include information regarding the level of coordination between these agencies, the effectiveness of existing rural export promotion programs, efforts to market existing international trade finance programs through lenders that serve rural small businesses or those that participate in USDA financing programs, and recommendations to improve the existing business counseling and financing programs for each Agency.

Section 9—International trade cooperation by small business development centers

In an effort to better leverage existing federal and local export assistance resources, this legislation requires SBDCs offering international trade and export counseling services to consult regularly with state trade promotion agencies and USEACs. Although the SBA has begun working to incorporate other existing federal and state-based export assistance resources into their resource partner network, there are, at most, 35–40 international trade centers currently associated with the SBDC program. This section of the bill also requires SBDCs to refer small businesses to these resources when adequate counseling and technical assistance services are not available at a center.

Section 10—Small business trade policy

In addition to improving coordination between federal agencies directly involved in export promotion for small business, the Committee is concerned that needs and opinions of small businesses are not being adequately addressed during the negotiation of trade agreements, particularly as it relates to trade barriers affecting small businesses. Accordingly, this bill directs USTR to notify the SBA Administrator 90 days prior to the start of negotiations on a trade deal, allowing the SBA time to gather information on the concerns, needs, and opinions of the small business community. To ensure that this information is taken into account and incorporated into negotiations and trade agreements, the SBA Administrator is required to submit recommendations to USTR no later than 30 days before the negotiations.

VI. COMMITTEE VOTE

In compliance with rule XXVI 7(b) of the Standing Rules of the Senate, the following vote was recorded on December 17, 2009.

A motion by the Chair to adopt the *Small Business Export Enhancement and International Trade Act of 2009*, to reauthorize the Small Business Administration's (SBA) international trade programs, was approved by an 18–0 recorded vote with the following Senators voting in the affirmative: Landrieu, Kerry, Levin, Harkin, Lieberman, Cantwell, Bayh, Pryor, Cardin, Shaheen, Hagan, Snowe, Bond, Vitter, Thune, Enzi, Isakson, and Risch. Senator Wicker: did not vote.

VII. COST ESTIMATE

In compliance with rule XXVI 11(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts discussed in the following letter from the Congressional Budget Office:

JANUARY 21, 2010.

Hon. MARY L. LANDRIEU,
Chair, Committee on Small Business and Entrepreneurship,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2862, the Small Business Export Enhancement and International Trade Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 2862—Small Business Export Enhancement and International Trade Act of 2009

Summary: S. 2862 would require the Small Business Administration's (SBA's) Office of International Trade (OIT) to develop policies and programs to increase the capacity of small businesses to engage in trade with foreign countries. The bill would authorize SBA to increase the number of trade finance specialists working in SBA's export assistance centers and establish a grant program that would provide funds to states to help small businesses expand into foreign markets. Finally, the bill would make several changes to the 7(a) loan program to ease the financial requirements for loan guarantees to small businesses engaged in international trade. Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 2862 would cost $69 million over the 2010–2015 period. Enacting S. 2862 would not affect direct spending or revenues.

S. 2862 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2862 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—						
	2010	2011	2012	2013	2014	2015	2010–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Grants to States:							
Authorization Level	15	15	15	0	0	0	45
Estimated Outlays	6	20	15	3	1	0	45
Performance Tracking System:							
Estimate Authorization Level	1	2	1	1	1	1	7
Estimated Outlays	0	2	1	1	1	1	6
Additional Staff and Costs:							
Estimated Authorization Level	2	3	4	4	4	4	21
Estimated Outlays	1	2	3	4	4	4	18
Total:							
Estimated Authorization Level	18	20	20	5	5	5	73
Estimated Outlays	7	24	19	8	6	5	69

Basis of estimate: For this estimate, CBO assumes that S. 2862 will be enacted early in 2010, that appropriations will be provided in each fiscal year, and that spending will follow historical patterns. Based on information from SBA, CBO estimates that implementing S. 2862 would cost $69 million over the 2010–2015 period.

Grants to states

S. 2862 would authorize the appropriation of $15 million in each of fiscal years 2010, 2011, and 2012 to establish a pilot program that would make grants to states to provide assistance to small businesses that are planning to expand into foreign markets. CBO estimates that implementing the pilot program would cost $45 million over the 2010–2015 period, assuming appropriation of the specified amounts.

Performance tracking system

S. 2862 would require SBA to develop a system to track the volume of exports produced by small businesses as well as the OIT's performance toward goals related to increasing export growth. Based on information from SBA, CBO expects that the agency would test the tracking system using a pilot program in the first year and complete full development of the system two years after enactment of the bill. CBO estimates that developing and maintaining the system would cost $6 million over the 2010–2015 period, assuming appropriation of the necessary amounts.

Additional staff and costs

S. 2862 would direct SBA to fill certain positions to support trade financing for small businesses that have been vacant since 2003. Further, SBA would be required to increase the number of export finance specialists working at its export assistance centers within two years of the bill's enactment. Based on information from SBA, CBO estimates that 10 additional staff positions (two to fill vacancies and eight authorized by the bill) would be required and would cost $9 million over the 2010–2015 period.

The bill also would require the OIT to develop strategies and programs to aid small businesses that are engaged in or affected by international trade. Based on information from SBA, CBO expects that an additional eight positions would be added to the OIT to develop programs that provide technical assistance and counseling in areas such as trade disputes and remedies as well as intellectual property protection. CBO estimates that the additional OIT staff would cost $7 million over the 2010–2015 period.

The bill also would establish a program to certify certain employees to provide export assistance services to small businesses. The bill would authorize $350,000 per year for SBA to reimburse participating business centers for costs incurred for the certification program. Based on information from SBA, CBO estimates that implementing this provision would cost $2 million over the 2010–2015 period, assuming appropriation of the necessary amounts.

SBA loans

Finally, the bill would increase the guarantee amount and the maximum loan limit for 7(a) loans that would be used for international trade or foreign market development. Based on information from SBA, CBO expects that these changes to loan terms would not have a significant effect on the cost of the program because of the small number of international trade loans. CBO estimates that implementing these changes would not significantly affect discretionary spending.

Intergovernmental and private-sector impact: S. 2862 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit state governments by establishing a grant program for states to help small businesses increase their exports. Any costs to state governments participating in the program would be incurred voluntarily.

Estimate prepared by: Federal costs: Susan Willie; Impact on State, local, and Tribal Governments: Elizabeth Cove Delisle; Impact on the private sector: Sam Wice.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VIII. EVALUATION OF REGULATORY IMPACT

In compliance with rule XXVI 11(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation. There will be no additional impact on the personal privacy of companies or individuals who utilize the services provided.

IX. SECTION-BY-SECTION ANALYSIS

SECTION-BY-SECTION SUMMARY

Section 1. Short title

Section 2. Definitions

Section 3. Office of International Trade

Amends the Small Business Act to establish an Associate Administrator for International Trade responsible for administering and overseeing the SBA's international trade programs and export promotion efforts.

Section 4. Duties of the Office of International Trade

Information distribution network

Requires the Associate Administrator to maintain a distribution network in cooperation with other Federal agencies, utilizing SBA regional and district offices, SDBCs, WBCs, and other SBA resource partners to disseminate information regarding trade promotion, trade finance, trade adjustment, and trade assistance programs to small businesses. Requires OIT to establish annual goals related to the enhancement of export capabilities of small businesses and small manufacturers, enabling them to better compete against foreign entities. Finally, this section requires the office aggressively market and promote trade programs available through the SBA.

Regional and district office staffing

Requires the Associate Administrator to ensure that each SBA regional office is staffed by a full time export development specialist and also requires that one employee in each district office be designated as the primary contact for small business owners seeking information on the SBA's export and trade assistance programs.

Training programs

Establishes annual training programs for employees of OIT and also requires the Associate Administrator to develop training programs for exporters and lenders in conjunction with the Commerce and other relevant federal agencies.

Export and trade counseling

Requires the SBA to develop criteria to certify employees of each SBDC state network in export assistance counseling. WBCs are also eligible to participate in the program. The Administrator is required to reimburse SBDCs and WBCs for any fees associated with the certification process.

Trade dispute assistance

Directs the Associate Administrator to carry out a comprehensive program to provide technical assistance and reference materials to small businesses for the purpose of resolving trade disputes, or to address unfair international trade law practices.

Oversight of export finance programs

Directs the Associate Administrator to appoint at least one trade finance specialist within OIT to oversee the agency's export finance programs and to assist SBA employees with trade finance issues.

Performance metrics and reporting requirements

Directs the Associate Administrator, in coordination with TPCC member agencies and the SBDC network, to develop and establish a system for tracking exports by small businesses. This section also directs the Associate Administrator to develop performance measures to support and assist with development of export growth goals for the office.

Finally, this section also establishes annual reporting metrics for OIT and requires the Administrator to submit a report to Congress within 60 days of enactment of the legislation, regarding the travel activities of the office during the last five years.

Section 5. Export assistance centers

Export finance specialist staffing levels

Directs the SBA Administrator to ensure that there are at least 22 SBA specialists assigned to USEACs by January 1, 2010. Additionally, this section requires that at least three export finance specialists are assigned to each SBA region within two years of enactment, bringing the total number to 30.

Assignment of export finance specialists and annual goals

Gives priority of placement in filling staff vacancies to those centers that have been without an export finance specialist since 2003, and requires that the Associate Administrator designate an individual within OIT to oversee the activities of export finance specialists assigned to USEACs. Additionally, the legislation directs the

Associate Administrator to establish shared annual goals for the centers in cooperation with Commerce and Ex-Im Bank.

Study on high and low volume export areas

This section directs the SBA to conduct a bi-annual study analyzing gaps in coverage for export finance specialists assigned to USEACs located in high and low-volume export areas. The Administrator is required to submit a report to Congress on the results of the study, as well as recommendations regarding future assignments of specialists.

Section 6. International trade finance programs

International trade loans (ITL)

This section raises the maximum amount of an ITL from $2 million to $5 million and increases the total outstanding amount of an ITL guaranteed by the SBA from $1.5 million to $4.5 million, reflecting a newly established 90-percent guarantee for the program. It allows working capital as an eligible use of ITLs, and increases the maximum amount available for export working capital, supplies, or financing. In addition, it allows ITLs to be secured by a second lien position on property or equipment financed by the loan, or on other assets of the small business.

Export working capital loan program (EWCP)

Increases the maximum amount of an EWCP from $2 million to $5 million, and allows any lender participating in the Ex-Im Bank's Delegated Authority Lender Program to participate in the SBA's Preferred Lenders Program. Additionally, this section prohibits the Administrator from collecting a fee on a EWCP loan more than once a year and prevents the Administration from assessing a fee on capital that is not accessed by a small business.

Export express program

Raises the maximum amount of an Export Express loan from $250,000 to $500,000. This section also adjusts the guarantee on a loan made through the program, increasing the guarantee from 85-percent to 90-percent for a loan that is less than $350,000, and establishes a 75-percent guarantee for a loan of $350,000 to $500,000.

Annual listing of export finance lenders

Requires the Administrator to publish an annual listing of banks or lending institutions that participated in any of the SBA's export or trade finance programs in the previous fiscal year, including the ITL, EWCP, and Export Express loan programs.

Section 7. State Trade and Export Promotion Grant Program (STEP)

Establishment and eligibility

Establishes a three-year trade and export promotion pilot program. Modeled after the SBA's SBIR-FAST program, the purpose of STEP is to make grants to states with the goal of increasing the number of small businesses that export, or to increase the value of the exports by small businesses. Grants can be used to assist eligible small businesses in obtaining or using export related resources or removing trade barriers, including participation in foreign trade missions, foreign market sales trips, subscriptions to Department of Commerce services, payment of website translation fees, the design of international marketing media, trade show exhibitions, participation in training workshops, and other initiatives as determined by the SBA.

Priority is given to applicants from states that: operate export promotion programs with a focus on small business; have demonstrated success in promoting exports for socially and economically disadvantaged small businesses, small businesses owned or controlled by women and rural small businesses; do not have one of the top 10 highest percentages of small exporters; or a state that promotes new-to-market export opportunities to the People's Republic of China.

Competitive requirements and federal share

Grants are made on a competitive basis and states may only submit one application per fiscal year. The total amount of funding awarded to the 10 states with the highest percentage of small exporters cannot be more than 50-percent of funds appropriated in a fiscal year. The federal share of the costs is not more than 65-percent for a state with a high export volume, and not more than 75-percent for a state that does not have a high export volume.

Reporting requirements

Requires the Associate Administrator to submit a report to Congress that includes a description of the procedures for administering the program, as well as a management plan and a description of the merit based review process.

This section also requires the Associate Administrator to submit an annual report to Congress outlining the number and dollar amount of grants made under the program during the preceding year, the activities being performed with the grant, and the effect of each grant on exports by eligible small businesses in states participating in the program. A review of the program by the SBA's Inspector General is also required.

Authorization of appropriations

The bill authorizes $15 million to be appropriated for each fiscal year, FY 2010–FY 2012, to carry out the program.

Section 8. Rural export promotion

This section requires the Administrator, in coordination with the Secretary of Commerce and the Secretary of Agriculture, to submit a report to Congress detailing any programs offered by their respective agencies that promote export opportunities for rural small businesses. The report will detail the level of coordination between agencies involved administering these programs, and will provide recommendations regarding improvements to existing programs, or for the creation of new rural export promotion programs for small businesses.

Section 9. International trade cooperation by small business development centers

Requires that SBDCs offering international trade counseling services consult with state trade promotion agencies and USEACs. This provision also requires SBDCs to refer small businesses to these resources as appropriate.

Section 10. Small business trade policy

Directs USTR to notify the SBA 90 days prior to the start of trade negotiations. This section also requires SBA to submit recommendations to the USTR no later than 30 days before the start of trade negotiations.

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