

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

S. 2215

To create jobs in the United States by increasing United States exports to Africa by at least 200 percent in real dollar value within 10 years, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Increasing American
5 Jobs Through Greater Exports to Africa Act of 2012”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) Export growth helps United States business
10 grow and create American jobs. In 2010, 60 percent

1 of American exports came from small- and medium-
2 sized businesses.

3 (2) On January 31, 2011, the President man-
4 dated an executive review across agencies to deter-
5 mine where the United States Government could be-
6 come more competitive and helpful to business, in-
7 cluding help with promoting exports.

8 (3) Several United States Government agencies
9 are involved in export promotion. Coordination of
10 the efforts of these agencies through the Trade Pro-
11 motion Coordinating Committee lacks sufficient stra-
12 tegic implementation and accountability.

13 (4) Many other countries have trade promotion
14 programs that aggressively compete against United
15 States exports in Africa and around the world. For
16 example, in 2010, medium- and long-term official ex-
17 port credit general volumes from the Group of 7
18 countries (Canada, France, Germany, Italy, Japan,
19 the United Kingdom, and the United States) totaled
20 \$65,400,000,000. Germany provided the largest level
21 of support at \$22,500,000,000, followed by France
22 at \$17,400,000,000 and the United States at
23 \$13,000,000,000. Official export credit support by
24 emerging market economies such as Brazil, China,
25 and India are significant as well.

1 (5) Between 2008 and 2010, China alone pro-
2 vided more than \$110,000,000,000 in loans to the
3 developing world, and, in 2009, China surpassed the
4 United States as the leading trade partner of Afri-
5 can countries. The Export-Import Bank of the
6 United States substantially increased lending to
7 United States businesses focused on Africa from
8 \$400,000,000 in 2009 to an anticipated
9 \$1,000,000,000 in 2011, but the Export-Import
10 Bank of China dwarfed this effort with an estimated
11 \$12,000,000,000 worth of financing.

12 (6) Other countries such as India, Turkey, Rus-
13 sia, and Brazil are also aggressively seeking markets
14 in Africa using their national export banks to pro-
15 vide concessional assistance.

16 (7) The Chinese practice of concessional financ-
17 ing runs contrary to the principles of the Organiza-
18 tion of Economic Co-operation and Development re-
19 lated to open market rates, undermines naturally
20 competitive rates, and can allow governments in Af-
21 rica to overlook the troubling record on labor prac-
22 tices, human rights, and environmental impact.

23 (8) The African continent is undergoing a pe-
24 riod of rapid growth and middle class development,
25 as seen from major indicators such as Internet use

1 and clean water access. In 2000, only 6.7 percent of
2 the population of Africa had access to the Internet.
3 In 2009, 27.1 percent of the population had Internet
4 access. Seventy-eight percent of Africa's rural popu-
5 lation now has access to clean water.

6 (9) Economists have designated Africa as the
7 "next frontier market", with profitability and growth
8 rates among many African firms exceeding global
9 averages in recent years. Countries in Africa have a
10 collective spending power of almost \$9,000,000,000
11 and a gross domestic product of
12 \$1,600,000,000,000, which are projected to double
13 in the next 10 years.

14 (10) Sub-Saharan Africa is projected to have
15 the fastest growing economies in the world over the
16 next 5 years, with 7 of the 10 fastest growing econo-
17 mies located in sub-Saharan Africa.

18 (11) When countries such as China assist with
19 large-scale government projects, they also gain an
20 upper hand in relations with African leaders and ac-
21 cess to valuable commodities such as oil and copper,
22 typically without regard to environmental, human
23 rights, labor, or governance standards.

24 (12) Unless the United States can offer com-
25 petitive financing for its firms in Africa, it will be

1 deprived of opportunities to participate in African
2 efforts to close the continent’s significant infrastruc-
3 ture gap that amounts to an estimated
4 \$100,000,000,000.

5 (b) PURPOSE.—The purpose of this Act is to create
6 jobs in the United States by expanding programs that will
7 result in increasing United States exports to Africa by 200
8 percent in real dollar value within 10 years.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) AFRICA.—The term “Africa” refers to the
12 entire continent of Africa and its 54 countries, in-
13 cluding the Republic of South Sudan.

14 (2) AFRICAN DIASPORA.—The term “African
15 diaspora” means the people of African origin living
16 in the United States, irrespective of their citizenship
17 and nationality, who are willing to contribute to the
18 development of Africa.

19 (3) AGOA.—The term “AGOA” means the Af-
20 rican Growth and Opportunity Act (19 U.S.C. 3701
21 et seq.).

22 (4) APPROPRIATE CONGRESSIONAL COMMIT-
23 TEES.—The term “appropriate congressional com-
24 mittees” means—

1 (A) the Committee on Appropriations, the
2 Committee on Banking, Housing, and Urban
3 Affairs, and the Committee on Foreign Rela-
4 tions of the Senate; and

5 (B) the Committee on Appropriations, the
6 Committee on Energy and Commerce, the Com-
7 mittee on Financial Services, the Committee on
8 Foreign Affairs, and the Committee on Ways
9 and Means of the House of Representatives.

10 (5) DEVELOPMENT AGENCIES.—The term “de-
11 velopment agencies” includes the Department of
12 State, the United States Agency for International
13 Development (USAID), the Millennium Challenge
14 Corporation (MCC), the Overseas Private Invest-
15 ment Corporation (OPIC), the United States Trade
16 and Development Agency (USTDA), the United
17 States Department of Agriculture (USDA), and rel-
18 evant multilateral development banks.

19 (6) TRADE POLICY STAFF COMMITTEE.—The
20 term “Trade Policy Staff Committee” means the
21 Trade Policy Staff Committee established pursuant
22 to section 2002.2 of title 15, Code of Federal Regu-
23 lations, and is composed of representatives of Fed-
24 eral agencies in charge of developing and coordi-

1 nating United States positions on international trade
2 and trade-related investment issues.

3 (7) MULTILATERAL DEVELOPMENT BANKS.—
4 The term “multilateral development banks” has the
5 meaning given that term in section 1701(c)(4) of the
6 International Financial Institutions Act (22 U.S.C.
7 262r(c)(4)) and includes the African Development
8 Foundation.

9 (8) SUB-SAHARAN REGION.—The term “sub-Sa-
10 haran region” refers to the 49 countries listed in
11 section 107 of the African Growth and Opportunity
12 Act (19 U.S.C. 3706) and includes the Republic of
13 South Sudan.

14 (9) TRADE PROMOTION COORDINATING COM-
15 MITTEE.—The term “Trade Promotion Coordinating
16 Committee” means the Trade Promotion Coordi-
17 nating Committee established by Executive Order
18 12870 (58 Fed. Reg. 51753).

19 (10) UNITED STATES AND FOREIGN COMMER-
20 CIAL SERVICE.—The term “United States and For-
21 eign Commercial Service” means the United States
22 and Foreign Commercial Service established by sec-
23 tion 2301 of the Export Enhancement Act of 1988
24 (15 U.S.C. 4721).

1 **SEC. 4. STRATEGY.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 date of the enactment of this Act, the President shall es-
4 tablish a comprehensive United States strategy for public
5 and private investment, trade, and development in Africa.

6 (b) FOCUS OF STRATEGY.—The strategy required by
7 subsection (a) shall focus on—

8 (1) increasing exports of United States goods
9 and services to Africa by 200 percent in real dollar
10 value within 10 years from the date of the enact-
11 ment of this Act;

12 (2) promoting the alignment of United States
13 commercial interests with development priorities in
14 Africa;

15 (3) developing relationships between the govern-
16 ments of countries in Africa and United States busi-
17 nesses that have an expertise in such issues as infra-
18 structure development, technology, telecommuni-
19 cations, energy, and agriculture;

20 (4) improving the competitiveness of United
21 States businesses in Africa, including the role the
22 African diaspora can play in enhancing such com-
23 petitiveness;

24 (5) exploring ways that African diaspora remit-
25 tances can help communities in Africa tackle eco-

1 nomic, development, and infrastructure financing
2 needs;

3 (6) promoting economic integration in Africa
4 through working with the subregional economic com-
5 munities, supporting efforts for deeper integration
6 through the development of customs unions within
7 western and central Africa and within eastern and
8 southern Africa, eliminating time-consuming border
9 formalities into and within these areas, and sup-
10 supporting regionally based infrastructure projects;

11 (7) encouraging a greater understanding among
12 United States business and financial communities of
13 the opportunities Africa holds for United States ex-
14 ports; and

15 (8) monitoring—

16 (A) market loan rates and the availability
17 of capital for United States business investment
18 in Africa;

19 (B) loan rates offered by the governments
20 of other countries for investment in Africa; and

21 (C) the policies of other countries with re-
22 spect to export financing for investment in Afri-
23 ca that are predatory or distort markets.

1 (c) CONSULTATIONS.—In developing the strategy re-
2 quired by subsection (a), the President shall consult
3 with—

4 (1) Congress;

5 (2) each agency that is a member of the Trade
6 Promotion Coordinating Committee;

7 (3) the relevant multilateral development banks,
8 in coordination with the Secretary of the Treasury
9 and the respective United States Executive Directors
10 of such banks;

11 (4) each agency that participates in the Trade
12 Policy Staff Committee;

13 (5) the President’s National Export Council;

14 (6) each of the development agencies;

15 (7) any other Federal agencies with responsi-
16 bility for export promotion or financing and develop-
17 ment; and

18 (8) the private sector, including businesses,
19 nongovernmental organizations, and African dias-
20 pora groups.

21 (d) SUBMISSION TO CONGRESS.—

22 (1) STRATEGY.—Not later than 180 days after
23 the date of the enactment of this Act, the President
24 shall submit to Congress the strategy required by
25 subsection (a).

1 (2) PROGRESS REPORT.—Not later than 3
2 years after the date of the enactment of this Act, the
3 President shall submit to Congress a report on the
4 implementation of the strategy required by sub-
5 section (a).

6 (3) CONTENT OF REPORT.—The report re-
7 quired by paragraph (2) shall include an assessment
8 of the extent to which the strategy required by sub-
9 section (a)—

10 (A) has been successful in developing crit-
11 ical analyses of policies to increase exports to
12 Africa;

13 (B) has been successful in increasing the
14 competitiveness of United States businesses in
15 Africa;

16 (C) has been successful in creating jobs in
17 the United States, including the nature and
18 sustainability of such jobs;

19 (D) has provided sufficient United States
20 Government support to meet third country com-
21 petition in the region;

22 (E) has been successful in helping the Af-
23 rican diaspora in the United States participate
24 in economic growth in Africa;

1 (F) has been successful in promoting eco-
2 nomic integration in Africa; and

3 (G) has made a meaningful contribution to
4 the transformation of Africa and its full inte-
5 gration into the 21st century world economy,
6 not only as a supplier of primary products but
7 also as full participant in international supply
8 and distribution chains and as a consumer of
9 international goods and services.

10 **SEC. 5. SPECIAL AFRICA STRATEGY COORDINATOR.**

11 The President shall designate an individual to serve
12 as Special Africa Export Strategy Coordinator—

13 (1) to oversee the development and implementa-
14 tion of the strategy required by section 4; and

15 (2) to coordinate with the Trade Promotion Co-
16 ordinating Committee, (the interagency AGOA com-
17 mittees), and development agencies with respect to
18 developing and implementing the strategy.

19 **SEC. 6. TRADE MISSION TO AFRICA.**

20 It is the sense of Congress that, not later than 1 year
21 after the date of the enactment of this Act, the Secretary
22 of Commerce and other high-level officials of the United
23 States Government with responsibility for export pro-
24 motion, financing, and development should conduct a joint
25 trade mission to Africa.

1 **SEC. 7. PERSONNEL.**

2 (a) UNITED STATES AND FOREIGN COMMERCIAL
3 SERVICE.—

4 (1) IN GENERAL.—The Secretary of Commerce
5 shall ensure that not less than 12 total United
6 States and Foreign Commercial Service officers are
7 assigned to Africa for each of the first 5 fiscal years
8 beginning after the date of the enactment of this
9 Act.

10 (2) ASSIGNMENT.—The Secretary shall, in con-
11 sultation with the Trade Promotion Coordinating
12 Committee and the Special Africa Export Strategy
13 Coordinator, assign the United States and Foreign
14 Commercial Service officers described in paragraph
15 (1) to United States embassies in Africa after con-
16 ducting a timely resource allocation analysis that
17 represents a forward-looking assessment of future
18 United States trade opportunities in Africa.

19 (3) MULTILATERAL DEVELOPMENT BANKS.—

20 (A) IN GENERAL.—As soon as practicable
21 after the date of the enactment of this Act, the
22 Secretary of Commerce shall assign not less
23 than 1 full-time United States and Foreign
24 Commercial Service officer to the office of the
25 United States Executive Director at the World
26 Bank and the African Development Bank.

1 (B) RESPONSIBILITIES.—Each United
2 States and Foreign Commercial Service officer
3 assigned under subparagraph (A) shall be re-
4 sponsible for—

5 (i) increasing the access of United
6 States businesses to procurement contracts
7 with the multilateral development bank to
8 which the officer is assigned; and

9 (ii) facilitating the access of United
10 States businesses to risk insurance, equity
11 investments, consulting services, and lend-
12 ing provided by that bank.

13 (b) EXPORT-IMPORT BANK OF THE UNITED
14 STATES.—Of the amounts collected by the Export-Import
15 Bank that remain after paying the expenses the Bank is
16 authorized to pay from such amounts for administrative
17 expenses, the Bank shall use sufficient funds to do the
18 following:

19 (1) Increase the number of staff who spend the
20 majority of the year based in Africa, and increase
21 the number of business development trips it con-
22 ducts in Africa to meet the goals set forth in section
23 9.

24 (2) Increase the number of employees of the
25 Bank assigned to United States field offices of the

1 Bank to not less than 30, to be distributed as geo-
2 graphically appropriate through the United States.
3 Such offices shall coordinate with the related export
4 efforts undertaken by the Small Business Adminis-
5 tration regional field offices.

6 (3) Upgrade the Bank's equipment and soft-
7 ware to more expeditiously, effectively, and effi-
8 ciently process and track applications for financing
9 received by the Bank.

10 (c) OVERSEAS PRIVATE INVESTMENT CORPORA-
11 TION.—

12 (1) STAFFING.—Of the net offsetting collections
13 collected by the Overseas Private Investment Cor-
14 poration used for administrative expenses, the Cor-
15 poration shall use sufficient funds to increase by not
16 more than 5 the staff needed to promote stable and
17 sustainable economic growth and development in Af-
18 rica, to strengthen and expand the private sector in
19 Africa, and to facilitate the general economic devel-
20 opment of Africa, with a particular focus on helping
21 United States businesses expand into African mar-
22 kets.

23 (2) REPORT.—The Corporation shall report to
24 the appropriate congressional committees on whether
25 recent technology upgrades have resulted in more ef-

1 fective and efficient processing and tracking of appli-
2 cations for financing received by the Corporation.

3 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion shall be construed as permitting the reduction of De-
5 partment of Commerce, Department of State, Export Im-
6 port Bank, or Overseas Private Investment Corporation
7 personnel or the alteration of planned personnel increases
8 in other regions, except where a personnel decrease was
9 previously anticipated or where decreased export opportu-
10 nities justify personnel reductions.

11 **SEC. 8. TRAINING.**

12 The President shall develop a plan—

13 (1) to standardize the training received by
14 United States and Foreign Commercial Service offi-
15 cers, economic officers of the Department of State,
16 and economic officers of the United States Agency
17 for International Development with respect to the
18 programs and procedures of the Export-Import
19 Bank of the United States, the Overseas Private In-
20 vestment Corporation, the Small Business Adminis-
21 tration, and the United States Trade and Develop-
22 ment Agency; and

23 (2) to ensure that, not later than 1 year after
24 the date of the enactment of this Act—

1 (A) all United States and Foreign Com-
2 mercial Service officers that are stationed over-
3 seas receive the training described in paragraph
4 (1); and

5 (B) in the case of a country to which no
6 United States and Foreign Commercial Service
7 officer is assigned, any economic officer of the
8 Department of State stationed in that country
9 shall receive that training.

10 **SEC. 9. EXPORT-IMPORT BANK FINANCING.**

11 (a) FINANCING FOR PROJECTS IN AFRICA.—

12 (1) SENSE OF CONGRESS.—It is the sense of
13 Congress that foreign export credit agencies are pro-
14 viding non-OECD arrangement compliant financing
15 in Africa, and that in order to counter such actions
16 and ensure United States jobs, the Export-Import
17 Bank should provide timely financing to meet such
18 terms, as appropriate.

19 (2) IN GENERAL.—Section 6(a) of the Export-
20 Import Bank Act of 1945 (12 U.S.C. 635e(a)) is
21 amended by adding at the end the following:

22 “(4) PERCENT OF FINANCING TO BE USED FOR
23 PROJECTS IN AFRICA.—The Bank shall increase the
24 amount it finances to Africa over the prior year’s fi-
25 nancing for each of the first five fiscal years begin-

1 ning after the date of the enactment of the Increas-
2 ing American Jobs Through Greater Exports to Af-
3 rica Act of 2012.”.

4 (3) REPORT.—Not later than 1 year after the
5 date of the enactment of this Act, and annually
6 thereafter for 5 years, the Export-Import Bank shall
7 report to the Committee on Banking, Housing, and
8 Urban Affairs, the Committee on Foreign Relations,
9 and the Committee on Appropriations of the Senate
10 and the Committee on Financial Services, the Com-
11 mittee on Foreign Affairs, and the Committee on
12 Appropriations of the House of Representatives if
13 the Bank has not used at least 10 percent of its
14 lending capabilities for projects in Africa as de-
15 scribed in paragraph (4) of section 6(a) of the Ex-
16 port-Import Bank of 1945, as added by paragraph
17 (2). The report shall include the reasons why the
18 Bank failed to reach this goal and a description of
19 all final applications for projects in Africa that were
20 deemed unworthy of Bank support.

21 (b) AVAILABILITY OF PORTION OF CAPITALIZATION
22 TO COMPETE AGAINST FOREIGN CONCESSIONAL
23 LOANS.—

24 (1) IN GENERAL.—The Bank shall make avail-
25 able annually such amounts as are necessary for

1 loans that counter trade distorting non-OECD ar-
2 rangement compliant financing or preferential, tied
3 aid, or other related non-market loans offered by
4 other nations for which United States companies are
5 also competing or interested in competing.

6 (2) REPORT.—Not later than 1 year after the
7 date of the enactment of this Act, and annually
8 thereafter for 5 years, the Export-Import Bank shall
9 report to the Committee on Banking, Housing, and
10 Urban Affairs, the Committee on Foreign Relations,
11 and the Committee on Appropriations of the Senate
12 and the Committee on Financial Services, the Com-
13 mittee on Foreign Affairs, and the Committee on
14 Appropriations of the House of Representatives if
15 the Bank has not used at least \$250,000,000 annu-
16 ally for loans that counter non-OECD arrangement
17 compliant financing offered by other nations to its
18 firms, as described in paragraph (1). The report
19 shall not disclose any information that is confiden-
20 tial or business proprietary, or that would violate
21 section 1905 of title 18, United States Code (com-
22 monly referred to as the “Trade Secrets Act”). The
23 report shall include—

24 (A) a description of trade distorting non-
25 OECD arrangement compliant financing loans

1 made by other countries during that fiscal year
2 to firms that competed against United States
3 firms;

4 (B) a description of any similar completed
5 applications from United States firms that were
6 denied by the Bank and the reason for such de-
7 nial; and

8 (C) a description of any completed applica-
9 tions for tied aid that were denied for financing
10 by the Bank and an explanation of why the ap-
11 plications were denied.

12 **SEC. 10. SMALL BUSINESS ADMINISTRATION.**

13 Section 22(b) of the Small Business Act (15 U.S.C.
14 649(b)) is amended—

15 (1) in the matter preceding paragraph (1), by
16 inserting “the Trade Promotion Coordinating Com-
17 mittee,” after “Director of the United States Trade
18 and Development Agency,”; and

19 (2) in paragraph (3), by inserting “regional of-
20 fices of the Export-Import Bank,” after “Retired
21 Executives,”.

22 **SEC. 11. BILATERAL, SUBREGIONAL AND REGIONAL, AND**
23 **MULTILATERAL AGREEMENTS.**

24 Where applicable, the President shall explore oppor-
25 tunities to negotiate bilateral, subregional, and regional

1 agreements that encourage trade and eliminate nontariff
2 barriers to trade between countries, such as negotiating
3 investor friendly double-taxation treaties and investment
4 promotion agreements. United States negotiators in multi-
5 lateral forum should take into account the objectives of
6 this Act. To the extent any such agreements exist between
7 the United States and an African country, the President
8 shall ensure that the agreement is being implemented in
9 a manner that maximizes the positive effects for United
10 States trade, export, and labor interests as well as the eco-
11 nomic development of the countries in Africa.