

116TH CONGRESS  
2D SESSION

# H. R. 8163

To limit support for deals with Chinese state-owned enterprises, to increase the set-aside goal for the Program on China and Transformational Exports, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 4, 2020

Mr. BARR introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To limit support for deals with Chinese state-owned enterprises, to increase the set-aside goal for the Program on China and Transformational Exports, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Countering China  
5 Through American Export Competitiveness Act”.

1 **SEC. 2. LIMITATION ON SUPPORT FOR DEALS WITH CHI-**  
2 **NESE STATE-OWNED ENTERPRISES.**

3 Section 408 of division I of the Further Consolidated  
4 Appropriations Act, 2020 (12 U.S.C. 635 note; Public  
5 Law 116–94) is amended to read as follows:

6 **“SEC. 408. LIMITATION ON SUPPORT FOR DEALS WITH CHI-**  
7 **NESE STATE-OWNED ENTERPRISES.**

8 “(a) IN GENERAL.—The Export-Import Bank of the  
9 United States (in this section referred to as the ‘Bank’)  
10 shall not guarantee, insure, or extend (or participate in  
11 the extension of) credit for which the end user, lender,  
12 or obligor is the government of the People’s Republic of  
13 China, except that the Bank may provide a working cap-  
14 ital guarantee or export credit insurance to a United  
15 States exporter. In the case of such a transaction that in-  
16 volves an amount greater than or equal to \$25,000,000,  
17 the Bank may provide a working capital guarantee or ex-  
18 port credit insurance to a United States exporter with re-  
19 spect to such an export if the Bank obtains from the  
20 President of the United States, who may consult with the  
21 Secretary of State, the Secretary of the Treasury, the Sec-  
22 retary of Commerce, the Secretary of Defense, the United  
23 States Trade Representative, and the heads of other inter-  
24 ested Executive agencies, a determination that the provi-  
25 sion of the guarantee or insurance would not violate the  
26 national security interests of the United States.

1 “(b) NATIONAL INTEREST REPORT.—

2 “(1) IN GENERAL.—Before providing a working  
3 capital guarantee or export credit insurance to a  
4 United States exporter in a transaction involving an  
5 amount equal to or greater than \$25,000,000, pur-  
6 suant to subsection (a), the President of the Bank  
7 shall—

8 “(A) report to the Committee on Financial  
9 Services of the House of Representatives and  
10 the Committee on Banking, Housing, and  
11 Urban Affairs of the Senate that the Bank has  
12 obtained from the President of the United  
13 States and any other relevant department or  
14 agency, as deemed appropriate by the President  
15 of the United States, a determination that the  
16 provision of the guarantee or insurance would  
17 not violate the national security interests of the  
18 United States;

19 “(B) include a verification from the Bank  
20 that the transaction does not violate any export  
21 law of the United States; and

22 “(C) include a summary of the transaction  
23 and the consultation.

1           “(2) FORM.—The report described in para-  
2           graph (1) shall be submitted in unclassified form but  
3           may include a classified annex.

4           “(c) DEFINITION OF GOVERNMENT OF THE PEO-  
5           PLE’S REPUBLIC OF CHINA.—In this section, the term  
6           ‘government of the People’s Republic of China’ means any  
7           person that the Bank has reason to believe is—

8           “(1) the state and the government of the Peo-  
9           ple’s Republic of China, including any political sub-  
10          division, agency, or instrumentality thereof;

11          “(2) any entity controlled, directly or indirectly,  
12          by any of the foregoing, including any partnership,  
13          association, or other entity in which any of the fore-  
14          going owns a 50 percent or greater interest or a con-  
15          trolling interest, and any entity which is otherwise  
16          controlled by any of the foregoing;

17          “(3) any person that is or has been acting or  
18          purporting to act, directly or indirectly, for or on be-  
19          half of any of the foregoing; and

20          “(4) any other person that the Secretary of the  
21          Treasury has notified the Bank is included in any of  
22          the foregoing.”.

1 **SEC. 3. INCREASE IN RESERVE GOAL FOR THE PROGRAM**  
2 **ON CHINA AND TRANSFORMATIONAL EX-**  
3 **PORTS.**

4 Section 2(l)(3) of the Export-Import Bank Act of  
5 1945 (12 U.S.C. 635(l)(3)) is amended in each of sub-  
6 paragraphs (A) and (B) by striking “20” and inserting  
7 “33”.

8 **SEC. 4. SUSPENSION OF LOAN AUTHORITY UNDER THE**  
9 **PROGRAM ON CHINA AND TRANS-**  
10 **FORMATIONAL EXPORTS WHILE DEFAULT**  
11 **RATE IS EXCESSIVE.**

12 (a) IN GENERAL.—Section 2(l) of the Export-Import  
13 Bank Act of 1945 (12 U.S.C. 635(l)) is amended by add-  
14 ing at the end the following:

15 “(4) FREEZING OF LOANS UNDER THE PRO-  
16 GRAM ON CHINA AND TRANSFORMATIONAL EXPORTS  
17 IF DEFAULT RATE FOR LOANS UNDER THAT PRO-  
18 GRAM IS 5 PERCENT OR MORE.—If the rate cal-  
19 culated under section 8(g)(1) with respect to loans  
20 under section 2(l) is 5 percent or more for a quar-  
21 ter, the Bank may not exceed the amount of loans  
22 under such section that are outstanding on the last  
23 day of that quarter until the rate calculated under  
24 section 8(g)(1) with respect to loans under such sec-  
25 tion is less than 5 percent.”.

1 (b) CONFORMING AMENDMENT.—Section 6(a)(3) of  
2 such Act (12 U.S.C. 635e(a)(3)) is amended by adding  
3 at the end the following: “If the rate calculated under sec-  
4 tion 8(g)(1) with respect to loans under section 2(l) is 2  
5 percent or more for a quarter, then loans under section  
6 2(l) shall not be taken into account for the quarter for  
7 purposes of this paragraph.”.

8 **SEC. 5. ADVISORY COMMITTEE FOR PROGRAM ON CHINA**  
9 **AND TRANSFORMATIONAL EXPORTS.**

10 (a) IN GENERAL.—Section 2(b) of the Export-Import  
11 Bank Act of 1945 (12 U.S.C. 635(b)) is amended by in-  
12 serting after paragraph (12) the following:

13 “(14)(A) The Board of Directors of the Bank shall  
14 take prompt measures, consistent with the credit stand-  
15 ards otherwise required by law, to promote the expansion  
16 of the financial commitments of the Bank in accordance  
17 with the Program on China and Transformational Exports  
18 under the loan, guarantee, and insurance programs of the  
19 Bank.

20 “(B)(i) The Board of Directors shall establish and  
21 use an advisory committee to advise the Board of Direc-  
22 tors on the development and implementation of policies  
23 and programs designed to support the expansion described  
24 in subparagraph (A).

1       “(ii) At least 1 member of the advisory committee  
2 shall be a member of the U.S.-China Economic and Secu-  
3 rity Review Commission.

4       “(iii) The advisory committee shall make rec-  
5 ommendations to the Board of Directors on how the Bank  
6 can facilitate greater support by United States commercial  
7 banks for trade in accordance with the Program on China  
8 and Transformational Exports.

9       “(iv) The advisory committee shall terminate on the  
10 date on which the authority of the Bank expires under  
11 section 7.”.

12       (b) REPORTS TO THE CONGRESS.—Within 6 months  
13 after the date of the enactment of this Act, and annually  
14 thereafter, the Board of Directors of the Export-Import  
15 Bank of the United States shall submit to the Congress  
16 a report on the steps that the Board has taken to imple-  
17 ment section 2(b)(14)(B) of the Export-Import Bank Act  
18 of 1945 (as added by subsection (a) of this section) and  
19 any recommendations of the advisory committee estab-  
20 lished pursuant to such section 2(b)(14)(B).

1 **SEC. 6. WAIVER OF DOMESTIC CONTENT REQUIREMENTS**  
2 **FOR CERTAIN TRANSACTIONS SUBJECT TO**  
3 **THE PROGRAM ON CHINA AND TRANS-**  
4 **FORMATIONAL EXPORTS.**

5 Section 2(l) of the Export-Import Bank Act of 1945  
6 (12 U.S.C. 635(l)), as amended by section 4(a) of this  
7 Act, is amended by adding at the end the following:

8 “(5) WAIVER OF DOMESTIC CONTENT REQUIRE-  
9 MENTS.—

10 “(A) IN GENERAL.—The Bank may waive  
11 some or all of the domestic content require-  
12 ments that would otherwise apply to a trans-  
13 action described in paragraph (1)(B), if the  
14 Bank determines that doing so would be in the  
15 national security interest of the United States,  
16 and shall establish a process for requesting  
17 such a waiver.

18 “(B) REPORTS TO THE CONGRESS.—Not  
19 less frequently than twice each year, the Bank  
20 shall submit to the Committee on Financial  
21 Services of the House of Representatives and  
22 the Committee on Banking, Housing, and  
23 Urban Affairs of the Senate a report specifying  
24 the transactions for which a waiver is provided



1 under subparagraph (A) during the period cov-  
2 ered by the report.”.

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