CHAPTER 6A—EXPORT-IMPORT BANK OF THE UNITED STATES

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 22 sections 2185, 2371, 2394, 2398.

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 635a–3, 635m of this title; title 22 sections 2184, 2291.

§ 635. Powers and functions of Bank

(a) General banking business; use of mails; publication of documents, reports, contracts, etc.; use of assets and allocated or borrowed money; payment of dividends; medium-term financing; dissemination of information; enhancement of medium-term program

(1) There is created a corporation with the name Export-Import Bank of the United States, which shall be an agency of the United States of America. The objects and purposes of the bank shall be to aid in financing and to facilitate exports and imports and the exchange of commodities and services between the United States or any of its Territories or insular possessions and any foreign country or the agencies or nationals thereof. In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, coinsure, and reinsure against political and credit risks of loss; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to perform any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States; and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the bank. The bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The Bank is authorized to publish or arrange for the publication of any documents, reports, contracts, or other material necessary in connection with or in furtherance of its objects and purposes without regard to the provisions of section 501 of title 44 whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable. Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, the Bank may impose and collect reasonable fees to cover the costs of conferences and seminars sponsored by, and publications provided by, the Bank, and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5. Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities and shall be offset against the expenses of the Bank for such activities. The bank is authorized to use all of its assets and all moneys which have been or may hereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.

(2) In order for the Bank to be competitive in all of its financing programs with countries whose exports compete with United States exports, the Bank shall establish a program that—

(A) provides medium-term financing where necessary to be fully competitive—

(i) at rates of interest to the customer which are equal to rates established in international agreements; and

(ii) in amounts up to 85 percent of the total cost of the exports involved; and

(B) enables the Bank to cooperate fully with the Secretary of Commerce and the Administrator of the Small Business Administration to develop a program for purposes of disseminating information (using existing private in-

stitutions) to small business concerns regarding the medium-term financing provided under this paragraph.

(3) ENHANCEMENT OF MEDIUM-TERM PROGRAM.—To enhance the medium-term financing program established pursuant to paragraph (2), the Bank shall establish measures to—

(A) improve the competitiveness of the Bank's medium-term financing and ensure that its medium-term financing is fully competitive with that of other major official export credit agencies;

(B) ease the administrative burdens and procedural and documentary requirements imposed on the users of medium-term financing;

(C) attract the widest possible participation of private financial institutions and other sources of private capital in the medium-term financing of United States exports; and

(D) render the Bank's medium-term financing as supportive of United States exports as is its Direct Loan Program.

(b) Guarantees, insurance, and extension of credit functions; competitive with Government-supported rates and terms and conditions of foreign exporting countries; survey and report; interest rates; private capital encouragement; national interest determinations; delivery of United States services in international commerce; small business concern encouragement; coverage of losses by Foreign Credit Insurance Association; loans to Union of Soviet Socialist Republics for fossil fuel research, etc.; nuclear safeguards violations resulting in limitations on exports and credit; defense article credit sales to less developed countries; amount outstanding; supplementation of Commodity Credit Corporation programs; limitations on authority of Bank; prohibition relating to Angola

(1)(A) It is the policy of the United States to foster expansion of exports of manufactured goods, agricultural products, and other goods and services, thereby contributing to the promotion and maintenance of high levels of employment and real income, a commitment to reinvestment and job creation, and the increased development of the productive resources of the United States. To meet this objective in all its programs, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are fully competitive with the Government-supported rates and terms and other conditions available for the financing of exports of goods and services from the principal countries whose exporters compete with United States exporters. The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing. The Bank shall, on a[1] annual basis, report to the appropriate committees of Congress its actions in complying with these directives. In this report the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with the United States exporters and indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. Further, the Bank shall at the same time survey a representative number of United States exporters and United States commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with United States exporters. The results of this survey shall be included as part of the annual report required by this subparagraph. The Bank shall include in the annual report a description of its role in the implementation of the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 4727 of title 15.

(B) It is further the policy of the United States that loans made by the Bank in all its programs shall bear interest at rates determined by the Board of Directors, consistent with the Bank's mandate to support United States exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements. For the purpose of the preceding sentence, rates and terms and conditions need not be identical in all respects to those offered by foreign countries, but should be established so that the effect of such rates, terms, and conditions for all the Bank's programs, including those for small businesses and for medium-term financing, will be to neutralize the effect of such foreign credit on international sales competition. The Bank shall consider its average cost of money as one factor in its determination of interest rates, where such consideration does not impair the Bank's primary function of expanding United States exports through fully competitive financing. The Bank may not impose a credit application fee unless (i) the fee is competitive with the average fee charged by the Bank's primary foreign competitors, and (ii) the borrower or the exporter is given the option of paying the fee at the outset of the loan or over the life of the loan and the present value of the fee determined under either such option is the same amount. It is also the policy of the United States that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.]; that the Bank shall accord equal opportunity to export agents and managers, independent export firms, export trading companies, and small commercial banks in the formulation and implementation of its programs; that the Bank should give emphasis to assisting new and small busi-

[1] So in original. Probably should be "an".

ness entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives; that loans, so far as possible consistent with the carrying out of the purposes of subsection (a) of this section, shall generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability of materials which are in short supply in the United States, and employment in the United States, and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President, after consultation with the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights (including child labor), should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations. Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest.

(C) Consistent with the policy of section 3261 of title 22 and section 2151q[2] of title 22, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of nonnuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.

(D)(i) It is further the policy of the United States to foster the delivery of United States services in international commerce. In exercising its powers and functions, the Bank shall give full and equal consideration to making loans and providing guarantees for the export of services (independently, or in conjunction with the export of manufactured goods, equipment, hardware or other capital goods) consistent with the Bank's policy to neutralize foreign subsidized credit competition and to supplement the private capital market.

(ii) The Bank shall include in its annual report a summary of its programs regarding the export of services.

[2] See References in Text note below.

(E)(i)(I) It is further the policy of the United States to encourage the participation of small business in international commerce.

(II) In exercising its authority, the Bank shall develop a program which gives fair consideration to making loans and providing guarantees for the export of goods and services by small businesses.

(ii) It is further the policy of the United States that the Bank shall give due recognition to the policy stated in section 631(a) of title 15 that ''the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise''.

(iii) In furtherance of this policy, the Board of Directors shall designate an officer of the Bank who—

(I) shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns; and

(II) among other duties, shall be responsible for advising small business concerns of the opportunities for small business concerns in the functions of the Bank and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.

(iv) The Director appointed to represent the interests of small business under section 635a(c) of this title shall ensure that the Bank carries out its responsibilities under clauses (ii) and (iii) of this subparagraph and that the Bank's financial and other resources are, to the maximum extent possible, appropriately used for small business needs.

(v) To assure that the purposes of clauses (i) and (ii) of this subparagraph are carried out, the Bank shall make available, from the aggregate loan, guarantee, and insurance authority available to it, an amount to finance exports directly by small business concerns (as defined under section 632 of title 15) which shall be not less than 10 percent of such authority for each fiscal year.

(vi) The Bank shall utilize the amount set aside pursuant to clause (v) of this subparagraph to offer financing for small business exports on terms which are fully competitive with regard to interest rates and with regard to the portion of financing which may be provided, guaranteed, or insured. Financing under this clause (vi) shall be available without regard to whether financing for the particular transaction was disapproved by any other Federal agency.

(vii)(I) The Bank shall utilize a part of the amount set aside pursuant to clause (v) to provide lines of credit or guarantees to consortia of small or medium size banks, export trading companies, State export finance agencies, export financing cooperatives, small business investment companies (as defined in section 662 of title 15), or other financing institutions or entities in order to finance small business exports.

(II) Financing under this clause (vii) shall be made available only where the consortia or the participating institutions agree to undertake processing, servicing, and credit evaluation functions in connection with such financing.

(III) To the maximum extent practicable, the Bank shall delegate to the consortia the authority to approve financing under this clause (vii).

(IV) In the administration of the program under this clause (vii), the Bank shall provide appropriate technical assistance to participating consortia and may require such consortia periodically to furnish information to the Bank regarding the number and amount of loans made and the creditworthiness of the borrowers.

(viii) In order to assure that the policy stated in clause (i) is carried out, the Bank shall promote small business exports and its small business export financing programs in cooperation with the Secretary of Commerce, the Office of International Trade of the Small Business Administration, and the private sector, particularly small business organizations, State agencies, chambers of commerce, banking organizations, export management companies, export trading companies, and private industry.

(ix) The Bank shall provide, through creditworthy trade associations, export trading companies, State export finance companies, export finance cooperatives, and other multiple-exporter organizations, medium-term risk protection coverage for the members and clients of such organizations. Such coverage shall be made available to each such organization under a single risk protection policy covering its members or clients. Nothing in this provision shall be interpreted as limiting the Bank's authority to deny support for specific transactions or to disapprove a request by such an organization to participate in such coverage.

(F) Consistent with international agreements, the Bank shall urge the Foreign Credit Insurance Association to provide coverage against 100 per centum of any loss with respect to exports having a value of less than $100,000.

(G) Participation in or access to long-, medium-, and short-term financing, guarantees, and insurance provided by the Bank shall not be denied solely because the entity seeking participation or access is not a bank or is not a United States person.

(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology items to such countries.

(ii) In exercising its authority, the Bank shall develop a program for providing guarantees and insurance with respect to the export of high technology items to countries making the transition to market based economies, including eligible East European countries (within the meaning of section 4[3] of the Support For East European Democracy (SEED) Act of 1989).

(iii) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as such term is defined in section 632 of title 15), about the programs of the Bank for United States companies interested in exporting high technology goods to countries making the transition to market based economies, including any eligible East European country (within the meaning of section 4[3] of the Support For East European Democracy (SEED) Act of 1989).

(iv) In carrying out clause (iii), the Bank shall—

(I) work with other agencies involved in export promotion and finance; and

(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.

(I) The President of the Bank shall undertake efforts to enhance the Bank's capacity to provide information about the Bank's programs to small and rural companies which have not previously participated in the Bank's programs. Not later than 1 year after November 26, 1997, the President of the Bank shall submit to Congress a report on the activities undertaken pursuant to this subparagraph.

(2) PROHIBITION ON AID TO MARXIST-LENINIST COUNTRIES.—

(A) IN GENERAL.—The Bank in the exercise of its functions shall not guarantee, insure, extend credit, or participate in the extension of credit—

(i) in connection with the purchase or lease of any product by a Marxist-Leninist country, or agency or national thereof; or

(ii) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Marxist-Leninist country.

(B) MARXIST-LENINIST COUNTRY DEFINED.—

(i) IN GENERAL.—For purposes of this paragraph, the term ''Marxist-Leninist country'' means any country that maintains a centrally planned economy based on the principles of Marxism-Leninism, or is economically and militarily dependent on any other such country.

(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

(I) Cambodian People's Republic.

(II) Democratic People's Republic of Korea.

(III) Democratic Republic of Afghanistan.

(IV) Lao People's Democratic Republic.

(V) People's Republic of China.

(VI) Republic of Cuba.

(VII) Socialist Federal Republic of Yugoslavia.

(VIII) Socialist Republic of Vietnam.

(IX) Tibet.

(C) PRESIDENTIAL DETERMINATION THAT A COUNTRY HAS CEASED TO BE MARXIST-LENINIST.—If the President determines that any country on the list contained in subparagraph (B)(ii) has ceased to be a Marxist-Leninist country (within the definition of such term in subparagraph (B)(i)), such country shall not be treated as a Marxist-Leninist country for purposes of this paragraph after the date of such determination, unless the President subsequently determines that such country has again become a Marxist-Leninist country.

[3] See References in Text note below.

(D) PRESIDENTIAL DETERMINATION RELATING TO FINANCING IN THE NATIONAL INTEREST.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to guarantees, insurance, or extensions of credit by the Bank to a country, agency, or national described in clause (i) or (ii) of subparagraph (A) (in connection with transactions described in such clauses) if the President determines that such guarantees, insurance, or extensions of credit are in the national interest.

(ii) SEPARATE DETERMINATION FOR CERTAIN TRANSACTIONS.—The President shall make a separate determination under clause (i) for each transaction described in clause (i) or (ii) of subparagraph (A) for which the Bank would extend a loan in an amount equal to or greater than $50,000,000.

(iii) REPORT OF CLAUSE (i) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (i) shall be reported to the Congress not later than the earlier of—

(I) the end of the 30-day period beginning on the date of such determination; or

(II) the date the Bank takes final action with respect to the first transaction involving the country, agency, or national for which such determination is made after January 4, 1975, unless a report of a determination with respect to such country, agency, or national was made and reported before January 4, 1975.

(iv) REPORT OF CLAUSE (ii) DETERMINATIONS TO CONGRESS.—Any determination by the President under clause (ii) shall be reported to the Congress not later than the earlier of—

(I) the end of the 30-day period beginning on the date of such determination; or

(II) the date the Bank takes final action with respect to the transaction for which such determination is made.

(3) Except as provided by the fourth sentence of this paragraph, no loan or financial guarantee or general guarantee or insurance facility or combination thereof (i) in an amount which equals or exceeds $100,000,000, or (ii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities, shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25 day period referred to in such sentence. Such statement shall contain—

(A) in the case of a loan or financial guarantee—

(i) a brief description of the purposes of the transaction;

(ii) the identity of the party or parties requesting the loan or financial guarantee;

(iii) the nature of the goods or services to be exported and the use for which the goods or services are to be exported; and

(iv) in the case of a general guarantee or insurance facility—

(I) a description of the nature and purpose of the facility;

(II) the total amount of guarantees or insurance; and

(III) the reasons for the facility and its methods of operation; and

(B) a full explanation of the reasons for Bank financing of the transaction, the amount of the loan to be provided by the Bank, the approximate rate and repayment terms at which such loan will be made available and the approximate amount of the financial guarantee.

If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least ten days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the twenty-five-day period referred to in the first sentence of this paragraph or upon the termination of a thirty-five-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner.

(4)(A) If the Secretary of State determines that—

(i) any country that has agreed to International Atomic Energy Agency nuclear safeguards materially violates, abrogates, or terminates, after October 26, 1977, such safeguards;

(ii) any country that has entered into an agreement for cooperation concerning the civil use of nuclear energy with the United States materially violates, abrogates, or terminates, after October 26, 1977, any guarantee or other undertaking to the United States made in such agreement;

(iii) any country that is not a nuclear-weapon state detonates, after October 26, 1977, a nuclear explosive device;

(iv) any country willfully aids or abets, after June 29, 1994, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material; or

(v) any person knowingly aids or abets, after September 23, 1996, any non-nuclear-weapon state to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material,

then the Secretary of State shall submit a report to the appropriate committees of the Congress and to the Board of Directors of the Bank stating such determination and identifying each country or person the Secretary determines has so acted.

(B)(i) If the Secretary of State makes a determination under subparagraph (A)(v) with re-

spect to a foreign person, the Congress urges the Secretary to initiate consultations immediately with the government with primary jurisdiction over that person with respect to the imposition of the prohibition contained in subparagraph (C).

(ii) In order that consultations with that government may be pursued, the Board of Directors of the Bank shall delay imposition of the prohibition contained in subparagraph (C) for up to 90 days if the Secretary of State requests the Board to make such delay. Following these consultations, the prohibition contained in subparagraph (C) shall apply immediately unless the Secretary determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subparagraph (A)(v). The Board of Directors of the Bank shall delay the imposition of the prohibition contained in subparagraph (C) for up to an additional 90 days if the Secretary requests the Board to make such additional delay and if the Secretary determines and certifies to the Congress that that government is in the process of taking the actions described in the preceding sentence.

(iii) Not later than 90 days after making a determination under subparagraph (A)(v), the Secretary of State shall submit to the appropriate committees of the Congress a report on the status of consultations with the appropriate government under this subparagraph, and the basis for any determination under clause (ii) that such government has taken specific corrective actions.

(C) The Board of Directors of the Bank shall not give approval to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to any country, or to or by any person, identified in the report described in subparagraph (A).

(D) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to a country with respect to which a determination is made under clause (i), (ii), (iii), or (iv) of subparagraph (A) regarding any specific event described in such clause if the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that it is in the national interest for the Bank to give such approvals.

(E) The prohibition in subparagraph (C) shall not apply to approvals to guarantee, insure, or extend credit, or participate in the extension of credit in support of United States exports to or by a person with respect to whom a determination is made under clause (v) of subparagraph (A) regarding any specific event described in such clause if—

(i) the Secretary of State determines and certifies to the Congress that the appropriate government has taken the corrective actions described in subparagraph (B)(ii); or

(ii) the President determines and certifies in writing to the Congress not less than 45 days prior to the date of the first approval following the determination that—

(I) reliable information indicates that—

(aa) such person has ceased to aid or abet any non-nuclear-weapon state to acquire any nuclear explosive device or to acquire unsafeguarded special nuclear material; and

(bb) steps have been taken to ensure that the activities described in item (aa) will not resume; or

(II) the prohibition would have a serious adverse effect on vital United States interests.

(F) For purposes of this paragraph:

(i) The term ''country'' has the meaning given to ''foreign state'' in section 1603(a) of title 28.

(ii) The term ''knowingly'' is used within the meaning of the term ''knowing'' in section 78dd–2(h)(3) of title 15.

(iii) The term ''person'' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity.

(iv) The term ''nuclear-weapon state'' has the meaning given the term in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968.

(v) The term ''non-nuclear-weapon state'' has the meaning given the term in section 6305(5) of title 22.

(vi) The term ''nuclear explosive device'' has the meaning given the term in section 6305(4) of title 22.

(vii) The term ''unsafeguarded special nuclear material'' has the meaning given the term in section 6305(8) of title 22.

(5) The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with (A) the purchase of any product, technical data, or other information by a national or agency of any nation which engages in armed conflict, declared or otherwise, with the Armed Forces of the United States, (B) the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in any such nation described in clause (A), or (C) the purchase of any liquid metal fast breeder nuclear reactor or any nuclear fuel reprocessing facility. The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation if the President determines that any such transaction would be contrary to the national interest.

(6)(A) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country.

(B) Subparagraph (A) shall not apply to any sale of defense articles or services if—

(i) the Bank is requested to provide a guarantee or insurance for the sale;

(ii) the President determines that the defense articles or services are being sold primarily for anti-narcotics purposes;

(iii) section 2291j(e) of title 22 does not apply with respect to the purchasing country;

(iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States; and

(v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles or services.

(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would—

(i) be consistent with the anti-narcotics policy of the United States;

(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 2291(e) of title 22); and

(iii) be made to a country with a democratic form of government.

(D)(i) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless—

(I) the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance;

(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and

(III) such determinations have been reported to the Speaker and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, not less than 25 days of continuous session of the Congress before the date of such approval.

(ii) For purposes of clause (i), continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25-day period referred to in such clause.

(E) The provision of a guarantee or insurance under subparagraph (B) shall be deemed to be the provision of security assistance for purposes of section 2304 of title 22 (relating to governments which engage in a consistent pattern of gross violations of international[4] recognized human rights).

(F) To the extent that defense articles or services for which a guarantee or insurance is provided under subparagraph (B) are used for a purpose other than anti-narcotics purposes, they may be used only for those purposes for which defense articles and defense services sold under the Arms Export Control Act [22 U.S.C. 2751 et seq.] (relating to the foreign military sales program) may be used under section 4 of such Act [22 U.S.C. 2754].

(G) As used in subparagraphs (B), (C), (D), and (F), the term ''defense articles or services'' means articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act [22 U.S.C. 2778, 2794(7)] and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).

(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i). Such report shall include a description of each of the transactions and the justification for the Bank's actions.

(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

(I) the Bank determines that—

(aa) the defense articles or services are nonlethal; and

(bb) the primary end use of the defense articles or services will be for civilian purposes; and

(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on

[4] So in original. Probably should be ''internationally''.

Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.

(7) In no event shall the Bank have outstanding at any time in excess of 7½ per centum of the limitation imposed by section 635e of this title for such guarantees, insurance, credits or participation in credits with respect to exports of defense articles and services to countries which, in the judgment of the Board of Directors of the Bank, are less developed.

(8) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to ensure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with paragraph (1)(A) of this subsection, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in Government-supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce Government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the nation's balance of trade in deciding whether or not to provide assistance under this subsection. The Bank shall include in the report to Congress under section 635g(a)[5] of this title a description of the measures undertaken by it pursuant to this subsection.

(9)(A) The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

(iii) The advisory committee shall terminate 4 years after November 26, 1997.

(10)(A) The Bank shall not, without a specific authorization by law, guarantee, insure, or extend credit (or participate in the extension of credit) to—

(i) assist specific countries with balance of payments financing; or

(ii) assist (as the primary purpose of any such guarantee, insurance, or credit) any country in the management of its international indebtedness, other than its outstanding obligations to the Bank.

(B) Nothing contained in subparagraph (A) shall preclude guarantees, insurance, or credit the primary purpose of which is to support United States exports.

(11) PROHIBITION RELATING TO ANGOLA.—The Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with any export of any good (other than food or an agricultural commodity) or service to the People's Republic of Angola until the President certifies to the Congress that free and fair elections have been held in Angola in which all participants were afforded free and fair access, and that the government of Angola—

(A) is willing, and is actively seeking, to achieve an equitable political settlement of the conflict in Angola, including free and fair elections, through a mutual cease-fire and a dialogue with the opposition armed forces;

(B) has demonstrated progress in protecting internationally recognized human rights, and particularly in—

(i) ending, through prosecution or other means, involvement of members of the military and security forces in political violence and abuses of internationally recognized human rights;

(ii) vigorously prosecuting persons engaged in political violence who are connected with the government; and

(iii) bringing to justice those responsible for the abduction, torture, and murder of citizens of Angola and citizens of the United States; and

(C) has demonstrated progress in its respect for, and protection of—

(i) the freedom of the press;

(ii) the freedom of speech;

(iii) the freedom of assembly;

(iv) the freedom of association (including the right to organize for political purposes);

(v) internationally recognized worker rights; and

(vi) other attributes of political pluralism and democracy.

The President shall include in each report made pursuant to this paragraph a detailed statement with respect to each of the conditions set forth in this paragraph. This paragraph shall not be construed to impose any requirement with respect to Angola that is more restrictive than any requirement imposed by this section generally on all other countries.

(12) PROHIBITION RELATING TO RUSSIAN TRANSFERS OF CERTAIN MISSILE SYSTEMS.—If the President of the United States determines that the military or Government of the Russian Federation has transferred or delivered to the People's Republic of China an SS–N–22 missile system and that the transfer or delivery represents a significant and imminent threat to the security of the United States, the President of the United States shall notify the Bank of the transfer or delivery as soon as practicable. Upon receipt of the notice and if so directed by the President of

[5] See References in Text note below.

the United States, the Board of Directors of the Bank shall not give approval to guarantee, insure, extend credit, or participate in the extension of credit in connection with the purchase of any good or service by the military or Government of the Russian Federation.

(c) Guarantees, insurance, coinsurance, and reinsurance functions; fractional charge; aggregate outstanding amount; fees and premiums; issuance, service and adjustments by agents; transferability of guarantees

(1) The Bank shall charge fees and premiums commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss.

(2) The Bank may issue such guarantees, insurance, coinsurance, and reinsurance to or with exporters, insurance companies, financial institutions, or others, or groups thereof, and where appropriate may employ any of the same to act as its agent in the issuance and servicing of such guarantees, insurance, coinsurance, and reinsurance, and the adjustment of claims arising thereunder.

(3) TRANSFERABILITY OF GUARANTEES.—

(A) IN GENERAL.—With respect to medium-term and long-term obligations insured or guaranteed by the Bank after October 15, 1986, the Bank shall authorize the unrestricted transfer of such obligations by the originating lenders or their transferees to other lenders without affecting, limiting, or terminating the guarantee or insurance provided by the Bank.

(B) GUARANTEE COVERAGE.—For the guarantee program provided for in this subsection, the Bank may provide up to 100 percent coverage of the interest and principal if the Board of Directors determines such coverage to be necessary to ensure acceptance of Bank guarantees by financial institutions for any transaction in any export market in which the Bank is open for business.

(d) Equal and nondiscriminatory opportunities for domestic companies to bid for insurance

(1) In carrying out its responsibilities under this subchapter, the Bank shall work to ensure that United States companies are afforded an equal and nondiscriminatory opportunity to bid for insurance in connection with transactions assisted by the Bank.

(2) COMPETITIVE OPPORTUNITY FOR INSURANCE COMPANIES.—In the case of any long-term loan or guarantee of not less than $10,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

(3) RESPONSIVE ACTIONS.—If the Bank becomes aware that a fair and open competitive opportunity is not accorded to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

(A) may approve or deny the loan or guarantee after considering whether such action would be likely to achieve competitive access for United States insurance companies; and

(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

(4) NOTICE OF APPROVAL.—If the Bank approves a loan or guarantee with respect to a foreign country notwithstanding information regarding denial by that foreign country of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such approval in the report on competition in officially supported export credit required under subsection (b)(1)(A) of this section.

(5) DEFINITIONS.—For purposes of this section—

(A) the term ''United States insurance company''—

(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

(B) the term ''fair and open competitive opportunity'' means, with respect to the provision of insurance by a United States insurance company, that the company—

(i) has received notice of the opportunity to provide such insurance; and

(ii) has been evaluated for such opportunity on a nondiscriminatory basis.

(e) Limitation on assistance which adversely affects the United States

(1) IN GENERAL.—The Bank may not extend any direct credit or financial guarantee for establishing or expanding production of any commodity for export by any country other than the United States, if—

(A) the Bank determines that—

(i) the commodity is likely to be in surplus on world markets at the time the resulting commodity will first be sold; or

(ii) the resulting production capacity is expected to compete with United States production of the same, similar, or competing commodity; and

(B) the Bank determines that the extension of such credit or guarantee will cause substantial injury to United States producers of the same, similar, or competing commodity.

(2) EXCEPTION.—Paragraph (1) shall not apply in any case where, in the judgment of the Board of Directors of the Bank, the short- and long-term benefits to industry and employment in the United States are likely to outweigh the short- and long-term injury to United States producers and employment of the same, similar, or competing commodity.

(3) DEFINITION.—For purposes of paragraph (1)(B), the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.

(July 31, 1945, ch. 341, §2, 59 Stat. 526; Dec. 28, 1945, ch. 602, 59 Stat. 666; June 9, 1947, ch. 101, §1, 61 Stat. 130; May 21, 1953, ch. 64, §1, 67 Stat. 28; Pub. L. 87–311, Sept. 26, 1961, 75 Stat. 673; Pub. L. 88–101, §1(a), Aug. 20, 1963, 77 Stat. 128; Pub. L. 90–267, §1(a)–(c), Mar. 13, 1968, 82 Stat. 47–49; Pub. L. 92–126, §1(b)(1), (2), (5), (6), Aug. 17, 1971, 85 Stat. 345, 346; Pub. L. 93–646, §§2–6, 13, Jan. 4, 1975, 88 Stat. 2333–2335, 2337; Pub. L. 95–143, §§1–3, Oct. 26, 1977, 91 Stat. 1210; Pub. L. 95–630, title XIX, §§1902–1904, 1907(a), 1909, 1910, 1915, 1916, Nov. 10, 1978, 92 Stat. 3724–3727; Pub. L. 96–470, title II, §210, Oct. 19, 1980, 94 Stat. 2245; Pub. L. 98–181, title VI, §§612, 616(a), 617, 618(a), (c), 619(b)–(d), 620(a), 622, Nov. 30, 1983, 97 Stat. 1255, 1257, 1258, 1260, 1261; Pub. L. 99–440, title II, §204, Oct. 2, 1986, 100 Stat. 1096; Pub. L. 99–472, §§2–11, 20(a), Oct. 15, 1986, 100 Stat. 1200–1203, 1209; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–418, title III, §3304, Aug. 23, 1988, 102 Stat. 1384; Pub. L. 100–690, title IV, §4703, Nov. 18, 1988, 102 Stat. 4293; Pub. L. 101–240, title I, §§101(a), (c), (d), 102, Dec. 19, 1989, 103 Stat. 2493–2495; Pub. L. 101–513, title V, §562(part), Nov. 5, 1990, 104 Stat. 2031; Pub. L. 101–623, §16, Nov. 21, 1990, 104 Stat. 3357; Pub. L. 102–145, §121(2), (3), Oct. 28, 1991, as added Pub. L. 102–266, §102, Apr. 1, 1992, 106 Stat. 95; Pub. L. 102–429, title I, §§104, 105, 107, 109(a), 110–112(d), 114, 116, 121(a), Oct. 21, 1992, 106 Stat. 2189, 2190, 2193–2196, 2198; Pub. L. 102–583, §§6(c), 12(a), (c)(1)(A), Nov. 2, 1992, 106 Stat. 4932, 4935; Pub. L. 103–149, §4(b)(5), Nov. 23, 1993, 107 Stat. 1505; Pub. L. 103–236, title VIII, §825, Apr. 30, 1994, 108 Stat. 514; Pub. L. 103–428, §1(a), (b), Oct. 31, 1994, 108 Stat. 4375; Pub. L. 103–447, title I, §102(a), Nov. 2, 1994, 108 Stat. 4693; Pub. L. 104–201, div. A, title XIII, §1303(a), Sept. 23, 1996, 110 Stat. 2702; Pub. L. 105–121, §§5, 7(a), 9–12, Nov. 26, 1997, 111 Stat. 2529, 2530.)

AMENDMENT OF SECTION

For termination of amendment by section 1(c) of Pub. L. 103–428, see Effective and Termination Dates of 1994 Amendments note below.

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b)(1)(B), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

Section 2151q of title 22, referred to in subsec. (b)(1)(C), was repealed by Pub. L. 96–533, title III, §304(g), Dec. 16, 1980, 94 Stat. 3147. See section 2151d(a)(2), (b)(2), (c) of Title 22, Foreign Relations and Intercourse.

Section 4 of the Support for East European Democracy (SEED) Act of 1989, referred to in subsec. (b)(1)(H)(ii), (iii), probably means section 3 of that Act, Pub. L. 101–179, which is classified to section 5402 of Title 22 and which defines East European country in subsec. (c). The Act does not contain a section 4.

The Arms Export Control Act, referred to in subsec. (b)(6)(F), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

Section 635g(a) of this title, referred to in subsec. (b)(8), was in the original a reference to section 9(a) of this Act, meaning section 9(a) of the Export-Import Bank Act of 1945. Sections 9 and 11 of that Act were renumbered as sections 8 and 9, respectively, by Pub. L. 102–429, title I, §121(c)(2), (3), Oct. 21, 1992, 106 Stat. 2199, and are classified to sections 635g and 635h, respectively, of this title.

CODIFICATION

Section 1(c) of Pub. L. 90–267 added pars. (2) to (5) of subsec. (b) and another section of Pub. L. 90–267 also designated 1(c) substituted "$3,500,000,000" for "$2,000,000,000" in subsec. (c)(1). See, also, 1968 Amendments hereunder.

AMENDMENTS

1997—Subsec. (b)(1)(A). Pub. L. 105–121, §10, in first sentence, substituted "real income, a commitment to reinvestment and job creation, and the increased development of the productive resources of the United States" for "real income and to the increased development of the productive resources of the United States".

Subsec. (b)(1)(B). Pub. L. 105–121, §11, inserted "(including child labor)" after "human rights" in penultimate sentence.

Pub. L. 105–121, §5(2), inserted at end "Each such determination shall be delivered in writing to the President of the Bank, shall state that the determination is made pursuant to this section, and shall specify the applications or categories of applications for credit which should be denied by the Bank in furtherance of the national interest."

Pub. L. 105–121, §5(1), in penultimate sentence, inserted ", after consultation with the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate," after "President".

Subsec. (b)(1)(I). Pub. L. 105–121, §9, added subpar. (I).

Subsec. (b)(9). Pub. L. 105–121, §7(a), added par. (9).

Subsec. (b)(12). Pub. L. 105–121, §12, added par. (12).

1996—Subsec. (b)(4). Pub. L. 104–201 amended par. (4) generally, restating provisions of former single par. as subpars. (A) to (F) with addition of provisions relating to persons knowingly aiding or abetting non-nuclear-weapon states to acquire nuclear explosive devices or unsafeguarded special nuclear material and requiring Secretary of State to initiate consultations with governments having jurisdiction over such persons.

1994—Subsec. (b)(4). Pub. L. 103–236 inserted "(as defined in section 6305(4) of title 22), or that any country has willfully aided or abetted any non-nuclear-weapon state (as defined in section 6305(5) of title 22) to acquire any such nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 6305(8) of title 22)." after "device" at end of first sentence.

Subsec. (b)(6)(C)(ii). Pub. L. 103–447 substituted "defined in section 2291(e) of title 22" for "determined under section 2291j(h) or 2291(e), as appropriate, of title 22".

Subsec. (b)(6)(H). Pub. L. 103–428, §1(b), (c), temporarily inserted "or described in subparagraph (I)(i)" before period at end of first sentence. See Effective and Termination Dates of 1994 Amendments note below.

Subsec. (b)(6)(I). Pub. L. 103–428, §1(a), (c), temporarily added subpar. (I). See Effective and Termination Dates of 1994 Amendments note below.

1993—Subsec. (b)(9). Pub. L. 103–149 struck out par. (9) which prohibited the Bank from taking certain actions with respect to business affecting Republic of South Africa.

1992—Subsec. (a)(3). Pub. L. 102–429, §121(a)(1), struck out "(A) IN GENERAL.—" before "To enhance the me-

dium-term'', redesignated cls. (i) to (iv) as subpars. (A) to (D), respectively, and struck out former subpar. (B) which read as follows: ''REPORT REQUIRED.—Not later than April 15, 1988, the Bank shall transmit a report to the Congress analyzing the measures adopted to enhance medium-term financing.''

Subsec. (b)(1)(A). Pub. L. 102–429, § 121(a)(2), added sentence at end and struck out former last sentence which read as follows: ''The Bank shall also include in the annual report a description of each loan by the Bank involving the export of any product or service related to the production, refining or transportation of any type of energy or the development of any energy resource with a statement assessing the impact, if any, on the availability of such products, services, or energy supplies thus developed for use within the United States.''

Subsec. (b)(1)(B). Pub. L. 102–429, § 104, inserted after first semicolon in fifth sentence ''that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;''.

Subsec. (b)(1)(E)(v). Pub. L. 102–429, § 121(a)(3), substituted ''not less than 10 percent of such authority for each fiscal year.'' for ''not less than—

''(I) 6 per centum of such authority for fiscal year 1984;

''(II) 8 per centum of such authority for fiscal year 1985; and

''(III) 10 per centum of such authority for fiscal year 1986 and thereafter.''

Pub. L. 102–429, § 116, inserted ''directly'' after ''to finance exports''.

Subsec. (b)(1)(H). Pub. L. 102–429, § 114, added subpar. (H).

Subsec. (b)(2)(B). Pub. L. 102–429, § 110, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows:

''(i) IN GENERAL.—For the purposes of this paragraph, the term 'Marxist-Leninist country' means any country which—

''(I) maintains a centrally planned economy based on the principles of Marxist-Leninism, or

''(II) is economically and militarily dependent on the Union of Soviet Socialist Republics or on any other Marxist-Leninist country.

''(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in the manner provided in subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

''Cambodian People's Republic.
''Cooperative Republic of Guyana.
''Czechoslovak Socialist Republic.
''Democratic People's Republic of Korea.
''Democratic Republic of Afghanistan.
''Estonia.
''German Democratic Republic.
''Hungarian People's Republic.
''Lao People's Democratic Republic.
''Latvia.
''Lithuania.
''Mongolian People's Republic.
''People's Democratic Republic of Yemen.
''People's Republic of Albania.
''People's Republic of Angola.
''People's Republic of Benin.
''People's Republic of Bulgaria.
''People's Republic of China.
''People's Republic of the Congo.
''People's Republic of Mozambique.
''Polish People's Republic.
''Republic of Cuba.
''Republic of Nicaragua.
''Socialist Ethiopia.
''Socialist Federal Republic of Yugoslavia.
''Socialist Republic of Romania.
''Socialist Republic of Vietnam.
''Surinam.
''Tibet.
''Union of Soviet Socialist Republics (including its captive constituent republics).''

Subsec. (b)(6)(A). Pub. L. 102–583, § 12(c)(1)(A), which directed the substitution of '', except as otherwise provided in subparagraph (B).'' for ''designated'' and all that follows through the end of the subparagraph could not be executed because the words did not appear subsequent to the amendment by Pub. L. 102–429, § 112(d)(1). See below.

Pub. L. 102–429, § 112(d)(1), struck out before period at end ''designated under section 4916 of title 26 as an economically less developed country for purposes of the tax imposed by section 4911 of title 26. The prohibitions set forth in this subparagraph shall not apply with respect to any transaction the consummation of which the President determines would be in the national interest and reports such determination (within thirty days after making the same) to the Senate and House of Representatives. In making any such determination the President shall take into account, among other considerations, the national interest in avoiding arms races among countries not directly menaced by the Soviet Union or by Communist China; in avoiding arming military dictators who are denying social progress to their own peoples; and in avoiding expenditures by developing countries of scarce foreign exchange needed for peaceful economic progress''.

Subsec. (b)(6)(B). Pub. L. 102–429, § 112(d)(2)(A), struck out '', and section 32 of the Arms Export Control Act,'' after ''Subparagraph (A)''.

Subsec. (b)(6)(B)(iii). Pub. L. 102–583, § 6(c)(1), substituted ''section 2291j(e) of title 22'' for ''section 2291(h)(5) of title 22''.

Subsec. (b)(6)(B)(iv), (v). Pub. L. 102–429, § 112(a)(1), (2), (d)(2)(B), inserted ''and'' at end of cl. (iv) and substituted ''articles or services.'' for ''articles and services; and'' at end of cl. (v).

Subsec. (b)(6)(B)(vi). Pub. L. 102–583, § 12(a), which directed the substitution of ''1997'' for ''1992'' in cl. (vi), could not be executed because cl. (vi) was struck out by Pub. L. 102–429, § 112(a)(3). See below.

Pub. L. 102–429, § 112(a)(3), struck out cl. (vi) which read as follows: ''the sale is made on or before September 30, 1992.''

Subsec. (b)(6)(C)(ii). Pub. L. 102–583, § 6(c)(2), substituted ''determined under section 2291j(h) or 2291(e), as appropriate, of title 22'' for ''defined in section 2291(i) of title 22''.

Subsec. (b)(6)(D)(i). Pub. L. 102–429, § 112(b), (d)(3), struck out ''and'' at end of subcl. (I), added subcl. (II), redesignated former subcl. (II) as (III), and substituted ''determinations have'' for ''determination has'' in subcl. (III).

Subsec. (b)(6)(D)(ii). Pub. L. 102–429, § 112(d)(4), substituted ''clause'' for ''sentence'' before period at end.

Subsec. (b)(6)(G). Pub. L. 102–429, § 112(d)(5), substituted ''or services'' for ''and services''.

Subsec. (b)(6)(H). Pub. L. 102–429, § 112(c), added subpar. (H).

Subsec. (b)(11), (12). Pub. L. 102–429, § 111, redesignated par. (12) as (11), substituted ''The President'' for ''Notwithstanding any determination by the President under paragraph (2) or (11), the'', and struck out former par. (11) which read as follows: ''PROHIBITION RELATING TO ANGOLA.—Notwithstanding any determination by the President under paragraph (2), the Bank may not guarantee, insure, or extend credit (or participate in the extension of credit) in connection with any export of goods or services, except food or agricultural commodities, to the People's Republic of Angola until the President certifies to the Congress that no combatant forces or military advisors of the Republic of Cuba or of any other Marxist-Leninist country (as such term is defined in paragraph (2)(B)) remain in Angola.''

Subsec. (c)(1). Pub. L. 102–429, § 109(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Bank is authorized and empowered to

charge against the limitations imposed by section 635e of this title, not less than 25 per centum of the related contractual liability which the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss. The aggregate amount of guarantees, insurance, coinsurance, and reinsurance which may be charged on this fractional basis pursuant to this section shall not exceed $25,000,000,000 outstanding at any one time. Fees and premiums shall be charged in connection with such contracts commensurate, in the judgment of the Bank, with risks covered.''

Subsec. (c)(3). Pub. L. 102–429, §105, designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (d)(2) to (5). Pub. L. 102–429, §107, added pars. (2) to (5) and struck out former pars. (2) and (3) which read as follows:

''(2) In furtherance of such effort, the Chairman of the Bank shall review Bank policies and programs in regard to this issue, and in coordination with the United States Trade Representative and the appropriate agencies of the Department of State, the Department of the Treasury, and the Department of Commerce, undertake actions designed to promote equal and nondiscriminatory opportunities to bid for insurance in connection with all aspects of international trade activities.

''(3) The Bank shall report to the Committee or Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than May 15, 1984, regarding—

''(A) the existing obstacles to equal and nondiscriminatory bidding for insurance related to transactions assisted by the Bank;

''(B) the efforts that the Bank has taken in addressing such problems; and

''(C) recommendations for such legislative or administrative actions as the Bank considers necessary.''

Subsec. (f). Pub. L. 102–429, §121(a)(4), struck out subsec. (f) which related to interest subsidy payments.

1991—Subsec. (b)(3). Pub. L. 102–145, §121(2), (3), as added by Pub. L. 102–266, amended par. (3) in introductory provisions by redesignating cl. (iii) as (ii) and striking out ''(ii) in an amount which equals or exceeds $25,000,000 for the export of goods or services involving research, exploration, or production of fossil fuel energy resources in the Union of Soviet Socialist Republics,''.

1990—Subsec. (b)(6)(B)(vi). Pub. L. 101–513 and Pub. L. 101–623 amended cl. (vi) identically, substituting ''1992'' for ''1990''.

1989—Subsec. (a)(1). Pub. L. 101–240, §101(c), substituted ''Subject to regulations which the Bank shall issue pursuant to section 553 of title 5, the Bank may'' for ''The Bank may'' in sixth sentence and inserted before period '', and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank, in accordance with subchapter I of chapter 57 of title 5'' and inserted before period in seventh sentence ''and shall be offset against the expenses of the Bank for such activities''.

Subsec. (b)(6)(G). Pub. L. 101–240, §101(d), substituted ''subparagraphs (B), (C), (D), and (F)'' for ''this paragraph''.

Subsec. (b)(12). Pub. L. 101–240, §102, added par. (12).

Subsec. (f)(2). Pub. L. 101–240, §101(a)(1), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''AUTHORITY TO MAKE PAYMENTS SUBJECT TO MINIMUM AMOUNT OF DIRECT LOAN AUTHORITY.—The authority to enter into commitments to make interest subsidy payments under paragraph (1) shall be effective for any fiscal year only if the aggregate principal amount of direct loans the Bank may obligate in such fiscal year is equal to or greater than $700,000,000.''

Subsec. (f)(3). Pub. L. 101–240, §101(a)(1), (2), redesignated par. (4) as (3) and amended it generally. Prior to amendment, such par. read as follows:

''(A) IN GENERAL.—Subject to subparagraph (B), there are authorized to be appropriated to the Bank, for any fiscal year beginning after fiscal year 1986, such sums as may be necessary to carry out the purposes of this subsection.

''(B) BUDGET SCORING.—No amount is authorized to be appropriated for commitments to make interest subsidy payments on loans for which the Bank extends a loan guarantee commitment if any amount of such loan guarantee commitment is scored as budget authority in any estimate of budget authority prepared pursuant to any provision of the Congressional Budget and Impoundment Control Act of 1974.'' Former par. (3) redesignated (2).

Subsec. (f)(4), (5). Pub. L. 101–240, §101(a)(1), (3), redesignated par. (5) as (4) and substituted ''1991'' for ''1988''. Former par. (4) redesignated (3).

1988—Subsec. (b)(6). Pub. L. 100–690 designated existing provision as subpar. (A), substituted ''subparagraph'' for ''paragraph'', and added subpars. (B) to (G).

Subsec. (e)(1)(A)(i). Pub. L. 100–418, §3304(a), substituted ''commodity will first be sold'' for ''productive capacity is expected to become operative''.

Subsec. (e)(2). Pub. L. 100–418, §3304(b), substituted ''short- and long-term injury'' for ''injury'' and ''producers and employment'' for ''producers''.

Subsec. (e)(3). Pub. L. 100–418, §3304(c), added par. (3).

1986—Subsec. (a)(1). Pub. L. 99–472, §2, inserted provisions which related to imposition and collection of reasonable fees by Bank to cover costs of conferences and seminars sponsored, and publications provided, by Bank, and credit of amounts thus received to fund which initially paid for such activities.

Subsec. (a)(3). Pub. L. 99–472, §4, added par. (3).

Subsec. (b)(1)(B). Pub. L. 99–472, §§3, 5, substituted ''need not be identical in all respects to those'' for ''need not be equivalent to those'' and inserted provisions which prohibited Bank from imposing credit application fee unless Bank's fee is competitive with average fee charged by Bank's primary foreign competitors, and option of paying fee at outset of, or over life of, loan is given to borrower or exporter, and present value of fee determined under either option is same amount.

Subsec. (b)(1)(E)(ix). Pub. L. 99–472, §6, added cl. (ix).

Subsec. (b)(1)(G). Pub. L. 99–472, §7, added subpar. (G).

Subsec. (b)(2). Pub. L. 99–472, §8, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit—

''(A) in connection with the purchase or lease of any product by a Communist country (as defined in section 2370(f) of title 22), or agency, or national thereof, or

''(B) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Communist country (as so defined),

unless the President determines that guarantees, insurance, or extensions of credit in connection therewith to such Communist or such other country or agency or national thereof would be in the national interest. The President shall make a separate determination with respect to each transaction in which the bank would extend a loan to such Communist or other country, or agency, or national thereof an amount of $50,000,000 or more. Any determination required under the first sentence of this paragraph shall be reported to the Congress not later than the earlier of thirty days following the date of such determination, or the date on which the Bank takes final action on a transaction which is the first transaction involving such country or agency or national after January 4, 1975, unless a determination with respect to such country or agency or national has been made and reported prior to January 4, 1975. Any determination required to be made under the second sentence of this paragraph shall be reported to the Congress not later than the earlier of thirty days fol-

lowing the date of such determination or the date on which the Bank takes final action on the transaction involved.''

Subsec. (b)(6). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (b)(9). Pub. L. 99–440 designated existing provisions of par. (9) as subpar. (A), substituted ''Except as provided in subparagraph (B), in no event'' for ''In no event'', and added subpar. (B).

Subsec. (b)(11). Pub. L. 99–472, § 9, added par. (11).

Subsec. (c)(3). Pub. L. 99–472, § 10, added par. (3).

Subsecs. (e), (f). Pub. L. 99–472, §§ 11, 20(a), added subsecs. (e) and (f).

1983—Subsec. (a)(1). Pub. L. 98–181, § 616(a)(1), substituted ''the exchange of commodities and services'' for ''the exchange of commodities''.

Subsec. (a)(2). Pub. L. 98–181, § 622, added par. (2).

Subsec. (b)(1)(A). Pub. L. 98–181, §§ 612(a), 616(a)(2), in second sentence inserted ''in all its programs'' after ''To meet this objective'', inserted ''fully'' after ''other conditions which are'', and substituted ''exports of goods and services'' for ''exports''.

Subsec. (b)(1)(B). Pub. L. 98–181, §§ 612(b), (c), 618(a)(1), substituted provisions that loans under this section shall bear interest at rates consistent with the Bank's mandate to support exports at rates and on terms and conditions which are fully competitive with exports of other countries, and consistent with international agreements, and that such rates, terms and conditions need not be equivalent to those offered by foreign countries, but should be established so as to neutralize the effect of such foreign credit on international sales competition, and that the Board shall consider its average cost of money in determination of interest rates, where such consideration does not impair the Bank's function of expanding exports through fully competitive financing for provisions that loans made by the Bank had to be at interest at rates determined by the Board of Directors of the Bank, taking into consideration the average cost of money to the Bank as well as the Bank's mandate to support United States exports at rates and on terms and conditions which were competitive with exports of other countries; inserted ''export trading companies,'' after ''independent export firms,''; and struck out provision which required the Bank to give due recognition to the policy stated in section 631(a) of Title 15 that the government should aid, counsel, assist, and protect the interests of small business in order to preserve free competitive enterprise, and that in furtherance of this policy the Board of Directors had to designate an officer of the Bank to handle small business concerns, including advising small businessmen and maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.

Subsec. (b)(1)(D). Pub. L. 98–181, § 616(a)(3), added subpar. (D).

Subsec. (b)(1)(E). Pub. L. 98–181, § 618(a)(2), added subpar. (E).

Subsec. (b)(1)(F). Pub. L. 98–181, § 618(c), added subpar. (F).

Subsec. (b)(3). Pub. L. 98–181, § 619(b), substituted ''no loan or financial guarantee or general guarantee or insurance facility'' for ''no loan or financial guarantee'' in provisions preceding subpar. (A).

Subsec. (b)(3)(A). Pub. L. 98–181, § 619(c), inserted language limiting existing provisions to loans or financial guarantees, designated existing provisions as cls. (i), (ii), and (iii), and added cl. (iv).

Subsec. (b)(4). Pub. L. 98–181, § 620(a), substituted ''the Secretary'' for ''he'' before ''determines that any country'' in first sentence, and before ''has determined to have so acted'' in second sentence.

Subsec. (b)(7) to (10). Pub. L. 98–181, § 619(d), redesignated second par. (7) and par. (8), as added by Pub. L. 95–630, as pars. (8) and (9), respectively, and added par. (10).

Subsec. (d). Pub. L. 98–181, § 617, added subsec. (d).

1980—Subsec. (b)(1)(A). Pub. L. 96–470 substituted ''annual'' for ''semiannual'' in three places.

1978—Subsec. (b)(1)(A). Pub. L. 95–630, § 1910, substituted ''manufactured goods, agricultural products, and other goods and services'' for ''goods and related services''.

Subsec. (b)(1)(B). Pub. L. 95–630, §§ 1904, 1916, inserted ''that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives;'' after ''in matters affecting small business concerns;'' and substituted ''and shall give particular emphasis to the objective of strengthening the competitive position of the United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations'' for ''and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country''.

Subsec. (b)(1)(C). Pub. L. 95–630, § 1907(a), added subpar. (C).

Subsec. (b)(3). Pub. L. 95–630, § 1902, substituted ''Except as provided by the fourth sentence of this paragraph, no loan'' for ''No loan'' and ''$100,000,000'' for ''$60,000,000'' and inserted provisions following subpar. (B).

Subsec. (b)(7) to (9). Pub. L. 95–630, §§ 1909, 1915, added a second par. (7) and par. (8), which were editorially designated pars. (8) and (9). See 1983 Amendment note above.

Subsec. (c)(1). Pub. L. 95–630, § 1903, substituted ''$25,000,000,000'' for ''$20,000,000,000''.

1977—Subsec. (b)(1)(A). Pub. L. 95–143, § 1, inserted ''and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing'' after ''government-supported export financing''.

Subsec. (b)(1)(B). Pub. L. 95–143, § 2, inserted '', and shall also take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country'' after ''employment in the United States''.

Subsec. (b)(3). Pub. L. 95–143, § 3(a), inserted ''(i)'' after ''No loan or financial guarantee or combination thereof'' and '', or (iii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities,'' after ''Union of Soviet Socialist Republics'' and substituted '', (ii) in an amount'' for ''shall be finally approved by the Board of Directors of the Bank, and no loan or financial guarantee or combination thereof''.

Subsec. (b)(4) to (7). Pub. L. 95–143, § 3(b), (c), added par. (4), redesignated former par. (4) as (5) and, as so redesignated, added cl. (C), and redesignated former pars. (5) and (6) as (6) and (7), respectively.

1975—Subsec. (a)(1). Pub. L. 93–646, § 2, inserted provisions authorizing the Bank to guarantee, insure, coinsure, and reinsure against political and credit risks of loss, to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States, and to publish any documents, reports, etc., without regard to section 501 of title 44, whenever compliance with such section would not be practicable.

Subsec. (a)(2). Pub. L. 93–646, §13, eff. at the close of Sept. 30, 1976, repealed par. (2), which related to inclusion of receipts and disbursements of the bank in the federal budget and exemption of such receipts and disbursements from budget limitations, to the transmittal to Congress of a budget for program activities and for administrative expenses of the bank, and to the annual report of the net lending of the bank.

Subsec. (b)(1). Pub. L. 93–646, §3, designated existing provisions as subpars. (A) and (B), and as so designated, substituted provisions requiring a comparison of the rates and terms of the Bank with other countries for provisions requiring a report to include ways in which the Bank's terms are equal to or superior to those of other countries, and inserted provisions requiring the appointment of a Bank officer to be responsible for all matters affecting small business, and to act as liaison with the Small Business Administration and other agencies in matters affecting small business concerns, in order to carry out the policy of the Small Business Act.

Subsec. (b)(2). Pub. L. 93–646, §4, inserted provision requiring a separate Presidential determination of national interest with respect to each transaction over $50,000,000, and substituted provision requiring a report to Congress either within 30 days of the President's finding or on the day the Bank takes final action on the proposed credit, whichever is earlier, for provision requiring a report of his finding to Congress within thirty days after making such finding.

Subsec. (b)(3) to (6). Pub. L. 93–646, §5, added par. (3) and redesignated former pars. (3), (4), and (5) as (4), (5) and (6), respectively.

Subsec. (c)(1). Pub. L. 93–646, §6, removed the $10 billion limit on the Bank's insurance authority, and increased the Bank's authority to charge such guarantees and insurance on a fractional charge basis from $10 billion to $20 billion.

1971—Subsec. (a). Pub. L. 92–126, §1(b)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 92–126, §1(b)(6), inserted provisions declaring the policy of the United States to be to foster expansion of goods and related services, contributing to the proposition and maintenance of high levels of employment and real income and to the increased development of the productive resources of the United States and laid down directives to achieve this objective.

Subsec. (b)(3). Pub. L. 92–126, §1(b)(5), substituted provisions prohibiting the Bank from extending assistance in export sales to any nation which engages in armed conflict with the United States or to any other nation when the export is to be used principally by or in any nation which engages in armed conflict with the United States and further prohibiting such assistance to any export sales which the President determines would be contrary to the national interest for provisions placing limitations on the Bank's activity in connection with any nation which supplies goods or assistance to a country with whom the United States is engaged in armed conflict.

Subsec. (c)(1). Pub. L. 92–126, §1(b)(2), increased the amount of insurance outstanding at any one time from "$3,500,000,000" to "$10,000,000,000".

1968—Subsec. (a). Pub. L. 90–267, §1(a), changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

Subsec. (b)(1). Pub. L. 90–267, §1(b), designated existing provisions as par. (1) and required the Board of Directors when authorizing loans to take into account the possible adverse effects upon the economy of the United States.

Subsec. (b)(2) to (5). Pub. L. 90–267, §1(c), added pars. (2) to (5).

Subsec. (c)(1). Pub. L. 90–267, §1(a), (c), increased amount of insurance outstanding at any one time from $2,000,000,000" to $3,500,000,000" and changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

1963—Subsec. (c)(1). Pub. L. 88–101 substituted "$2,000,000,000" for "$1,000,000,000".

1961—Subsec. (c). Pub. L. 87–311 amended subsection generally, and among other changes, authorized the Bank to guarantee, insure, coinsure, and reinsure United States exporters and foreign exporters doing business in the United States, increased the maximum amount of insurance, etc., outstanding at any one time to $1,000,000,000, limited the types of risks the Bank would insure, etc., to political and credit risks, required reserves to be maintained at not less than 25 per centum of the related contractual liability of the Bank, provided that for contracts of insurance, etc., only the Bank's liabilities represented by the aforementioned reserves shall be considered for purposes of applying the limitations of section 635e of this title, required the charging of fees and premiums, and authorized issuance of insurance, etc., to exporters, insurance companies, financial institutions, or others, and where appropriate, to employ any of the same as agent, and struck out provisions authorizing insurance for the benefit of United States citizens against loss of tangible personal property of United States origin, exported from the United States, and located in a friendly country, from hostile or warlike actions including internal strife, or from governmental confiscation or expropriation, to the extent owned by the assured or constituting security for obligations owed the assured, limiting the issuance of insurance to the extent that it could not be obtained from private companies authorized to do business in the United States, or from United States Government agencies providing marine or air war-risk insurance, permitting reinsurance of companies authorized to do an insurance business in the United States, or to use such company or companies as agent, and limiting the term of coverage of any insurance issued to one year, subject to renewals or extensions, from time to time, of one year periods.

1953—Subsec. (c). Act May 21, 1953, added subsec. (c).

1947—Subsec. (a). Act June 9, 1947, provided for the reincorporation of the Bank as a corporate agency of the United States and specifically provided for the following powers which the bank formerly possessed by implication: (1) to acquire stock through the enforcement of any lien or pledge or to satisfy an indebtedness; (2) to sue and be sued, to complain and defend in any court of competent jurisdiction; (3) to use the United States mails as any other executive department; and (4) after provision for possible losses to use the net earnings as dividends on capital stock and to deposit said dividends as miscellaneous receipts in the Treasury.

1945—Subsec. (a). Act Dec. 28, 1945, inserted "(or the Philippine Islands)" after "any foreign country".

Change of Name

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

Effective and Termination Dates of 1994 Amendments

Section 1(c) of Pub. L. 103–428, as amended by Pub. L. 105–121, §4, Nov. 26, 1997, 111 Stat. 2529, provided that: "The amendments made by this section [amending this section] shall remain in effect during the period beginning on the date of enactment of this Act [Oct. 31, 1994] and ending on September 30, 2001."

Amendment by Pub. L. 103–236 effective 60 days after Apr. 30, 1994, see section 831 of Pub. L. 103–236, set out as an Effective Date note under section 6301 of Title 22, Foreign Relations and Intercourse.

Effective Date of 1978 Amendment

Section 1917 of title XIX of Pub. L. 95–630 provided that: "This title [enacting sections 635a–1 to 635a–3 of this title and section 2153e–1 of Title 42, The Public Health and Welfare, and amending this section and sections 635e to 635g of this title] shall take effect upon enactment [Nov. 10, 1978]."

SHORT TITLE OF 1997 AMENDMENT

Section 1(a) of Pub. L. 105–121 provided that: ''This Act [amending this section and sections 635a, 635f, and 635i–3 of this title, enacting provisions set out as notes under this section and section 635f of this title, and amending provisions set out as a note under this section] may be cited as the 'Export-Import Bank Reauthorization Act of 1997'.''

SHORT TITLE OF 1992 AMENDMENT

Section 1(a) of Pub. L. 102–429 provided that: ''This Act [enacting sections 635i–5 to 635i–7 of this title, section 831 of Title 2, The Congress, and sections 4727 to 4729 of Title 15, Commerce and Trade, amending this section and sections 635a, 635b, 635e, 635f, and 635i–3 of this title, and sections 4052 and 4721 of Title 15, repealing sections 635c, 635i to 635i–2, and 635i–4 of this title, section 713b of Title 15, and section 2772 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under this section, section 635a of this title, and section 4728 of Title 15] may be cited as the 'Export Enhancement Act of 1992'.''

SHORT TITLE OF 1988 AMENDMENT

Section 3301 of Pub. L. 100–418 provided that: ''This subtitle [subtitle D (§§ 3301–3304) of title III of Pub. L. 100–418, amending this section and section 635i–3 of this title and enacting provisions set out as a note under section 635i–3 of this title] may be cited as the 'Export-Import Bank and Tied Aid Credit Amendments of 1988'.''

SHORT TITLE OF 1986 AMENDMENT

Section 1 of Pub. L. 99–472 provided that: ''This Act [enacting section 635i–3 of this title and section 262h of Title 22, Foreign Relations and Intercourse, amending this section and sections 635a, 635a–2, 635a–3, and 635e to 635g of this title, and enacting provisions set out as a note under section 635g of this title] may be cited as the 'Export-Import Bank Act Amendments of 1986'.''

SHORT TITLE OF 1983 AMENDMENT

Section 601 of title VI of Pub. L. 98–181 provided that: ''This title [enacting sections 635i–1, 635i–2, and 635*o*–635t of this title and section 1671g of Title 19, Customs Duties, amending this section, sections 635a, 635a–2, 635a–3, 635a–4, 635b, 635e, 635f, and 635g of this title, and sections 1671a and 1671b of Title 19, and enacting provisions set out as notes under sections 635a and 635*o* of this title] may be cited as the 'Export-Import Bank Act Amendments of 1983'.''

For short title of part C (§§ 641–647) of title VI of Pub. L. 98–181, which enacted subchapter III (§ 635*o* et seq.) of this chapter and section 1671g of Title 19 and amended sections 1671a and 1671b of Title 19, as the ''Trade and Development Enhancement Act of 1983'', see Short Title note set out under section 635*o* of this title.

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title III, § 380, Aug. 13, 1981, 95 Stat. 431, provided that: ''This subtitle [subtitle B (§§ 380–385) of title III of Pub. L. 97–35, amending sections 461 and 635e of this title, and section 369 of former Title 31, Money and Finance, enacting provisions set out as a note under section 369 of former Title 31, and amending provisions set out as notes under sections 1735f–7 and 1904 of this title] may be cited as the 'Banking and Related Programs Authorization Adjustment Act'.''

SHORT TITLE OF 1978 AMENDMENT

Section 1901 of title XIX of Pub. L. 95–630 provided: ''That this title [enacting sections 635a–1 to 635a–3 of this title and section 2153e–1 of Title 42, The Public Health and Welfare, amending this section and sections 635e to 635g of this title, and enacting provisions set out as a note under this section] may be cited as the 'Export-Import Bank Act Amendments of 1978'.''

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 93–646 provided that: ''This Act [amending this section and sections 82 and 635d to 635g of this title and enacting provisions set out as notes under this section] may be cited as the 'Export-Import Bank Amendments of 1974'.''

SHORT TITLE OF 1971 AMENDMENT

Section 1(a) of Pub. L. 92–126 provided that: ''This Act [amending this section and sections 635e and 635f of this title and enacting provisions set out as notes under section 95a of this title] may be cited as the 'Export Expansion Finance Act of 1971'.''

SHORT TITLE

Section 1 of act July 31, 1945, provided: ''That this Act [this subchapter] may be cited as the 'Export-Import Bank Act of 1945'.''

AUTHORITY OF SECRETARY OF STATE

Except as otherwise provided, Secretary of State to have and exercise any authority vested by law in any official or office of Department of State and references to such officials or offices deemed to refer to Secretary of State or Department of State, as appropriate, see section 2651a of Title 22, Foreign Relations and Intercourse, and section 161(d) of Pub. L. 103–236, set out as a note under section 2651a of Title 22.

DELEGATION OF FUNCTIONS

Functions of President under subsec. (b)(6) of this section delegated to Secretary of State by section 1(r) of Ex. Ord. No. 11958, Jan. 18, 1977, 42 F.R. 4311, as amended, set out as a note under section 2751 of Title 22, Foreign Relations and Intercourse.

BOARD OF DIRECTORS

A Board of Directors was reestablished for the Export-Import Bank of Washington by section 1 of act Aug. 9, 1954, ch. 660, 68 Stat. 677, amending section 635a of this title. The Board had previously been abolished and its functions transferred to the Managing Director of the Bank by Reorg. Plan No. 5 of 1953, eff. June 30, 1953, 18 F.R. 3741, 67 Stat. 637, set out as a note under section 635a of this title. The 1953 Reorg. Plan was superseded by sections 1, 4 of act Aug. 9, 1954. See section 635a of this title and 1954 Amendment and Effective Date of 1954 Amendment notes thereunder.

HISTORY OF BANK

The Export-Import Bank of Washington was organized as a District of Columbia banking corporation under Ex. Ord. No. 6581, Feb. 2, 1934. It was continued as an agency of the United States by act Jan. 31, 1935, ch. 2, § 9, 49 Stat. 4, formerly set out as section 713b of Title 15, Commerce and Trade, as amended by acts Jan. 26, 1937, ch. 6, § 2(a), 50 Stat. 5; Mar. 4, 1939, ch. 5, § 1(b)(c), 53 Stat. 510; Mar. 2, 1940, ch. 34, 54 Stat. 38; Sept. 26, 1940, ch. 734, § 3, 54 Stat. 962, and repealed by section 10 of act July 31, 1945. The Second Export-Import Bank of Washington, D.C., was established under Ex. Ord. No. 6638, Mar. 9, 1934. Its commitments were transferred to the Export-Import Bank of Washington and it was abolished by Ex. Ord. No. 7365, May 7, 1936, 1 F.R. 372. The ''Export-Import Bank of Washington'' was renamed the ''Export-Import Bank of the United States''. See the 1968 Amendment note under this section.

REPORTS TO CONGRESS

Section 7(b) of Pub. L. 105–121 provided that: ''Within 6 months after the date of enactment of this Act [Nov. 26, 1997], and annually for each of the 4 years thereafter, the Board of Directors of the Export-Import Bank of the United States shall submit to Congress a report on the steps that the Board has taken to implement section 2(b)(9)(B) of the Export-Import Bank Act of 1945 [12 U.S.C. 635(b)(9)(B)] and any recommendations

of the advisory committee established pursuant to such section.''

DECLARATION OF POLICY

Section 101 of Pub. L. 102–429 provided that: ''The Congress finds that—

''(1) as the world's largest economy, the United States has an enormous stake in the future of the global trading system;

''(2) exports are a crucial force driving the United States economy;

''(3) during 1991, the value of United States exports increased by 7.1 percent from the 1990 level to $421,600,000,000, supporting more than 7,000,000 full-time United States jobs, and affecting the lives of all of the people of the United States;

''(4) exports also support the global strategic position of the United States;

''(5) a significant part of a country's influence is drawn from the reputation of its goods, its industrial connections with other countries, and the capital it has available for investment, and trade finance is a critical component of this equation;

''(6) the growth in United States exports has increased the demand for financing from the Export-Import Bank of the United States;

''(7) during 1991, the value of exports assisted by the Export-Import Bank rose 28.7 percent, from $9,700,000,000 to $12,100,000,000, the highest level since 1981;

''(8) the Export-Import Bank used its entire budget authority provided for 1991, and still could not meet all of the demand for its financing assistance; and

''(9) accordingly, the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992, must be renewed in order that the Bank continue to arrange competitive and innovative financing for the foreign sales of United States exporters.''

REPORT ON FINANCING OF SERVICES

Section 119 of Pub. L. 102–429 directed Export-Import Bank of the United States, not later than 1 year after Oct. 21, 1992, to submit a report to Congress on ways of facilitating the export financing of high technology services.

REPORT ON DEMAND FOR TRADE FINANCE FOR THE BALTIC STATES, THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, AND CENTRAL AND EASTERN EUROPE

Section 120 of Pub. L. 102–429 directed Export-Import Bank, not later than 1 year after Oct. 21, 1992, to transmit to Congress a report analyzing present and future demand for loans, guarantees, and insurance for trade between the United States and the Baltic States, between the United States and the independent States of the former Soviet Union, and between the United States and Central and Eastern Europe, and to make recommendations regarding the adequacy of financing for trade between the United States and such countries.

EXPORT-IMPORT PROGRAMS TO PEOPLE'S REPUBLIC OF CHINA PROHIBITED UNLESS CERTAIN CONDITIONS MET

Section 103 of Pub. L. 101–240 provided that:

''(a) Notwithstanding any other provision of law and subject to the provisions of subsections (b) and (c), the Export-Import Bank of the United States shall not finance any trade with, nor extend any loan, credit, credit guarantee, insurance or reinsurance to the People's Republic of China.

''(b) The prohibitions described in subsection (a) of this section shall not apply to food or agricultural commodities.

''(c) The President may waive the prohibitions in subsection (a) if he makes a report to Congress either—

''(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the country, as well as in Tibet, which includes—

''(A) lifting of martial law;

''(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

''(C) release of political prisoners;

''(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

''(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

''(2) it is in the national interest of the United States to terminate a suspension under subsection (a).''

EXPORT-IMPORT BANK PROGRAMS FOR POLAND AND HUNGARY

Pub. L. 101–179, title III, §303, Nov. 28, 1989, 103 Stat. 1312, provided that:

''(a) AUTHORITY TO EXTEND CREDIT TO POLAND AND HUNGARY.—Notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)), the Export-Import Bank of the United States may guarantee, insure, finance, extend credit, and participate in the extension of credit in connection with the purchase or lease of any product by the Republic of Hungary or any agency or national thereof or by the Polish People's Republic or any agency or national thereof.

''(b) PRIVATE FINANCIAL INTERMEDIARIES TO FACILITATE EXPORTS TO POLAND.—Consistent with the provisions of the Export-Import Bank Act of 1945 (12 U.S.C. 635 and following), the Export-Import Bank of the United States shall work with private financial intermediaries in Poland to facilitate the export of goods and services to Poland.''

RESTRICTIONS ON LOANS

Section 12 of Pub. L. 93–646 provided that, until Jan. 3, 1975, no loan, guarantee, insurance, or credit could be extended by the Export-Import Bank of the United States to the Union of Soviet Socialist Republics.

EX. ORD. NO. 12166. DELEGATION OF FUNCTION OF PRESIDENT RELATING TO APPLICATION FOR CREDIT TO SECRETARY OF STATE

Ex. Ord. No. 12166, Oct. 19, 1979, 44 F.R. 60971, provided:

By the authority vested in me as President of the United States of America by Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(1)(B)), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1–101. The function vested in the President by Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(1)(B)), is delegated to the Secretary of State. That function is the authority to determine that a denial by the Export-Import Bank of an application for credit would be in the national interest, where such action could clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights.

1–102. Before making such a determination, the Secretary of State shall consult with the Secretary of Commerce and the heads of other interested Executive agencies.

1–103. In accord with Section 2(b)(1)(B) of that Act, only in those cases where the Secretary of State has made such a determination should the Export-Import Bank deny an application for credit for nonfinancial or noncommercial considerations.

JIMMY CARTER.

CROSS REFERENCES

Financial control of corporation, see section 9101 et seq. of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 635a, 635g, 635i–5, 635j, 635m of this title; title 22 sections 2184, 2185, 2357.

§ 635a. Management of Bank

(a) Establishment as independent agency

The Export-Import Bank of the United States shall constitute an independent agency of the United States and neither the Bank nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress shall otherwise by law provide.

(b) President and First Vice President of the Bank; appointment; duties

There shall be a President of the Export-Import Bank of the United States, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, and who shall serve as chief executive officer of the Bank. There shall be a First Vice President of the Bank, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, who shall serve as President of the Bank during the absence or disability of or in the event of a vacancy in the office of President of the Bank, and who shall at other times perform such functions as the President of the Bank may from time to time prescribe.

(c) Board of Directors; composition; oath; terms; duties; quorum; bylaws

(1) There shall be a Board of Directors of the Bank consisting of the President of the Export-Import Bank of the United States, who shall serve as Chairman, the First Vice President who shall serve as Vice Chairman, and three additional persons appointed by the President of the United States by and with the advice and consent of the Senate.

(2) Of the five members of the Board, not more than three shall be members of any one political party.

(3) Omitted

(4) Before entering upon his duties, each of the directors shall take an oath faithfully to discharge the duties of his office.

(5) The directors, in addition to their duties as members of the Board, shall perform such additional duties and may hold such other offices in the administration of the Bank as the President of the Bank may from time to time prescribe.

(6) A majority of the Board of Directors shall constitute a quorum.

(7) The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Bank, and shall, in such bylaws, designate the vice presidents and other officers of the Bank and prescribe their duties.

(8)(A) The terms of the directors, including the President and the First Vice President of the Bank, appointed under this section shall be four years, except that—

(i) during their terms of office, the directors shall serve at the pleasure of the President of the United States;

(ii) the term of any director appointed after November 30, 1983, to serve before January 20, 1985, shall expire on January 20, 1985;

(iii) of the directors first appointed to serve beginning on or after January 21, 1985, two directors (other than the President and First Vice President of the Bank) shall be appointed for terms of two years, as designated by the President of the United States at the time of their appointment; and

(iv) any director first appointed to serve for a term beginning on any date after January 21, 1985, shall serve only for the remainder of the period for which such director would have been appointed if such director's term had begun on January 21, 1985. If such term would have expired before the date on which such director's term actually begins, the term of such director shall be the four-year period, or remainder thereof, as if such director had been preceded by a director whose term had begun on January 21, 1985.

(B) Of the five members of the Board appointed by the President, not less than one such member shall be selected from among the small business community and shall represent the interests of small business.

(C) Any person chosen to fill a vacancy shall be appointed only for the unexpired term of the director whom such person succeeds.

(D) Any director whose term has expired may be reappointed.

(E) Any director whose term has expired may continue to serve on the Board of Directors until the earlier of—

(i) the date on which such director's successor is qualified; or

(ii) the end of the 6-month period beginning on the date such director's term expires.

(d) Advisory Committee; appointment; composition; meetings; advice to Bank; report to Congress

(1)(A) There is established an Advisory Committee to consist of 15 members who shall be appointed by the Board of Directors on the recommendation of the President of the Bank.

(B) Such members shall be broadly representative of production, commerce, finance, agriculture, labor, services, and State government.

(2)(A) Not less than three members appointed to the Advisory Committee shall be representative of the small business community.

(B) Not less than 2 members appointed to the Advisory Committee shall be representative of the labor community, except that no 2 representatives of the labor community shall be selected from the same labor union.

(3) The Advisory Committee shall meet at least once each quarter.

(4) The Advisory Committee shall advise the Bank on its programs, and shall submit, with the report specified in section 635(b)(1)(A) of this title, its own comments to the Congress on the extent to which the Bank is meeting its mandate to provide competitive financing to expand United States exports, and any suggestions for improvements in this regard.

(e) Conflicting personal interests

(1) No director, officer, attorney, agent, or employee of the Bank shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting such individual's personal interests, or the interests of any corporation, partnership or

association in which such individual is directly or indirectly personally interested.

(2) The General Counsel of the Bank shall ensure that the directors, officers, and employees of the Bank have available appropriate legal counsel for advice on, and oversight of, issues relating to personnel matters and other administrative law matters by designating an attorney to serve as Assistant General Counsel for Administration, whose duties, under the supervision of the General Counsel, shall be concerned solely or primarily with such issues.

(July 31, 1945, ch. 341, § 3, 59 Stat. 527; Aug. 9, 1954, ch. 660, § 1, 68 Stat. 677; Pub. L. 90–267, § 1(a), (d), Mar. 13, 1968, 82 Stat. 47, 49; Pub. L. 98–181, title VI, §§ 613, 614(a), 620(b), Nov. 30, 1983, 97 Stat. 1255, 1261; Pub. L. 99–472, § 18, Oct. 15, 1986, 100 Stat. 1205; Pub. L. 102–429, title I, § 113, Oct. 21, 1992, 106 Stat. 2195; (As amended Pub. L. 105–121, §§ 6, 8, Nov. 26, 1997, 111 Stat. 2529, 2530.)

CODIFICATION

Provisions of subsecs. (b) and (c)(3) of this section, which prescribed the annual compensation of the President, the First Vice President, and other members of the Board of Directors, were omitted to conform to the provisions of the Executive Schedule. See sections 5314 and 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

1997—Subsec. (d)(2). Pub. L. 105–121, § 8, designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (e). Pub. L. 105–121, § 6, designated existing provisions as par. (1) and added par. (2).

1992—Subsec. (d)(1)(A). Pub. L. 102–429 substituted ''15 members'' for ''twelve members''.

1986—Subsec. (c)(8)(E). Pub. L. 99–472 added subpar. (E).

1983—Subsec. (c). Pub. L. 98–81, § 614(a), designated first through seventh sentences as pars. (1) through (7), respectively, substituted ''The'' for ''Terms of the directors shall be at the pleasure of the President of the United States, and the'' at beginning of par. (5) as so designated, and added par. (8).

Subsec. (d). Pub. L. 98–181, § 613, amended subsec. (d) generally. Prior to amendment subsec. (d) read as follows: ''There shall be an Advisory Committee of nine members, appointed by the Board of Directors on the recommendation of the President of the Bank, who shall be broadly representative of production, commerce, finance, agriculture and labor. The Advisory Committee shall meet one or more times per year, on the call of the President of the Bank, to advise with the Bank on its program. Members, not otherwise in the regular full-time employ of the United States, may be compensated at rates not exceeding the per diem equivalent of the rate for grade 18 of the General Schedule (5 U.S.C. 5332) for each day spent in travel or attendance at meetings of the Committee, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for individuals in the Government service employed intermittently.''

Subsec. (e). Pub. L. 98–181, § 620(b), substituted ''such individual's'' for ''his'' and ''such individual'' for ''he''.

1968—Subsecs. (a) to (c). Pub. L. 90–267, § 1(a), changed name of ''Export-Import Bank of Washington'' to ''Export-Import Bank of the United States''.

Subsec. (d). Pub. L. 90–267, § 1(d), substituted provisions for compensation of members, not otherwise in the regular full-time employ of the United States, at rates not exceeding the per diem equivalent of the rate for grade 18 of the General Schedule for each day spent in travel or attendance at meetings of the Committee, and for allowance of travel expenses, when serving away from home or regular place of business, as authorized by section 5703 of title 5 for individuals in the Government service employed intermittently for former provisions for allowance for attendance at meetings and travel expenses of $50 and $10, respectively.

1954—Act Aug. 9, 1954, amended section generally to provide for the independent management of the Bank under a Board of Directors and for the appointment of a President and First Vice President of the Bank.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 4 of act Aug. 9, 1954, provided that: ''The provisions of this Act for the appointment of a President and a First Vice President of the Bank and the members of the Board of Directors shall be effective upon its enactment [Aug. 9, 1954]. The remaining provisions of this Act shall become effective when the President and First Vice President of the Bank and one other member of the Board of Directors initially appointed hereunder enter upon office, and shall thereupon supersede Reorganization Plan No. 5 of 1953 [set out below].''

COMPENSATION OF EMPLOYEES

Section 117 of Pub. L. 102–429 provided that:

''(a) IN GENERAL.—The Board of Directors of the Export-Import Bank of the United States may compensate not more than 35 employees of the Bank without regard to the provisions of chapter 51 or subchapter III or VIII of chapter 53 of title 5, United States Code.

''(b) SUNSET.—Effective 2 years after the date of enactment of this Act [Oct. 21, 1992], subsection (a) is hereby repealed.

''(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States shall submit a report to the Congress on—

''(1) the recruitment and employee retention problems of the Bank;

''(2) any relief from such problems afforded by the Office of Personnel Management;

''(3) any use of the authority provided in subsection (a); and

''(4) the conclusions and recommendations of the Bank with respect to—

''(A) whether such problems have been satisfactorily addressed; and

''(B) whether or not the authority of subsection (a) should be extended.''

[Pub. L. 105–118, title I, Nov. 26, 1997, 111 Stat. 2387, provided in part: ''That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992 [Pub. L. 102–429, set out above], subsection (a) thereof shall remain in effect until October 1, 1998.''

[Prior similar extensions of section 117(a) of Pub. L. 102–429 were contained in the following acts:

[Pub. L. 104–208, div. A, title I, § 101(c) [title I], Sept. 30, 1996, 110 Stat. 3009–121, 3009–122.

[Pub. L. 104–107, title I, Feb. 12, 1996, 110 Stat. 705.

[Pub. L. 103–306, title IV, Aug. 23, 1994, 108 Stat. 1623.]

REPORT ON REGIONAL OFFICES

Section 118 of Pub. L. 102–429 directed Export-Import Bank, not later than 1 year after Oct. 21, 1992, to submit a report to Congress on the Bank's plan to establish and operate regional offices.

APPOINTMENT OF MEMBER OF BOARD TO REPRESENT INTERESTS OF SMALL BUSINESS COMMUNITY

Section 614(b) of Pub. L. 98–181 provided that: ''In order to carry out the amendment made by subsection (a) regarding section 3(c)(8)(B) of the Export-Import Bank Act of 1945 [subsec. (c)(8)(B) of this section], the first member, other than a member who will serve as Chairman or Vice Chairman of the Bank, appointed by the President of the United States to the Board of Directors of the Export-Import Bank of the United States after the date of the enactment of this section [Nov. 30,

1983] shall be selected from among the small business community and shall represent the interests of small business.''

BOARD OF DIRECTORS; ADVISORY COMMITTEE

A Board of Directors and an Advisory Committee reestablished for the Export-Import Bank of Washington, see note set out under section 635 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF FOREIGN ECONOMIC ADMINISTRATION

Foreign Economic Administration and office of its Administrator terminated by Ex. Ord. No. 9630, Sept. 27, 1945, 10 F.R. 12245.

REORGANIZATION PLAN NO. 5 OF 1953

18 F.R. 3741, 67 Stat. 637

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 30, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

THE EXPORT-IMPORT BANK OF WASHINGTON

SECTION 1. THE MANAGING DIRECTOR

There is hereby established the office of Managing Director of the Export-Import Bank of Washington, hereinafter referred to as the ''Managing Director.'' The Managing Director shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate of $17,500 per annum.

SEC. 2. DEPUTY DIRECTOR

There is hereby established the office of Deputy Director of the Export-Import Bank of Washington. The Deputy Director shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate of $16,000 per annum, shall perform such functions as the Managing Director may from time to time prescribe, and shall act as Managing Director during the absence or disability of the Managing Director or in the event of a vacancy in the office of Managing Director.

SEC. 3. ASSISTANT DIRECTOR

There is hereby established the office of Assistant Director of the Export-Import Bank of Washington. The Assistant Director shall be appointed by the Managing Director under the classified civil service, shall receive compensation at the rate now or hereafter fixed by law for grade GS–18 of the general schedule established by the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5], and shall perform such functions as the Managing Director may from time to time prescribe.

SEC. 4. FUNCTIONS TRANSFERRED TO THE MANAGING DIRECTOR

All functions of the Board of Directors of the Export-Import Bank of Washington are hereby transferred to the Managing Director.

SEC. 5. GENERAL POLICIES

The National Advisory Council on International Monetary and Financial Problems shall from time to time establish general lending and other financial policies which shall govern the Managing Director in the conduct of the lending and other financial operations of the bank.

SEC. 6. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Managing Director may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Managing Director by any other officer, or by any agency or employee, of the bank.

SEC. 7. ABOLITION

The following are hereby abolished: (1) The Board of Directors of the Export-Import Bank of Washington, including the offices of the members thereof provided for in section 3(a) of the Export-Import Bank Act of 1945, as amended [subsection (a) of this section]; (2) the Advisory Board of the Bank, together with the functions of the said Advisory Board; and (3) the function of the Chairman of the Board of Directors of the Export-Import Bank of Washington of being a member of the National Advisory Council on International Monetary and Financial Problems. The Managing Director shall make such provisions as may be necessary for winding up any outstanding affairs of the said abolished boards and offices not otherwise provided for in this reorganization plan.

SEC. 8. EFFECTIVE DATE

Sections 3 to 7, inclusive, of this reorganization plan shall become effective when the Managing Director first appointed hereunder enters upon office pursuant to the provisions of this reorganization plan.

[A Board of Directors was reestablished for the Export-Import Bank of Washington by section 1 of act Aug. 9, 1954, ch. 660, 68 Stat. 677, which amended this section. The Board had previously been abolished and its functions transferred to the Managing Director of the Bank by Reorg. Plan No. 5 of 1953, set out above. The 1953 Reorg. Plan was superseded by sections 1, 4 of act Aug. 9, 1954. See this section and 1954 Amendment and Effective Date of 1954 Amendment notes set out above. The ''Export-Import Bank of Washington'' was renamed the ''Export-Import Bank of the United States'' by Pub. L. 90–267, §1(a), Mar. 13, 1968, 82 Stat. 47.]

UNITED STATES TRADE REPRESENTATIVE AND SECRETARY OF COMMERCE AS ADDITIONAL MEMBERS OF BOARD OF DIRECTORS OF EXPORT-IMPORT BANK OF THE UNITED STATES

For provisions directing that the United States Trade Representative and the Secretary of Commerce serve, ex officio and without vote, as additional members of the Board of Directors of the Export-Import Bank of the United States, see section 3 of 1979 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 635 of this title.

§ 635a–1. Export credit competition

(a) The President is authorized and requested to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States. The President shall report to the Congress prior to January 15, 1979, on progress toward meeting the goals of this section.

(b) The Export-Import Bank of the United States is authorized to provide guarantees, in-

surance, and extensions of credit at rates and terms and other conditions which are, in the opinion of the Board of Directors of the Bank, competitive with those provided by the government-supported export credit instrumentalities of other nations.

(Pub. L. 95–630, title XIX, § 1908, Nov. 10, 1978, 92 Stat. 3725.)

CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.

§ 635a–2. Implementation of regulations and procedures to lessen adverse effect of loans and guarantees on industries in United States; report by United States International Trade Commission; written consideration of views of adversely affected parties

The Bank shall implement such regulations and procedures as may be appropriate to insure that full consideration is given to the extent to which any loan or financial guarantee is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this subsection,[1] the Bank shall request, and the United States International Trade Commission shall furnish, a report assessing the impact of the Bank's activities on industries and employment in the United States. Such report shall include an assessment of previous loans or financial guarantees and shall provide recommendations concerning general areas which may adversely affect domestic industries, including agriculture, and employment. After October 1, 1983, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. In all cases to which this section applies, the Bank shall consider and address in writing the views of parties or persons who may be substantially adversely affected by the loan or guarantee prior to taking final action on the loan or guarantee. This requirement does not subject the Bank to the provisions of subchapter II of chapter 5 of title 5.

(Pub. L. 95–630, title XIX, § 1911, Nov. 10, 1978, 92 Stat. 3726; Pub. L. 98–181, title VI, § 632, Nov. 30, 1983, 97 Stat. 1262; Pub. L. 99–472, § 12, Oct. 15, 1986, 100 Stat. 1204.)

CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

1986—Pub. L. 99–472 inserted provisions which required written consideration by Bank of views of parties or persons who may be substantially adversely affected by loan or guarantee prior to taking final action on loan or guarantee without subjecting Bank to subchapter II of chapter 5 of title 5.

1983—Pub. L. 98–181 inserted provision that after October 1, 1983, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.

§ 635a–3. Export-Import Bank financing to match foreign financing

(a) Noncompetitive financing; inquiry by Secretary; notification of foreign country and prospective parties to transaction

(1) Upon receipt of information that foreign sales to the United States are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the United States and other major exporting countries have agreed, irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether ''noncompetitive financing'' is being offered. The inquiry, and where appropriate, the determination and authorization to the Export-Import Bank of the United States referred to in this section shall be completed and made within 60 days of the receipt of such information.

(2) If the Secretary determines that such foreign ''noncompetitive'' financing is being offered, the Secretary shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

(3) If the offer is not withdrawn or if there is no immediate response to the withdrawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing United States sellers with financing to match that available through the foreign official export financing entity.

(b) Issuance of authorization to Bank to provide guarantees, insurance, and credits to competing United States sellers

The Secretary of the Treasury shall issue such authorization to the Bank to provide guarantees, insurance, and credits to competing United States sellers, unless the Secretary determines that—

(1) the availability of foreign official noncompetitive financing is not likely to be a significant factor in the sale; or

(2) the foreign noncompetitive financing has been withdrawn.

(c) Provision of financing by Bank pursuant to authorization

Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity: *Provided, however*, That loans, guarantees and insur-

[1] So in original. Probably should be ''section,''.

ance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended [12 U.S.C. 635 et seq.].

(Pub. L. 95–630, title XIX, § 1912, Nov. 10, 1978, 92 Stat. 3726; Pub. L. 98–181, title VI, §§ 631, 633, Nov. 30, 1983, 97 Stat. 1262, 1263; Pub. L. 99–472, § 15, Oct. 15, 1986, 100 Stat. 1204.)

REFERENCES IN TEXT

The Export-Import Bank Act of 1945, as amended, referred to in subsec. (c), is act July 31, 1945, ch. 341, 59 Stat. 526, as amended, which is classified generally to subchapter 1 (§ 635 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 635 of this title and Tables.

CODIFICATION

Section was enacted as part of the Export-Import Bank Act Amendments of 1978, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99–472, § 15(b), which directed the insertion of ''irrespective of whether these credits are being offered by governments which are signatories to such standstills, minutes, or practices,'' after ''major export countries have agreed,'' was executed by inserting that phrase after ''major exporting countries have agreed,'' as the probable intent of Congress.

Subsec. (b). Pub. L. 99–472, § 15(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to competing United States sellers, if the Secretary determines that:

''(1) the availability of foreign official noncompetitive financing is likely to be a significant factor in the sale, and

''(2) the foreign noncompetitive financing has not been withdrawn on the date the Bank is authorized to provide competitive financing.''

1983—Subsec. (a)(1). Pub. L. 98–181, § 631(1), inserted provision that the inquiry, and where appropriate, the determination and authorization to the Export-Import Bank of the United States referred to in this section shall be completed and made within 60 days of the receipt of such information.

Subsec. (a)(2). Pub. L. 98–181, § 633(b), substituted ''the Secretary shall request'' for ''he shall request''.

Subsec. (b). Pub. L. 98–181, § 633(a), substituted ''if the Secretary determines that'' for ''if he determines that'' in provisions preceding par. (1).

Subsec. (b)(1). Pub. L. 98–181, § 631(2), substituted ''significant factor'' for ''determining factor''.

EFFECTIVE DATE

Section effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as an Effective Date of 1978 Amendment note under section 635 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 1671g.

§ 635a–4. Guarantees for export accounts receivable and inventory

The Export-Import Bank of the United States is authorized and directed to establish a program to provide guarantees for loans extended by financial institutions or other public or private creditors to export trading companies as defined in section 1843(c)(14)(F)(i) of this title, or to other exporters, when such loans are secured by export accounts receivable, inventories of exportable goods, accounts receivable from leases, performance contracts, grant commitments, participation fees, member dues, revenue from publications, or such other collateral as the Board of Directors may deem appropriate, and when in the judgment of the Board of Directors—

(1) the private credit market is not providing adequate financing to enable otherwise creditworthy export trading companies or exporters to consummate export transactions; and

(2) such guarantees would facilitate expansion of exports which would not otherwise occur.

The Board of Directors shall attempt to insure that a major share of any loan guarantees ultimately serves to promote exports from small, medium-size, and minority businesses or agricultural concerns. Guarantees provided under the authority of this section shall be subject to limitations contained in annual appropriations Acts.

(Pub. L. 97–290, title II, § 206, Oct. 8, 1982, 96 Stat. 1239; Pub. L. 98–181, title VI, § 616(b), Nov. 30, 1983, 97 Stat. 1257.)

CODIFICATION

Section was enacted as part of the Bank Export Services Act, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

1983—Pub. L. 98–181 substituted ''export accounts receivable, inventories of exportable goods, accounts receivable from leases, performance contracts, grant commitments, participation fees, member dues, revenue from publications, or such other collateral as the Board of Directors may deem appropriate,'' for ''export accounts receivable or inventories of exportable goods''.

§ 635b. Capitalization of Bank; method of capital stock payments; public-debt transactions; issuance of stock certificates

The Export-Import Bank of the United States shall have a capital stock of $1,000,000,000 subscribed by the United States. Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as the President may designate from time to time, to the extent of payments made for the capital stock of the Bank.

(July 31, 1945, ch. 341, § 4, 59 Stat. 528; Pub. L. 90–267, § 1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 98–181, title VI, § 620(c), Nov. 30, 1983, 97 Stat. 1261; Pub. L. 102–429, title I, § 121(b), Oct. 21, 1992, 106 Stat. 2198.)

AMENDMENTS

1992—Pub. L. 102–429 inserted second sentence and struck out former second through last sentences which read as follows: ''Payment for $1,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the common stock issued prior to July 31, 1945, by the Bank and purchased by the United States. Payment for $174,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the preferred stock heretofore issued by the Bank and purchased by the Reconstruction Finance

Corporation. Payment for the $825,000,000 balance of such capital stock shall be subject to call at any time in whole or in part by the Board of Directors of the Bank. For the purpose of making payments of such balance, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this section of the subscription of the United States to the Bank and repayments thereof shall be treated as public-debt transactions of the United States. Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as the President may designate from time to time, to the extent of the common and preferred stock surrendered and other payments made for the capital stock of the Bank under this section.''

1983—Pub. L. 98–181 substituted ''the President'' for ''he'' before ''may designate''.

1968—Pub. L. 90–267 changed name of ''Export-Import Bank of Washington'' to ''Export-Import Bank of the United States''.

§ 635c. Repealed. Pub. L. 102–429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section, act July 31, 1945, ch. 341, § 5, 59 Stat. 528, related to reimbursement of Reconstruction Finance Corporation for cancellation of Bank stock, public debt transactions, and payment of accumulated dividends.

§ 635d. Issuance of debentures, bonds, etc.; obligations redeemable; payment of interest; obligations purchasable by Secretary of the Treasury; public-debt transactions

The Export-Import Bank of the United States is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $6,000,000,000. Such obligations shall be redeemable at the option of the bank before maturity in such manner as may be stipulated in such obligations and shall have such maturity as may be determined by the Board of Directors of the bank with the approval of the Secretary of the Treasury. Each such Bank obligation issued to the Treasury after January 4, 1975, shall bear interest at a rate not less than the current average yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation of the Bank as determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Bank issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include such purpose. Payment under this section of the purchase price of such obligations of the Bank and repayments thereof by the Bank shall be treated as public-debt transactions of the United States.

(July 31, 1945, ch. 341, § 5, formerly § 6, 59 Stat. 528; June 9, 1947, ch. 101, § 2, 61 Stat. 131; Oct. 3, 1951, ch. 445, § 1(a), 65 Stat. 367; Aug. 9, 1954, ch. 660, § 3(a), 68 Stat. 678; Pub. L. 85–424, § 1(1), May 22, 1958, 72 Stat. 133; Pub. L. 90–267, § 1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 93–646, § 7, Jan. 4, 1975, 88 Stat. 2336; renumbered § 5, Pub. L. 102–429, title I, § 121(c)(2), Oct. 21, 1992, 106 Stat. 2199.)

CODIFICATION

''Chapter 31 of title 31'' and ''that chapter'' substituted in text for ''the Second Liberty Bond Act, as amended'' and ''that Act'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 5 of act July 31, 1945, ch. 341, was classified to section 635c of this title, prior to repeal by Pub. L. 102–429, § 121(c)(1).

AMENDMENTS

1975—Pub. L. 93–646 substituted provision making mandatory that each Bank obligation bear interest at a rate not less than the current average yield on outstanding obligations of comparable maturity, for provision requiring that only the current average rate be taken into consideration.

1968—Pub. L. 90–267 changed name of ''Export-Import Bank of Washington'' to ''Export-Import Bank of the United States''.

1958—Pub. L. 85–424 substituted ''$6,000,000,000'' for ''$4,000,000,000''.

1954—Act Aug. 9, 1954, substituted ''$4,000,000,000'' for ''three and one-half times the authorized capital stock of the Bank''.

1951—Act Oct. 3, 1951, substituted ''three and one-half'' for ''two and one-half''.

1947—Act June 9, 1947, struck out ''and bear such rate of interest'' before ''as may be determined'' in the second sentence and added the third sentence relating to the rate of interest on obligations.

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendment by act Aug. 9, 1954, see note set out under section 635a of this title.

BOARD OF DIRECTORS

A Board of Directors reestablished for the Export-Import Bank of Washington, see note under section 635 of this title.

§ 635e. Aggregate loan, guarantee, and insurance authority

(a) Limitation on outstanding amounts

The Export-Import Bank of the United States shall not have outstanding at any one time loans, guaranties, and insurance in an aggregate amount in excess of $75,000,000,000. All spending and credit authority provided under this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) Presidential determination

(1) In general

Not later than March 31 of each fiscal year, the President of the United States shall determine whether the authority available to the Bank for such fiscal year will be sufficient to meet the Bank's needs, particularly those needs arising from—

(A) increases in the level of exports unforeseen at the time of the original budget request for such fiscal year;

(B) any increased foreign export credit subsidies; or

(C) the lack of progress in negotiations to reduce or eliminate export credit subsidies.

(2) Report

Not later than April 15 of each year, the President of the United States shall transmit to the Congress a report on such determination.

(3) Request for legislation

(A) In general

If the President of the United States finds that the amount of direct loan authority or guarantee authority available to the Bank for the fiscal year involved exceeds the amount which will be necessary to carry out the Bank's functions consistent with the availability of qualified applications and limitations imposed by law during such year, the President of the United States shall promptly transmit to the Congress a request for legislation to eliminate the amount of such excess direct loan, loan guarantee, or insurance authority.

(B) Continued availability of authority

The Bank shall continue to make remaining amounts of its authority available for the fiscal year involved, in accordance with its practices and the requirements of this subchapter, unless otherwise directed pursuant to law.

(July 31, 1945, ch. 341, § 6, formerly § 7, 59 Stat. 529; Oct. 3, 1951, ch. 445, § 1(b), 65 Stat. 367; May 21, 1953, ch. 64, § 2, 67 Stat. 28; Aug. 9, 1954, ch. 660, § 3(b), 68 Stat. 678; Pub. L. 85–424, § 1(2), May 22, 1958, 72 Stat. 133; Pub. L. 88–101, § 1(b), Aug. 20, 1963, 77 Stat. 128; Pub. L. 90–267, § 1(a), (e), Mar. 13, 1968, 82 Stat. 47, 49; Pub. L. 92–126, § 1(b)(3), Aug. 17, 1971, 85 Stat. 345; Pub. L. 93–646, § 8, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95–630, title XIX, §§ 1905, 1914, Nov. 10, 1978, 92 Stat. 3725, 3727; Pub. L. 97–35, title III, § 381(a), Aug. 13, 1981, 95 Stat. 431; Pub. L. 98–181, title VI, §§ 615, 620(d), Nov. 30, 1983, 97 Stat. 1256, 1261; Pub. L. 99–472, §§ 13, 17, Oct. 15, 1986, 100 Stat. 1204, 1205; Pub. L. 102–145, § 121(1), Oct. 28, 1991, as added Pub. L. 102–266, § 102, Apr. 1, 1992, 106 Stat. 95; renumbered § 6 and amended Pub. L. 102–429, title I, §§ 109(b), 121(c)(2), Oct. 21, 1992, 106 Stat. 2193, 2199.)

PRIOR PROVISIONS

A prior section 6 of act July 31, 1945, ch. 341, was renumbered section 5 and is classified to section 635d of this title.

AMENDMENTS

1992—Pub. L. 102–429, § 109(b), inserted section catchline, redesignated former subsec. (a)(1) as subsec. (a), inserted subsec. heading, substituted "$75,000,000,000" for "$40,000,000,000", redesignated former subsec. (a)(2) as subsec. (b), redesignated former subpar. (A)(i) as par. (1), former subcls. (I) to (III) as subpars. (A) to (C), respectively, former subpar. (A)(ii) as par. (2), former subpar. (B) as par. (3), and former cls. (i) and (ii) as subpars. (A) and (B), respectively, inserted headings for subsec. (b), pars. (1) to (3), and subpars. (A) and (B) of par. (3), and struck out former subsec. (a)(3) which read as follows: "AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $145,259,000 for fiscal year 1987 to cover the subsidy cost of new direct loans obligated by the Bank in that fiscal year. Any amounts appropriated under this paragraph shall be permanent additions to the capital and reserves of the Bank."

1991—Subsec. (b). Pub. L. 102–145, § 121(1), as added by Pub. L. 102–266, struck out subsec. (b) which read as follows: "After January 4, 1975, the Bank shall not approve any loans or financial guarantees, or combination thereof, in connection with exports to the Union of Soviet Socialist Republics in an aggregate amount in excess of $300,000,000. No such loan or financial guarantee, or combination thereof, shall be for the purchase, lease, or procurement of any product or service for production (including processing and distribution) of fossil fuel energy resources. Not more than $40,000,000 of such aggregate amount shall be for the purchase, lease, or procurement of any product or service which involves research or exploration of fossil fuel energy resources. The President may establish a limitation in excess of $300,000,000 if the President determines that such higher limitation is in the national interest and if the President reports such determination to the Congress together with the reasons therefor, including the amount of such proposed increase which would be available for the export of products and services for research, exploration, and production (including processing and distribution) of fossil fuel energy resources in the Union of Soviet Socialist Republics, and if, after the receipt of such report together with the reasons, the Congress adopts a concurrent resolution approving such determination."

1986—Subsec. (a)(1). Pub. L. 99–472, § 17, substituted "All spending and credit authority" for "All spending authority".

Subsec. (a)(3). Pub. L. 99–472, § 13, added par. (3).

1983—Subsec. (a)(2). Pub. L. 98–181, § 615, amended par. (2) generally, substituting provisions requiring a Presidential determination, not later than March 31 of each fiscal year, as to whether the authority available to the Bank for such fiscal year will be sufficient to meet the Bank's needs, requiring the President to transmit to Congress a report on such determination no later than April 15 of each year, and establishing procedures if the direct loan or guarantee authority available exceeds the amount necessary, for provision limiting gross obligations for the principal amount of direct loans authorized by the Bank during fiscal years 1982 and 1983 to $10,478,000,000, and designating specified amounts thereof for each fiscal year.

Subsec. (b). Pub. L. 98–181, § 620(d), substituted "the President" for "he" before "determines that such higher limitation" and "reports such determination".

1981—Subsec. (a). Pub. L. 97–35 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (a). Pub. L. 95–630 substituted "$40,000,000,000" for "$25,000,000,000" and inserted provision that all spending authority provided under this chapter be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

1975—Subsec. (a). Pub. L. 93–646, § 8(1), (2), designated existing provisions as subsec. (a) and substituted "$25,000,000,000" for "$20,000,000,000".

Subsec. (b). Pub. L. 93–646, § 8(3), added subsec. (b).

1971—Pub. L. 92–126 substituted "$20,000,000,000" for "$13,500,000,000".

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States" and substituted "$13,500,000,000" for "$9,000,000,000".

1963—Pub. L. 88–101 substituted "$9,000,000,000" for "$7,000,000,000".

1958—Pub. L. 85–424 substituted "$7,000,000,000" for "$5,000,000,000".

1954—Act Aug. 9, 1954, substituted "$5,000,000,000" for "four and one-half times the authorized capital stock of the Bank".

1953—Act May 21, 1958, substituted "loans, guaranties, and insurance" for "loans and guaranties".

1951—Act Oct. 3, 1951, substituted "four and one-half" for "three and one-half".

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–630 effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as a note under section 635 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendment by act Aug. 9, 1954, see note set out under section 635a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 635, 635j of this title; title 22 section 2392.

§ 635f. Termination date of Bank's functions; exceptions; liquidation

Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on September 30, 2001, but the provisions of this section shall not be construed as preventing the bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date or from issuing, either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the bank.

(July 31, 1945, ch. 341, § 7, formerly § 8, 59 Stat. 529; June 9, 1947, ch. 101, § 3, 61 Stat. 131; Oct. 3, 1951, ch. 445, § 1(c), 65 Stat. 367; Pub. L. 85–55, June 17, 1957, 71 Stat. 82; Pub. L. 88–101, § 2, Aug. 20, 1963, 77 Stat. 128; Pub. L. 90–267, § 1(a), (f), Mar. 13, 1968, 82 Stat. 47, 49; Pub. L. 92–126, § 1(b)(4), Aug. 17, 1971, 85 Stat. 345; Pub. L. 93–331, July 4, 1974, 88 Stat. 289; Pub. L. 93–374, Aug. 14, 1974, 88 Stat. 445; Pub. L. 93–425, Sept. 30, 1974, 88 Stat. 1166; Pub. L. 93–450, Oct. 18, 1974, 88 Stat. 1368; Pub. L. 93–646, § 9, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95–143, § 4, Oct. 26, 1977, 91 Stat. 1211; Pub. L. 95–407, Sept. 30, 1978, 92 Stat. 882; Pub. L. 95–630, title XIX, § 1906, Nov. 10, 1978, 92 Stat. 3725; Pub. L. 98–109, § 6, Oct. 1, 1983, 97 Stat. 746; Pub. L. 98–143, Nov. 1, 1983, 97 Stat. 916; Pub. L. 98–181, title VI, § 611, Nov. 30, 1983, 97 Stat. 1254; Pub. L. 99–472, § 14, Oct. 15, 1986, 100 Stat. 1204; renumbered § 7 and amended Pub. L. 102–429, title I, §§ 102, 121(c)(2), Oct. 21, 1992, 106 Stat. 2187, 2199; (As amended Pub. L. 105–46, § 122, Sept. 30, 1997, 111 Stat. 1158; Pub. L. 105–121, § 2(a), Nov. 26, 1997, 111 Stat. 2528.)

PRIOR PROVISIONS

A prior section 7 of act July 31, 1945, ch. 341, was renumbered section 6 and is classified to section 635e of this title.

AMENDMENTS

1997—Pub. L. 105–121 substituted "September 30, 2001" for "September 30, October 23, 1997".

Pub. L. 105–46 substituted "October 23, 1997" for "1997".

1992—Pub. L. 102–429, § 102, substituted "1997" for "1992".

1986—Pub. L. 99–472 substituted "September 30, 1992" for "September 30, 1986".

1983—Pub. L. 98–181 substituted "September 30, 1986" for "November 18, 1983".

Pub. L. 98–143 substituted "November 18, 1983" for "October 31, 1983".

Pub. L. 98–109 substituted "October 31, 1983" for "September 30, 1983".

1978—Pub. L. 95–630 substituted "September 30, 1983" for "December 31, 1978".

Pub. L. 95–407 substituted "December 31, 1978" for "September 30, 1978".

1977—Pub. L. 95–143 substituted "September 30, 1978" for "June 30, 1978".

1975—Pub. L. 93–646 substituted "June 30, 1978" for "November 30, 1974".

1974—Pub. L. 93–450 substituted "November 30, 1974" for "October 15, 1974".

Pub. L. 93–425 substituted "October 15, 1974" for "September 30, 1974".

Pub. L. 93–374 substituted "September 30, 1974" for "July 30, 1974".

Pub. L. 93–331 substituted "July 30, 1974" for "June 30, 1974".

1971—Pub. L. 92–126 substituted "June 30, 1974" for "June 30, 1973" and "Secretary of the Treasury or any other purchasers" for "Secretary of the Treasury".

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States" and substituted "June 30, 1973" for "June 30, 1968".

1963—Pub. L. 88–101 substituted "June 30, 1968" for "June 30, 1963".

1957—Pub. L. 85–55 substituted "June 30, 1963" for "June 30, 1958".

1951—Act Oct. 3, 1951, substituted "June 30, 1958" for "June 30, 1953".

1947—Act June 9, 1947, struck out former section and inserted present section to provide for the termination of the Bank as of June 30, 1953, and its orderly liquidation thereafter.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 2(b) of Pub. L. 105–121 provided that: "The amendment made by this section [amending this section] shall take effect on September 30, 1997."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–630 effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as a note under section 635 of this title.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1998

Termination date for Bank's functions was temporarily extended until the following dates by the acts listed below:

Until Nov. 7, 1997, by Pub. L. 105–64, Oct. 23, 1997, 111 Stat. 1343.

Until Nov. 9, 1997, by Pub. L. 105–68, Nov. 7, 1997, 111 Stat. 1453.

Until Nov. 10, 1997, by Pub. L. 105–69, Nov. 9, 1997, 111 Stat. 1454.

Until Nov. 14, 1997, by Pub. L. 105–71, Nov. 10, 1997, 111 Stat. 1456.

Until Nov. 26, 1997, by Pub. L. 105–84, Nov. 14, 1997, 111 Stat. 1628.

FINANCIAL ASSISTANCE TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Section 1 of Pub. L. 93–450 provided in part that the Bank shall not authorize any financial assistance to the Union of Soviet Socialist Republics during the life of Pub. L. 93–450, which extended the termination date from Oct. 15, 1974, to Nov. 30, 1974.

§ 635g. Report to Congress; time for submission; contents

(a) Annual submission of report

The Export-Import Bank of the United States shall transmit to the Congress annually a com-

plete and detailed report of its operations. Such report shall be as of the close of business on the last day of each fiscal year.

(b) Actions taken by Bank to aid small business

The report shall contain a description of actions taken by the Bank in pursuance of the policy of aiding, counseling, assisting, and protecting, insofar as is possible, the interests of small business concerns and of the activities of the member of the Board appointed to represent the interest of small business. In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 3261 of title 22, and section 2151q of title 22, as required by section 635(b)(1)(C) of this title.

(c) Report on allocation of sums set aside for small business exports

(1) The Bank shall include in its annual report to the Congress a report on the allocation of the sums set aside for small business exports pursuant to section 635(b)(1)(E) of this title.

(2) Such report shall specify—

(A) the total number and dollar volume of loans made from the sums set aside;

(B) the number and dollar volume of loans made through the consortia program under section 635(b)(1)(E)(vii) of this title;

(C) the amount of guarantees and insurance provided for small business exports;

(D) the number of recipients of financing from the sums set aside who have not previously participated in the Bank's programs;

(E) the number of commitments entered into in amounts less than $500,000; and

(F) any recommendations for increasing the participation of banks and other institutions in the programs authorized under section 635(b)(1)(E) of this title.

(3) For the purpose of this subsection, the Bank's report shall be transmitted to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives.

(d) Actions taken by Bank to aid industries, preserve and create highly skilled jobs, and enhance opportunity for business growth and expansion; comments of Advisory Committee

(1) The report shall include a detailed description of all actions which have been taken by the Bank or which will be taken by the Bank—

(A) to maintain the competitive position of key linkage industries in the United States;

(B) to support industries which are engaged in the export of high value added products;

(C) to support industries which are engaged in the development of new capital goods technology;

(D) to preserve and create high skilled jobs in the United States economy; and

(E) to enhance the opportunity for growth and expansion of small businesses and entrepreneurial enterprises.

(2) Such report shall include the comments of the Advisory Committee regarding the objectives specified in paragraph (1).

(July 31, 1945, ch. 341, § 8, formerly § 9, 59 Stat. 529; Pub. L. 90–267, § 1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 93–646, § 10, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95–630, title XIX, § 1907(b), Nov. 10, 1978, 92 Stat. 3725; Pub. L. 98–181, title VI, §§ 618(b), 623, Nov. 30, 1983, 97 Stat. 1259, 1262; Pub. L. 99–472, § 20(b), (c), Oct. 15, 1986, 100 Stat. 1209, 1210; renumbered § 8, Pub. L. 102–429, title I, § 121(c)(2), Oct. 21, 1992, 106 Stat. 2199.)

REFERENCES IN TEXT

Section 2151q of title 22, referred to in subsec. (b), was repealed by Pub. L. 96–533, title III, § 304(g), Dec. 16, 1980, 94 Stat. 3147. See section 2151d(a)(2), (b)(2), (c) of Title 22, Foreign Relations and Intercourse.

PRIOR PROVISIONS

A prior section 8 of act July 31, 1945, ch. 341, was renumbered section 7 and is classified to section 635f of this title.

AMENDMENTS

1986—Subsec. (e). Pub. L. 99–472 temporarily added subsec. (e). See Termination Date of 1986 Amendment note below.

1983—Subsec. (b). Pub. L. 98–181, § 618(b)(1), inserted "and of the activities of the member of the Board appointed to represent the interests of small business".

Subsec. (c). Pub. L. 98–181, § 618(b)(2), added subsec. (c).

Subsec. (d). Pub. L. 98–181, § 623, added subsec. (d).

1978—Subsec. (b). Pub. L. 95–630 inserted provision that in addition, the Bank include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 3261 of title 22, and section 2151q of title 22, as required by section 635(b)(1)(C) of this title.

1975—Pub. L. 93–646 designated existing provisions as subsec. (a), substituted provisions calling for an annual report as of the close of business on the last day of each fiscal year, for provisions calling for a semiannual report as of the close of business on June 30 and Dec. 31 of each year, and added subsec. (b).

1968—Pub. L. 90–267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

TERMINATION DATE OF 1986 AMENDMENT

Section 20(c) of Pub. L. 99–472 provided that: "Effective March 2, 1988, the amendment made by subsection (b) [amending this section] is repealed."

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–630 effective Nov. 10, 1978, see section 1917 of Pub. L. 95–630, set out as a note under section 635 of this title.

FINANCING FOR RENEWABLE ENERGY PROJECTS

Pub. L. 101–167, title V, § 534(d), Nov. 21, 1989, 103 Stat. 1231, provided that:

"(1) Of the financing provided by the Export-Import Bank that is utilized for the support of exports for the energy sector, the Bank shall seek to provide not less than 5 per centum of such financing for renewable energy projects.

"(2) The Export-Import Bank shall take all appropriate steps to finance information exchanges and training whose purpose it is to help link United States producers in the renewable energy sector with assistance programs and potential foreign customers.

"(3) Beginning on April 15, 1990, the Chairman of the Export-Import Bank shall submit an annual report to the Committees on Appropriations on the Bank's implementation of this subsection."

SUBMISSION OF ANNUAL REPORT

Pub. L. 89–348, § 2(9), Nov. 8, 1965, 79 Stat. 1312, modified requirement relating to submission of reports to Congress by providing for annual reports instead of semiannual reports.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 635 of this title.

§ 635h. Exemption from prohibition of section 955 of title 18

Notwithstanding the provisions of section 955 of title 18, any person, including any individual, partnership, corporation, or association, may act for or participate with the Export-Import Bank of the United States in any operation or transaction, or may acquire any obligation issued in connection with any operation or transaction, engaged in by the Bank.

(July 31, 1945, ch. 341, § 9, formerly § 11, 59 Stat. 529; Sept. 3, 1954, ch. 1263, § 29, 68 Stat. 1237; Pub. L. 90–267, § 1(a), Mar. 13, 1968, 82 Stat. 47; renumbered § 9, Pub. L. 102–429, title I, § 121(c)(3), Oct. 21, 1992, 106 Stat. 2199.)

PRIOR PROVISIONS

A prior section 9 of act July 31, 1945, ch. 341, was renumbered section 8 and is classified to section 635g of this title.

AMENDMENTS

1968—Pub. L. 90–267 changed name of ''Export-Import Bank of Washington'' to ''Export-Import Bank of the United States''.

1954—Act Sept. 3, 1954, substituted ''section 955 of title 18'' for ''section 804a of title 31''.

§§ 635i to 635i–2. Repealed. Pub. L. 102–429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section 635i, act July 31, 1945, ch. 341, § 12, as added June 9, 1947, ch. 101, § 4, 61 Stat. 131; amended Mar. 13, 1968, Pub. L. 90–267, § 1(a), 82 Stat. 47, related to assumption of rights and liabilities of existing Bank by Export-Import Bank of the United States including transfer of funds, property, personnel, etc.

Section 635i–1, act July 31, 1945, ch. 341, § 13, as added Nov. 30, 1983, Pub. L. 98–181, title VI, § 619(a), 97 Stat. 1260, related to establishment of special facilities in support of export transactions to Brazil and Mexico.

Section 635i–2, act July 31, 1945, ch. 341, § 14, as added Nov. 30, 1983, Pub. L. 98–181, title VI, § 621, 97 Stat. 1261, related to notification to Congress of decrease in capital level of Bank.

§ 635i–3. Tied Aid Credit Fund and program

(a) Findings

The Congress finds that—

(1) tied aid and partially untied aid credits offered by other countries are a predatory method of financing exports because of their market-distorting effects;

(2) these distortions have caused the United States to lose export sales, with resulting losses in economic growth and employment;

(3) these practices undermine market mechanisms that would otherwise result in export purchase decisions made on the basis of price, quality, delivery, and other factors directly related to the export, where official financing is not subsidized and would be a neutral factor in the transaction;

(4) support of commercial exports by donor countries with tied aid and partially untied aid credits impedes the growth of developing countries because it diverts development assistance funds from essential developmental purposes; and

(5) there should be established in the Bank a tied aid program to target the export markets of those countries which make extensive use of tied aid or partially untied aid credits for commercial advantage for the purposes of—

(A) enforcing compliance with the existing Arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes; and

(B) facilitating efforts to negotiate, establish, and enforce new or revised comprehensive international arrangements effectively restricting the use of tied aid and partially untied aid credits for commercial purposes;

and such program should be used aggressively for such purposes.

(b) Establishment of tied aid credit program

(1) In general

The Bank shall establish a tied aid credit program under which grants shall be made from funds available in the Tied Aid Credit Fund established under subsection (c) of this section—

(A) to supplement the financing of a United States export when there is a reasonable expectation that predatory financing will be provided by another country for a sale by a competitor of the United States exporter with respect to such export and with special attention to matching tied aid and partially untied aid credits extended by other governments—

(i) in violation of the Arrangement; or

(ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the Arrangement, including grandfathered cases;

(B) to supplement the financing of United States exports to foreign markets which are actual or potential export markets for any country which the Bank determines—

(i) engages in predatory official export financing through the use of tied aid or partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or

(ii) engages in predatory financing practices that seek to circumvent international agreements on tied aid; or

(C) to supplement the financing of United States exports under such other circumstances as the Bank may determine to be appropriate for carrying out the purposes of this section.

(2) Administration of program

The tied aid credit program shall be administered by the Bank—

(A) in consultation with the Secretary and in accordance with the Secretary's recommendations on how such credits could be used most effectively and efficiently to carry out the purposes described in subsection (a)(5) of this section;

(B) in cooperation with United States exporters and private financial institutions or

entities, and in consultation with other Federal agencies, as appropriate; and

(C) in consultation with the National Advisory Council on International Monetary and Financial Policies.

(3) Coordination with other export financing

Under the tied aid credit program, the Bank may combine grants from the Tied Aid Credit Fund with—

(A) any guarantee, insurance, or other extension of credit provided by the Bank under this subchapter;

(B) any export financing provided by any private financial institution or other entity; and

(C) any other type of export financing,

in such manner and under such terms as the Bank determines to be appropriate, including combinations of export financing in the form of blended financing and parallel financing.

(4) Information on countries which engage in official predatory export financing and impede negotiations

In order to assist the Bank to make the most efficient use of funds available for supplemental financing under paragraph (1)(B), the United States Trade Representative and the Secretary of Commerce may provide information on principal sectors and key markets of countries described in paragraph (1)(B) to the Bank, the Secretary, and the National Advisory Council on International Monetary and Financial Policies. The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B).

(c) Tied Aid Credit Fund

(1) In general

There is hereby established within the Bank a fund to be known as the ''Tied Aid Credit Fund'' (hereinafter in this section referred to as the ''Fund''), consisting of such amounts as may be appropriated to the Fund pursuant to the authorization contained in subsection (e) of this section.

(2) Expenditures from Fund

Amounts in the Fund shall be available for grants made by the Bank under the tied aid credit program established pursuant to subsection (b) of this section and to reimburse the Bank for the amount equal to the concessionality level of any tied aid credits authorized by the Bank.

(d) Consistency with Arrangement

Any export financing involving the use of a grant under the tied aid credit program shall be consistent with the procedures established by the Arrangement, as in effect at the time such financing is approved.

(e) Authorization

There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of this section. Such sums are authorized to remain available until expended.

(f) Nonreviewability

No action taken under this section shall be reviewable by any court, except for abuse of discretion.

(g) Report to Congress

(1) In general

On or before October 15, 1992, and every 6 months thereafter, the Bank, in consultation with the Secretary, shall submit a report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) Contents of reports

Each report required under paragraph (1) shall contain a description of—

(A) the implementation of the Arrangement restricting tied aid and partially untied aid credits for commercial purposes, including the operation of notification and consultation procedures;

(B) all principal offers of tied aid credit financing by foreign countries during the previous 6-month period, including all offers notified by countries participating in the Arrangement, and in particular—

(i) offers grandfathered under the Arrangement; and

(ii) notifications of exceptions under the Arrangement;

(C) any use by the Bank of the Tied Aid Credit Fund to match specific offers, including those that are grandfathered or exceptions under the Arrangement; and

(D) other actions by the United States Government to combat predatory financing practices by foreign governments, including additional negotiations among participating governments in the Arrangement.

(3) Confidential information

To the extent the Bank determines any information required to be included in the report under this subsection should not be made public, such information may be submitted separately on a confidential basis or provided orally, rather than in written form, to the Chairmen and ranking minority Members of the Committees of the Senate and the House of Representatives with jurisdiction over the subject matter of the report.

(h) Definitions

For purposes of this section, the following definitions shall apply:

(1) Tied aid and partially untied aid credit

The terms ''tied aid credit'' and ''partially untied aid credit'' mean any credit which—

(A) has a grant element greater than zero percent, as determined by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(B) is, in fact or in effect, tied to—

(i) the procurement of goods or services from the donor country, in the case of tied aid credit; or

(ii) the procurement of goods or services from a restricted number of countries, in the case of partially untied aid credit; and

(C) is financed either exclusively from public funds or partly from public and partly from private funds.

(2) Secretary

The term ''Secretary'' means the Secretary of the Treasury.

(3) Arrangement

The term ''Arrangement'' means the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development.

(4) Blended financing

The term ''blended financing'' means financing provided through any combination of official development assistance, official export credits, and private commercial credit which is integrated into a single agreement with a single set of financial terms.

(5) Parallel financing

The term ''parallel financing'' means financing provided by any combination of official development assistance, official export credits, and private commercial credit which is not integrated into a single agreement and does not have a single set of financial terms.

(6) Offers grandfathered under the Arrangement

The term ''offers grandfathered under the Arrangement'' means—

(A) financing offers made or lines of credit extended on or before February 15, 1992; or

(B) financing offers extended for subloans under lines of credit referred to in subparagraph (A) made on or before August 15, 1992, or, in the case of Mexico, on or before December 31, 1992.

(July 31, 1945, ch. 341, § 10, formerly § 15, as added Pub. L. 99–472, § 19, Oct. 15, 1986, 100 Stat. 1205; amended Pub. L. 100–217, Dec. 29, 1987, 101 Stat. 1454; Pub. L. 100–418, title III, § 3302(b), Aug. 23, 1988, 102 Stat. 1383; Pub. L. 101–240, title I, § 101(b), Dec. 19, 1989, 103 Stat. 2493; Pub. L. 101–513, title V, § 562(d), Nov. 5, 1990, 104 Stat. 2036; renumbered § 10 and amended Pub. L. 102–429, title I, §§ 103, 121(c)(4), Oct. 21, 1992, 106 Stat. 2187, 2199; Pub. L. 104–97, § 1, Jan. 11, 1996, 109 Stat. 984; Pub. L. 104–107, title V, § 579, Feb. 12, 1996, 110 Stat. 751; Pub. L. 105–121, § 3, Nov. 26, 1997, 111 Stat. 2528.)

PRIOR PROVISIONS

A prior section 10 of act July 31, 1945, ch. 341, repealed section 713b of Title 15, Commerce and Trade.

AMENDMENTS

1997—Subsec. (c)(2). Pub. L. 105–121, § 3(a), struck out ''through September 30, 1997'' after ''authorized by the Bank''.

Subsec. (e). Pub. L. 105–121, § 3(b), amended first sentence generally. Prior to amendment first sentence read as follows: ''There are authorized to be appropriated to the Fund such sums as may be necessary for each of fiscal years 1996 and 1997.''

1996—Subsec. (c)(2). Pub. L. 104–107, § 579(a), which directed substitution of ''1997'' for ''1995'', could not be executed because ''1995'' does not appear in text after amendment by Pub. L. 104–97. See below.

Pub. L. 104–97, § 1(a), substituted ''1997'' for ''1995''.

Subsec. (e). Pub. L. 104–107, § 579(b), which directed substitution of ''1996 and 1997'' for ''1993, 1994, and 1995'', could not be executed because that language does not appear in text after general amendment by Pub. L. 104–97. See below.

Pub. L. 104–97, § 1(b), substituted ''There are authorized to be appropriated to the Fund such sums as may be necessary for each of fiscal years 1996 and 1997.'' for ''There are authorized to be appropriated to the Fund $500,000,000 for each of fiscal years 1993, 1994, and 1995.''

1992—Subsec. (a). Pub. L. 102–429, § 103(c)(1), (2), substituted ''predatory'' for ''predacious'' in par. (1), struck out ''temporary'' before ''tied aid program'' in introductory provisions of par. (5), and substituted ''existing Arrangement'' for ''existing arrangement'' in par. (5)(A).

Subsec. (b)(1). Pub. L. 102–429, § 103(c)(3)(A), substituted ''The'' for ''To carry out the purposes of subsection (a)(5) of this section, the''.

Subsec. (b)(1)(A). Pub. L. 102–429, § 103(c)(1), (3)(B), substituted ''predatory'' for ''predacious'' and inserted before semicolon ''and with special attention to matching tied aid and partially untied aid credits extended by other governments—'' followed by cls. (i) and (ii).

Subsec. (b)(1)(B). Pub. L. 102–429, § 103(c)(1), (3)(C), in cl. (i) substituted ''predatory'' for ''predacious'' and ''partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or'' for ''partially untied aid credits; and'', added cl. (ii), and struck out former cl. (ii) which read as follows: ''impedes negotiations to eliminate the use of such credits for commercial purposes; or''.

Subsec. (b)(2). Pub. L. 102–429, § 103(c)(4), (5), struck out ''of the Treasury'' after ''Secretary'' in subpar. (A) and substituted ''United States exporters and private financial institutions or entities, and in consultation with other Federal agencies'' for ''private financial institutions or entities'' in subpar. (B).

Subsec. (b)(4). Pub. L. 102–429, § 103(c)(6), inserted at end ''The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B).''

Subsec. (c)(2). Pub. L. 102–429, § 103(a), substituted ''September 30, 1995'' for ''fiscal year 1992''.

Subsec. (e). Pub. L. 102–429, § 103(b), amended subsec. (e) generally, substituting present provisions for provisions which authorized appropriations for fiscal years 1987 through 1992 and provided authority for Presidential rescission.

Subsec. (g)(1). Pub. L. 102–429, § 103(c)(7), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''REPORT REQUIRED.—Before the end of the 6-month period beginning on October 15, 1986, and every six months thereafter, the Bank, in consultation with the Secretary, shall prepare and transmit a report on tied aid credits to the President of the Senate and the Speaker of the House of Representatives.''

Subsec. (g)(2). Pub. L. 102–429, § 103(c)(7), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''CONTENTS OF REPORT.—Each report required by paragraph (1) shall contain a description of—

''(A) the principal offers of predacious financing by foreign countries during the course of the previous 6 months;

''(B) steps taken by the United States to combat specific predacious financing practices of foreign countries;

''(C) any use by the Bank of the Tied Aid Credit Fund to match specific predacious financing practices of foreign countries and to initiate tied aid credit offers;

''(D) any additional steps the United States may take in the future to discourage use of predacious financing practices; and

''(E) the progress achieved by negotiations conducted to carry out the purposes described in subsection (a)(5) of this section.''

Subsec. (h). Pub. L. 102–429, § 103(c)(8), substituted ''For purposes of this section, the following definitions

shall apply:'' for ''For the purpose of this section—'' in introductory provisions and added par. (6).

1990—Subsec. (c)(2). Pub. L. 101–513, § 562(d)(2), substituted ''1992'' for ''1991''.

Subsec. (e)(1). Pub. L. 101–513, § 562(d)(1), substituted ''for fiscal year 1990, $300,000,000, and for each of fiscal years 1991 and 1992, $500,000,000'' for ''and for fiscal years 1990 and 1991, $300,000,000''.

1989—Subsec. (a)(5). Pub. L. 101–240, § 101(b)(1), substituted ''for the purposes of—'', pars. (A) and (B), and concluding provisions for ''for the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, and such program should be aggressively used until such an arrangement is established.''

Subsec. (b)(1). Pub. L. 101–240, § 101(b)(2), inserted introductory provisions and struck out former introductory provisions which read as follows: ''For the purpose of facilitating the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes, the Bank shall establish a tied aid credit program under which grants shall be made from funds available in the Tied Aid Credit Fund established under subsection (c) of this section—''.

Subsec. (b)(2)(A). Pub. L. 101–240, § 101(b)(3), substituted ''carry out the purposes described in subsection (a)(5) of this section'' for ''promote the negotiation of a comprehensive international arrangement restricting the use of tied aid and partially untied aid credits for commercial purposes''.

Subsec. (c)(2). Pub. L. 101–240, § 101(b)(4), substituted ''amount equal to the concessionality level'' for ''cost'' and ''through fiscal year 1991'' for ''during fiscal years 1986, 1987, 1988, and 1989''.

Subsec. (e)(1). Pub. L. 101–240, § 101(b)(7), which directed the insertion of '', and for fiscal years 1990, 1991, and 1992, $200,000,000'' after ''$300,000,000'' was not executed in view of earlier amendment by section 101(b)(5) of Pub. L. 101–240, which inserted '', and for fiscal years 1990 and 1991, $300,000,000'' after ''$300,000,000'', and in view of Senate floor amendment of the bill which added the authorization contained in section 101(b)(5) and was intended to replace the authorization now appearing in section 101(b)(7). See Cong. Rec., Vol. 135, pt. 22, pp. 31199, 31203.

Pub. L. 101–240, § 101(b)(5), inserted '', and for fiscal years 1990 and 1991, $300,000,000'' after ''$300,000,000''.

Subsec. (g)(2)(E). Pub. L. 101–240, § 101(b)(6), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''any progress achieved in negotiations to establish a comprehensive international arrangement restricting the use of tied aid and partially untied credits for commercial purposes.''

1988—Subsecs. (c)(2), (e)(1). Pub. L. 100–418 substituted ''1988, and 1989'' for ''and 1988''.

1987—Subsec. (c)(2). Pub. L. 100–217 substituted ''during fiscal years 1986, 1987, and 1988'' for ''during fiscal year 1986''.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

USE OF FUND TO DISCOURAGE PREDATORY FINANCING PRACTICES

Section 3302(a) of Pub. L. 100–418 provided that: ''The Congress finds that—

''(1) negotiations have led to an international agreement to increase the grant element required in tied aid credit offers;

''(2) concern continues to exist that countries party to the agreement may continue to offer tied aid credits that deviate from the agreement;

''(3) in such cases, the United States could continue to lose export sales in connection with the aggressive, and in some cases, unfair, tied aid practices of such countries; and

''(4) in such cases, the Export-Import Bank of the United States should continue to use the Tied Aid Credit Fund established by section 15(c) [now 10(c)] of the Export-Import Bank Act of 1945 [12 U.S.C. 635i–3(c)] to discourage the use of such predatory financing practices.''

§ 635i–4. Repealed. Pub. L. 102–429, title I, § 121(c)(1), Oct. 21, 1992, 106 Stat. 2199

Section, act July 31, 1945, ch. 341, § 16, as added Oct. 21, 1986, Pub. L. 99–509, title II, § 2002, 100 Stat. 1880, related to procedures and terms for sale of Bank loans to public.

§ 635i–5. Environmental policy and procedures

(a) Environmental effects consideration

(1) In general

Consistent with the objectives of section 635(b)(1)(A) of this title, the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services for which support is requested under its direct lending and guarantee programs. Such procedures shall apply to any transaction involving a project—

(A) for which long-term support of $10,000,000 or more is requested from the Bank;

(B) for which the Bank's support would be critical to its implementation; and

(C) which may have significant environmental effects upon the global commons or any country not participating in the project, or may produce an emission, an effluent, or a principal product that is prohibited or strictly regulated pursuant to Federal environmental law.

(2) Authority to withhold financing

The procedures established under paragraph (1) shall permit the Board of Directors, in its judgment, to withhold financing from a project for environmental reasons or to approve financing after considering the potential environmental effects of a project.

(b) Use of Bank programs to encourage certain exports

(1) In general

The Bank shall encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects (such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects,

subject to a final determination by the Bank). The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank's programs can be used to support the export of such goods and services. The officer shall act as liaison between the Bank and other Federal Government agencies, including the agencies whose representatives are members of the Environmental Trade Promotion Working Group of the Trade Promotion Coordinating Committee, with respect to overall United States Government policy on the environment.

(2) Limitations on authorization of appropriations

In addition to other funds available to support the export of goods and services described in paragraph (1), there are authorized to be appropriated to the Bank not more than $35,000,000 for the cost (as defined in section 661a(5) of title 2) of supporting such exports. If, in any fiscal year, the funds appropriated in accordance with this paragraph are not fully utilized due to insufficient qualified transactions for the export of such goods and services, such funds may be expended for other purposes eligible for support by the Bank.

(c) Inclusion in report to Congress

The Bank shall provide in its annual report to the Congress a summary of its activities under subsections (a) and (b) of this section.

(d) Interpretation

Nothing in this section shall be construed to create any cause of action.

(July 31, 1945, ch. 341, § 11, formerly § 17, as added and renumbered § 11, Pub. L. 102–429, title I, §§ 106, 121(c)(5), Oct. 21, 1992, 106 Stat. 2189, 2199; amended Pub. L. 103–428, § 2(a), Oct. 31, 1994, 108 Stat. 4376.)

CODIFICATION

Another section 11 of act July 31, 1945, ch. 341, was renumbered section 14 and is classified to section 635i–8 of this title.

PRIOR PROVISIONS

A prior section 11 of act July 31, 1945, ch. 341, was renumbered section 9 and is classified to section 635h of this title.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–428 inserted par. (1) designation and heading, inserted before period at end of first sentence ''(such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank)'', and added par. (2).

§ 635i–6. Debt reduction; Enterprise for the Americas Initiative

(a) Definitions

For purposes of this section—

(1) the term ''eligible country'' means a country designated by the President in accordance with section [1] (b) of this section;

(2) the term ''Facility'' means the entity established in the Department of the Treasury by section 1738 of title 7; and

(3) the term ''IMF'' means the International Monetary Fund.

(b) Eligibility for benefits under the Facility

(1) Requirements

To be eligible for benefits from the Facility under this section, a country must—

(A) be a Latin American or Caribbean country;

(B) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

(i) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility or, in exceptional circumstances, an IMF monitored program or its equivalent; and

(ii) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

(C) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

(D) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

(2) Eligibility determinations

The President shall determine whether a country is an eligible country for purposes of paragraph (1).

(c) Loans eligible for sale, reduction, or cancellation

(1) Authority to sell, reduce, or cancel certain loans

Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any loan or portion thereof made before January 1, 1992, to any eligible country or any agency thereof pursuant to this subchapter, or, on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

(B) a debt buy-back by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such

[1] So in original. Probably should be ''subsection''.

debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development activities, in a manner consistent with sections 1738f through 1738k of title 7,

if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

(2) Terms and conditions

Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

(3) Treatment under securities laws

The filing of a registration statement under the Securities Act of 1933 [15 U.S.C. 77a et seq.] shall not be required with respect to the sale or offer for sale by the Bank of a loan or any interest therein pursuant to this section. For purposes of the Securities Act of 1933, the Bank shall not be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan (or any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

(4) Administration

The Facility shall notify the Bank of purchasers that the President has determined to be eligible, and shall direct the Bank to carry out the sale, reduction, or cancellation of a loan pursuant to this section. The Bank shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(5) Limitations

The authorities of this subsection may be exercised only to such extent as provided for in advance in appropriations Acts, as necessary to implement the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.].

(d) Deposit of proceeds

The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

(e) Eligible purchasers

A loan may be sold pursuant to subsection (c)(1)(A) of this section only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(f) Debtor consultation

Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President shall consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

(g) Authorization of appropriations

For the sale, reduction, and cancellation of loans or portions thereof pursuant to this section, there are authorized to be appropriated to the President such sums as may be necessary, which are authorized to remain available until expended.

(July 31, 1945, ch. 341, § 12, formerly § 18, as added and renumbered § 12, Pub. L. 102–429, title I, §§ 108, 121(c)(6), Oct. 21, 1992, 106 Stat. 2191, 2199.)

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (c)(3), is title I of act May 27, 1933, ch. 38, 48 Stat. 74, as amended, which is classified generally to subchapter I (§ 77a et seq.) of chapter 2A of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

The Federal Credit Reform Act of 1990, referred to in subsec. (c)(5), is title V of Pub. L. 93–344, as added Pub. L. 101–508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 621 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 12 of act July 31, 1945, ch. 341, was classified to section 635i of this title, prior to repeal by Pub. L. 102–429, § 121(c)(1).

§ 635i–7. Cooperation on export financing programs

The Bank shall, subject to appropriate memoranda of understanding—

(1) provide complete and current information on all of its programs and financing practices to—

(A) the Small Business Administration and other Federal agencies involved in promoting exports and marketing export financing programs; and

(B) State and local export financing organizations that indicate a desire to participate in export promotion; and

(2) consistent with the provisions of section 4721(f)(2) of title 15, undertake a program to provide training for personnel designated in such memoranda with respect to such financing programs.

(July 31, 1945, ch. 341, § 13, formerly § 19, as added and renumbered § 13, Pub. L. 102–429, title I, §§ 115, 121(c)(7), Oct. 21, 1992, 106 Stat. 2196, 2199.)

PRIOR PROVISIONS

A prior section 13 of act July 31, 1945, ch. 341, was classified to section 635i–1 of this title, prior to repeal by Pub. L. 102–429, § 121(c)(1).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 4721.

§ 635i–8. Special debt relief for poorest, most heavily indebted countries

(a) Debt reduction authority

The President may reduce amounts of principle[1] and interest owed by any eligible country

[1] So in original. Probably should be ''principal''.

to the Bank as a result of loans or guarantees made under this subchapter.

(b) Limitations

(1) Types of debt reduction

The authority provided by subsection (a) of this section may be exercised only to implement multilateral agreements to reduce the burden of official bilateral debt as set forth in the minutes of the so-called ''Paris Club'' (also known as ''Paris Club Agreed Minutes'').

(2) Eligible countries

(A) "Eligible country" defined

As used in subsection (a) of this section, the term ''eligible country'' means any country that—

(i) has excessively burdensome external debt;

(ii) is eligible to borrow from the International Development Association; and

(iii) is not eligible to borrow from the International Bank for Reconstruction and Development.

(B) Determinations

Subject to subparagraph (A), the President may determine whether a country is an eligible country for purposes of subsection (a) of this section.

(c) Conditions

The authority provided by this section may be exercised only with respect to a country whose government—

(1) does not have an excessive level of military expenditures;

(2) has not repeatedly provided support for acts of international terrorism;

(3) is not failing to cooperate on international narcotics control matters; and

(4) (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d) Appropriations

The authority provided by subsection (a) of this section may be exercised only in such amounts or to such extent as is provided in advance in appropriations Acts.

(July 31, 1945, ch. 341, § 14, formerly § 11, as added Pub. L. 103–87, title V, § 570(b), Sept. 30, 1993, 107 Stat. 970; renumbered § 14, Pub. L. 103–428, § 2(b), Oct. 31, 1994, 108 Stat. 4376.)

DELEGATION OF AUTHORITY WITH RESPECT TO DEBT REDUCTION FOR POOREST COUNTRIES

Memorandum of President of the United States, June 20, 1994, 59 F.R. 33413, provided:

Memorandum for the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103–87) (the ''Act'') [enacting 12 U.S.C. 635i–8], section 14 of the Export-Import Bank Act of 1945 (12 U.S.C. 635—635i–8) [probably means 12 U.S.C. 635i–8], and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

1. There are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, the functions, authorities, and duties conferred upon the President by section 570(a) of the Act [107 Stat. 970].

2. There are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the President of the Export-Import Bank, the functions, authorities, and duties conferred upon the President by section 570(b) of the Act and section 14(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635—635i–8).

The Secretary of the Treasury is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

SUBCHAPTER II—EXPORT FINANCING

§ 635j. Export financing program to foster foreign trade and commercial interest of the United States

(a) Congressional statement of policy

It is the policy of the Congress that the Export-Import Bank of the United States should facilitate through loans, guarantees, and insurance (including coinsurance and reinsurance) those export transactions which, in the judgment of the Board of Directors of the Bank, offer sufficient likelihood of repayment to justify the Bank's support in order to actively foster the foreign trade and long-term commercial interest of the United States.

(b) Designation of transactions on books of the Bank; limitation on commitments

The bank shall specially designate loans, guarantees, and insurance on the books of the Bank made under authority of this subchapter. In connection with guarantees and insurance, not less than 25 per centum of the related contractual liability of the Bank shall be taken into account for the purpose of applying the limitation imposed by section 635e of this title; but the full amount of the related contractual liability of such guarantees and insurance shall be taken into account for the purpose of applying the limitation in section 635(c)(1) of this title, concerning the amount of guarantees and insurance the Bank may have outstanding at any one time thereunder. The aggregate amount of loans plus 25 per centum of the contractual liability of guarantees and insurance outstanding at any one time under this subchapter shall not exceed $500,000,000.

(Pub. L. 90–390, § 1, July 7, 1968, 82 Stat. 296; Pub. L. 96–470, title I, § 115, Oct. 19, 1980, 94 Stat. 2240.)

AMENDMENTS

1980—Subsec. (c). Pub. L. 96–470 struck out subsec. (c) which required the Board of Directors of the Bank to submit to Congress for the calendar ending Sept. 30, 1968, and each calendar quarter thereafter, a report of all actions taken under authority of sections 635j to 635n of this title during such quarter.

EX. ORD. NO. 11420. EXPORT EXPANSION ADVISORY COMMITTEE

Ex. Ord. No. 11420, July 31, 1968, 33 F.R. 10997, provided:

WHEREAS foreign trade is an essential and continuing element in sustaining the growth, strength, and prosperity of our economy, contributes to the improvement of our balance of payments, and fosters the long-term commercial interest of the United States; and

WHEREAS, on March 20, 1968, I requested the Congress to empower the Export-Import Bank of the

United States to use up to $500,000,000 of its loan, guarantee, and insurance authority to finance a broadened program to sell American goods in foreign markets; and

WHEREAS the Congress has authorized the Bank to extend loans, guarantees, and insurance which, in the judgment of the Board of Directors of the Bank, offer sufficient likelihood of repayment to justify the Bank's support in order to actively foster the foreign trade and long-term commercial interest of the United States; and

WHEREAS it is desirable and appropriate that guidance concerning the commercial interests and the balance of payments objectives of the United States be provided to the Board of Directors of the Bank in the use of such loan, guarantee, and insurance authority allocated to finance export expansion, and I have stated that I would establish an Export Expansion Advisory Committee to provide such guidance to the Board of Directors of the Bank:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of Advisory Committee.* (a) There is hereby established the Export Expansion Advisory Committee (hereinafter referred to as ''the Committee'').

(b) The Committee shall be composed of the following members: the Secretary of Commerce, who shall be Chairman of the Committee, the Secretary of the Treasury, the Secretary of State, and the President and Chairman of the Board of the Export-Import Bank of the United States.

SEC. 2. *Functions of the Committee.* The Committee shall review and make recommendations concerning applications and proposals for loans, guarantees, and insurance to be charged against allocations made to finance export expansion and shall provide guidance to the Board of Directors of the Bank concerning the use of such allocations with the view to fostering the foreign trade and long-term commercial interest of the United States.

SEC. 3. *Construction.* Nothing in this order shall be construed to abrogate, modify, or restrict any function vested by law in, or assigned pursuant to law to, any Federal agency or any officer thereof or to any Federal interagency council or committee. As used herein the term ''any Federal agency'' includes any executive department and any other executive agency.

LYNDON B. JOHNSON.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 635k. Apportionment of losses incurred on loans, guarantees, and insurance; reimbursement; contingent obligations

In the event of any losses, as determined by the Board of Directors of the Bank, incurred on loans, guarantees, and insurance extended under this subchapter, the first $100,000,000 of such losses shall be borne by the Bank; the second $100,000,000 of such losses shall be borne by the Secretary of the Treasury; and any losses in excess thereof shall be borne by the Bank. Reimbursement of the Bank by the Secretary of the Treasury of the amount of losses which are to be borne by the Secretary of the Treasury as aforesaid shall be from funds made available pursuant to section 635*l* of this title. All guarantees and insurance issued by the Bank shall be considered contingent obligations backed by the full faith and credit of the Government of the United States of America.

(Pub. L. 90–390, § 2, July 7, 1968, 82 Stat. 297.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 635*l* of this title.

§ 635*l*. Authorization for appropriation of funds for losses

There are hereby authorized to be appropriated to the Secretary of the Treasury without fiscal year limitation $100,000,000 to cover the amount of any losses which are to be borne by the Secretary of the Treasury as provided in section 635k of this title.

(Pub. L. 90–390, § 3, July 7, 1968, 82 Stat. 297.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 635k of this title; title 22 section 2392.

§ 635m. Loans, guarantees, and insurance subject to the provisions of this chapter

Nothing in this subchapter shall be construed as a limitation on the powers of the Bank under subchapter I of this chapter; and except as to the standard of reasonable assurance of repayment required under section 635(b)(1) of this title, all loans, guarantees, and insurance extended hereunder shall be subject to the provisions of subchapter I of this chapter, to the policies of the Bank with respect to terms of repayment, interest rates, fees, and premiums applicable to loans, guarantees, and insurance extended under subchapter I of this chapter.

(Pub. L. 90–390, § 4, July 7, 1968, 82 Stat. 297.)

§ 635n. Prohibition of loans, guarantees, and insurance as to sales of defense articles or services

The Bank shall not extend loans, guarantees, or insurance under this subchapter in connection with the sale of defense articles or defense services.

(Pub. L. 90–390, § 5, July 7, 1968, 82 Stat. 297.)

SUBCHAPTER III—TIED AID CREDIT EXPORT SUBSIDIES

§ 635*o*. Congressional statement of purpose

The purpose of this subchapter is—

(1) to expand employment and economic growth in the United States by expanding United States exports to the markets of the developing world;

(2) to stimulate the economic development of countries in the developing world by improving their access to credit for the importation of United States products and services for developmental purposes;

(3) to neutralize the predatory financing engaged in by many nations whose exports compete with United States exports, and thereby

restore export competition to a market basis; and

(4) to encourage foreign governments to enter into effective and comprehensive agreements with the United States to end the use of tied aid credits for exports, and to limit and govern the use of export credit subsidies generally.

(Pub. L. 98–181, title VI, § 642, Nov. 30, 1983, 97 Stat. 1263.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this part'', meaning part C (§§ 641–647) of title VI of Pub. L. 98–181, Nov. 30, 1983, 97 Stat. 1263, known as the Trade and Development Enhancement Act of 1983, which enacted this subchapter and section 1671g of Title 19, Customs Duties, and amended sections 1671a and 1671b of Title 19. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 641 of Pub. L. 98–181 provided that: ''This part [part C (§§ 641–647) of title VI of Pub. L. 98–181, enacting this subchapter and section 1671g of Title 19, Customs Duties, and amended sections 1671a and 1671b of Title 19] may be referred to as the 'Trade and Development Enhancement Act of 1983'.''

§ 635p. Presidential mandate to negotiate; objectives

The President shall vigorously pursue negotiations to limit and set rules for the use of tied aid for exports. The negotiating objectives of the United States should include reaching agreements—

(1) to define the various forms of tied aid credit, particularly mixed credits under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development (hereinafter in this subchapter referred to as the ''Arrangement'');

(2) to phase out the use of government-mixed credits by a date certain;

(3) to set rules governing the use of public-private cofinancing, or other forms of mixed financing, which may have the same result as government-mixed credits of drawing on concessional development assistance to produce subsidized export financing;

(4) to raise the threshold for notification of the use of tied aid credit to a 50 per centum level of concessionality;

(5) to improve notification procedures so that advance notification must be given on all uses of tied aid credit; and

(6) to prohibit the use of tied aid credit for production facilities for goods which are in structural oversupply in the world.

(Pub. L. 98–181, title VI, § 643, Nov. 30, 1983, 97 Stat. 1263.)

§ 635q. Establishment of tied aid credit program in United States Export-Import Bank

(a) Establishment and elements of program; cooperation with Trade and Development Agency and private institutions and entities

(1) The Chairman of the Export-Import Bank of the United States shall establish, within the Export-Import Bank of the United States, a program of tied aid credits for United States exports.

(2) The program shall be carried out in cooperation with the Trade and Development Agency and with private financial institutions or entities, as appropriate.

(3) The program may include—

(A) the combined use of the credits, loans, or guarantees offered by the Export-Import Bank of the United States with concessional financing or grants made available under section 635r(d) of this title, by methods including the blending of the financing of, or parallel financing by, the Bank and the Trade and Development Agency; and

(B) the combined use of credits, loans, or guarantees offered by the Bank, with financing offered by private financial institutions or entities, by methods including the blending of the financing of, or parallel financing by, the Bank and private institutions or entities.

(b) Purpose of program

The purpose of the tied aid credit program under this section is to offer or arrange for financing for the export of United States goods and services which is substantially as concessional as foreign financing for which there is reasonable proof that such foreign financing is being offered to, or arranged for, a bona fide foreign competitor for a United States export sale.

(c) Fund

The Chairman of the Bank is authorized to establish a fund, as necessary, for carrying out the tied aid credit program described in this section.

(d) Availability of concessional financing or grants

Concessional financing or grants made available under section 635r(d) of this title for the purposes of the mixed financing program established under this section shall be made available in accordance with the provisions of section 635r(c) of this title.

(Pub. L. 98–181, title VI, § 644, Nov. 30, 1983, 97 Stat. 1264; Pub. L. 100–418, title II, § 2204(c)(1)(A), Aug. 23, 1988, 102 Stat. 1330; Pub. L. 102–549, title II, § 202(c)(1), Oct. 28, 1992, 106 Stat. 3658.)

AMENDMENTS

1992—Subsec. (a)(2), (3)(A). Pub. L. 102–549 substituted ''Development Agency'' for ''Development Program''.

1988—Subsec. (a)(2). Pub. L. 100–418, § 2204(c)(1)(A)(i), substituted ''Trade and Development Program'' for ''Agency for International Development''.

Subsec. (a)(3)(A). Pub. L. 100–418, § 2204(c)(1)(A)(ii), substituted ''made available under section 635r(d) of this title'' for ''offered by the Agency for International Development'' and ''Trade and Development Program'' for ''Agency for International Development''.

Subsec. (d). Pub. L. 100–418, § 2204(c)(1)(A)(iii), substituted ''made available under section 635r(d) of this title'' for ''offered by the Agency for International Development'' and ''section 635r(c) of this title'' for ''subsections (c) and (d) of section 635r of this title''.

TRANSITION PROVISIONS

Section 2204(d)(2) of Pub. L. 100–418 provided that:

''(A) The Administrator of the Agency for International Development shall transfer to the Director of the Trade and Development Program [now Trade and Development Agency] all records, contracts, applica-

tions, and any other documents or information in connection with the functions transferred by virtue of the amendments made by subsection (c)(1) [amending sections 635q and 635r of this title].

''(B) All determinations, regulations, and contracts—

''(i) which have been issued, made, granted, or allowed to become effective by the President, the Agency for International Development, or by a court of competent jurisdiction, in the performance of the functions transferred by virtue of the amendments made by subsection (c)(1), and

''(ii) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Director of the Trade and Development Program [now Trade and Development Agency], or other authorized official, by a court of competent jurisdiction, or by operation of law.

''(C)(i) The amendments made by subsection (c)(1) shall not affect any proceedings, including notices of proposed rulemaking, or any application for any financial assistance, which is pending on the effective date of this section [Aug. 23, 1988] before the Agency for International Development in the exercise of functions transferred by virtue of the amendments made by subsection (c)(1). Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

''(ii) Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section [amending sections 635q, 635r, and 635s of this title, section 5314 of Title 5, Government Organization and Employees, and section 2421 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as a note under section 2421 of Title 22] had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Trade and Development Program [now Trade and Development Agency] or other authorized official, by a court of competent jurisdiction, or by operation of law.

''(iii) Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

''(iv) The Director of the Trade and Development Program [now Trade and Development Agency] is authorized to issue regulations providing for the orderly transfer to the Trade and Development Program of proceedings continued under this subparagraph.

''(D) With respect to any function transferred by virtue of the amendments made by subsection (c)(1) and exercised on or after the effective date of this section [Aug. 23, 1988], reference in any other Federal law to the Agency for International Development or any officer shall be deemed to refer to the Trade and Development Program [now Trade and Development Agency] or other official to which such function is so transferred.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 635s of this title.

§ 635r. Establishment of tied aid credit program administered by Trade and Development Agency

(a) Establishment and elements of program

The Director of the Trade and Development Agency shall carry out a program of tied aid credits for United States exports. The program shall be carried out in cooperation with the Export-Import Bank of the United States and with private financial institutions or entities, as appropriate. The program may include—

(1) the combined use of the credits, loans, or guarantees offered by the Bank with concessional financing or grants made available under subsection (d) of this section, by methods including the blending of the financing of, or parallel financing by, the Bank and the Trade and Development Agency; and

(2) the combination of concessional financing or grants made available under subsection (d) of this section with financing offered by private financial institutions or entities, by methods including the blending of the financing of, or parallel financing by, the Trade and Development Agency and private institutions or entities.

(b) Combination of funds with financing by Export-Import Bank or private commercial financing

These funds may be combined with financing by the Export-Import Bank of the United States or private commercial financing in order to offer, or arrange for, financing for the exportation of United States goods and services which is substantially as concessional as foreign financing for which there is reasonable proof that such foreign financing is being offered to, or arranged for, a bona fide foreign competitor for a United States export sale.

(c) Limitation on use of Agency funds; authorization for establishment of fund

(1) Funds which are used to carry out a tied aid credit program authorized by subsections (a) and (b) of this section shall be offered only to finance United States exports which can reasonably be expected to contribute to the advancement of the development objectives of the importing country or countries, and shall be consistent with the economic, security, and political criteria used to establish country allocations of Economic Support Funds.

(2) The Director of the Trade and Development Agency is authorized to establish a fund, as necessary, for carrying out a tied aid credit financing program as described in this section.

(d) Use of Economic Support Funds

Funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 [22 U.S.C. 2346 et seq.] may be used by the Director of the Trade and Development Agency, with the concurrence of the Secretary of State (as provided under section 531 of the Foreign Assistance Act of 1961 [22 U.S.C. 2346]), for the purposes for which funds made available under this subsection are authorized to be used in section 635q of this title and this section. The Secretary of State shall exercise his authority in cooperation with the Administrator of the Agency for International Development. Funds made available pursuant to this subsection may be used to finance a tied aid credit activity in any country eligible for tied aid credits under this subchapter.

(Pub. L. 98–181, title VI, § 645, Nov. 30, 1983, 97 Stat. 1264; Pub. L. 100–418, title II, § 2204(c)(1)(B), Aug. 23, 1988, 102 Stat. 1330; Pub. L. 102–549, title II, § 202(c), Oct. 28, 1992, 106 Stat. 3658.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (d), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as

amended. Chapter 4 of part II of the Foreign Assistance Act of 1961 is classified generally to part IV (§ 2346 et seq.) of subchapter II of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

This subchapter, referred to in subsec. (d), was in the original ''this Act'' and was translated as meaning the Trade and Development Enhancement Act of 1983, part C (§§ 641–647) of title VI of Pub. L. 98–181, Nov. 30, 1983, 97 Stat. 1263, as amended, which enacted this subchapter and section 1671g of Title 19, Customs Duties, and amended sections 1671a and 1671b of Title 19. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1992—Pub. L. 102–549 substituted ''Development Agency'' for ''Development Program'' in section catchline and wherever appearing in subsecs. (a), (c), and (d).

1988—Pub. L. 100–418, § 2204(c)(1)(B)(i), in section catchline, substituted reference to program administered by Trade and Development Program for reference to program in Agency for International Development.

Subsec. (a). Pub. L. 100–418, § 2204(c)(1)(B)(ii)(I), substituted ''Director of the Trade and Development Program shall carry out'' for ''Administrator of the Agency for International Development shall establish within the Agency''.

Subsec. (a)(1). Pub. L. 100–418, § 2204(c)(1)(B)(ii)(II), (III), substituted ''made available under subsection (d) of this section'' for ''offered by the Agency for International Development'' and ''Trade and Development Program'' for ''Agency for International Development''.

Subsec. (a)(2). Pub. L. 100–418, § 2204(c)(1)(B)(ii)(IV), (V), substituted ''made available under subsection (d) of this section'' for ''offered by the Agency for International Development'' and ''Trade and Development Program'' for ''Agency for International Development''.

Subsec. (c)(1). Pub. L. 100–418, § 2204(c)(1)(B)(iii)(I), which directed that par. (1) be amended by striking out ''of the Agency for International Development'' after ''Funds'', was executed by striking out ''of the agency for International Development'', to reflect the probable intent of Congress.

Subsec. (c)(2). Pub. L. 100–418, § 2204(c)(1)(B)(iii)(II), substituted ''Director of the Trade and Development Program'' for ''Administrator of the Agency for International Development''.

Subsec. (d). Pub. L. 100–418, § 2204(c)(1)(B)(iv), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The Administrator of the Agency for International Development may draw on Economic Support Funds allocated for Commodity Import Programs to finance a tied aid credit activity.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 635q, 635s of this title.

§ 635s. Implementation

(a)(1) The National Advisory Council on International Monetary and Financial Policies shall coordinate the implementation of the tied aid credit programs authorized by sections 635q and 635r of this title.

(2) No financing may be approved under the tied aid credit programs authorized by section 635q or 635r of this title without the unanimous consent of the members of the National Advisory Council on International Monetary and Financial Policies.

(b) The Trade and Development Agency shall be represented at any meetings of the National Advisory Council on International Monetary and Financial Policies for discussion of tied aid credit matters, and the representative of the Trade and Development Agency at any such meeting shall have the right to vote on any decisions of the Advisory Council relating to tied aid credit matters.

(Pub. L. 98–181, title VI, § 646, Nov. 30, 1983, 97 Stat. 1265; Pub. L. 100–418, title II, § 2204(c)(2), Aug. 23, 1988, 102 Stat. 1331; Pub. L. 102–549, title II, § 202(c)(1), Oct. 28, 1992, 106 Stat. 3658.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–549 substituted ''Development Agency'' for ''Development Program'' in two places.

1988—Subsec. (b). Pub. L. 100–418 added subsec. (b).

§ 635t. Definitions

For purposes of this subchapter—

(1) the term ''tied aid credit'' means credit—

(A) which is provided for development aid purposes;

(B) which is tied to the purchase of exports from the country granting the credit;

(C) which is financed either exclusively from public funds, or, as a mixed credit, partly from public and partly from private funds; and

(D) which has a grant element, as defined by the Development Assistance Committee of the Organization for Economic Cooperation and Development, greater than zero percent;

(2) the term ''government-mixed credits'' means the combined use of credits, insurance, and guarantees offered by the Export-Import Bank of the United States with concessional financing or grants offered by the Agency for International Development to finance exports;

(3) the term ''public-private cofinancing'' means the combined use of either official development assistance or official export credit with private commercial credit to finance exports;

(4) the term ''blending of financings'' means the use of various combinations of official development assistance, official export credit, and private commercial credit, integrated into a single package with a single set of financial terms, to finance exports;

(5) the term ''parallel financing'' means the related use of various combinations of separate lines of official development assistance, official export credits, and private commercial credit, not combined into a single package with a single set of financial terms, to finance exports; and

(6) the term ''Bank'' means the Export-Import Bank of the United States.

(Pub. L. 98–181, title VI, § 647, Nov. 30, 1983, 97 Stat. 1265.)

CHAPTER 7—FARM CREDIT ADMINISTRATION

CODIFICATION

The bulk of this chapter was repealed by Pub. L. 92–181, § 5.26(a), Dec. 10, 1971, 85 Stat. 625, which completely rewrote the farm credit laws and represented a fundamental reworking of the statutory basis for the