

“(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

Pub. L. 93-646, §12, Jan. 4, 1975, 88 Stat. 2337, 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.

ASSIGNMENT OF FUNCTIONS UNDER SECTION 530 OF THE FOREIGN RELATIONS AUTHORIZATION ACT FOR FISCAL YEARS 1994 AND 1995, AND SECTION 2(b)(4) OF THE EXPORT-IMPORT BANK ACT OF 1945, AS AMENDED

Memorandum of President of the United States, Mar. 23, 2007, 72 F.R. 18103, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby assign to you:

(1) the functions of the President under section 530 of the Foreign Relations Authorization Act for Fiscal Years 1994 and 1995 (Public Law 103-236) (22 U.S.C. 2429a-2); and

(2) the functions of the President under section 2(b)(4) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635).

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

PRESIDENTIAL DETERMINATIONS RELATING TO COUNTRIES DEEMED TO BE MARXIST-LENINIST COUNTRIES

The following Presidential Determinations determined that the listed countries had ceased to be Marxist-Leninist countries within the definition of such term in subsection (b)(2)(B)(i) of this section:

Determination No. 2009-20, June 12, 2009, 74 F.R. 28865.—Kingdom of Cambodia.

Determination No. 2009-21, June 12, 2009, 74 F.R. 28867.—Lao People’s Democratic Republic.

**§ 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 quorum of the Board of Directors shall consist of at least three members.

(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.

(9) At the request of any 2 members of the Board of Directors, the Chairman of the Board shall place an item pertaining to the policies or procedures of the Bank on the agenda for discussion by the Board. Within 30 days after the date such a request is made, the Chairman shall hold a meeting of the Board at which the item shall be discussed.

(10) NOTICE AND COMMENT REQUIREMENTS.—

(A) IN GENERAL.—Before any meeting of the Board for final consideration of a long-term transaction the value of which exceeds \$100,000,000, and concurrent with any statement required to be submitted under section 635(b)(3) of this title with respect to the transaction, the Bank shall provide a notice and comment period.

(B) FINANCIAL THRESHOLD DETERMINATIONS.—For purposes of determining whether the value of a proposed transaction exceeds the financial threshold set forth in subparagraph (A), the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all long-term loans and guarantees, approved by the Bank in the preceding 12-month period, that involved the same foreign entity and substantially the same product to be produced.

(C) SPECIFIC REQUIREMENTS.—

(i) IN GENERAL.—The Bank shall—

(I) publish in the Federal Register a notice of the application proposing the transaction;

(II) provide a period of not less than 25 days for the submission to the Bank of comments on the application; and

(III) notify the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives of the application, and seek comments on the application from the Department of Commerce and the Office of Management and Budget.

(ii) CONTENT OF NOTICE.—The notice published under clause (i)(I) with respect to an application for a loan or financial guarantee shall include appropriate information about—

(I) a brief non-proprietary description of the purposes of the transaction and the anticipated use of any item being exported, including, to the extent the Bank is reasonably aware, whether the item may be used to produce exports or provide services in competition with the exportation of goods or the provision of services by a United States industry;

(II) the identities of the obligor, principal supplier, and guarantor; and

(III) a description, such as type or model number, of any item with respect to which Bank financing is being sought, but only to the extent the description does not disclose any information that is confidential or proprietary business information, that would violate the Trade Secrets Act, or that would jeopardize jobs in the United States by supplying information which competitors could use to compete with companies in the United States.

(D) PROCEDURE REGARDING MATERIALLY CHANGED APPLICATIONS.—

(i) IN GENERAL.—If a material change is made to an application to which this paragraph applies, after a notice with respect to the application is published under subparagraph (C)(i)(I), the Bank shall publish in the Federal Register a revised notice of the application and provide for an additional comment period as provided in subparagraph (C)(i)(II).

(ii) MATERIAL CHANGE DEFINED.—In clause (i), the term “material change”, with respect to an application for a loan or guarantee, includes an increase of at least 25 percent in the amount of a loan or guarantee requested in the application.

(E) REQUIREMENT TO ADDRESS VIEWS OF COMMENTERS.—Before taking final action on an application to which this paragraph applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments on the application pursuant to this paragraph.

(F) PUBLICATION OF CONCLUSIONS.—Within 30 days after a final decision of the Board of Directors with respect to an application to which this paragraph applies, the Bank shall provide to a commenter on the application or the decision who makes a request therefor, a non-confidential summary of the facts found and conclusions reached in any detailed analysis or similar study with respect to the loan or guarantee that is the subject of the application, that was submitted to the Board of Directors. Such summary should be sent within 30 days of the receipt of the written request or date of the final decision of the Board of Directors, whichever is later.

(G) RULE OF INTERPRETATION.—The obligations imposed by this paragraph shall not be interpreted to create, modify, or preclude any legal right of action.

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

(1)(A) There is established an Advisory Committee to consist of 17 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 environment, production, commerce, finance, agriculture, labor, services, State government, and the textile industry.

(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.

(C) Not less than 2 members appointed to the Advisory Committee shall be representative of the environmental nongovernmental organization community, except that no 2 of the members shall be from the same environmental organization.

(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.

(5) In carrying out paragraph (4), the Advisory Committee shall consider ways to promote the financing of Bank transactions for the textile industry, consistent with the requirement that the Bank obtain a reasonable assurance of repayment, and determine ways to—

(A) increase Bank support for the exports of textile components or inputs made in the United States; and

(B) support the maintenance, promotion and expansion of jobs in the United States that are critical to the manufacture of textile components and inputs.

**(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.

**(f) Small Business Division**

**(1) Establishment**

There is established a Small Business Division (in this subsection referred to as the “Division”) within the Bank in order to—

(A) carry out the provisions of subparagraphs (E) and (I) of section 635(b)(1) of this title relating to outreach, feedback, product improvement, and transaction advocacy for small business concerns (as defined in section 632(a) of title 15);

(B) advise and seek feedback from small business concerns on the opportunities and benefits for small business concerns in the financing products offered by the Bank, with particular emphasis on conducting outreach, enhancing the tailoring of products to small business needs and increasing loans to small business concerns;

(C) maintain liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns; and

(D) provide oversight of the development, implementation, and operation of technology improvements to strengthen small business outreach, including the technology improvement required by section 635(b)(1)(E)(x) of this title.

**(2) Management**

The President of the Bank shall appoint an officer, who shall rank not lower than senior

vice president and whose sole executive function shall be to manage the Division. The officer shall—

(A) have substantial recent experience in financing exports by small business concerns; and

(B) advise the Board, particularly the director appointed under subsection (c)(8)(B) to represent the interests of small business, on matters of interest to, and concern for, small business.

**(g) Small business specialists**

**(1) Dedicated personnel**

The President of the Bank shall ensure that each operating division within the Bank has staff that specializes in processing transactions that primarily benefit small business concerns (as defined in section 632(a) of title 15).

**(2) Responsibilities**

The small business specialists shall be involved in all aspects of processing applications for loans, guarantees, and insurance to support exports by small business concerns, including the approval or disapproval, or staff recommendations of approval or disapproval, as applicable, of such applications. In carrying out these responsibilities, the small business specialists shall consider the unique business requirements of small businesses and shall develop exporter performance criteria tailored to small business exporters.

**(3) Approval authority**

In an effort to maximize the speed and efficiency with which the Bank processes transactions primarily benefitting small business concerns, the small business specialists shall be authorized to approve applications for working capital loans and guarantees, and insurance in accordance with policies and procedures established by the Board. It is the sense of Congress that the policies and procedures should not prohibit, where appropriate, small business specialists from approving applications for working capital loans and guarantees, and for insurance, in support of exports which have a value of less than \$25,000,000.

**(4) Identification**

The Bank shall prominently identify the small business specialists on its website and in promotional material.

**(5) Employee evaluations**

The evaluation of staff designated by the President of the Bank under paragraph (1), including annual reviews of performance of duties related to transactions in support of exports by small business concerns, and any resulting recommendations for salary adjustments, promotions, and other personnel actions, shall address the criteria established pursuant to subsection (h)(2)(B)(iii) and shall be conducted by the manager of the relevant operating division following consultation with the officer appointed to manage the Small Business Division pursuant to subsection (f)(2).

**(6) Staff recommendations**

Staff recommendations of denial or withdrawal for medium-term applications, ex-

porter held multi-buyer policies, single buyer policies, and working capital applications processed by the Bank shall be transmitted to the officer appointed to manage the Small Business Division pursuant to subsection (f)(2) not later than 2 business days before a final decision.

**(7) Rule of interpretation**

Nothing in this subchapter shall be construed to prevent the delegation to the Division of any authority necessary to carry out subparagraphs (E) and (I) of section 635(b)(1) of this title.

**(h) Small Business Committee**

**(1) Establishment**

There is established a management committee to be known as the “Small Business Committee”.

**(2) Purpose and duties**

**(A) Purpose**

The purpose of the Small Business Committee shall be to coordinate the Bank’s initiatives and policies with respect to small business concerns (as defined in section 632(a) of title 15), including the timely processing and underwriting of transactions involving direct exports by small business concerns, and the development and coordination of efforts to implement new or enhanced Bank products and services pertaining to small business concerns.

**(B) Duties**

The duties of the Small Business Committee shall be determined by the President of the Bank and shall include the following:

(i) Assisting in the development of the Bank’s small business strategic plans, including the Bank’s plans for carrying out section 635(b)(1)(E) (v) and (x) of this title, and measuring and reporting in writing to the President of the Bank, at least once a year, on the Bank’s progress in achieving the goals set forth in the plans.

(ii) Evaluating and reporting in writing to the President of the Bank, at least once a year, with respect to—

(I) the performance of each operating division of the Bank in serving small business concerns;

(II) the impact of processing and underwriting standards on transactions involving direct exports by small business concerns; and

(III) the adequacy of the staffing and resources of the Small Business Division.

(iii) Establishing criteria for evaluating the performance of staff designated by the President of the Bank under subsection (g)(1).

(iv) Coordinating the provision of services with other United States Government departments and agencies to small business concerns.

**(3) Composition**

**(A) Chairperson**

The Chairperson of the Small Business Committee shall be the officer appointed to

manage the Small Business Division pursuant to subsection (f)(2). The Chairperson shall have the authority to call meetings of the Small Business Committee, set the agenda for Committee meetings, and request policy recommendations from the Committee's members.

**(B) Other members**

Except as otherwise provided in this subsection, the President of the Bank shall determine the composition of the Small Business Committee, and shall appoint or remove the members of the Small Business Committee. In making such appointments, the President of the Bank shall ensure that the Small Business Committee is comprised of—

- (i) the senior managing officers responsible for underwriting and processing transactions; and
- (ii) other officers and employees of the Bank with responsibility for outreach to small business concerns and underwriting and processing transactions that involve small business concerns.

**(4) Reporting**

The Chairperson shall provide to the President of the Bank minutes of each meeting of the Small Business Committee, including any recommendations by the Committee or its individual members.

**(i) Office of financing for socially and economically disadvantaged small business concerns and small business concerns owned by women**

**(1) Establishment**

The President of the Bank shall establish in the Small Business Division an office whose sole functions shall be to continue and enhance the outreach activities of the Bank with respect to, and increase the total amount of loans, guarantees, and insurance provided by the Bank to support exports by, socially and economically disadvantaged small business concerns (as defined in section 637(a)(4) of title 15) and small business concerns owned by women.

**(2) Management**

The office shall be managed by a Bank officer of appropriate rank who shall report to the Bank officer designated under subsection (f)(2).

**(3) Staffing**

To the maximum extent practicable, the President of the Bank shall ensure that qualified minority and women applicants are considered when filling any position in the office.

**(j) Authority to use portion of bank surplus to update information technology systems**

**(1) In general**

Subject to paragraphs (3) and (4), the Bank may use an amount equal to 1.25 percent of the surplus of the Bank during fiscal years 2015 through 2019 to—

- (A) seek to remedy any of the operational weakness and risk management vulnerabili-

ties of the Bank which are the result of the information technology system of the Bank;

(B) remedy data fragmentation, enhance information flow throughout the Bank, and manage data across the Bank; and

(C) enhance the operational capacity and risk management capabilities of the Bank to better enable the Bank to increase exports and grow jobs while protecting the taxpayer.

**(2) Surplus**

In paragraph (1), the term “surplus” means the amount (if any) by which—

(A) the sum of the interest and fees collected by the Bank; exceeds

(B) the sum of—

(i) the funds set aside to cover expected losses on transactions financed by the Bank; and

(ii) the costs incurred to cover the administrative expenses of the Bank.

**(3) Limitation**

The aggregate of the amounts used in accordance with paragraph (1) for fiscal years 2015 through 2019 shall not exceed \$20,000,000.

**(4) Subject to appropriations**

The authority provided by paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriations Acts.

**(k) Office of Ethics**

**(1) Establishment**

There is established an Office of Ethics within the Bank, which shall oversee all ethics issues within the Bank.

**(2) Head of office**

**(A) In general**

The head of the Office of Ethics shall be the Chief Ethics Officer, who shall report to the Board of Directors.

**(B) Appointment**

Not later than 180 days after December 4, 2015, the Chief Ethics Officer shall be—

(i) appointed by the President of the Bank from among persons—

(I) with a background in law who have experience in the fields of law and ethics; and

(II) who are not serving in a position requiring appointment by the President of the United States before being appointed to be Chief Ethics Officer; and

(ii) approved by the Board.

**(C) Designated agency ethics official**

The Chief Ethics Officer shall serve as the designated agency ethics official for the Bank pursuant to the Ethics in Government Act of 1978 (5 U.S.C. App. 101 et seq.).

**(3) Duties**

The Office of Ethics has jurisdiction over all employees of, and ethics matters relating to, the Bank. With respect to employees of the Bank, the Office of Ethics shall—

- (A) recommend administrative actions to establish or enforce standards of official conduct;

(B) refer to the Office of the Inspector General of the Bank alleged violations of—

(i) the standards of ethical conduct applicable to employees of the Bank under parts 2635 and 6201 of title 5, Code of Federal Regulations;

(ii) the standards of ethical conduct established by the Chief Ethics Officer; and

(iii) any other laws, rules, or regulations governing the performance of official duties or the discharge of official responsibilities that are applicable to employees of the Bank;

(C) report to appropriate Federal or State authorities substantial evidence of a violation of any law applicable to the performance of official duties that may have been disclosed to the Office of Ethics; and

(D) render advisory opinions regarding the propriety of any current or proposed conduct of an employee or contractor of the Bank, and issue general guidance on such matters as necessary.

#### **(l) Chief Risk Officer**

##### **(1) In general**

There shall be a Chief Risk Officer of the Bank, who shall—

(A) oversee all issues relating to risk within the Bank; and

(B) report to the President of the Bank.

##### **(2) Appointment**

Not later than 180 days after December 4, 2015, the Chief Risk Officer shall be—

(A) appointed by the President of the Bank from among persons—

(i) with a demonstrated ability in the general management of, and knowledge of and extensive practical experience in, financial risk evaluation practices in large governmental or business entities; and

(ii) who are not serving in a position requiring appointment by the President of the United States before being appointed to be Chief Risk Officer; and

(B) approved by the Board.

##### **(3) Duties**

The duties of the Chief Risk Officer are—

(A) to be responsible for all matters related to managing and mitigating all risk to which the Bank is exposed, including the programs and operations of the Bank;

(B) to establish policies and processes for risk oversight, the monitoring of management compliance with risk limits, and the management of risk exposures and risk controls across the Bank;

(C) to be responsible for the planning and execution of all Bank risk management activities, including policies, reporting, and systems to achieve strategic risk objectives;

(D) to develop an integrated risk management program that includes identifying, prioritizing, measuring, monitoring, and managing internal control and operating risks and other identified risks;

(E) to ensure that the process for risk assessment and underwriting for individual transactions considers how each such trans-

action considers the effect of the transaction on the concentration of exposure in the overall portfolio of the Bank, taking into account fees, collateralization, and historic default rates; and

(F) to review the adequacy of the use by the Bank of qualitative metrics to assess the risk of default under various scenarios.

#### **(m) Risk Management Committee**

##### **(1) Establishment**

There is established a management committee to be known as the “Risk Management Committee”.

##### **(2) Membership**

The membership of the Risk Management Committee shall be the members of the Board of Directors, with the President and First Vice President of the Bank serving as ex officio members.

##### **(3) Duties**

The duties of the Risk Management Committee shall be—

(A) to oversee, in conjunction with the Office of the Chief Financial Officer of the Bank—

(i) periodic stress testing on the entire Bank portfolio, reflecting different market, industry, and macroeconomic scenarios, and consistent with common practices of commercial and multilateral development banks; and

(ii) the monitoring of industry, geographic, and obligor exposure levels; and

(B) to review all required reports on the default rate of the Bank before submission to Congress under section 635g(g) of this title.

(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 I [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; Pub. L. 105-121, §§6, 8, Nov. 26, 1997, 111 Stat. 2529, 2530; Pub. L. 106-46, §1(a), Aug. 11, 1999, 113 Stat. 227; Pub. L. 107-189, §24(b)(4), June 14, 2002, 116 Stat. 709; Pub. L. 109-438, §§6(a), 14(a), 15, 18(a), Dec. 20, 2006, 120 Stat. 3270, 3280, 3281; Pub. L. 112-122, §§9(a), 19-20(b)(1), May 30, 2012, 126 Stat. 354, 361, 362; Pub. L. 114-94, div. E, title LI, §§51004-51006(a), title LIII, §53002, title LIV, §54002(c), Dec. 4, 2015, 129 Stat. 1764-1766, 1768, 1769.)

#### REFERENCES IN TEXT

The Trade Secrets Act, referred to in subsec. (c)(10)(C)(ii)(III), is probably a reference to section 1905 of Title 18, Crimes and Criminal Procedure.

The Ethics in Government Act of 1978, referred to in subsec. (k)(2)(C), is Pub. L. 95-521, Oct. 26, 1978, 92 Stat. 1824. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95-521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

#### CODIFICATION

Provisions of subssecs. (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

2015—Subsec. (g)(3). Pub. L. 114-94, §54002(c), substituted “\$25,000,000” for “\$10,000,000”.

Subsec. (j)(1). Pub. L. 114-94, §53002(1), substituted “2015 through 2019” for “2012, 2013, and 2014” in introductory provisions.

Subsec. (j)(2)(B). Pub. L. 114-94, §53002(2), substituted “(i) the funds” for “(I) the funds”.

Subsec. (j)(3). Pub. L. 114-94, §53002(3), substituted “2015 through 2019” for “2012, 2013, and 2014”.

Subsec. (k). Pub. L. 114-94, §51004, added subsec. (k).

Subsec. (l). Pub. L. 114-94, §51005, added subsec. (l).

Subsec. (m). Pub. L. 114-94, §51006(a), added subsec.

(m).

2012—Subsec. (c)(10). Pub. L. 112-122, §9(a), added par. (10).

Subsec. (d)(1)(B). Pub. L. 112-122, §20(a), substituted “State government, and the textile industry” for “and State government”.

Subsec. (d)(5). Pub. L. 112-122, §20(b)(1), added par. (5).

Subsec. (j). Pub. L. 112-122, §19, added subsec. (j).

2006—Subsec. (c)(9). Pub. L. 109-438, §15, added par. (9).

Subsec. (d)(1)(A). Pub. L. 109-438, §18(a)(1)(A), substituted “17” for “15”.

Subsec. (d)(1)(B). Pub. L. 109-438, §18(a)(1)(B), inserted “environment,” before “production.”.

Subsec. (d)(2)(C). Pub. L. 109-438, §18(a)(2), added subpar. (C).

Subsecs. (f) to (h). Pub. L. 109-438, §6(a), added subsecs. (f) to (h).

Subsec. (i). Pub. L. 109-438, §14(a), added subsec. (i).

2002—Subsec. (d)(2)(B). Pub. L. 107-189 realigned margins.

1999—Subsec. (c)(6). Pub. L. 106-46 amended par. (6) generally. Prior to amendment, par. (6) read as follows: “A majority of the Board of Directors shall constitute a quorum.”

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 2015 AMENDMENT

Amendment by section 54002(c) of Pub. L. 114-94 applicable with respect to fiscal year 2016 and each fiscal year thereafter, see section 54002(e) of Pub. L. 114-94, set out as a note under section 635 of this title.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-122, §9(b), May 30, 2012, 126 Stat. 356, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 60 days after the date of the enactment of this Act [May 30, 2012].”

Amendment by sections 19-20(b)(1) of Pub. L. 112-122 effective May 30, 2012, see section 25 of Pub. L. 112-122, set out as a note under section 635 of this title.

#### EFFECTIVE DATE OF 1954 AMENDMENT

Act Aug. 9, 1954, ch. 660, §4, 68 Stat. 678, 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].”

#### TERMINATION OF AUDIT COMMITTEE

Pub. L. 114-94, div. E, title LI, §51006(b), Dec. 4, 2015, 129 Stat. 1766, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 4, 2015], the Board of Directors of the Export-Import Bank of the United States shall revise the bylaws of the Bank to terminate the Audit Committee established by section 7 of the bylaws.”

#### UNTIED AID

Pub. L. 107-189, §10(a), June 14, 2002, 116 Stat. 702, provided that:

“(1) NEGOTIATIONS.—The Secretary of the Treasury shall seek to negotiate an OECD Arrangement on Untied Aid. In the negotiations, the Secretary should seek agreement on subjecting untied aid to the rules governing the Arrangement, including the rules governing disclosure.

“(2) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act [June 14, 2002], the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the successes, failures, and obstacles in initiating negotiations, and if negotiations were initiated, in reaching the agreement described in paragraph (1).”

#### BOARD OF DIRECTORS; EXCEPTION TO QUORUM REQUIREMENT

Pub. L. 106-46, §1(b), Aug. 11, 1999, 113 Stat. 227, as amended by Pub. L. 106-62, §122, Sept. 30, 1999, 113 Stat.

509; Pub. L. 106-85, Oct. 29, 1999, 113 Stat. 1297; Pub. L. 106-88, Nov. 5, 1999, 113 Stat. 1304; Pub. L. 106-94, Nov. 10, 1999, 113 Stat. 1311; Pub. L. 106-105, Nov. 18, 1999, 113 Stat. 1484; Pub. L. 106-106, Nov. 19, 1999, 113 Stat. 1485, provided that: "Notwithstanding section 3(c)(6) of the Export-Import Bank Act of 1945 [12 U.S.C. 635a(c)(6)], if, during the period that begins on July 21, 1999, and ends on December 2, 1999, there are fewer than three persons holding office on the Board of Directors of the Export-Import Bank of the United States, the entire membership of such Board of Directors shall constitute a quorum until the end of such period."

#### COMPENSATION OF EMPLOYEES

Pub. L. 102-429, title I, §117, Oct. 21, 1992, 106 Stat. 2196, provided that:

"(a) Repealed. Pub. L. 102-429, title I, §117(b), Oct. 21, 1992, 106 Stat. 2196.]

"(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. 113-235, div. J, title VI, Dec. 16, 2014, 128 Stat. 2598, 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 September 30, 2015".]

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

[Pub. L. 113-76, div. K, title VI, Jan. 17, 2014, 128 Stat. 489.

[Pub. L. 112-74, div. I, title VI, Dec. 23, 2011, 125 Stat. 1191.

[Pub. L. 111-117, div. F, title VI, Dec. 16, 2009, 123 Stat. 3341.

[Pub. L. 111-8, div. H, title VI, Mar. 11, 2009, 123 Stat. 859.

[Pub. L. 110-161, div. J, title II, Dec. 26, 2007, 121 Stat. 2290.

[Pub. L. 109-102, title I, Nov. 14, 2005, 119 Stat. 2173.

[Pub. L. 108-447, div. D, title I, Dec. 8, 2004, 118 Stat. 2969.

[Pub. L. 108-199, div. D, title I, Jan. 23, 2004, 118 Stat. 143.

[Pub. L. 108-7, div. E, title I, Feb. 20, 2003, 117 Stat. 160.

[Pub. L. 107-115, title I, Jan. 10, 2002, 115 Stat. 2119.

[Pub. L. 106-429, §101(a) [title I], Nov. 6, 2000, 114 Stat. 1900, 1900A-4.

[Pub. L. 106-113, div. B, §1000(a)(2) [title I], Nov. 29, 1999, 113 Stat. 1535, 1501A-64.

[Pub. L. 105-277, div. A, §101(d) [title I], Oct. 21, 1998, 112 Stat. 2681-150, 2681-151.

[Pub. L. 105-118, title I, Nov. 26, 1997, 111 Stat. 2387.

[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

Pub. L. 102-429, title I, §118, Oct. 21, 1992, 106 Stat. 2197, 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

Pub. L. 98-181, title I [title VI, §614(b)], Nov. 30, 1983, 97 Stat. 1256, 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 re-established 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.

#### § 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, insurance, 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,<sup>1</sup> 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 I [title VI, §632], Nov. 30, 1983, 97 Stat. 1262; Pub. L. 99-472, §12, Oct. 15, 1986, 100 Stat. 1204.)

<sup>1</sup> So in original. Probably should be "section,".