

(i) United States policy on countertrade and offsets, in light of current trends in international countertrade and offsets and the impact of those trends on the United States economy;

(ii) the use of countertrade and offsets in United States exports and bilateral United States foreign economic assistance programs; and

(iii) the need for and the feasibility of negotiating with other countries, through the Organization for Economic Cooperation and Development and other appropriate international organizations, to reach agreements on the use of countertrade and offsets; and

(B) make recommendations to the President and the Congress on the basis of the review and evaluation referred to in subparagraph (A).

**(3) Sharing of information**

Other departments and agencies of the United States shall provide to the interagency group such information available to such departments and agencies as the interagency group may request, except that the requirements, including penalties for violation thereof, for preserving the confidentiality of such information which are applicable to the officials, employees, experts, or consultants of such departments and agencies shall apply in the same manner to each member of the interagency group and to any other person performing any function under this subsection.

**(b) Office of Barter**

**(1) Establishment**

There is established, within the International Trade Administration of the Department of Commerce, the Office of Barter (hereafter in this section referred to as the "Office").

**(2) Director**

There shall be at the head of the Office a Director, who shall be appointed by the Secretary of Commerce.

**(3) Staff**

The Secretary of Commerce shall transfer such staff to the Office as the Secretary determines is necessary to enable the Office to carry out its functions under this section.

**(4) Functions**

It shall be the function of the Office to—

(A) monitor information relating to trends in international barter;

(B) organize and disseminate information relating to international barter in a manner useful to business firms, educational institutions, export-related Federal, State, and local government agencies, and other interested persons, including publishing periodic lists of known commercial opportunities for barter transactions beneficial to United States enterprises;

(C) notify Federal agencies with operations abroad of instances where it would be beneficial to the United States for the Federal Government to barter Government-

owned surplus commodities for goods and services purchased abroad by the Federal Government; and

(D) provide assistance to enterprises seeking barter and countertrade opportunities.

(Pub. L. 100-418, title II, §2205, Aug. 23, 1988, 102 Stat. 1332.)

COMPOSITION OF INTERAGENCY GROUP

For composition of Interagency Group on Countertrade, see section 2-101 of Ex. Ord. No. 12661, Dec. 27, 1988, 54 F.R. 779, set out as a note under section 2901 of Title 19, Customs Duties.

SUBCHAPTER III—EXPORT PROMOTION

**§ 4721. United States and Foreign Commercial Service**

**(a) Establishment**

**(1) In general**

The Secretary of Commerce shall establish, within the International Trade Administration, the United States and Foreign Commercial Service. The Secretary shall, to the greatest extent practicable, transfer to the Commercial Service the functions and personnel of the United States and Foreign Commercial Services.

**(2) Assistant Secretary of Commerce and Director General; other personnel**

The head of the Commercial Service shall be the Assistant Secretary of Commerce and Director General of the Commercial Service, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary of Commerce and Director General of the Commercial Service may appoint Commercial Service Officers and such other personnel as may be necessary to carry out the activities of the Commercial Service.

**(3) Coordination with foreign policy objectives**

The Secretary shall take the necessary steps to ensure that the activities of the Commercial Service are carried out in a manner consistent with United States foreign policy objectives, and the Secretary shall consult regularly with the Secretary of State in order to comply with this paragraph.

**(4) Authority of chief of mission**

All activities of the Commercial Service shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

**(b) Statement of purpose**

The Commercial Service shall place primary emphasis on the promotion of exports of goods and services from the United States, particularly by small businesses and medium-sized businesses, and on the protection of United States business interests abroad by carrying out activities such as—

(1) identifying United States businesses with the potential to export goods and services and providing such businesses with advice and information on establishing export businesses;

(2) providing United States exporters with information on economic conditions, market opportunities, the status of the intellectual property system in such country, and the legal

and regulatory environment within foreign countries;

(3) providing United States exporters with information and advice on the necessary adaptation of product design and marketing strategy to meet the differing cultural and technical requirements of foreign countries;

(4) providing United States exporters with actual leads and an introduction to contacts within foreign countries;

(5) assisting United States exporters in locating reliable sources of business services in foreign countries;

(6) assisting United States exporters in their dealings with foreign governments and enterprises owned by foreign governments;

(7) assisting the coordination of the efforts of State and local agencies and private organizations which seek to promote United States business interests abroad so as to maximize their effectiveness and minimize the duplication of efforts;

(8) utilizing district and foreign offices as one-stop shops for United States exporters by providing exporters with information on all export promotion and export finance activities of the Federal Government, assisting exporters in identifying which Federal programs may be of greatest assistance, and assisting exporters in making contact with the Federal programs identified; and

(9) providing United States exporters and export finance institutions with information on all financing and insurance programs of the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration, including providing assistance in completing applications for such programs and working with exporters and export finance institutions to address any deficiencies in such applications that have been submitted.

**(c) Offices**

**(1) In general**

The Commercial Service shall conduct its activities at a headquarters office, district offices located in major United States cities, and foreign offices located in major foreign cities.

**(2) Headquarters**

The headquarters of the Commercial Service shall provide such managerial, administrative, research, and other services as the Secretary considers necessary to carry out the purposes of the Commercial Service.

**(3) District offices**

The Secretary shall establish district offices of the Commercial Service in any United States city in a region in which the Secretary determines that there is a need for Federal Government export assistance.

**(4) Foreign offices**

(A) The Secretary may, after consultation with the Secretary of State, establish foreign offices of the Commercial Service. These offices shall be located in foreign cities in regions in which the Secretary determines there

are significant business opportunities for United States exporters.

(B) The Secretary may, in consultation with the Secretary of State, assign to the foreign offices Commercial Service Officers and such other personnel as the Secretary considers necessary. In employing Commercial Service Officers and such other personnel, the Secretary shall use the Foreign Service personnel system in accordance with the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.]. The Secretary shall designate a Commercial Officer<sup>1</sup> as head of each foreign office.

(C) Upon the request of the Secretary, the Secretary of State shall attach the Commercial Service Officers and other employees of each foreign office to the diplomatic mission of the United States in the country in which that foreign office is located, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(D) For purposes of official representation, the senior Commercial Service Officer in each country shall be considered to be the senior commercial representative of the United States in that country, and the United States chief of mission in that country shall accord that officer all privileges and responsibilities appropriate to the position of senior commercial representative of other countries.

(E) The Secretary of State is authorized, upon the request of the Secretary, to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the operation of the foreign offices. The Secretary is authorized to reimburse or advance funds to the Secretary of State for such services.

(F) The authority of the Secretary under this paragraph shall be subject to section 4802 of title 22.

**(d) Rank of Commercial Service Officers in foreign missions**

**(1) Minister-Counselor**

Notwithstanding any other provision of law, the Secretary is authorized to designate up to 16 United States missions abroad at which the senior Commercial Service Officer will be able to use the diplomatic title of Minister-Counselor. The Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Service Officer assigned to a United States mission so designated.

**(2) Consul General**

In any United States consulate in which a vacancy occurs in the position of Consul General, the Secretary of State, in consultation with the Secretary, shall consider filling that vacancy with a Commercial Service Officer if the primary functions of the consulate are of a commercial nature and if there are significant business opportunities for United States exporters in the region in which the consulate is located.

**(e) Information dissemination**

In order to carry out subsection (b)(7), to lessen the cost of distribution of information pro-

<sup>1</sup>So in original. Probably should be "Commercial Service Officer".

duced by the Commercial Service, and to make that information more readily available, the Secretary should establish a system for distributing that information in those areas where no district offices of the Commercial Service are located. Distributors of the information should be State export promotion agencies or private export and trade promotion associations. The distribution system should be consistent with cost recovery objectives of the Department of Commerce.

**(f) Cooperation in Federal financing and insurance programs**

To assist the Commercial Service in carrying out subsection (b)(9), and consistent with the provisions of section 635i-7 of title 12, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration shall each—

- (1) provide to the Commercial Service complete and current information on all of its programs and financing practices; and
- (2) undertake a training program regarding such programs and practices for Commercial Service Officers who are designated by the Assistant Secretary of Commerce and Director General of the Commercial Service.

**(g) Audits**

The Inspector General of the Department of Commerce shall perform periodic audits of the operations of the Commercial Service, but at least once every 3 years. The Inspector General shall report to the Congress the results of each such audit. In addition to an overview of the activities and effectiveness of Commercial Service operations, the audit shall include—

- (1) an evaluation of the current placement of domestic personnel and recommendations for transferring personnel among district offices;
- (2) an evaluation of the current placement of foreign-based personnel and recommendations for transferring such personnel in response to newly emerging business opportunities for United States exporters; and
- (3) an evaluation of the personnel system and its management, including the recruitment, assignment, promotion, and performance appraisal of personnel, the use of limited appointees, and the “time-in-class” system.

**(h) Report by Secretary**

Not later than 1 year after August 23, 1988, the Secretary shall submit a report to the Congress on the feasibility and desirability, the progress to date, the present status, and the 5-year outlook, of the comprehensive integration of the functions and personnel of the foreign and domestic export promotion operations within the International Trade Administration of the Department of Commerce.

**(i) Omitted**

**(j) Definitions**

For purposes of this section—

- (1) the term “Secretary” means the Secretary of Commerce;
- (2) the term “Commercial Service” means the United States and Foreign Commercial Service;

(3) the term “United States exporter” means—

- (A) a United States citizen;
- (B) a corporation, partnership, or other association created under the laws of the United States or of any State; or
- (C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(4) the term “small business” means any small business concern as defined under section 632 of this title;

(5) the term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(6) the term “United States” means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Pub. L. 100-418, title II, §2301, Aug. 23, 1988, 102 Stat. 1338; Pub. L. 102-429, title II, §§202, 203, 205, Oct. 21, 1992, 106 Stat. 2201, 2204; Pub. L. 115-254, div. F, title VI, §1470(d), Oct. 5, 2018, 132 Stat. 3516.)

AMENDMENT OF SUBSECTIONS (b)(9) AND (f)

*Pub. L. 115-254, div. F, title VI, §1470(d), (w), Oct. 5, 2018, 132 Stat. 3516, 3519, provided that, effective at the end of the transition period, as defined in section 9681 of Title 22, Foreign Relations and Intercourse, subsection (b)(9) and the introductory provisions of subsection (f) of this section are amending by striking “Overseas Private Investment Corporation” and inserting “United States International Development Finance Corporation”. See 2018 Amendment notes below.*

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsec. (c)(4)(B), is Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§3901 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

CODIFICATION

Section is comprised of section 2301 of Pub. L. 100-418. Subsec. (i) of section 2301 of Pub. L. 100-418 amended section 5315 of Title 5, Government Organization and Employees.

AMENDMENTS

2018—Subsec. (b)(9). Pub. L. 115-254 substituted “United States International Development Finance Corporation” for “Overseas Private Investment Corporation”.

Subsec. (f). Pub. L. 115-254 substituted “United States International Development Finance Corporation” for “Overseas Private Investment Corporation” in introductory provisions.

1992—Subsec. (b)(8), (9). Pub. L. 102-429, §§202, 203(a), added pars. (8) and (9).

Subsec. (d)(1). Pub. L. 102-429, §205, substituted “16” for “8”.

Subsecs. (f) to (j). Pub. L. 102-429, §203(b), added subsec. (f) and redesignated former subsecs. (f) to (i) as (g) to (j), respectively.

## EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-254 effective at the end of the transition period, as defined in section 9681 of Title 22, Foreign Relations and Intercourse, see section 1470(w) of Pub. L. 115-254, set out as a note under section 905 of Title 2, The Congress.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (g) of this section relating to reporting results of audits to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 53 of House Document No. 103-7.

**§ 4721a. State trade coordination****(a) Omitted****(b) Federal and State export promotion coordination plan****(1) In general**

The Secretary of Commerce, acting through the Trade Promotion Coordinating Committee and in coordination with representatives of State trade promotion agencies, shall develop a comprehensive plan to integrate the resources and strategies of State trade promotion agencies into the overall Federal trade promotion program.

**(2) Matters to be included**

The plan required under paragraph (1) shall include the following:

(A) A description of the role of State trade promotion agencies in assisting exporters.

(B) An outline of the role of State trade promotion agencies and how it is different from Federal agencies located within or providing services within the State.

(C) A plan on how to utilize State trade promotion agencies in the Federal trade promotion program.

(D) An explanation of how Federal and State agencies will share information and resources.

(E) A description of how Federal and State agencies will coordinate education and trade events in the United States and abroad.

(F) A description of the efforts to increase efficiency and reduce duplication.

(G) A clear identification of where businesses can receive appropriate international trade information under the plan.

**(3) Deadline**

The plan required under paragraph (1) shall be finalized and submitted to Congress not later than 12 months after February 24, 2016.

**(c) Annual Federal-State export strategy****(1) In general**

The Secretary of Commerce, acting through the head of the United States Foreign and Commercial Service,<sup>1</sup> shall develop an annual Federal-State export strategy for each State that submits to the Secretary of Commerce its export strategy for the upcoming calendar year. In developing an annual Federal-State export strategy under this paragraph, the Sec-

retary of Commerce shall take into account the Federal and State export promotion coordination plan developed under subsection (b).

**(2) Matters to be included**

The Federal-State export strategy required under paragraph (1) shall include the following:

(A) The State's export strategy and economic goals.

(B) The State's key sectors and industries of focus.

(C) Possible foreign and domestic trade events.

(D) Efforts to increase efficiencies and reduce duplication.

**(3) Report**

The Federal-State export strategy required under paragraph (1) shall be submitted to the Trade Promotion Coordinating Committee not later than February 1, 2017, and February 1 of each year thereafter.

**(d) Coordinated metrics and information sharing****(1) In general**

The Secretary of Commerce, in coordination with representatives of State trade promotion agencies, shall develop a framework to share export success information, and develop a coordinated set of reporting metrics.

**(2) Report to Congress**

Not later than one year after February 24, 2016, the Secretary of Commerce shall submit to Congress a report that contains the framework and reporting metrics required under paragraph (1).

**(e) Omitted**

(Pub. L. 114-125, title V, § 505, Feb. 24, 2016, 130 Stat. 179.)

## CODIFICATION

Section was enacted as part of the Small Business Trade Enhancement Act of 2015 or the State Trade Coordination Act, and also as part of the Trade Facilitation and Trade Enforcement Act of 2015, and not as part of the Export Enhancement Act of 1988 which enacted this chapter.

Section is comprised of section 505 of Pub. L. 114-125. Subsecs. (a) and (e) of section 505 of Pub. L. 114-125 amended section 4727 of this title.

**§ 4722. Transferred**

## CODIFICATION

Section, Pub. L. 100-418, title II, § 2302, Aug. 23, 1988, 102 Stat. 1341, which related to Commercial Service Officers and multilateral development bank procurement, was renumbered § 1803 of title XVIII of Pub. L. 95-118, by Pub. L. 101-240, title V, § 541(b)(2), Dec. 19, 1989, 103 Stat. 2517, and was transferred to section 262s-2 of Title 22, Foreign Relations and Intercourse.

**§ 4723. Market Development Cooperator Program****(a) Authority of Secretary of Commerce**

In order to promote further the exportation of goods and services from the United States, the Secretary of Commerce is authorized to establish, in the International Trade Administration of the Department of Commerce, a Market Development Cooperator Program. The purpose of

<sup>1</sup> So in original. Probably should be "United States and Foreign Commercial Service."