

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 Plan was superseded by sections 1, 4 of act Aug. 9, 1954.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.)

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.

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

## 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.

## IMPROVEMENT OF METHOD FOR CALCULATING THE EFFECTS OF BANK FINANCING ON JOB CREATION AND MAINTENANCE IN THE UNITED STATES

Pub. L. 112-122, §16, May 30, 2012, 126 Stat. 359, provided that:

“(a) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the process and methodology used by the Export-Import Bank of the United States (in this section referred to as the ‘Bank’) to calculate the effects of the provision of financing by the Bank on the creation and maintenance of employment in the United States, determine and assess the basis on which the Bank has so used the methodology, and make any recommendations the Comptroller General deems appropriate.

“(b) REPORT.—Within 1 year after the date of the enactment of this Act [May 30, 2012], the Comptroller General shall submit to the Congress and the Bank the results of the study required by subsection (a).

“(c) IMPLEMENTATION OF RECOMMENDATIONS.—If the report submitted pursuant to subsection (b) includes recommendations, the Bank may establish a more accurate methodology of the kind described in subsection (a) based on the recommendations.”

**§ 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 “non-competitive 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 Exim-

bank 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 non-competitive 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 insurance 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 I [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.