The Charter of the Export-Import Bank of the United States

as amended through P.L. 114-94, December 4, 2015, cited
as the Export Import Bank Act of 1945, as amended.
Certain provisions codified at 12 United States Code section 635 et seq.

Appendix contains other relevant provisions of Title 12 of the United States Code.

Updated February 29, 2016.

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Table of Contents

Charter Section	*U.S. Code Section (Title 12)*	*Description*	*Page No.*
2(a)(1)	635(a)(1)	Powers and Functions…….	9
2(a)(2)	635(a)(2)	Medium-Term Financing……	10
2(a)(3)	635(a)(3)	Enhancement Of Medium-Term Program……..	11
2(b)(1)(A)	635(b)(1)(A)	Objectives, Competitiveness Survey….	11
2(b)(1)(B)	635(b)(1)(B)	Private Capital, Reasonable Assurance of Repayment, Chafee Amendment……	12
2(b)(1)(C)	635(b)(1)(C)	Renewable Energy……..	14
2(b)(1)(D)	635(b)(1)(D)	Services……...	14
2(b)(1)(E)	635(b)(1)(E)	Small Business……	15
2(b)(1)(F)	635(b)(1)(F)	Foreign Credit Insurance Association….	18
2(b)(1)(G)	635(b)(1)(G)	Non-U.S. Persons……	18
2(b)(1)(H)	635(b)(1)(H)	High Technology Exports to Transitional Market Economies……..	18
2(b)(1)(I)	635(b)(1)(I)	Small Business and Rural Outreach……	19
2(b)(1)(J)	635(b)(1)(J)	Electronic Tracking of Pending Transactions……	20
2(b)(1)(K)	635(b)(1)(K)	Promotion of Renewable Energy Exports……	20
2(b)(1)(L)	635(b)(1)(L)	Denial of Support for Violations of US Law…….	20
2(b)(1)(M)	635 (b)(1)(M)	Electronic Payments and Documents.....	20
2(b)(2)	635(b)(2)	Marxist-Leninist Countries……...	20
2(b)(3)	635(b)(3)	Notification to Congress…….	23
2(b)(4)	635(b)(4)	Nuclear Safeguards…….	24
2(b)(5)	635(b)(5)	Prohibition of Financing to Countries in Armed Conflict with U.S. ……..	27
2(b)(6)(A)	635(b)(6)(A)	Prohibition on Financing Defense Articles and Services……...	28
2(b)(6)(B-G)	635(b)(6)(B-G)	Anti-Narcotics Exception to Defense Articles and Services Prohibition……	28
2(b)(6)(H)	635(b)(6)(H)	Report to Congress on Munitions List and Arms Export Control Act Items……	30
2(b)(6)(I)	635(b)(6)(I)	Dual Use Exception to Defense Articles and Services Prohibition…….	31

2(b)(7)	635(b)(7)	Limit on Bank Financing of Defense Articles and Services to Less Developed Countries…….	32
2(b)(8)	635(b)(8)	Agricultural Commodities……..	32
2(b)(9)	635(b)(9)	Sub-Saharan Africa……	33
2(b)(10)	635(b)(10)	Prohibition on Balance of Payments Financing……	34
2(b)(11)	635(b)(11)	Prohibition Relating to Angola……..	34
2(b)(12)	635(b)(12)	Prohibition Relating to Russian Transfers of Certain Missile Systems….	35
2(b)(13)	635(b)(13)	Prohibition on Assistance To Develop or Promote Certain Railway Connections and Railway-Related Connections……..	36
2(c)(1)	635(c)(1)	Fees Commensurate with Risks……..	36
2(c)(2)	635(c)(2)	Employment of Agents……...	36
2(c)(3)	635(c)(3)	Transferability of Guarantees…….	37
2(d)	635(d)	Insurance Opportunities……	37
2(e)	635(e)	Limitation on Assistance Which Adversely Affects the United States…	39
2(f)	635(f)	Authority to Deny Transactions for Fraud or Corruption …….	44
2(g)	635(g)	Process for Notifying Applicants of Application Status……...	44
2(h)	635(h)	Response to Application for Financing; Implementation of Online Loan Request and Tracking Process……..	45
2(i)	635(i)	Due Diligence Standards for Lender Partners……...	46
2(j)	635(j)	Non-subordination Requirement……..	46
2(k)	635(k)	Prohibition on Discrimination Based on Industry……..	46
3(a)	635a(a)	Independent Agency……...	47
3(b)	635a(b)	President and First Vice President……...	47
3(c)	635a(c)	Board of Directors……..	47
3(d)	635a(d)	Advisory Committee……...	51
3(e)(1)	635a(e)(1)	Conflict of Interest……..	53
3(e)(2)	635a(e)(2)	Assistant General Counsel for Administration……	53
3(f)	635a(f)	Small Business Division…….	53
3(g)	635a(g)	Small Business Specialists……..	54
3(h)	635a(h)	Small Business Committee…….	56

3(i)	635a(i)	Office of Financing for Socially and Economically Disadvantaged Small Business Concerns and Small Business Concerns Owned by Women…….	57
3(j)	635a(j)	Authority to Use Portion of Bank Surplus to Update Information Technology Systems……..……	58
3(k)	635a(k)	Office of Ethics…….…..	59
3(l)	635a(l)	Chief Risk Officer……...	60
3(m)	635a(m)	Risk Management Committee……..	61
4	635b	Capitalization of Bank…….…	62
5	635d	Authority to Issue Obligations…….…	62
6(a)	635e(a)	Aggregate Loan, Guarantee, and Insurance Authority – Limitation on Outstanding Amounts……...…	63
6(b)	635e(b)	Aggregate Loan, Guarantee, and Insurance Authority – Reserve Requirement.....	63
6(c)	635e(c)	Aggregate Loan, Guarantee, and Insurance Authority – Presidential Request for Additional Authority……	63
7	635f	Termination Date of Bank……..….	64
8	635g	Annual Report to Congress……..…	65
8A	635g-1	Annual Competitiveness Report…….	70
9	635h	Foreign Governments in Default…….	73
10	635i-3	Tied Aid Credit Program and Fund…….…	74
11	635i-5	Environmental Policy and Procedures…….	84
12	635i-6	Debt Reduction – Enterprise for the Americas Initiative……..	86
13	635i-7	Cooperation on Export Financing Programs…….	90
14	635i-8	Special Debt Relief for the Poorest, Most Heavily Indebted Countries…….....	90
15	635i-9	Market Windows……	91

Appendix

12 U.S.C., Chapter 6A, Subchapter I, General Provisions

Charter Section	*U.S. Code Section (Title 12)*	*Description*	*Page No.*
N/A	635a-1	Export Credit Competition……..	94
N/A	635a-2	Regulations Regarding Adverse Effect of Loans and Guarantees on U.S. Industry…….	94
N/A	635a-3	Export-Import Bank Financing to Match Foreign Financing……...	95
N/A	635a-4	Guarantees for Export Accounts Receivable and Inventory…….	96
N/A	635a-5	Negotiations to End Export Credit Financing….	97
N/A	635a-6	Periodic Audits Bank Transactions……..……..	99

12 U.S.C., Chapter 6A, Subchapter II, Export Financing

Charter Section	*U.S. Code Section (Title 12)*	*Description*	*Page No.*
N/A	635j	Export Financing Program to Foster Foreign Trade and Commercial Interest of the United States……	100
N/A	635k	Apportionment of Losses Incurred on Loans, Guarantees, and Insurance Extended Under this Subchapter……	101
N/A	635l	Authorization for Appropriation of Funds for Losses Under this Subchapter……	101
N/A	635m	Powers of the Bank…….	101
N/A	635n	Sales of Defense Articles under this Subchapter….	102

12 U.S.C., Chapter 6A, Subchapter I, Subchapter III, Tied Aid Credit Export Subsidies

Charter Section	*U.S. Code Section (Title 12)*	*Description*	*Page No.*
N/A	635o	Congressional Statement of Purpose……..	102
N/A	635p	Presidential Mandate to Negotiate……..	102
N/A	635q	Establishment of Tied Aid Credit Program in Export-Import Bank…….	103
N/A	635r	Establishment of Tied Aid Credit Program administered by the Trade and Development Agency…….....	104
N/A	635s	Implementation……	106
N/A	635t	Definitions……	106

Other Provisions Contained in Public Law 112-122

P.L 112-122 Section	*U.S. Code Section (Title 12)*	*Description*	*Page No.*
Sec. 18	635 note	Prohibitions on Financing for Certain Persons Involved in Sanctionable Activities With Respect to Iran……	108

Other Provisions Contained in Public Law 114-94[1]

P.L 114-94 Section	*U.S. Code Section (Title 12)*	*Description*	*Page No.*
Sec. 50001		Short Title……..……..	111
Sec. 51002		Increase in Loan Reserves……...	111
Sec. 51006		Risk Management Committee…….	111
Sec. 51007		Independent Audit of Bank Portfolio……..	111
Sec. 51008		Pilot Program for Reinsurance……	112
Sec. 52001		Increase in Small Business Lending Requirements……	113
Sec. 52002		Report on Programs for Small- and Medium-Sized Businesses……	113
Sec. 54001		Extension of Authority……..	113
Sec. 54002		Certain Updated Loan Terms and Amounts……..	113
Sec. 55002		Negotiations to End Export Credit Financing……	114
Sec. 55003		Study of Financing For Information and Communications Technology Systems…….	114

[1] Certain provisions in P.L. 114-94 were not codified in 12 U.S.C. §635 et seq., but are law. The provisions of such sections are separately included under "Other Provisions Contained in Public Law 114-94."

Sec. 2(a)(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 of goods and services, 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 of any such country, and in so doing to contribute to the employment of United States workers. The Bank's objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers. 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, United States Code, 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, United States Code, 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, United States Code. 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.

Sec. 2(a)(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;

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

(iii) with principal amounts of not more than $25,000,000; 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 institutions) to small business concerns regarding the medium-term financing provided under this paragraph.

Sec. 2(a)(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.

Sec. 2(b)(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, including countries the governments of which are not members of the Arrangement (as defined in section 10(h)(3)). 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.

Sec. 2(b)(1)(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 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; 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 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 (including, when relevant, a foreign nation's lack of cooperation in efforts to eradicate terrorism), nuclear proliferation, the enforcement of the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act [22 U.S.C. 2751 et seq.], the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or the Export Administration Act of 1979 [50 U.S.C. App. 2401 et seq.], environmental protection and human rights (such as are provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948) (including child labor), should the Export-Import Bank deny applications for credit for non-financial 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.

Sec. 2(b)(1)(C). Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, 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 non-nuclear 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.

Sec. 2(b)(1)(D). 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.

Sec. 2(b)(1)(E)(i)(I). It is further the policy of the United States to encourage the participation of small business in international commerce.

Sec. 2(b)(1)(E)(i)(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.

Sec. 2(b)(1)(E)(ii). It is further the policy of the United States that the Bank shall give due recognition to the policy stated in section 2(a) of the Small Business Act 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."

Sec. 2(b)(1)(E)(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, with particular emphasis on conducting outreach and increasing loans to socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act), small business concerns (as defined

in section 3(a) of the Small Business Act) owned by women, and small business concerns (as defined in section 3(a) of the Small Business Act) employing fewer than 100 employees, and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns.

Sec. 2(b)(1)(E)(iv). The Director appointed to represent the interests of small business under section 3(c) of this Act 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.

Sec. 2(b)(1)(E)(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 3 of the Small Business Act) which shall be not less than 25 percent of such authority for each fiscal year. From the amount made available under the preceding sentence, it shall be a goal of the Bank to increase the amount made available to finance exports directly by small business concerns referred to in section 3(i)(1).

Sec. 2(b)(1)(E)(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.

Sec. 2(b)(1)(E)(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 103 of the Small Business Investment Act of 1958), or other financing institutions or entities in order to finance small business exports.

Sec. 2(b)(1)(E)(vii)(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.

Sec. 2(b)(1)(E)(vii)(III). To the maximum extent practicable, the Bank shall delegate to the consortia or other financing institutions or entities the authority to approve financing under this clause (vii).

Sec. 2(b)(1)(E)(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.

Sec. 2(b)(1)(E)(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.

Sec. 2(b)(1)(E)(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.

Sec. 2(b)(1)(E)(x). The Bank shall implement technology improvements that are designed to improve small business outreach, including allowing customers to use the Internet to apply for the Bank's small business programs.

Sec. 2(b)(1)(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.

Sec. 2(b)(1)(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.

Sec. 2(b)(1)(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.

Sec. 2(b)(1)(H)(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 3(c) of the Support For East European Democracy (SEED) Act of 1989).

Sec. 2(b)(1)(H)(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 3 of the Small Business Act), 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 3 of the Support For East European Democracy (SEED) Act of 1989).

Sec. 2(b)(1)(H)(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.

Sec. 2(b)(1)(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.

Sec. 2(b)(1)(J). The Bank shall implement an electronic system designed to track all pending transactions of the Bank.

Sec. 2(b)(1)(K). The Bank shall promote the export of goods and services related to renewable energy sources.

Sec. 2(b)(1)(L). The Bank shall require an applicant for assistance from the Bank to disclose whether the applicant has been found by a court of the United States to have violated the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act [22 U.S.C. 2751 et seq.], the International Emergency Economic Powers Act [50 U.S.C. 1701 et seq.], or the Export Administration Act of 1979 [50 U.S.C. App. 2401 et seq.] within the preceding 12 months, and shall maintain, in cooperation with the Department of Justice, for not less than 3 years a record of such applicants so found to have violated any such Act.

Sec. 2(b)(1)(M). Not later than 2 years after the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 2015, the Bank shall implement policies –

(i) to accept electronic documents with respect to transactions whenever possible, including copies of bills of lading, certifications, and compliance documents, in such manner so as not to undermine any potential civil or criminal enforcement related to the transactions; and

(ii) to accept electronic payments in all of its programs.

Sec. 2(b)(2). Prohibition On Aid To Marxist-Leninist Countries.

Sec. 2(b)(2)(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.

Sec. 2(b)(2)(B). Marxist-Leninist Country Defined.[1]

(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) Democratic People's Republic of Korea.

(II) Democratic Republic of Afghanistan.

(III) People's Republic of China.

(IV) Republic of Cuba.

(V) Socialist Republic of Vietnam.

(VI) Tibet.

Sec. 2(b)(2)(C) Presidential determination that a country has ceased to be Marxist-Leninist. - If the President determines that any country on the list

[1] Cambodian People's Republic, Lao People's Democratic Republic, and Socialist Federal Republic of Yugoslavia were eliminated and the remaining countries were re-numbered accordingly. Export-Import Bank Reauthorization Act of 2012, Pub. L. No. 112-122, § 22, 126 Stat. 350, 363 (2012).

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.

Sec. 2(b)(2)(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.

Sec. 2(b)(2)(D)(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.

Sec. 2(b)(2)(D)(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.

Sec. 2(b)(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.

Sec. 2(b)(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 un-safeguarded 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 un-safeguarded 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.

Sec. 2(b)(4)(B)(i) If the Secretary of State makes a determination under subparagraph (A)(v) with respect 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 the 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 un-safeguarded 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, United States Code.

(ii) The term "knowingly" is used within the meaning of the term "knowing" in section 104(h)(3) of the Foreign Corrupt Practices Act (15 U.S.C. 78dd-2(h)(3)).

(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 830(5) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103-236; 108 Stat. 521).

(vi) The term "nuclear explosive device" has the meaning given the term in section 830(4) of the Nuclear Proliferation Prevention Act of 1994 (Public Law 103-236; 108 Stat. 521).

(vii) The term "un-safeguarded special nuclear material" has the meaning given the term in section 830(8) of the Nuclear Proliferation Prevention Act of 1994.

Sec. 2(b)(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.

Sec. 2(b)(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.

Sec. 2(b)(6)(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 490(e) of the Foreign Assistance Act of 1961 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.

Sec. 2(b)(6)(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 481(e) of the Foreign Assistance Act of 1961); and

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

Sec. 2(b)(6)(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 Financial Services 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.

Sec. 2(b)(6)(D)(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.

Sec. 2(b)(6)(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 502B of the Foreign Assistance Act of 1961 (relating to governments which engage in a consistent pattern of gross violations of internationally recognized human rights).

Sec. 2(b)(6)(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].

Sec. 2(b)(6)(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).

Sec. 2(b)(6)(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 Financial Services 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.

Sec. 2(b)(6)(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 non-lethal; 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 Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

Sec. 2(b)(6)(I)(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.

Sec. 2(b)(6)(I)(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 Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on 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.

Sec. 2(b)(7). In no event shall the Bank have outstanding at any time in excess of 7½ per centum of the limitation imposed by section 6 of this Act 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.

Sec. 2(b)(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 section 2(b)(1)(A) of this Act, 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.

Sec. 2(b)(9)(A). The Board of Directors of the Bank shall, in consultation with the Secretary of Commerce and the Trade Promotion Coordinating Committee, 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.

Sec. 2(b)(9)(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).

Sec. 2(b)(9)(B)(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.

Sec. 2(b)(9)(B)(iii). The advisory committee shall terminate on the date on which the authority of the Bank expires under section 7.

Sec. 2(b)(9)(C). The Bank shall include in the annual report to the Congress submitted under section 8(a) a separate section that contains a report on the efforts of the Bank to–

(i) improve its working relationships with the African Development Bank, the

African Export -Import Bank, and other institutions in the region that are relevant to the purposes of subparagraph (A) of this paragraph; and

(ii) coordinate closely with the United States Foreign Service and Foreign Commercial Service, and with the overall strategy of the United States Government for economic engagement with Africa pursuant to the African Growth and Opportunity Act [19 U.S.C. 3701 et seq.].

Sec. 2(b)(9)(D). Consistent with the requirement that the Bank obtain a reasonable assurance of repayment in connection with each transaction the Bank supports, the Bank shall, in consultation with the entities described in subparagraph (C), seek to qualify a greater number of appropriate African entities for participation in programs of the Bank.

Sec. 2(b)(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.

Sec. 2(b)(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.

Sec. 2(b)(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 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.

Sec. 2(b)(13). Prohibition on Assistance To Develop or Promote Certain Railway Connections and Railway-Related Connections. The Bank shall not guarantee, insure, or extend (or participate in the extension of) credit in connection with the export of any good or service relating to the development or promotion of any railway connection or railway-related connection that does not traverse or connect with Armenia and does traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.

Sec. 2(c)(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.

Sec. 2(c)(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.

Sec. 2(c)(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.

Sec. 2(d) Equal and nondiscriminatory opportunities for domestic companies to bid for insurance.

Sec. 2(d)(1). In carrying out its responsibilities under this Act, 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.

Sec. 2(d)(2) Competitive opportunity for insurance companies. In the case of any long-term loan or guarantee of not less than $25,000,000, 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.

Sec. 2(d)(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.

Sec. 2(d)(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).

Sec. 2(d)(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.

Sec. 2(e) Limitation on assistance which adversely affect[s] 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.

In making the determination under subparagraph (B), the Bank shall determine whether the facility that would benefit from the extension of a credit or guarantee is reasonably likely to produce a commodity in addition to, or other than, the commodity specified in the application and whether the production of the additional commodity may cause substantial injury to United States producers of the same, or a similar or competing, commodity.

Sec. 2(e)(2) Outstanding Orders and Preliminary Injury Determinations.
(A) Orders.- The Bank shall not provide any loan or guarantee to an entity for the resulting production of substantially the same product that is the subject of--
(i) a countervailing duty or antidumping order under title VII of the Tariff Act of 1930 [19 U.S.C. 1671 et seq.]; or **(ii)** a determination under title II of the Trade Act of 1974 [19 U.S.C. 2251 et seq.].

(B) Affirmative Determination.- Within 60 days after June 14, 2002, the Bank shall establish procedures regarding loans or guarantees provided to any entity that is subject to a preliminary determination of a reasonable indication of material injury to an industry under title VII of the Tariff Act of 1930. The procedures shall help to ensure that these loans and guarantees are likely to not result in a significant increase in imports of substantially the same product covered by the preliminary determination and are likely to not have a significant adverse impact on the domestic industry. The Bank shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of these procedures.

(C) Comment Period.- The Bank shall establish procedures under which the Bank shall notify interested parties and provide a comment period of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days) with regard to loans or guarantees reviewed pursuant to subparagraph (B) or (D).

(D) Consideration of Investigations under Title II of the Trade Act of 1974.- In making any determination under paragraph (1) for a transaction involving more than $10,000,000, the Bank shall consider investigations under title II of the Trade Act of 1974 that have been initiated at the request of the President of the United States, the United States Trade Representative, the Committee on Finance of the Senate, or the Committee on Ways and Means of the House of

Representatives, or by the International Trade Commission on its own motion.
(E) Anti-Circumvention. - The Bank shall not provide a loan or guarantee if the Bank determines that providing the loan or guarantee will facilitate circumvention of an order or determination referred to in subparagraph (A).

Sec. 2(e)(3) Exception. Paragraphs (1) and (2) 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.

Sec. 2(e)(4) 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.

Sec. 2(e)(5) Designation of Sensitive Commercial Sectors and Products. - Not later than December 20, 2006, the Bank shall submit a list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, which designates sensitive commercial sectors and products with respect to which the provision of financing support by the Bank is deemed unlikely by the President of the Bank due to the significant potential for a determination that such financing support would result in an adverse economic impact on the United States. The President of the Bank shall review on an annual basis thereafter the list of sensitive commercial sectors and products and the Bank shall submit an updated list to the Committee on

Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such sectors and products.

Sec. 2(e)(6) Financial Threshold Determinations. - For purposes of determining whether a proposed transaction exceeds a financial threshold under this subsection or under the procedures or rules of the Bank, the Bank shall aggregate the dollar amount of the proposed transaction and the dollar amounts of all loans and guarantees, approved by the Bank in the preceding 24-month period, that involved the same foreign entity and substantially the same product to be produced.

Sec. 2(e)(7) Procedures to Reduce Adverse Effects of Loans and Guarantees on Industries and Employment in United States. -

(A) Consideration of Economic Effects of Proposed Transactions.- If, in making a determination under this paragraph with respect to a loan or guarantee, the Bank conducts a detailed economic impact analysis or similar study, the analysis or study, as the case may be, shall include consideration of--

(i) the factors set forth in subparagraphs (A) and (B) of paragraph (1); and

(ii) the views of the public and interested parties.

(B) Notice and Comment Requirements.-

(i) In General.- If, in making a determination under this subsection with respect to a loan or guarantee, the Bank intends to conduct a detailed economic impact analysis or similar study, the Bank shall publish in the Federal Register a notice of the intent, and provide a period of not less than 14 days (which, on request by any affected party, shall be extended to a period of not more than 30 days) for the submission to the Bank of comments on the economic effects of the provision of the loan or guarantee, including comments on the factors set forth in subparagraphs (A) and (B) of paragraph (1). In addition, the Bank shall seek

comments on the economic effects from the Department of Commerce, the Office of Management and Budget, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives.

(ii) Content of Notice.- The notice shall include appropriate, nonproprietary information about--

(I) the country to which the goods involved in the transaction will be shipped;

(II) the type of goods being exported;

(III) the amount of the loan or guarantee involved;

(IV) the goods that would be produced as a result of the provision of the loan or guarantee;

(V) the amount of increased production that will result from the transaction;

(VI) the potential sales market for the resulting goods; and

(VII) the value of the transaction.

(iii) Procedure Regarding Materially Changed Applications.-

(I) In General.- If a material change is made to an application for a loan or guarantee from the Bank after a notice with respect to the intent described in clause (i) is published under this subparagraph, the Bank shall publish in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

(II) Material Change Defined.- As used in subclause (I), the term `material change', with respect to an application, includes--

(aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and

(bb) a change in the principal product to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

(C) Requirement to Address Views of Adversely Affected Persons.- Before taking final action on an application for a loan or guarantee to which this section

applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments pursuant to subparagraph (B).

(D) Publication of Conclusions.- Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

(E) Maintenance of Documentation.—The Bank shall maintain documentation relating to economic impact analyses and similar studies conducted under this subsection in a manner consistent with the Standards for Internal Control of the Federal Government issued by the Comptroller General of the United States.

(F) Rule of Interpretation.- This paragraph shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.

(G) Regulations.- The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.

Sec. 2(f) Authority to Deny Application for Assistance Based on Fraud or Corruption by Party Involved in the Transaction.- In addition to any other authority of the Bank, the Bank may deny an application for assistance with respect to a transaction if the Bank has substantial credible evidence that any party to the transaction or any party involved in the transaction has committed an act of fraud or corruption in connection with the transaction.

Sec. 2(g) Process for Notifying Applicants of Application Status.- The Bank shall establish and adhere to a clearly defined process for--

(1) acknowledging receipt of applications;

(2) informing applicants that their applications are complete or, if incomplete or containing a minor defect, of the additional material or changes that, if supplied or made, would make the application eligible for consideration; and

(3) keeping applicants informed of the status of their applications, including a clear and timely notification of approval or disapproval, and, in the case of disapproval, the reason for disapproval, as appropriate.

Sec. 2(h) Response to Application for Financing; Implementation of Online Loan Request and Tracking Process. -

(1) Response to Applications.- Within 5 days after the Bank receives an application for financing, the Bank shall notify the applicant that the application has been received, and shall include in the notice--

(A) a request for such additional information as may be necessary to make the application complete;

(B) the name of a Bank employee who may be contacted with questions relating to the application; and

(C) a unique identification number which may be used to review the status of the application at a website established by the Bank.

(2) Website.- Not later than September 1, 2007, the Bank shall exercise the authority granted by subparagraphs (E)(x) and (J) of subsection (b)(1) to establish, and thereafter to maintain, a website through which--

(A) Bank products may be applied for; and

(B) information may be obtained with respect to--

(i) the status of any such application;

(ii) the Small Business Division of the Bank; and

(iii) incentives, preferences, targets, and goals relating to small business concerns (as defined in Section 3(a) of the Small Business Act), including small

business concerns exporting to Africa.

Sec. 2(i) Due Diligence Standards for Lender Partners.—The Bank shall set due diligence standards for its lender partners and participants, which should be applied across all programs consistently. To minimize or prevent fraudulent activity, the Bank should require all delegated lenders to implement 'Know your customer practices'.

Sec. 2(j) Non-Subordination Requirement.—In entering into financing contracts, the Bank shall seek a creditor status which is not subordinate to that of all other creditors, in order to reduce the risk to, and enhance recoveries for, the Bank.

Sec. 2(k) Prohibition on Discrimination Based on Industry. –
(1) In general. – Except as provided in this Act, the Bank may not –
(A) deny an application for financing based solely on the industry, sector, or business that the application concerns; or
(B) promulgate or implement policies that discriminate against an application based solely on the industry, sector, or business that the application concerns.
(2) Applicability. – The prohibitions under paragraph (1) apply only to applications for financing by the Bank for projects concerning the exploration, development, production, or export of energy sources and the generation or transmission of electrical power, or combined heat and power, regardless of the energy source involved.

Sec. 3(a). 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.

Sec. 3(b). 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.

Sec. 3(c)(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.

Sec. 3(c)(2). Of the five members of the Board, not more than three shall be members of any one political party.

Sec. 3(c)(3). Omitted in order to conform to 5 U.S. Code §§ 5314 and 5315.

Sec. 3(c)(4). Before entering upon his duties, each of the directors shall take an oath faithfully to discharge the duties of his office.

Sec. 3(c)(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.

Sec. 3(c)(6). A quorum of the Board of Directors shall consist of at least three members.

Sec. 3(c)(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.

Sec. 3(c)(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.

Sec. 3(c)(8)(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.

Sec. 3(c)(8)(C). Any person chosen to fill a vacancy shall be appointed only for the unexpired term of the director whom such person succeeds.

Sec. 3(c)(8)(D). Any director whose term has expired may be reappointed.

Sec. 3(c)(8)(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.

Sec. 3(c)(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.

Sec. 3(c)(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 2(b)(3) 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.

Sec. 3(d)(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.

Sec. 3(d)(1)(B). Such members shall be broadly representative of environment, production, commerce, finance, agriculture, labor, services, State government, and the textile industry.

Sec. 3(d)(2)(A). Not less than three members appointed to the Advisory Committee shall be representative of the small business community.

Sec. 3(d)(2)(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.

Sec. 3(d)(2)(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.

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

Sec. 3(d)(4). The Advisory Committee shall advise the Bank on its programs, and shall submit, with the report specified in section 2(b)(1)(A) of this Act, 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.

Sec. 3(d)(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.

Sec. 3(e)(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.

Sec. 3(e)(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.

Sec. 3(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 2(b)(1)

relating to outreach, feedback, product improvement, and transaction advocacy for small business concerns (as defined in section 3(a) of the Small Business Act);

(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 2(b)(1)(E)(x).

(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 section 3(c)(8)(B) to represent the interests of small business, on matters of interest to, and concern for, small business.

Sec. 3(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 3(a) of the Small Business Act).

(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, exporter 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 Act shall be construed to prevent the delegation to the Division of any authority necessary to carry out subparagraphs (E) and (I) of section 2(b)(1).

Sec. 3(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 3(a) of the Small Business Act), 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 2(b)(1)(E) (v) and (x), 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.

Sec. 3(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 8(a)(4) of the Small Business Act) 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.

Sec. 3(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 vulnerabilities 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.

Sec. 3(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 the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 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.

Sec. 3(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 the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 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 transaction 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.

Sec. 3(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 8(g).

Sec. 4. 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.

Sec. 5. 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.

Sec. 6. Aggregate loan, guarantee, and insurance authority.

Sec. 6(a) Limitation on outstanding amounts.

(1) In general.- The Export-Import Bank of the United States shall not have outstanding at any one time loans, guarantees, and insurance in an aggregate amount in excess of the applicable amount.

(2) Applicable amount defined. – In this subsection, the term 'applicable amount', for each of fiscal years 2015 through 2019, means $135,000,000,000.

(3) Freezing of lending cap if default rate is 2 percent or more. If the rate calculated under section 8(g)(1) is 2 percent or more for a quarter, the Bank may not exceed the amount of loans, guarantees, and insurance outstanding on the last day of that quarter until the rate calculated under section 8(g)(1) is less than 2 percent.

(4) Subject to Appropriations.- All spending and credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Sec. 6(b) Reserve Requirement. – The Bank shall build to and hold in reserve, to protect against future losses, an amount that is not less than 5 percent of the aggregate amount of disbursed and outstanding loans, guarantees, and insurance of the Bank.

Sec. 6(c) 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)(A) Request for legislation.- 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 Act, unless otherwise directed pursuant to law.

Sec. 7. The 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, 2019, 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.

Sec. 8(a). The Export-Import Bank of the United States shall transmit to the Congress annually a complete and detailed report of its operations. Such report shall be as of the close of business on the last day of each fiscal year.

Sec. 8(b)(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 2(b)(1)(E).

(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 2(b)(1)(E)(vii);

(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 2(b)(1)(E).

(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.

(c)Technology to Assist Small Businesses.- The Bank shall include in its annual report to the Congress under subsection (a) of this section for each of fiscal years 2002 through 2006 a report on the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of section 2(b)(1) of this Act, and on how the efforts are assisting small business concerns (as defined in section 3(a) of the Small Business Act).

(d) Number of Small Business Suppliers of Bank Users.- The Bank shall estimate on the basis of an annual survey or tabulation the number of entities that are suppliers of users of the Bank and that are small business concerns (as defined in section 3(a) of the Small Business Act) located in the United States, and shall include the estimate in its annual report to the Congress under subsection (a) of this section.

(e) Outreach to Certain Small Businesses.- The Bank shall include in its annual report to the Congress under subsection (a) of this section a description of outreach efforts made by the Bank to any socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act), small business concerns (as defined in section 3(a) of the Small Business Act) owned by women, and small business concerns (as defined in section 3(a) of the Small Business Act) employing fewer than 100 employees.

(f) Additional Reports. - Not later than March 31 of each year, the Bank 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 reports on--

(1) the extent to which the Bank has been able to use the authority provided, and has complied with the mandates contained, in section 2(b)(1)(E), and to the extent the Bank has been unable to fully use such authority and comply with such

mandates, a report on the reasons for the Bank's inability to do so and the steps the Bank is taking to remedy such inability;

(2) the extent to which financing has been made available to small business concerns (described in subsection (e)) to enable them to participate in exports by major contractors, including through access to the supply chains of the contractors through direct or indirect funding;

(3) the specific measures the Bank will take in the upcoming year to achieve the small business objectives of the Bank, including expanded outreach, product improvements, and related actions;

(4) the progress made by the Bank in supporting exports by socially and economically disadvantaged small business concerns (defined in section 8(a)(4) of the Small Business Act) and small business concerns (as defined in section 3(a) of the Small Business Act) owned by women, including estimates of the amounts

made available to finance exports directly by such small business concerns, a comparison of these amounts with the amounts made available to all small business concerns, and a comparison of such amounts with the amounts so made available during the 2 preceding years;

(5) with respect to each type of transaction, the interest and fees charged by the Bank to exporters (including a description of fees and interest, if any, charged to small business concerns), buyers, and other applicants in connection with each financing program of the Bank, and the highest, lowest, and average fees charged by the Bank for short term insurance transactions;

(6) the effects of the fees on the ability of the Bank to achieve the objectives of the Bank relating to small business;

(7) the fee structure of the Bank as compared with those of foreign export credit agencies; and

(8)(A) the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of

section 2(b)(1) of the Export-Import Bank Act of 1945, including the total amount expended by the Bank to do so; and

(B) if the Bank has been unable to comply with such subparagraphs--

(i) an analysis of the reasons therefor; and

(ii) what the Bank is doing to achieve, and the date by which the Bank expects to have achieved, such compliance.

(g) Monitoring of Default Rates on Bank Financing; Reports on Default Rates; Safety and Soundness Review.

(1) Monitoring of Default Rates.—Not less frequently than quarterly, the Bank shall calculate the rate at which the entities to which the Bank has provided short-, medium-, or long-term financing are in default on a payment obligation under the financing, by dividing the total amount of the required payments that are overdue by the total amount of the financing involved.

(2) Additional Calculation By Type of Product, By Key Market, and By Industry Sector; Report to Congress.—In addition, the Bank shall, not less frequently than quarterly—

(A) calculate the rate of default—

(i) with respect to whether the products involved are short-term loans, medium-term loans, long-term loans, insurance, medium-term guarantees, or long-term guarantees;

(ii) with respect to each key market involved; and

(iii) with respect to each industry sector involved; and

(B) submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on each such rate and any information the Bank deems relevant.

(3) Report on Causes of Default Rate; Plan to Reduce Default Rate.—Within 45 days after a rate calculated under paragraph (1) equals or exceeds 2 percent, the Bank shall submit to the Congress a written report that explains the

circumstances that have caused the default rate to be at least 2 percent, and includes a plan to reduce the default rate to less than 2 percent.

(4) Plan Contents.—The plan referred to in paragraph (3) shall—

(A) provide a detailed explanation of the processes and controls by which the Bank monitors and tracks outstanding loans;

(B) detail specific planned actions, including a time frame for completing the actions, to reduce the default rate described in paragraph (1) to less than 2 percent.

(5) Monthly Reports Required While Default Rate is At Least 2 Percent.—For so long as the default rate calculated under paragraph (1) is at least 2 percent, the Bank shall submit monthly reports to the Congress describing the specific actions taken during such period to reduce the default rate.

(6) Safety and Soundness Review.—If the default rate calculated under paragraph (1) remains above 2 percent for a period of 6 months, the Secretary of the Treasury shall provide for an independent third party to—

(A) conduct a review of the loan programs and funds of the Bank, which shall determine—

(i) the financial safety and soundness of the programs and funds; and

(ii) the extent of loan loss reserves and capital adequacy of the programs and funds; and

(B) submit to the Secretary, within 60 days after the end of the 6-month period, a report that—

(i) describes the methodology and standards used to conduct the review required by subparagraph (A);

(ii) sets forth the results and findings of the review, including the extent of loan loss reserves and capital adequacy of the programs and funds of the Bank; and

(iii) includes recommendations regarding restoring the reserves and capital to maintain the programs and funds in a safe and sound condition.

(h) Categorization of Purpose of Loans and Long-term Guarantees.—In the annual report of the Bank under subsection (a), the Bank shall categorize each loan and long-term guarantee made by the Bank in the fiscal year covered by the report, and according to the following purposes:

(1) 'To assume commercial or political risk that exporter or private financial institutions are unwilling or unable to undertake'.

(2) 'To overcome maturity or other limitations in private sector export financing'.

(3) 'To meet competition from a foreign, officially sponsored, export credit competition'.

(4) 'Not identified', and the reason why the purpose is not identified.

(i) Access to Bank Products by the Textile Industry.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a report on the determinations made by the Advisory Committee under section 3(d)(5) in the year covered by the report.

(j) Textile and Apparel Supply Chain Financing.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a description of the success of the Bank in providing effective and reasonably priced financing to the United States textile and apparel industry for exports of goods manufactured in the United States that are used as components in global textile and apparel supply chains in the year covered by the report, and steps the Bank has taken to increase the use of Bank products by such firms.

(k) Report on programs for small- and medium-sized businesses. – The Bank shall include in its annual report to Congress under subsection (a) a report on the programs of the Bank for United States businesses with less than $250,000,000 in annual sales.

Sec. 8A. Annual Competitiveness Report.

(a) In General.- Not later than June 30 of each year, the Bank shall submit to the appropriate congressional committees a report that includes the following:

(1) Actions of Bank in Providing Financing on a Competitive Basis, and to Minimize Competition in Government-Supported Export Financing.- A description of the actions of the Bank in complying with the second and third sentences of section 2(b)(1)(A). In this part of the 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 United States exporters (including through use of market windows (as defined pursuant to section 10(h)(7))) and, to the extent such information is available to the Bank, 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. With respect to the preceding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from each such government and government-related agency. In this part of the report, the Bank shall include a survey of a representative number of United States exporters and United States commercial lending institutions which provide export credit on the experience of the exporters and institutions in meeting financial competition from other countries whose exporters compete with United States exporters.

(2) Role of Bank in Implementing Strategic Plan Prepared by the Trade Promotion Coordinating Committee.- A description of the role of the Bank in implementing the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988.

(3) Tied Aid Credit Program and Fund.- The report required by section 10(g).

(4) Purpose of All Bank Transactions.- A description of all Bank transactions which shall be classified according to their principal purpose, such as to correct

a market failure or to provide matching support.

(5) Efforts of Bank to Promote Export of Goods and Services Related to Renewable Energy Sources.- A description of the activities of the Bank with respect to financing renewable energy projects undertaken under section 2(b)(1)(K), and an analysis comparing the level of credit extended by the Bank for renewable energy projects with the level of credit so extended for the preceding fiscal year.

(6) Size of Bank Program Account.- A separate section which--

(A) compares, to the extent practicable, the size of the Bank program account with the size of the program accounts of the other major export-financing facilities referred to in paragraph (1); and

(B) makes recommendations, if appropriate, with respect to the relative size of the Bank program account, based on factors including whether the size differences are in the best interests of the United States taxpayer.

(7) Co-Financing Programs of the Bank and of Other Export Credit Agencies.- A description of the co-financing programs of the Bank and of the other major export-financing facilities referred to in paragraph (1), which includes a list of countries with which the United States has in effect a memorandum of understanding relating to export credit agency co-financing and, if such a memorandum is not in effect with any country with a major export credit-financing facility, an explanation of why such a memorandum is not in effect.

(8) Services Supported by the Bank and by Other Export Credit Agencies.- A separate section which describes the participation of the Bank in providing funding, guarantees, or insurance for services, which shall include appropriate information on the involvement of the other major export-financing facilities referred to in paragraph (1) in providing such support for services, and an explanation of any differences among the facilities in providing the support.

(9) Export Finance Cases Not in Compliance with the Arrangement.-

Detailed information on cases reported to the Bank of export financing that appear not to comply with the Arrangement (as defined in section 10(h)(3)) or that appear to exploit loopholes in the Arrangement for the purpose of obtaining a commercial competitive advantage. The President of the Bank, in consultation with the Secretary of the Treasury, may provide to the appropriate congressional committees the information required by this subsection in a separate and confidential report, instead of providing such information in the report required by this subsection.

(10) Foreign Export Credit Agency Activities Not Consistent with the WTO Agreement on Subsidies and Countervailing Measures.- A description of the extent to which the activities of foreign export credit agencies and other entities sponsored by a foreign government, particularly those that are not members of the Arrangement (as defined in section 10(h)(3)), appear not to comply with the Arrangement and appear to be inconsistent with the terms of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)), and a description of the actions taken by the United States Government to address the activities. The President of the Bank, in consultation with the Secretary of the Treasury, may provide to the appropriate congressional committees, the information required by this subsection in a separate and confidential report, instead of providing such information in the report required by this subsection.

(b) Inclusion of Additional Comments.- The report required by subsection (a) shall include such additional comments as any member of the Board of Directors may submit to the Board for inclusion in the report.

(c) Appropriate Congressional Committees.- The term `appropriate congressional committees' means the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

Sec. 9. Notwithstanding the provisions of section 955 of Title 18, United States Code, 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.

Sec. 10 Tied Aid Credit Program and Fund.

(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;

(5) the Bank has, at a minimum, the following two tasks--

(A)(i) first, the Bank should match foreign export credit agencies and aid agencies when they engage in tied aid outside the confines of the Arrangement and when they exploit loopholes, such as untied aid;

(ii) such matching is needed to provide the United States with leverage in efforts at the OECD to reduce the overall level of export subsidies;**(iii)** only through matching foreign export credit offers can the Bank buttress United States

negotiators in their efforts to bring these loopholes within the disciplines of the Arrangement; and

(iv) in order to bring untied aid within the discipline of the Arrangement, the Bank should consider initiating highly competitive financial support when the Bank learns that foreign untied aid offers will be made; and**(B)** second, the Bank should support United States exporters when the exporters face foreign competition that is consistent with the Arrangement and the Subsidies Code of the World Trade Organization, but which places United States exporters at a competitive disadvantage; and

(6) there should be established in the Bank a tied aid program to target the export markets of those countries, including those that are not a party to the Arrangement, which make extensive use of tied aid or partially untied aid credits, or untied aid

used to promote exports as if it were tied aid, 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, or untied aid used to promote exports as if it were tied aid, for commercial purposes; and such program should be used aggressively for such purposes; and

(C) promoting compliance with Arrangement rules among foreign export credit agencies that are not a party to the Arrangement.

(b) Establishment of tied aid credit program.

Sec. 10(b)(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)--

(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.

Sec. 10(b)(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 principles, process, and standards developed pursuant to paragraph (5) of this subsection and the purposes described in subsection (a)(5);

(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.

Sec. 10(b)(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 Act;

(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.

Sec. 10(b)(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).

Sec. 10(b)(5) Principles, Process, and Standards Governing Use of the Fund.-

(A) In general. The Secretary and the Bank jointly shall develop a process for,

and the principles and standards to be used in, determining how the amounts in the Tied Aid Credit Fund could be used most effectively and efficiently to carry out the purposes of subsection (a)(6).

(B) Content of Principles, Process, and Standards.-(i) Consideration of Certain Principles and Standards. In developing the principles and standards referred to in subparagraph (A), the Secretary and the Bank shall consider administering the Tied Aid Credit Fund in accordance with the following principles and standards:

(I) The Tied Aid Credit Fund should be used to leverage multilateral negotiations to restrict the scope for aid-financed trade distortions through new multilateral rules, to police existing rules, and to seek compliance by those countries that are not a party to the Arrangement.

(II) The Tied Aid Credit Fund will be used to counter a foreign tied aid credit confronted by a United States exporter when bidding for a capital project.

(III) Credible information about an offer of foreign tied aid will be required before the Tied Aid Credit Fund is used to offer specific terms to match such an offer. In cases where information about a specific offer of foreign tied aid (or untied aid used to promote exports as if it were tied aid) is not available in a timely manner, or is unavailable because the foreign export credit agency involved is not subject to the reporting requirements under the Arrangement, then the Bank may decide to use the Tied Aid Credit Fund based on credible evidence of a history of such offers under similar circumstances or other forms of credible evidence.

(IV) The Tied Aid Credit Fund will be used to enable a competitive United States exporter to pursue further market opportunities on commercial terms made possible by the use of the Fund.

(V) Each use of the Tied Aid Credit Fund will be in accordance with the

Arrangement unless a breach of the Arrangement has been committed by a foreign export credit agency.

(VI) The Tied Aid Credit Fund may only be used to defend potential sales by United States companies to a project that is environmentally sound.(

(VII) The Tied Aid Credit Fund may be used to preemptively counter potential foreign tied aid offers without triggering foreign tied aid use.

(ii) Process. - In handling individual applications involving the use or potential use of the Tied Aid Credit Fund the following process shall exclusively apply pursuant to subparagraph (A):

(I) The Bank shall process an application for tied aid in accordance with the principles and standards developed pursuant to subparagraph (A) and clause (i) of this subparagraph.

(II) Twenty days prior to the scheduled meeting of the Board of Directors at which an application will be considered (unless the Bank determines that an earlier discussion is appropriate based on the facts of a particular financing), the Bank shall brief the Secretary on the application and deliver to the Secretary such documents, information, or data as may reasonably be necessary to permit the Secretary to review the application to determine if the application complies with the principles and standards developed pursuant to subparagraph (A) and clause (i) of this subparagraph.

(III) The Secretary may request a single postponement of the consideration by the Board of Directors of the application for up to 14 days to allow the Secretary to submit to the Board of Directors a memorandum objecting to the application.

(IV) Case-by-case decisions on whether to approve the use of the Tied Aid Credit Fund shall be made by the Board of Directors, except that the approval of the Board of Directors (or a commitment letter based on that approval) shall not become final (except as provided in subclause (V)), if the Secretary indicates to the President of the Bank in writing the Secretary's intention to appeal the

decision of the Board of Directors to the President of the United States and makes the appeal in writing not later than 20 days after the meeting at which the Board of Directors considered the application.

(V) The Bank shall not grant final approval of an application for any tied aid credit (or a commitment letter based on that approval) if the President of the United States, after consulting with the President of the Bank and the Secretary, determines within 30 days of an appeal by the Secretary under subclause (IV) that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6). If no such Presidential determination is made during the 30-day period, the approval by the Bank of the application (or related commitment letter) that was the subject of such appeal shall become final.

(C) Initial principles, process, and standards.- As soon as is practicable but not later than 6 months after June 14, 2002, the Secretary and the Bank 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 copy of the principles, process, and standards developed pursuant to subparagraph (A).

(D) Transitional principles and standards.- The principles and standards set forth in subparagraph (B)(i) shall govern the use of the Tied Aid Credit Fund until the principles, process, and standards required by subparagraph (C) are submitted.

(E) Update and revision.- The Secretary and the Bank jointly should update and revise, as needed, the principles, process, and standards developed pursuant to subparagraph (A), and, on doing so, 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 copy of the principles, process, and standards so updated and revised.

Sec. 10(b)(6) Reconsideration of Decisions. (A) In General.- Taking into consideration the time sensitivity of transactions, the Board of Directors of the Bank shall expeditiously pursuant to paragraph (2) reconsider a decision of the Board to deny an application for the use of the Tied Aid Credit Fund if the applicant submits the request for reconsideration within 3 months of the denial.
(B) Procedural Rules.- In any such reconsideration, the applicant may be required to provide new information on the application.

Sec. 10(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).
(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) and to reimburse the Bank for the amount equal to the concessionality level of any tied aid credits authorized by the Bank.

Sec. 10(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.

Sec. 10(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.

Sec. 10(f) Nonreviewability.- No action taken under this section shall

be reviewable by any court, except for abuse of discretion.

Sec. 10(g) Report to Congress.-

(1) In general.- The Bank, in consultation with the Secretary, shall submit an annual report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services 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.

Sec. 10(g)(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.

Sec. 10(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.

(7) Market window.- The Bank, in consultation with the Secretary of the Treasury, shall define "market window" for purposes of this section.

Sec. 11. Environmental Policy and Procedures.

(a) Environmental effects consideration.-

(1) In general.- Consistent with the objectives of section 2(b)(1)(A), 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 provide for the public disclosure of environmental assessments and supplemental environmental reports required to be submitted to the Bank, including remediation or mitigation plans and procedures, and related monitoring reports. The preceding sentence shall not be interpreted to require the public disclosure of any information described in section 1905 of title 18, United States Code. Such procedures shall apply to any transaction involving a project--

(A) for which long-term support of $25,000,000 (or, if less than $25,000,000, the threshold established pursuant to international agreements, including the Common Approaches for Officially Supported Export Credits and Environmental and Social Due Diligence, as adopted by the Organisation for Economic Co-operation and Development Council on June 28, 2012, and the

risk-management framework adopted by financial institutions for determining, assessing, and managing environmental and social risk in projects (commonly referred to as the 'Equator Principles')) 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.

Sec. 11(a)(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.

Sec. 11(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 502(5) of the Federal Credit Reform Act of 1990) 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.

Sec. 11(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).

Sec. 11(d) Interpretation.- Nothing in this section shall be construed to create any cause of action.

Sec. 12 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 subsection (b);

(2) the term "Facility" means the entity established in the Department of the Treasury by section 601 of the Agricultural Trade Development and Assistance Act of 1954; and

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

Sec. 12 (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.

Sec. 12(b)(2) Eligibility determinations.- The President shall determine whether a country is an eligible country for purposes of paragraph (1).

Sec. 12(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 Act, 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 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 607 through 612 of the Agricultural Trade Development and Assistance Act of 1954, if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

Sec. 12(c)(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.

Sec. 12(c)(3) Treatment under securities laws.- The filing of a registration statement under the Securities Act of 1933 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 [15 U.S.C. 77a et seq.], 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.

Sec. 12(c)(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.

Sec. 12(c)(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.].

Sec. 12(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.

Sec. 12(e) Eligible purchasers.- A loan may be sold pursuant to subsection (c)(1)(A) 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.

Sec. 12(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.

Sec. 12(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.

Sec. 13 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 2301(f)(2) of the Export Enhancement Act of 1988, undertake a program to provide training for personnel designated in such memoranda with respect to such financing programs.

Sec. 14 Special debt relief for the poorest, most heavily indebted countries.-

(a) Debt Reduction Authority.- The President may reduce amounts of *principal* and interest owed by any eligible country to the Bank as a result of loans or guarantees made under this Act.

(b) Limitations.-

(1) Types of debt reduction.- The authority provided by subsection (a) 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) Definition.- As used in subsection (a), 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).

(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) may be exercised only in such amounts or to such extent as is provided in advance in appropriations Acts.

Sec. 15. Market Windows.

(a) Enhanced Transparency.- To ensure that the Bank financing remains fully competitive, the United States should seek enhanced transparency over the activities of market windows in the OECD Export Credit Arrangement. If such transparency indicates that market windows are disadvantaging United States exporters, the United States should seek negotiations for multilateral disciplines and transparency within the OECD Export Credit Arrangement.

(b) Authorization.- The Bank may provide financing on terms and conditions

that are inconsistent with those permitted under the OECD Export Credit Arrangement—

(1) to match financing terms and conditions that are being offered by market windows on terms that are inconsistent with those permitted under the OECD Export Credit Arrangement, if—

(A) matching such terms and conditions advances the negotiations for multilateral disciplines and transparency within the OECD Export Credit Arrangement; or

(B) transparency verifies that the market window financing is being offered on terms that are more favorable than the terms and conditions that are available from private financial markets; and

(2) when the foreign government-supported institution refuses to provide sufficient transparency to permit the Bank to make a determination under paragraph (1).

(A) Definition.- In this section, the term "OECD" means the Organization for Economic Cooperation and Development.

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Appendix

Additional Provisions of Title 12

Title 12, Chapter 6A, Subchapter I – General Provisions

12 U.S.C. 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.

12 U.S.C. 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, 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.

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

12 U.S.C. 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.

12 U.S.C. 635a-5. Negotiations to End Export Credit Financing.

(a) In General.—The President shall initiate and pursue negotiations—

(1) with other major exporting countries, including members of the Organisation for Economic Co-operation and Development (in this section referred to as the 'OECD') and non-OECD members, to substantially reduce, with possible goal of eliminating, before the date that is 10 years after the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 2015, subsidized export financing programs and other forms of export subsidies; and

(2) with all countries that finance air carrier aircraft with funds from a state-sponsored entity, to substantially reduce, with the ultimate goal of eliminating, aircraft export credit financing for all aircraft covered by the 2007 Sector Understanding on Export Credits for Civil Aircraft (in this section referred to as the "ASU"), including any modification thereof, and all of the following types of aircraft:

(A) Heavy aircraft that are capable of a takeoff weight of 300,000 pounds or more, whether or not operating at such a weight during a particular phase of flight.

(B) Large aircraft that are capable of a takeoff weight of more than 41,000 pounds, and have a maximum certificated takeoff weight of not more than 300,000 pounds.

(C) Small aircraft that have a maximum certificated takeoff weight of 41,000 pounds or less.

(b) Annual Reports on Progress of Negotiations.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(1) a report on the progress of any negotiations described in subsection (a)(1), until the President certifies in writing to the committees that all countries that support subsidized export financing programs have agreed to end the support; and

(2) a report on the progress of any negotiations described in subsection (a)(2), including the progress of any negotiations with respect to each classification of aircraft set forth in subsection (a)(2), until the President certifies in writing to the committees that all countries that support subsidized export financing programs have agreed to end the support of aircraft covered by the ASU.

(c) Report on Strategy. – Not later than 180 days after the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 2015, the President shall submit to Congress a proposal, and strategy for achieving the proposal, that the United States Government will pursue with other major exporting countries, including OECD members and non-OECD members, to eliminate over a period of not more than 10 years subsidized export-financing programs, tied aid, export credits, and all other forms of government-supported export subsidies.

(d) Negotiations with non-OECD Members. – The President shall initiate and pursue negotiations with countries that are not OECD members to bring those countries into a multilateral agreement establishing rules and limitations on officially supported export credits.

(e) Annual Reports on Progress of Negotiations. – Not later than 180 days after the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 2015, and annually thereafter through calendar year 2019, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the progress of any negotiations described in subsection (d).

12 U.S.C. 635a-6. Periodic Audits Bank Transactions.

(a) In General.—Within 2 years after the date of the enactment of this Act, and periodically (but not less frequently than every 4 years) thereafter, the Comptroller General of the United States shall conduct an audit of the loan and guarantee transactions of the Export-Import Bank of the United States to determine the compliance of the Bank with the underwriting guidelines, lending policies, due diligence procedures, and content guidelines of the Bank.

(b) Review of Fraud Controls.—Not later than 4 years after the date of the enactment of the Export-Import Bank Reform and Reauthorization Act of 2015, and every 4 years thereafter, the Comptroller General of the United States shall –

(1) review the adequacy of the design and effectiveness of the controls used by the Export-Import Bank of the United States to prevent, detect, and investigate fraudulent applications for loans and guarantees and the compliance by the Bank with the controls, including by auditing a sample of Bank transactions; and

(2) submit a written report regarding the findings of the review and providing such recommendations with respect to the controls described in paragraph (1) as the Comptroller General deems appropriate to –

(A) the Committee on Banking, Housing, and Urban Affairs and the Committee

on Appropriations of the Senate; and

(B) the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.

Title 12, Chapter 6A, Subchapter II – Export Financing

12 U.S.C. 635j. Authorization for appropriation of funds for losses.

(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 re-insurance) 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.

12 U.S.C. 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 635l 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.

12 U.S.C. 635l. 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.

12 U.S.C. 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, and 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.

12 U.S.C. 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.

Title 12, Chapter 6A, Subchapter III – Tied Aid Credit Export Subsidies

12 U.S.C. 635o. 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.

12 U.S.C. 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 co-financing, 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.

12 U.S.C. 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.

12 U.S.C. 635r. Establishment of tied aid credit program administered by the 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.A. 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.A. 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.

12 U.S.C. 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.

12 U.S.C. 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 co-financing" 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.

Other Provisions Contained in P.L. 112-122 (Export-Import Bank Reauthorization Act of 2012)

(Cited by section number in P.L. 112-122)

Sec. 18. Prohibitions on Financing for Certain Persons Involved in Sanctionable Activities With Respect to Iran. (12 U.S.C. § 635 note)

(a) Prohibition on Financing for Persons that Engage in Certain Sanctionable Activities.—

(1) In General.—Beginning on the date that is 180 days after the date of the enactment of this Act, the Board of Directors of the Export-Import Bank of the United States may not approve any transaction that is subject to approval by the Board with respect to the provision by the Bank of any guarantee, insurance, or extension of credit, or the participation by the Bank in any extension of credit, to a person in connection with the exportation of any good or service unless the person makes the certification described in paragraph (2).

(2) Certification Described.—The certification described in this paragraph is a certification by a person—

(A) that neither the person nor any other person owned or controlled by the person—

(i) engages in any activity described in section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note) for which the person may be subject to sanctions under that Act;

(ii) exports sensitive technology, as defined in section 106 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8515), to Iran; or

(iii) engages in any activity prohibited by part 560 of title 31, Code of Federal Regulations (commonly known as the "Iranian Transactions Regulations"), unless the activity is disclosed to the Office of Foreign Assets Control of the Department of the Treasury when the activity is discovered; or

(B) if the person or any other person owned or controlled by the person has engaged in an activity described in subparagraph (A), that—

(i) in the case of an activity described in subparagraph (A)(i)—

(I) the President has waived the imposition of sanctions with respect to the person that engaged in that activity pursuant to section 4(c), 6(b)(5), or 9(c) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note);

(II)(aa) the President has invoked the special rule described in section 4(e)(3) of that Act with respect to the person that engaged in that activity; or

(bb)(AA) the person that engaged in that activity determines, based on its best knowledge and belief, that the person meets the criteria described in subparagraph (A) of such section 4(e)(3) and has provided to the President the assurances described in subparagraph (B) of that section; and

(BB) the Secretary of State has issued an advisory opinion to that person that the person meets such criteria and has provided to the President those assurances; or President.

(III) the President has determined that the criteria have been met for the exception provided for under section 5(a)(3)(C) of the Iran Sanctions Act of 1996 to apply with respect to the person that engaged in that activity; or

(ii) in the case of an activity described in subparagraph (A)(ii), the President has waived, pursuant to section 401(b)(1) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8551(b)(1)), the application of the prohibition under section 106(a) of that Act (22 U.S.C. 8515(a)) with respect to that person.

(b) Prohibition on Financing.—Beginning on the date that is 180 days after the date of the enactment of this Act, the Board of Directors of the Export-Import Bank of the United States may not approve any transaction that is subject to approval by the Board with respect to the provision by the Bank of any guarantee, insurance, or extension of credit, or the participation by the Bank in any extension

of credit, in connection with a financing in which a person that is a borrower or controlling sponsor, or a person that is owned or controlled by such borrower or controlling sponsor, is subject to sanctions under section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(c) Advisory Opinions.—

(1) Authority.—The Secretary of State is authorized to issue advisory opinions described in subsection (a)(2)(B)(i)(II).

(2) Notice to Congress.—If the Secretary issues an advisory opinion pursuant to paragraph (1), the Secretary shall notify the appropriate congressional committees of the opinion not later than 30 days after issuing the opinion.

(d) Definitions.—In this section:

(1) Appropriate Congressional Committees; Person.—

The terms "appropriate congressional committees" and "person" have the meanings given those terms in section 14 of the Iran Sanctions Act of 1996 (Public Law 104–172; 50 U.S.C. 1701 note).

(2) Controlling Sponsor.- The term "controlling sponsor" means a person providing controlling direct private equity investment (excluding investments made through publicly held investment funds, publicly held securities, public offerings, or similar public market vehicles) in connection with a financing.

Other Provisions Contained in Division E of P.L. 114-94 cited as the Export-Import Bank Reform and Reauthorization Act of 2015 (the "Act")
(Listed by section number in P.L. 114-94)

Sec. 50001. Short title.
This division may be cited as the "Export-Import Bank Reform and Reauthorization Act of 2015."

Sec. 51002. Increase in Loss Reserve.
(b) Effective Date. – The amendment made by subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act. [Reference is to Section 6(b) of the Charter.]

Sec. 51006. Risk Management Committee.
(b) Termination of Audit Committee.—Not later than 180 days after the date of the enactment of this Act, 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. [Reference is to Section 3(m) of the Charter.]

Sec. 51007. Independent Audit of Bank Portfolio.
(a) Audit. – The Inspector General of the Export-Import Bank of the United States shall conduct an audit or evaluation of the portfolio risk management procedures of the Bank, including a review of the implementation by the Bank of the duties assigned to the Chief Risk Officer under section 3(l) of the Export-Import Bank Act of 1945, as amended by section 51005.
(b) Report. -- Not later than 1 year after the date of the enactment of this Act, and not less frequently than every 3 years thereafter, the Inspector General shall submit

to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a written report containing all findings and determinations made in carrying out subsection (a).

Sec. 51008. Pilot program for reinsurance.

(a) In General. – Notwithstanding any provision of the Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.), the Export-Import Bank of the United States (in this section referred to as the "Bank") may establish a pilot program under which the Bank may enter into contracts and other arrangements to share risks associated with the provision of guarantees, insurance, or credit, or the participation in the extension of credit, by the Bank under that Act.

(b) Limitations on Amount of Risk-Sharing. –

(1) Per contract or other arrangement. – The aggregate amount of liability the Bank may transfer through risk-sharing pursuant to a contract or other arrangement entered into under subsection (a) may not exceed $1,000,000,000.

(2) Per year. -- The aggregate amount of liability the Bank may transfer through risk-sharing during a fiscal year pursuant to contracts or other arrangements entered into under subsection (a) during that fiscal year may not exceed $10,000,000,000.

(c) Annual reports. – Not later than 1 year after the date of the enactment of this Act, and annually thereafter through 2019, the Bank shall submit to Congress a written report that contains a detailed analysis of the use of the pilot program carried out under subsection (a) during the year preceding the submission of the report.

(d) Rule of Construction. – Nothing in this section shall be construed to affect, impede, or revoke any authority of the Bank.

(e) Termination. – The pilot program carried out under subsection (a) shall terminate on September 30, 2019.

Sec. 52001. Increase in small business lending requirements.

(b) Effective Date. – The amendment made by subsection (a) shall apply with respect to fiscal year 2016 and each fiscal year thereafter. [Reference is to Section 2(b)(1)(E)(v) of the Charter.]

Sec. 52002. Report on programs for small- and medium-sized businesses.

(b) Effective Date. – The amendment made by subsection (a) shall apply with respect to the report of the Export – Import Bank of the United States submitted to Congress under section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g) for the first year that begins after the date of the enactment of this Act. [Reference is to Section 8(k) of the Charter.]

Sec. 54001. Extension of Authority.

(b) Dual – Use Exports. – Section 1(c) of Public Law 103-428 (12 U.S.C. 635 note) is amended by striking "September 30, 2014" and inserting "the date on which the authority of the Export-Import Bank of the United States expires under section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f)".

(d) Effective Date. – The amendments made by this section shall take effect on the earlier of the date of the enactment of this Act or June 30, 2015. [Reference is to Section 2(b)(9)(B)(iii) and Section 7 of the Charter.]

Sec. 54002. Certain updated loan terms and amounts.

(e) Effective Date. – The amendments made by this section shall apply with respect to fiscal year 2016 and each fiscal year thereafter. [Reference is to Section 2(a)(2)(A)(iii), Section 2(d)(2), Section 3(g)(3) and Section 11(a)(1)(A) of the Charter.]

Sec. 55002. Negotiations to end export credit financing.

(b) Effective Date. – The amendments made by paragraphs (1) and (2) of subsection (a) shall apply with respect to reports required to be submitted under section 11(b) of the Export-Import Bank Reauthorization Act of 2012 (12 U.S.C. 635a-5(b)) after the date of the enactment of this Act. [Reference is to 12 U.S.C. 635a-5.]

Sec. 55003. Study of financing for information and communications technology systems.

(a) Analysis of Information and Communications Technology Industry use of Bank Products. The Export-Import Bank of the United States (in this section referred to as the "Bank") shall conduct a study of the extent to which the products offered by the Bank are available and used by companies that export information and communications technology services and related goods.

(b) Elements. -- In conducting the study required by subsection (a), the Bank shall examine the following:

(1) The number of jobs in the United States that are supported by the export of information and communications technology services and related goods, and the degree to which access to financing will increase exports of such services and related goods.

(2) The reduction in the financing by the Bank of exports of information and communications technology services from 2003 through 2014.

(3) The activities of foreign export credit agencies to facilitate the export of information and communications technology services and related goods.

(4) Specific proposals for how the Bank could provide additional financing for the exportation of information and communications technology services and related goods through risk-sharing with other export credit agencies and other third parties.

(5) Proposals for new products the Bank could offer to provide financing for

exports of information and communications technology services and related goods, including—

(A) the extent to which the Bank is authorized to offer new products;

(B) the extent to which the Bank would need additional authority to offer new products to meet the needs of the information and communications technology industry;

(C) specific proposals for changes in law that would enable the Bank to provide increased financing for exports of information and communications technology services and related goods in compliance with the credit and risk standards of the Bank;

(D) specific proposals that would enable the Bank to provide increased outreach to the information and communications technology industry about the products the Bank offers; and

(E) specific proposals for changes in law that would enable the Bank to provide the financing to build information and communications technology infrastructure, in compliance with the credit and risk standards of the Bank, to allow for market access opportunities for United States information and communications technology companies to provide services on the infrastructure being financed by the Bank.

(c) Report. – Not later than 180 days after the date of the enactment of this Act, the Bank shall submit to Congress a report that contains the results of the study required by subsection (a).