

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

Subsec. (b)(1). Pub. L. 98-181, §631(2), substituted “significant factor” for “determining factor”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

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

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

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

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

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

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

Editorial Notes

CODIFICATION

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

AMENDMENTS

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

§ 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 the possible goal of eliminating, before the date that is 10 years after December 4, 2015,¹ 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 May 30, 2012, 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 December 4, 2015, the President shall submit to Congress a proposal, and a 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.

¹ So in original.

(e) Annual reports on progress of negotiations

Not later than 180 days after December 4, 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).

(Pub. L. 112-122, §11, May 30, 2012, 126 Stat. 356; Pub. L. 114-94, div. E, title LV, §55002(a), Dec. 4, 2015, 129 Stat. 1769.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the Export-Import Bank Reauthorization Act of 2012, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114-94, §55002(a)(1)(A), in introductory provisions, substituted “President” for “Secretary of the Treasury (in this section referred to as the ‘Secretary’)”.

Subsec. (a)(1). Pub. L. 114-94, §55002(a)(1)(B), substituted “(in this section referred to as the ‘OECD’)” for “(OECD)” and “possible goal of eliminating, before the date that is 10 years after December 4, 2015,” for “ultimate goal of eliminating”.

Subsec. (b). Pub. L. 114-94, §55002(a)(2), substituted “President” for “Secretary” wherever appearing.

Subsecs. (c) to (e). Pub. L. 114-94, §55002(a)(3), added subsecs. (c) to (e).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2015 AMENDMENT**

Pub. L. 114-94, div. E, title LV, §55002(b), Dec. 4, 2015, 129 Stat. 1770, provided that: “The amendments made by paragraphs (1) and (2) of subsection (a) [amending this section] 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 [Dec. 4, 2015].”

Executive Documents**DELEGATION OF AUTHORITY UNDER SECTION 11 OF THE EXPORT-IMPORT BANK REAUTHORIZATION ACT OF 2012**

Memorandum of President of the United States, Mar. 11, 2016, 81 F.R. 14367, provided:

Memorandum for the Secretary of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions and authorities vested in the President by section 11 of the Export-Import Bank Reauthorization Act of 2012, as amended.

In exercising functions and authority delegated by this memorandum, you shall ensure that all actions taken by you are consistent with the President’s constitutional authority to (A) conduct the foreign affairs of the United States, including the commencement, conduct, and termination of negotiations with foreign countries and international organizations; and (B) withhold information the disclosure of which could impair the foreign relations, the national security, the deliberative processes of the Executive, or the performance of the Executive’s constitutional duties.

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

BARACK OBAMA.

§ 635a-6. Periodic audits of bank transactions**(a) In general**

Within 2 years after May 30, 2012, 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 December 4, 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.

(Pub. L. 112-122, §17, May 30, 2012, 126 Stat. 359; Pub. L. 114-94, div. E, title LI, §51003, Dec. 4, 2015, 129 Stat. 1763.)

Editorial Notes**CODIFICATION**

Section was enacted as part of the Export-Import Bank Reauthorization Act of 2012, and not as part of the Export-Import Bank Act of 1945 which comprises this subchapter.

AMENDMENTS

2015—Subsec. (b). Pub. L. 114-94 amended subsec. (b) generally. Prior to amendment, text read as follows: “The Comptroller General of the United States shall 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, including by auditing a sample of Bank transactions, and submit to the Congress a written report which contains such recommendations with respect to the controls as the Comptroller General deems appropriate.”

§ 635a-7. 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 635a(l) of this title, as amended by section 51005.

(b) Report

Not later than 1 year after December 4, 2015, and not less frequently than every 3 years there-