

Until Nov. 26, 1997, by Pub. L. 105-84, Nov. 14, 1997, 111 Stat. 1628.

FINANCIAL ASSISTANCE TO THE UNION OF SOVIET
SOCIALIST REPUBLICS

Pub. L. 93-450, §1, Oct. 18, 1974, 88 Stat. 1368, provided in part that the Bank shall not authorize any financial assistance to the Union of Soviet Socialist Republics during the life of Pub. L. 93-450, which extended the termination date from Oct. 15, 1974, to Nov. 30, 1974.

§ 635g. Report to Congress; time for submission; contents

(a) Annual submission of report

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.

(b) Report on allocation of sums set aside for small business exports

(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 635(b)(1)(E) of this title.

(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 635(b)(1)(E)(vii) of this title;

(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 635(b)(1)(E) of this title.

(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 635(b)(1) of this title, and on how the efforts are assisting small business concerns (as defined in section 632(a) of title 15).

(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 632(a) of title 15) 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 637(a)(4) of title 15), small business concerns (as defined in section 632(a) of title 15) owned by women, and small business concerns (as defined in section 632(a) of title 15) 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 635(b)(1)(E) of this title, 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 637(a)(4) of title 15) and small business concerns (as defined in section 632(a) of title 15) 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 635(b)(1) of this title, 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 635a(d)(5) of this title 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.

(l) Report on authorizations under the Program on China and Transformational Exports

The Bank shall include in its annual report to Congress under subsection (a) a narrative and fi-

nancial summary of the authorizations made under the Program on China and Transformational Exports.

(July 31, 1945, ch. 341, §8, formerly §9, 59 Stat. 529; Pub. L. 90-267, §1(a), Mar. 13, 1968, 82 Stat. 47; Pub. L. 93-646, §10, Jan. 4, 1975, 88 Stat. 2336; Pub. L. 95-630, title XIX, §1907(b), Nov. 10, 1978, 92 Stat. 3725; Pub. L. 98-181, title I [title VI, §§618(b), 623], Nov. 30, 1983, 97 Stat. 1259, 1262; Pub. L. 99-472, §20(b), (c), Oct. 15, 1986, 100 Stat. 1209, 1210; renumbered §8, Pub. L. 102-429, title I, §121(c)(2), Oct. 21, 1992, 106 Stat. 2199; Pub. L. 106-569, title XI, §1104(a)(4), Dec. 27, 2000, 114 Stat. 3032; Pub. L. 107-189, §12, June 14, 2002, 116 Stat. 704; Pub. L. 109-438, §20, Dec. 20, 2006, 120 Stat. 3282; Pub. L. 112-122, §§6, 10, 20(b)(2), 21(c), May 30, 2012, 126 Stat. 353, 356, 362, 363; Pub. L. 114-94, div. E, title LII, §52002(a), Dec. 4, 2015, 129 Stat. 1767; Pub. L. 116-94, div. I, title IV, §402(b), Dec. 20, 2019, 133 Stat. 3023.)

Editorial Notes

PRIOR PROVISIONS

A prior section 8 of act July 31, 1945, ch. 341, was renumbered section 7 and is classified to section 635f of this title.

AMENDMENTS

2019—Subsec. (l). Pub. L. 116-94 added subsec. (l).
 2015—Subsec. (k). Pub. L. 114-94 added subsec. (k).
 2012—Subsec. (g). Pub. L. 112-122, §6, added subsec. (g).
 Subsec. (h). Pub. L. 112-122, §10, added subsec. (h).
 Subsec. (i). Pub. L. 112-122, §20(b)(2), added subsec. (i).
 Subsec. (j). Pub. L. 112-122, §21(c), added subsec. (j).
 2006—Subsec. (f). Pub. L. 109-438 added subsec. (f).
 2002—Subsecs. (c) to (e). Pub. L. 107-189 added subsecs. (c) to (e).
 2000—Subsec. (b). Pub. L. 106-569 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “The report shall contain a description of actions taken by the Bank in pursuance of the policy of aiding, counseling, assisting, and protecting, insofar as is possible, the interests of small business concerns and of the activities of the member of the Board appointed to represent the interest of small business. In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 3261 of title 22, and section 2151q of title 22, as required by section 635(b)(1)(C) of this title.”
 Subsec. (c). Pub. L. 106-569 redesignated subsec. (c) as (b) and directed redesignation of subsec. (e) as (c).
 Subsec. (d). Pub. L. 106-569 struck out subsec. (d) which required report to include actions taken by Bank to aid industries, preserve and create highly skilled jobs, and enhance opportunity for business growth and expansion and comments of Advisory Committee.
 Subsec. (e). Pub. L. 106-569, which directed redesignation of subsec. (e) as (c), could not be executed. See 1986 Amendment note and Termination Date of 1986 Amendment note below.
 1986—Subsec. (e). Pub. L. 99-472 temporarily added subsec. (e). See Termination Date of 1986 Amendment note below.
 1983—Subsec. (b). Pub. L. 98-181, §618(b)(1), inserted “and of the activities of the member of the Board appointed to represent the interests of small business”.
 Subsec. (c). Pub. L. 98-181, §618(b)(2), added subsec. (c).
 Subsec. (d). Pub. L. 98-181, §623, added subsec. (d).
 1978—Subsec. (b). Pub. L. 95-630 inserted provision that in addition, the Bank include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 3261 of title

22, and section 2151q of title 22, as required by section 635(b)(1)(C) of this title.

1975—Pub. L. 93-646 designated existing provisions as subsec. (a), substituted provisions calling for an annual report as of the close of business on the last day of each fiscal year, for provisions calling for a semiannual report as of the close of business on June 30 and Dec. 31 of each year, and added subsec. (b).

1968—Pub. L. 90-267 changed name of “Export-Import Bank of Washington” to “Export-Import Bank of the United States”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Small Business of Senate changed to Committee on Small Business and Entrepreneurship of Senate. See Senate Resolution No. 123, One Hundred Seventh Congress, June 29, 2001.

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-94, div. E, title LII, §52002(b), Dec. 4, 2015, 129 Stat. 1767, provided that: “The amendment made by subsection (a) [amending this section] 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 [Dec. 4, 2015].”

TERMINATION DATE OF 1986 AMENDMENT

Pub. L. 99-472, §20(c), Oct. 15, 1986, 100 Stat. 1210, provided that: “Effective March 2, 1988, the amendment made by subsection (b) [amending this section] is repealed.”

EFFECTIVE DATE OF 1978 AMENDMENT

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

REPORTS

Pub. L. 107-189, §8(c), June 14, 2002, 116 Stat. 701, provided that: “The Export-Import Bank of the United States shall include in the annual report required by section 8(a) of the Export-Import Bank Act of 1945 [12 U.S.C. 635g(a)] 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 such Act [12 U.S.C. 635(b)(1)], and on how the efforts are assisting small businesses.”

FINANCING FOR RENEWABLE ENERGY PROJECTS

Pub. L. 101-167, title V, §534(d), Nov. 21, 1989, 103 Stat. 1231, provided that:

“(1) Of the financing provided by the Export-Import Bank that is utilized for the support of exports for the energy sector, the Bank shall seek to provide not less than 5 per centum of such financing for renewable energy projects.

“(2) The Export-Import Bank shall take all appropriate steps to finance information exchanges and training whose purpose it is to help link United States producers in the renewable energy sector with assistance programs and potential foreign customers.

“(3) Beginning on April 15, 1990, the Chairman of the Export-Import Bank shall submit an annual report to the Committees on Appropriations on the Bank’s implementation of this subsection.”

MODIFICATION OF REPORTING REQUIREMENTS

Pub. L. 89-348, §2(9), Nov. 8, 1965, 79 Stat. 1312, modified the reporting requirements of this section as follows: “From semiannual to annual submission to the Congress by the Export-Import Bank of Washington of a report concerning its operations under the Export-Import Bank Act of 1945 (59 Stat. 529; 12 U.S.C. 635g).” This section was later amended by Pub. L. 93-646 to require annual instead of semiannual reports.

§ 635g-1. 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 635(b)(1)(A) of this title. 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 635i-3(h)(7) of this title)) 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 4727 of title 15.

(3) Tied aid credit program and fund

The report required by section 635i-3(g) of this title.

(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 635(b)(1)(K) of this title, 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 635i-3(h)(3) of this title) 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 635i-3(h)(3) of this title), 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 3511(d)(12) of title 19, 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 sub-