

means 12 U.S.C. 635i-8], and section 301 of title 3 of the United States Code, it is hereby ordered as follows:

1. There are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense, the functions, authorities, and duties conferred upon the President by section 570(a) of the Act [107 Stat. 970].

2. There are delegated to the Secretary of the Treasury, in consultation with the Secretary of State and the President of the Export-Import Bank, the functions, authorities, and duties conferred upon the President by section 570(b) of the Act and section 14(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635-635i-8).

The Secretary of the Treasury is authorized and directed to publish this memorandum in the Federal Register.

WILLIAM J. CLINTON.

### § 635i-9. 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).

#### (c) Definition

In this section, the term “OECD” means the Organization for Economic Cooperation and Development.

(July 31, 1945, ch. 341, §15, as added Pub. L. 107-189, §10(b)(1), June 14, 2002, 116 Stat. 703.)

### Statutory Notes and Related Subsidiaries

#### REPORT

Pub. L. 107-189, §10(b)(2), June 14, 2002, 116 Stat. 703, provided that: “Within 2 years after the date of the enactment of this Act [June 14, 2002], the Secretary of the Treasury 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 report on the rationale for seeking or not

seeking negotiations for multilateral disciplines and transparency, the successes, failures, and obstacles in initiating negotiations, and if negotiations were initiated, in reaching an agreement.”

### SUBCHAPTER II—EXPORT FINANCING

### § 635j. Export financing program to foster foreign trade and commercial interest of the United States

#### (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 reinsurance) 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.

(Pub. L. 90-390, §1, July 7, 1968, 82 Stat. 296; Pub. L. 96-470, title I, §115, Oct. 19, 1980, 94 Stat. 2240.)

### Editorial Notes

#### AMENDMENTS

1980—Subsec. (c). Pub. L. 96-470 struck out subsec. (c) which required the Board of Directors of the Bank to submit to Congress for the calendar ending Sept. 30, 1968, and each calendar quarter thereafter, a report of all actions taken under authority of sections 635j to 635n of this title during such quarter.

### Statutory Notes and Related Subsidiaries

#### TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 1013 of Title 5, Government Organization and Employees.

**Executive Documents****EX. ORD. NO. 11420. EXPORT EXPANSION ADVISORY COMMITTEE**

Ex. Ord. No. 11420, July 31, 1968, 33 F.R. 10997, provided:

WHEREAS foreign trade is an essential and continuing element in sustaining the growth, strength, and prosperity of our economy, contributes to the improvement of our balance of payments, and fosters the long-term commercial interest of the United States; and

WHEREAS, on March 20, 1968, I requested the Congress to empower the Export-Import Bank of the United States to use up to \$500,000,000 of its loan, guarantee, and insurance authority to finance a broadened program to sell American goods in foreign markets; and

WHEREAS the Congress has authorized the Bank to extend loans, guarantees, and insurance 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; and

WHEREAS it is desirable and appropriate that guidance concerning the commercial interests and the balance of payments objectives of the United States be provided to the Board of Directors of the Bank in the use of such loan, guarantee, and insurance authority allocated to finance export expansion, and I have stated that I would establish an Export Expansion Advisory Committee to provide such guidance to the Board of Directors of the Bank:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of Advisory Committee.* (a) There is hereby established the Export Expansion Advisory Committee (hereinafter referred to as "the Committee").

(b) The Committee shall be composed of the following members: the Secretary of Commerce, who shall be Chairman of the Committee, the Secretary of the Treasury, the Secretary of State, and the President and Chairman of the Board of the Export-Import Bank of the United States.

SEC. 2. *Functions of the Committee.* The Committee shall review and make recommendations concerning applications and proposals for loans, guarantees, and insurance to be charged against allocations made to finance export expansion and shall provide guidance to the Board of Directors of the Bank concerning the use of such allocations with the view to fostering the foreign trade and long-term commercial interest of the United States.

SEC. 3. *Construction.* Nothing in this order shall be construed to abrogate, modify, or restrict any function vested by law in, or assigned pursuant to law to, any Federal agency or any officer thereof or to any Federal interagency council or committee. As used herein the term "any Federal agency" includes any executive department and any other executive agency.

LYNDON B. JOHNSON.

**§ 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.

(Pub. L. 90-390, § 2, July 7, 1968, 82 Stat. 297.)

**§ 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.

(Pub. L. 90-390, § 3, July 7, 1968, 82 Stat. 297.)

**§ 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.

(Pub. L. 90-390, § 4, July 7, 1968, 82 Stat. 297.)

**§ 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.

(Pub. L. 90-390, § 5, July 7, 1968, 82 Stat. 297.)

**SUBCHAPTER III—TIED AID CREDIT EXPORT SUBSIDIES****§ 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