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Export-Import Bank: Background and Legislative Issues

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Summary

The Export-Import Bank is the chief U.S. government agency that helps finance American exports of manufactured goods.[1] With a budget of around $200 million, the Bank finances less than 1% of U.S. exports a year. Eximbank provides guarantees and insurance to commercial banks to make trade credits available to U.S. exporters. The Bank also offers direct financing to U.S. exporters on a limited basis, primarily to counter subsidized trade credits offered to foreign exporters by their governments. On June 12, 2006, the House approved **H.R. 5522**, the Foreign Operations, Export Financing and Related Appropriations Act 2007, to provide $26.4 million for the Bank's subsidy costs and $75.2 million for administrative expenses. House and Senate appropriators agreed to reduce the Bank's administrative expenses by $6 million to $69 million. Eximbank's appropriations have continued under P.L. 109-289 (H.R. 5631) as amended by **P.L. 110-5**. On December 20, 2006, President Bush signed **P.L. 109-438**, to reauthorize the Bank's authority through September 30, 2011. This report will be updated as events warrant.

Background

The Export-Import Bank (Eximbank) is an independent U.S. government agency that is charged with financing and promoting exports of U.S. manufactured goods and services. To accomplish these goals, Eximbank uses its authority and resources to: assume commercial and political risks that exporters or private financial institutions are unwilling, or unable, to undertake alone; overcome maturity and other limitations in private sector export financing; assist U.S. exporters to meet foreign, officially sponsored, export credit competition; and provide guidance and advice to U.S. exporters and commercial banks and foreign borrowers. The Bank operates under a renewable charter, the Export-Import Bank Act of 1945, as amended, and has been authorized through September 30, 2011.

[1] For additional information, see the Bank's Internet site: [http://www.exim.gov]

When it was initially established, the Bank was capitalized by an appropriation of $1 billion from the U.S. Treasury. The Bank also is authorized to borrow up to $6 billion directly from the Treasury, and it may draw upon a substantial line of credit with the Federal Financing Bank (FFB). (The Federal Financing Bank is a part of the Department of the Treasury and obtains its funds from regular Treasury issues.) Eximbank uses its Treasury borrowings to finance its short-term needs, and repays the Treasury quarterly from loan repayments and by borrowing from the FFB on a medium- and long-term basis. The Bank's authority to lend, guarantee, and insure is limited to a total of $100 billion. Eximbank's direct loans are charged at their full value against the $100 billion limitation, while only 25% of guarantees and insurance are charged against the limit.

Under the terms of the Budget Enforcement Act of 1990, Congress appropriates the estimated amount of subsidy the Bank expects to expend throughout all of its credit programs, including direct loans, guarantees, and insurance, as indicated in **Table 1**. The Bush administration did not request a subsidy appropriation for FY2008, to reduce the possibility of a successful challenge of the Export-Import Bank in the World Trade Organization as an illegal subsidy.[2] Congress no longer sets separate limits on the amount of loans, guarantees, and insurance the Bank can authorize, but the Bank continues to provide estimates of the amounts of activity it expects to undertake.

Programs

Eximbank has three main programs it uses to finance U.S. exports: direct loans, export credit guarantees, and export credit insurance. Prior to 1980, the Bank's direct lending program was its chief financing vehicle, which it used to finance such capital-intensive exports as commercial aircraft and nuclear power plants. Both the budget authority requested by the Administration and the limitation approved by the Congress for the Bank's direct lending were sharply curtailed during the 1980s.

Eximbank's direct lending program is used primarily to aid U.S. exporters in instances where they face a foreign competitor that is receiving officially subsidized financing by a foreign government. These loans carry fixed interest rates and generally are made at terms that are the most attractive allowed under the provisions of international agreements. They are made primarily to counter attempts by foreign governments to sway purchases in favor of their exporters solely on the basis of subsidized financing, rather than on market conditions (price, quality, etc.), and to enforce internationally agreed upon terms and conditions for export financing. The Bank also has an Intermediary Credit Program it uses to offer medium- and long-term fixed-rate financing to buyers of U.S. exports, but U.S. exporters also must face officially subsidized foreign competition to qualify for this program.

As part of its direct lending program, the Bank has a tied aid "war chest" it uses to counter specific projects that are receiving foreign officially subsidized export financing. Tied aid credits and mixed credits are two of the primary methods whereby governments provide their exporters with official assistance to promote exports. Tied aid credits include loans and grants which reduce financing costs below market rates for exporters and which are tied to the procurement of goods and services from the donor country.

[2] "Bush Proposes Ending Appropriations for Ex-Im Bank," *Inside U.S. Trade,* February 9, 2007.

Mixed credits combine concessional government financing (funds at below market rates or terms) with commercial or near-commercial funds to produce an overall rate that is lower than market-based interest rates and carries more lenient loan terms. The United States does tie substantial amounts of its agricultural and military aid to U.S. goods, but it generally has avoided using such financing to promote American capital goods exports.

Table 1. Budget of the Export-Import Bank

(in millions of dollars)

	FY02	FY03	FY04	FY05	FY06	FY07	FY08
Total Subsidy Requested	$633	$541	$0	$126	$187	$26	—
Total Subsidy Appropriated	727	513	0	60	100	NA	NA
Operating Expenses	1,256	433	583	661	353	507	163
-Direct Loan Subsidy	48	1	22	—	1	17	17
-Guarantee Loan Subsidy	678	317	247	227	185	170	64
-Loan Modifications	26	3	10	14	5	10	4
-Administrative Expenses	63	68	73	73	73	69	78
-Re-estimates of Subsidy Costs	441	44	231	347	189	482	—
Budget Authority (gross)	1,182	622	306	477	198	337	147
-Appropriated	740	577	72	132	109	95	—
-Other	442	45	234	345	89	242	147
Budget Resources	1,838	1,268	1,290	1,252	812	708	348
-Budget Authority (gross)	1,182	622	306	477	188	337	147
-Recoveries from previous years	118	89	149	70	22	—	—
-Unobligated resources start of year	514	557	835	705	592	371	201
-Unobligated resources end of year	557	835	705	591	371	201	185
Budget Authority (net)	1,181	621	305	476	198	336	—
Outlays (net)	1,245	645	718	681	318	456	81

Source: Office of Management and Budget. *Budget of the United States Government*, various issues. Washington, U.S. Govt. Print. Off.
* Data for FY2008 are requested, or estimated amounts.

Funds for the tied aid war chest are available to the Bank from the Treasury Department and are subtracted from the Bank's direct credit resources. Applications for the tied aid fund, however, are subject to review by the Treasury Department, which has not approved a single tied aid request by the Bank since 2002.

Guarantees and insurance are the main programs the Bank uses to assist American exporters. Both programs reduce some of the risks involved in exporting by insuring against commercial or political uncertainty. There is an important distinction, however, between the two programs. Insurance coverage carries with it various conditions that must be met by the insured before the Bank will pay off a claim. A guarantee is an ironclad commitment made to a commercial bank by the Export-Import Bank that promises full repayment with few, if any, conditions attached. In addition, Eximbank has a Working Capital Guarantee Program that it uses to aid small- and medium-sized businesses. Businesses that qualify have exporting potential but need working capital funds to produce or market their goods or services for export. Guarantees are offered to qualified lenders (primarily commercial banks) in order to facilitate loans to small businesses. In FY2006, the Bank authorized $12.15 billion in loans and guarantees to support an estimated $16.12 billion in U.S. exports. According to the Bank, this represents 2,677 transactions of which 84% directly benefitted small business.

Recent Developments

In October 2004, Eximbank Chairman Phillip Merrill announced that the Bank had signed an agreement with the Iraqi Ministry of Finance that allows the Bank to provide credit insurance coverage in support of U.S. exports to Iraq. In 2004, the Bank also approved an updated version of its Environmental Procedures and Guidelines that make the Bank's environmental provisions consistent with the guidelines for evaluating the environmental impact of projects that was adopted by the Organization for Economic Cooperation and Development (OECD) in December 2003. The term of former President and Chairman of the Bank Phillip Merrill expired on January 20, 2005. James H. Lambright presently is serving as the acting President and Chairman of the Bank. The other two other members of the Board are Max Cleland and Linda Conlin. In addition, Commerce Secretary Donald L. Evans and U.S. Trade Representative Susan Schwab serve as ex officio members of the Board. The terms of Eximbank Board members can be extended up to six months until the members are reappointed and reconfirmed or other members are appointed and confirmed.

International Agreements

The United States generally opposes subsidies for exports of commercial products. (Nevertheless, like most countries, the United States has in place procurement policies that seek to assure that most foreign assistance funds are spent on U.S. goods and services.) Since the 1970s, the United States has led efforts within the Organization for Economic Cooperation and Development (OECD) to adopt international protocols which reduce the subsidy level in export credits by raising the interest rates on government-provided export credits to market levels.

Countries that signed the OECD Arrangement (all OECD countries except Turkey and Iceland) on export finance, concluded in November 1991, agreed to tighten further restrictions on the use of tied-aid. The participants agreed that projects that would be financially viable, and commercial credits would be prohibited from using tied or partially untied aid credits, except for credits to the least developed countries where per capita income is below $2,465. Moreover, the agreement sets up tests and consultation procedures to distinguish between projects that should be financed on market or official export credit terms, and those that legitimately require such aid funds.

U.S. exporters and others have expressed doubts about the effectiveness of international efforts to stem officially subsidized trade financing. While the OECD agreement appears to be reducing most direct government subsidies to trade financing, a number of countries have found a way around the agreement through market windows, or subsidized trade financing through ostensibly private financial institutions that are not subject to the agreement. The agreement also has a number of limitations, including the difficulty of defining commercially viable projects; and the presence of an "escape clause" that allows countries to proceed with a tied aid offer, despite objections by other participants, if that country claims that the project is in its national interest. Moreover, the Agreement contains no explicit enforcement mechanism. The effectiveness of the Agreement also depends on the accuracy and openness of tied aid offers reported to the OECD, but the OECD does not confirm or verify the accuracy of the data provided by its members.[3]

Legislative Issues

Congress does not directly approve individual Eximbank transactions, but has a number of oversight responsibilities concerning the Bank and its activities. The Senate confirms Presidential appointments to the Bank's Board of Directors and Congress authorizes the Bank's legal charter for a period of time chosen by Congress. At times, Congress has required an annual reauthorization of the Bank's legal charter, and at other times has authorized the Bank for periods that have varied from two to four years. Congress also approves an annual appropriation for the Bank that sets an upper limit on the level of the Bank's financial activities. In addition, Congress can always amend or alter the Bank's governing legislation as it deems appropriate. Members of Congress and Congressional Committees can request that the Bank's President consult with them or testify before committees, with some qualifications.

The 110th Congress has introduced two bills which would affect the Export-Import Bank if they were passed and signed into law. S. 876, introduced on March 14, 2007, would prohibit the Export-Import Bank from providing services to any individual who has invested $1 million or more in any project that contributes to enhancing Cuba's ability to develop petroleum resources off its northern coast. H.R. 1886 was introduced on April 17, 2007, and it would prohibit the Export-Import Bank from providing its services to any activity connected with an oil or gas project.

On June 14, 2002, President Bush signed P.L. 107-189, the Export-Import Bank Reauthorization Act of 2002. Two of the most important provisions of the act include a sense of Congress that requires the Bank to prepare a human rights impact assessment for any project over $10 million, and a prohibition on supporting any project that is subject to import relief measures or countervailing duty orders. Other major provisions of the Reauthorization Act include establishing the Office of Inspector General within the Bank; designating assisting U.S. job growth as the main purpose of the Bank's programs; extending Eximbank's authority through 2006; authorizing the appropriation of $80 million in administrative expense to upgrade the Bank's technological infrastructure; increasing the Bank's overall credit limitation; and extending the Office on Africa through September 30, 2006.

President Bush signed P.L. 109-438, the Export-Import Bank Reauthorization Act of 2006, on December 20, 2006. This act reauthorizes the Bank through September 30, 2011, and creates a Small Business Division within the Bank that is responsible for conducting research, better tailoring products to small business needs, and increasing loans to small business concerns. The measure also extends the authority of the Advisory Committee on Sub-Saharan Africa through FY2011. In addition, the measure directs the

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[3] *Competitor's Tied Aid Practices Affect U.S. Exports*. General Accounting Office. Report No. GGD-94-81. May 1994. p. 19-21.

Bank to submit annually to Congress a list of U.S. commercial sectors and products that would suffer "adverse economic impact" due to Eximbank support of projects abroad. The measure encourages the Bank to make greater use of its "tied aid" facility, but also provides for the Secretary of the Treasury to oppose decisions made by the Bank's board of Directors to match an offer of tied aid by a foreign entity. The measure also requires that the Bank determine if an entity that receives an Eximbank loan or guarantee could circumvent requirements that the Bank's programs not support projects abroad that could compete with U.S. firms by assessing if the firm could produce products that would be in addition to those that are specified in the application for a loan or guarantee.

Eximbank Debate

One rationale for the Export-Import Bank is the acknowledged competition among nations' official export financing agencies, but most economists doubt that a nation can improve its welfare or level of employment over the long run by subsidizing exports. Economic policies within individual countries are the prime factors which determine interest rates, capital flows, and exchange rates, and the overall level of a nation's exports. As a result, subsidizing export financing merely shifts production among sectors within the economy, but does not add to the overall level of economic activity, and subsidizes foreign consumption at the expense of the domestic economy. Also, promoting exports through subsidized financing or through government-backed insurance and guarantees will not permanently raise the level of employment in the economy, but alters the composition of employment among the various sectors of the economy.

Some opponents further argue that, by providing financing or insurance for exporters that the market seems unwilling, or unable, to provide, Eximbank's activities draw from the financial resources within the economy that would be available for other uses. Such "opportunity costs," while impossible to estimate, could be potentially significant. Another consideration is that subsidized export financing raises financing costs for all borrowers by drawing on financial resources that otherwise would be available for other uses, thereby possibly crowding out some borrowers from the financial markets. This crowding-out effect might nullify any positive impact subsidized export financing may have on the economy.

Some Eximbank supporters maintain that the Bank's programs are necessary for U.S. exporters to compete with foreign subsidized export financing and also to pressure foreign governments to eliminate concessionary financing. As a result, Eximbank is required in the Bank's Act to provide U.S. exporters with financing terms that are "competitive" with those offered by other official trade financing institutions. These, and other supporters of the Bank, also stress that deficiencies in financial markets bias those markets against exports of high value, long-term assets.