



May 29, 2013

Congressional Committees

Export-Import Bank: Financing of Dual-Use Exports

Since October 1994, the Export-Import Bank of the United States (Ex-Im) has had statutory authority to facilitate the financing of U.S. exports of defense articles and services, provided that Ex-Im determines that these items are nonlethal and primarily meant for civilian use.¹ These “dual-use” exports include items such as vehicles that are used by the military mainly for civilian or humanitarian purposes. Legislation providing this authority requires GAO to report annually on the end uses of dual-use exports financed by Ex-Im during the second preceding fiscal year. In accordance with our mandate, this report (1) identifies the dual-use exports, if any, that Ex-Im financed in fiscal years 2011 and 2012; and (2) provides information on the planned end uses of exports financed in fiscal year 2012.

Background

Ex-Im is an independent agency operating under the Export-Import Bank Act of 1945, as amended. Its mission is to support the export of U.S. goods and services overseas, through the provision of loans, loan guarantees, and insurance, thereby supporting U.S. jobs. Ex-Im is generally prohibited by law from financing defense articles and services. However, in an exception to this rule, in 1994 Ex-Im was granted authority to facilitate the financing of U.S. exports of defense articles and services, provided that Ex-Im determines that these items are nonlethal and primarily meant for civilian end use. Such items are known as “dual-use” exports.

Ex-Im’s Engineering and Environment Division, with assistance from the General Counsel, Congressional and External Affairs Division, and the Policy and Planning Division, is responsible for administering implementation of the dual-use authority. Ex-Im’s definitions of “defense articles” and “defense services” are based on who the end user is, the nature of the item, and the use to which it will be put. For example, if the items are to be sold to a military organization, they are considered defense articles until proven otherwise. Or, if the item is designed primarily for military use, it is presumed to be a defense article. According to Ex-Im, an export is eligible for financing as a dual-use item if convincing evidence exists that the export is nonlethal in nature and will be used mainly for civilian activities. The determination of eligibility for dual-use financing may require applicants for Ex-Im financing to provide additional

¹The Export-Import Bank Reauthorization Act of 2012 extended through September 30, 2014, the authority for Ex-Im to finance certain dual-use exports, which was first established in 1994 (Pub. L. No. 103-428, § 1(c) (Oct. 31, 1994), as amended by Pub. L. No. 109-438, § 4 (Dec. 20, 2006); Pub. L. No. 112-122, § 24 (May 30, 2012)). Ex-Im is authorized to use up to 10 percent of its total annual loan, guarantee, and insurance authority to support the sale of these dual-use exports.

information beyond normally required contract and transaction data. Ex-Im may also seek to corroborate the information submitted by applicants by contacting other U.S. government agencies, such as the Department of State.

Ex-Im Financed Three Dual-Use Export Transactions in 2012

Ex-Im did not finance any transactions under its dual-use authority in fiscal year 2011 and financed three transactions under its dual-use authority in fiscal year 2012.² The transactions financed in fiscal year 2012 were (1) a satellite for Eutelsat of France, (2) road construction equipment for the government of Cameroon, and (3) three satellites for the government of Mexico. At the time of publication of this report, little of the equipment financed had been delivered to end users.

- *Satellite for Eutelsat of France.* Ex-Im provided a direct loan, approved in November 2011, to the French company Eutelsat S.A. of about \$64 million to finance 45.5 percent of the purchase and launch of a geosynchronous satellite manufactured by Space Systems/Loral, Inc.³ The remaining 54.5 percent of the satellite is to be purchased independently by Qatar's state-owned telecommunications operator, ictQatar. A strategic partnership agreement dictates the terms of the joint ownership and operation of the satellite by the French and Qatari purchasers. According to Ex-Im, Eutelsat is one of the four largest satellite operators in the world and planned to use the satellite to supply services such as direct-to-home television and Internet/broadband services. Ex-Im's Board of Directors approval memorandum for the transaction indicated that of the 46 total transponders on the satellite, 40 were designated for civilian use—23 by Eutelsat and 17 by ictQatar. The remaining 6 transponders, purchased by ictQatar, were designated for military communication purposes. The purchasers did not request Ex-Im support for Qatar's portion of the satellite. The Ex-Im Board of Directors' approval memorandum for the transaction noted that (a) the satellite is nonlethal and (b) there was clear evidence that it would be used primarily for non-military applications. The Department of State also noted Eutelsat's justification to Ex-Im that the Qatari military applications planned for the satellite are nonlethal and represent a small portion of ictQatar's overall planned use for the satellite. At the time of publication of this report, the satellite had not yet been launched. The launch was originally planned for execution by a to-be-determined U.S. company in the second quarter of 2013.
- *Road construction equipment for the government of Cameroon.* In a transaction approved in April 2012, Ex-Im provided a guarantee for a private loan from the Société General of New York to the Republic of Cameroon of about \$37 million for the purchase of 150 pieces of new and used construction machinery from U.S. manufacturers. According to Ex-Im, the primary end user of the equipment will be the Army Corps of Engineers of Cameroon, an element of Cameroon's Ministry of Defense responsible for building and maintaining roadway infrastructure. According to the Ex-Im Board of Directors' approval memorandum for the transaction, the Army Corps of Engineers planned to use the equipment—including graders, excavators, asphalt rollers, concrete mixing plant, trailers, and dump trucks—for rural road construction and maintenance.

²Prior to fiscal year 2012, Ex-Im last provided financing under its dual-use authority in fiscal year 2002.

³A geosynchronous, or geostationary, satellite travels in earth's orbit and always remains in the same place over the earth.

The document also stated that because the Ministry of Defense is the formal purchaser of the equipment, the potential for periodic use of the equipment for repair of military roadways cannot be completely discounted. However, the approval memorandum also noted it was clear that the civilian population would receive the primary benefit of the equipment, all of which was nonlethal in nature. At the time of publication of this report, most of the equipment financed in this transaction had not yet been delivered to Cameroon.

- *Satellites for the government of Mexico.* In a transaction approved in July 2012, Ex-Im provided a guarantee for a private loan from JPMorgan Chase & Co. to the government of Mexico in the amount of about \$921 million for the purchase of a fleet of three geosynchronous telecommunications satellites and related equipment and services from Boeing Satellite Systems and Orbital Sciences Corporation. According to Ex-Im, the primary end user of the equipment is the Mexican Secretariat of Communications and Transportation, which plans to use the equipment to enhance the communication capabilities of civilian and defense-related ministries and federal agencies. In its Board of Directors' approval memorandum, Ex-Im noted that the satellites are strictly for nonlethal communications uses, with 60 percent of the equipment planned to be used for civilian purposes. The 40 percent of equipment envisioned for military use is planned for primarily humanitarian missions, such as support for natural disasters and search and rescue missions, and for drug interdiction efforts. Additionally, the memorandum stated that the government of Mexico's military has a separate communications system for its strategic and tactical missions. Further, the U.S. embassy military attaché in Mexico noted that the satellite system in question is unsecured and thus is inappropriate for use in tactical and strategic missions. At the time of publication of this report, one of the three financed satellites had been launched. However, it was undergoing in-orbit testing by the manufacturer and had not been turned over to the purchaser for use. The remaining two satellites have yet to be built.

Scope and Methodology

To identify the financing of the dual-use exports, if any, in fiscal years 2011 and 2012 and the planned end uses of those exports, we reviewed Ex-Im data on dual-use determinations. In addition, we interviewed Ex-Im officials who review applications for the financing of dual-use exports and monitor end-user compliance with dual-use requirements, including the Vice President of the Engineering and Environment Division. We also reviewed Ex-Im documentation associated with each of the three dual-use transactions Ex-Im financed in fiscal year 2012. Through interviews with cognizant agency officials about Ex-Im's procedures for identifying and categorizing dual-use transactions in their Application Processing System, we determined that Ex-Im data were sufficiently reliable for the purpose of identifying the dual-use exports financed under Ex-Im's dual-use authority in fiscal years 2011 and 2012.

We conducted this performance audit from April to May 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Agency Comments

We provided Ex-Im a draft of this report. Ex-Im did not provide comments on the draft.

We are sending copies of this report to interested congressional committees. We will also send copies to the President and Chairman of Ex-Im, the Secretary of Defense, and the Secretary of State. In addition, this report will be available at no charge on the GAO web site at <http://www.gao.gov>.

If you or your staff has any questions about this report, please contact me at (202) 512-8612 or GianopoulosK@gao.gov. Key contributors to this report were Celia Thomas, Assistant Director, and Kathryn Bolduc. Also contributing to this report were Ashley Alley, Martin de Alteriis, and Karen Deans.



Kimberly Gianopoulos

Acting Director, International Affairs and Trade

List of Committees

The Honorable Tim Johnson
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Patrick Leahy
Chairman
The Honorable Lindsey Graham
Ranking Member
Subcommittee on State, Foreign Operations, and Related Programs
Committee on Appropriations
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

The Honorable Kay Granger
Chairwoman
The Honorable Nita M. Lowey
Ranking Member
Subcommittee on State, Foreign Operations, and Related Programs
Committee on Appropriations
House of Representatives

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (www.gao.gov). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to www.gao.gov and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#). Subscribe to our [RSS Feeds](#) or [E-mail Updates](#). Listen to our [Podcasts](#). Visit GAO on the web at www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Katherine Siggerud, Managing Director, siggerudk@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800 U.S. Government Accountability Office, 441 G Street NW, Room 7149 Washington, DC 20548

