



June 2015

# EXPORT-IMPORT BANK

## Dual-Use Export Monitoring Guidance Revised and Implemented

# GAO Highlights

Highlights of [GAO-15-611](#), a report to congressional committees

## Why GAO Did This Study

Since 1994, Ex-Im has had the authority to facilitate the financing of dual-use exports, which include construction equipment used by foreign militaries to build roads. After a 9-year hiatus, Ex-Im financed three dual-use exports in fiscal year 2012, accounting for \$1.03 billion, or just under 3 percent of Ex-Im's \$35.8 billion financing for that year. The Consolidated and Further Continuing Appropriations Act, 2015, extends a provision for GAO to report annually on the end uses of dual-use exports financed by Ex-Im during the second preceding fiscal year.

In August 2014, GAO reported that monitoring-related documents from borrowers required by the financing agreements were missing or late and that Ex-Im's dual-use monitoring policy did not specify what actions Ex-Im officials should take if the bank did not receive the required documents. GAO recommended that Ex-Im establish steps staff should take in cases where borrowers do not submit required end-use documentation within the time frames specified in their financing agreements and ensure that these efforts are well documented. Ex-Im agreed with GAO's recommendation and revised its guidance.

This report (1) examines how Ex-Im addressed weaknesses in monitoring the end uses of the dual-use exports it finances and (2) identifies what dual-use exports, if any, Ex-Im reported it financed in fiscal year 2014. GAO reviewed Ex-Im documents and interviewed Ex-Im officials.

View [GAO-15-611](#). For more information, contact Kimberly Gianopoulos at (202) 512-8612 or [GianopoulosK@gao.gov](mailto:GianopoulosK@gao.gov).

June 2015

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### Dual-Use Export Monitoring Guidance Revised and Implemented
















## What GAO Found

The Export-Import Bank of the United States (Ex-Im) addressed weaknesses in monitoring the end use of exported "dual-use" items by revising and implementing its guidance for monitoring these items, as GAO recommended in August 2014. Dual-use items are defense articles and services that Ex-Im has determined are nonlethal and primarily meant for civilian use. Specifically, Ex-Im revised its 1997 memorandum on the implementation of its dual-use policy for military applications and disseminated it to relevant staff on March 11, 2015. The updated memorandum clarified the responsibilities of Ex-Im staff for monitoring end use, and GAO found that bank staff have now taken the following steps:

- **notified buyers** of end-use documentation coming due; staff will alert buyers and the bank's Office of General Counsel if there are any overdue documents so that the bank can respond as appropriate;
- **documented their dual-use monitoring activities and decisions**, including any decisions that modify reporting requirements in the financing agreements, such as the requirements related to progress and technical operating reports; and
- **made determinations**, in what is to be an annual process, as to whether the information received was adequate to demonstrate that the transaction complied or failed to comply with the bank's dual-use policy.

As a result, Ex-Im has received in a timely manner all documents required since GAO's last report, issued in August 2014.

#### Documentation Received by Ex-Im for Fiscal Year 2012 Dual-Use Exports as of June 15, 2015

Dual-use export	Progress reports on construction of financed export	Technical operating reports on exported item once it is in use	Annual end-use certification and report
<b>Satellite for French company Eutelsat</b> • Launched Aug. 2013. • Became operational Nov. 2013.	 For 2013 – received late or not at all.  For 2014 – no longer required, now that satellite is operational.	 For 2013 – received on time.  For 2014 – received on time.	 NOT REQUIRED.
<b>Three satellites for the government of Mexico</b> • One operational, one destroyed on launch May 2015, one to launch fall 2015.	 For 2013 – received late or not at all.  For 2014 – received on time.	 For 2013 – received late or not at all.  For 2014 – received on time.	 For 2013 – received late.  For 2014 – received on time.
<b>Construction equipment for the government of Cameroon</b> • Shipped to Cameroon military and put to use in 2013.	 NOT REQUIRED.	 NOT REQUIRED.	 For 2013 – received late.  For 2014 – received on time.

Ex-Im = Export-Import Bank of the United States.

Source: GAO analysis of Ex-Im documents. | GAO-15-611

Ex-Im did not finance any new exports under its dual-use authority in fiscal year 2014, according to Ex-Im authorizations data and Ex-Im officials.

United States Government Accountability Office

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June 25, 2015

## Congressional Committees

Since 1994, the Export-Import Bank of the United States (Ex-Im) has had the authority to facilitate the financing of U.S. exports of defense articles and services, provided that it determines these items are nonlethal and primarily meant for civilian use.<sup>1</sup> These “dual-use” exports include construction equipment used by foreign militaries to build roads. Ex-Im approved financing for three dual-use exports in fiscal year 2012, accounting for \$1.03 billion in loans and guarantees. In August 2014, we reported that Ex-Im received some reports required in its credit agreements late or not at all, and that its efforts to obtain missing documentation were often neither timely nor documented.<sup>2</sup> As a result, Ex-Im did not have complete and timely information about whether the dual-use exports it was financing were being used in accordance with the terms of its agreements and policy—that is, whether the exports were actually being used primarily for civilian purposes.<sup>3</sup> We also reported that Ex-Im had policies for monitoring the end use of defense articles and services it finances, including documentation requirements that are reflected in its financing agreements with borrowers, but these policies did not specify what actions Ex-Im officials should take if the bank did not receive the required dual-use-related documents.<sup>4</sup>

We recommended in our August 2014 report that Ex-Im establish steps staff should take in cases where borrowers did not submit required end-use documentation within the time frames specified in their financing

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<sup>1</sup>12 U.S.C. § 635(b)(6). The Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. No. 113-235, 128 Stat. 2130, 2598) extended through October 1, 2015, the authority for Ex-Im to finance certain dual-use exports, which was first established in 1994 (Pub. L. No. 103-428, § 1(a) (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.

<sup>2</sup>GAO, *Export-Import Bank: Monitoring of Dual-Use Exports Should Be Improved*, [GAO-14-719](#) (Washington, D.C.: Aug. 28, 2014).

<sup>3</sup>[GAO-14-719](#).

<sup>4</sup>[GAO-14-719](#).

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agreements and ensure that these efforts were well documented. Ex-Im agreed with our recommendation and stated that it would revise its guidance by adding specific instructions about monitoring end-use activity, documenting related communications, and actions to be taken if reports were not received on time.

The Consolidated and Further Continuing Appropriations Act, 2015, extends a provision for GAO to report annually on the end uses of dual-use exports financed by Ex-Im during the second preceding fiscal year.<sup>5</sup> This report (1) examines how Ex-Im addressed weaknesses in monitoring the end uses of the dual-use exports it continued to finance in fiscal year 2013 and (2) identifies what dual-use exports, if any, Ex-Im reported it financed in fiscal year 2014.

To examine how Ex-Im addressed weaknesses in monitoring the end uses of the dual-use exports it continued to finance in fiscal year 2013, and to identify what dual-use exports, if any, Ex-Im reported it financed in fiscal year 2014, we reviewed Ex-Im documentation and interviewed Ex-Im officials in Washington, D.C. We conducted this performance audit from February 2015 to June 2015 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. For more information on our scope and methodology, see appendix I.

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## 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 any credit sale of defense articles and services for any country. However, in an exception to this rule, Ex-Im was granted authority to facilitate the financing of U.S. exports of defense articles and services, provided that it determines that these

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<sup>5</sup>Pub. L. No. 113-235, 128 Stat. 2130, 2598. See the Related GAO Products section at the end of this report for a list of previous GAO reports on this topic.

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items are nonlethal and primarily meant for civilian end use. Such items are known as dual-use exports.<sup>6</sup>

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 implementing the dual-use authority. According to Ex-Im's Military Policy, its definitions of "defense articles" and "defense services" are based on who the end user is, and then by the nature of the item and the use to which it will be put. In addition, if the item is designed primarily for military use, it is presumed to be a defense article. For example, according to Ex-Im, furniture sold to a military organization for military use (e.g., for offices or homes occupied by military personnel) is deemed a defense article. However, according to Ex-Im, helicopters sold to a private firm or civilian police force are not defense articles. According to Ex-Im policy, 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 information beyond the contract and transaction data the bank normally requires for a loan or guarantee. For example, before approving the three fiscal year 2012 dual-use export transactions, Ex-Im obtained written certification from each borrower that the items to be exported were nonlethal and would be primarily for civilian use. 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.

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<sup>6</sup>According to a senior Ex-Im official, "defense articles and services" is not defined in the law for purposes of Ex-Im's authority to finance dual-use exports, unlike other provisions of law in the Arms Export Control Act that define "defense articles and services" with specific reference to items listed on the United States Munitions List. Under Ex-Im's definition of "defense articles and services" for dual-use purposes, any article or service that is being sold to a military organization is automatically considered to be a defense article until proven otherwise.

**Ex-Im Financed Several Dual-Use Items in Fiscal Year 2012**



- **One satellite** for a French company, Eutelsat, primarily for telecommunications (television and internet service). Ex-Im is treating this item as dual-use because a small portion of the satellite is being used by the Qatari military for communications purposes and is not being financed by Ex-Im.
- **Three satellites** for the government of Mexico: one fixed service satellite and two mobile service satellites. Fixed service satellites provide service to a geographically fixed end user, such as a television station, and mobile service satellites provide service to mobile end users, such as personnel in vehicles. The satellites are for civilian communications and for humanitarian and drug interdiction operations by the Mexican military.



- **Construction equipment** for the government of Cameroon's military engineering corps for civilian infrastructure development and a small number of military construction projects.

Source: GAO analysis of Ex-Im documents; photos (top to bottom): Dynamic Graphics, Hoffman International, Inc. | GAO-15-611

Note: Ex-Im = the Export-Import Bank of the United States.

As of May 30, 2015, Ex-Im had financed a total of \$1.67 billion in exports under its dual-use authority, with several transactions financed each year through fiscal year 2002. After a 9-year hiatus, it financed three more exports in fiscal year 2012:

1. a geosynchronous satellite for a French company, Eutelsat S.A. (Eutelsat), manufactured by Space Systems/Loral, Inc.;<sup>7</sup>
2. a fleet of three geosynchronous telecommunications satellites and related equipment and services from Boeing Satellite Systems and Orbital Sciences Corporation for the government of Mexico; and
3. 150 pieces of new and used construction equipment from U.S. manufacturers exported by Hoffman International, Inc., for the government of Cameroon.

These three transactions accounted for \$1.03 billion in Ex-Im financing, or just under 3 percent of Ex-Im's financing for fiscal year 2012 of \$35.8 billion. The Mexico satellite transaction is the bank's single largest dual-use financing transaction to date, with a loan guarantee of \$922 million. Prior to approving the fiscal year 2012 transactions, Ex-Im vetted the Eutelsat and Cameroon transactions with the Department of State, and vetted the Mexico transaction with the U.S. embassy military attaché in Mexico.

Ex-Im generally requires buyers of dual-use exports to submit an annual "end-use certification and report," which describes the civilian and military use of the exported item(s) and includes a certification by the buyer that the item(s) are being used primarily for civilian purposes. In addition, credit and guarantee agreements for dual-use transactions may include provisions for annual, semiannual, or periodic "progress reports" and "technical operating reports" to monitor the status and usage of the items. Such information helps inform bank officials and provides them greater assurance about the exports' end use. These reports are to be submitted to Ex-Im until the loan or guarantee is repaid. According to Ex-Im officials, the credit agreements for the three fiscal year 2012 dual-use transactions were negotiated on a case-by-case basis to incorporate the specific circumstances related to the buyer and the item(s) being exported. The agreements with the governments of Mexico and Cameroon require an

<sup>7</sup>A geosynchronous satellite orbits the earth at the same rate as the earth's rotation.

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annual end-use certification and report.<sup>8</sup> The agreements for the two satellite transactions require the buyer (Eutelsat and the government of Mexico) to submit to Ex-Im (1) periodic progress reports covering the satellite(s)' construction, launch, and in-orbit testing, and (2) technical operating reports that include information concerning the operation and maintenance of the satellite(s) and related telemetry, tracking and command stations, and transponder<sup>9</sup> capacity and use.<sup>10</sup>

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## Ex-Im Revised and Implemented Guidance to Address Weaknesses in Monitoring the End Use of Dual-Use Items

Ex-Im addressed weaknesses in monitoring the end use of dual-use items by revising and implementing its guidance for monitoring these items, consistent with our August 2014 recommendation. The revised guidance clarified the responsibilities of Ex-Im staff for monitoring the end use of exported dual-use items after the bank's board of directors authorizes an export transaction. As a result of implementing the revised guidance, Ex-Im has received in a timely manner all documents required through June 2015 since our last report, issued in August 2014.

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<sup>8</sup>No annual end-use certification and report is required for the Eutelsat transaction because Eutelsat is a private company, with no military end use for the satellite. Ex-Im did not finance the parts of the satellite owned and operated by the government of Qatar's state-owned telecommunications operator, ictQatar.

<sup>9</sup>A transponder is a device that transmits signals automatically when it receives certain predetermined signals. Each transponder handles a particular frequency range (also referred to as bandwidth). There are multiple transponders on a satellite, each capable of supporting one or more communication channels.

<sup>10</sup>Ex-Im officials stated that the bank requires progress and technical operating reports for the vast majority of transactions involving the construction of a specific project or asset, regardless of whether the items financed are dual-use. The Cameroon transaction was an equipment sale and did not involve Ex-Im's support of specific physical projects. Progress reports describe the progress a project is making toward completion, such as the construction and testing of a satellite and related ground equipment. Technical operating reports describe how the asset is operating once it is put to use, for example, whether a satellite is functioning properly. According to Ex-Im officials, technical operating reports can provide some information on end use, such as the volume of traffic carried by a satellite.



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## Ex-Im Revised Its Guidance for Monitoring End Use

Ex-Im revised its 1997 memorandum on the implementation of its dual-use policy for military applications—which had not been updated prior to our 2014 review—and disseminated the revised memorandum to relevant staff on March 11, 2015. The revised memorandum adds to the responsibilities of Ex-Im staff for monitoring the end use of exported dual-use items after the bank’s board of directors has authorized an export transaction. Specifically, the new memorandum calls for the engineer assigned to monitor the transaction to take the following actions:

- *Notify buyers.* The engineer is to communicate with the bank’s Asset Management Division—Ex-Im’s primary contact with the buyer after the bank approves the transaction—to ensure that a process is established to notify the buyer in advance of any reporting due to be submitted to the bank. The memorandum specifies that if a dual-use report or related document becomes overdue, the assigned engineer, in conjunction with the asset management officer, will notify the buyer and alert the bank’s Office of the General Counsel within 30 days of the date when the report or related information was due so that appropriate action can be taken to expedite the submission of the required information.
- *Document monitoring activities.* The engineer is to keep a record of his or her activities in an electronic folder, which is to contain a number of specified documents, including requirements set forth in the bank’s loan or guarantee agreement pertaining to the scope and frequency of post-authorization reporting, all post-authorization reports on end use, and any correspondence between Ex-Im and the buyer or end user relating to the end use of the exports.
- *Determine compliance.* The engineer is to make an annual determination as to whether information received during the previous year was adequate to demonstrate that the transaction complied (or failed to comply) with the requirements of the bank’s dual-use policy, as set forth in the financing agreement and the bank’s charter. Should the engineer determine or become concerned that the dual-use transaction is or may be out of compliance with these requirements, the engineer should notify the Vice President of the Engineering and Environment Division, who oversees the monitoring of dual-use transactions, and other Ex-Im officials; these determinations and any such referrals and related correspondence should be documented in the electronic files.

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## Ex-Im Has Implemented the Revised Guidance

We found that the engineers responsible for monitoring the three fiscal year 2012 dual-use transactions financed by Ex-Im had taken the actions called for in the revised dual-use policy memorandum.

## Ex-Im Has Notified Buyers of Documentation Deadlines

In accordance with its revised guidance, Ex-Im has established an internal e-mail reminder system that automatically alerts the appropriate Ex-Im officials to notify the buyer that the annual end-use certification and report is coming due. The engineers received an e-mail alert several months prior to the due date and communicated with the asset management officer, who then notified the governments of Cameroon and Mexico that the due date for this documentation was approaching. As a result, Ex-Im received the 2014 end-use certification and report from each of these governments in a timely manner. Ex-Im also received on time any applicable progress and technical operating reports for the fiscal year 2012 dual-use transactions. For a summary of the reports required in the financing agreements, their due dates, and when they were received, see figure 1.

**Figure 1: Documentation Received by Ex-Im for Fiscal Year 2012 Dual-Use Exports as of June 15, 2015**

Dual-use export	Progress reports on construction, testing, and delivery of financed export	Technical operating reports on exported item once it is in use	Annual end-use certification and report	End-use inspections (including of books and records)
<b>Satellite for French company Eutelsat</b> <ul style="list-style-type: none"> <li>Launched Aug. 2013.</li> <li>Became operational Nov. 2013.</li> </ul>	 For 2013 – received late or not at all.  For 2014 – no longer required, now that satellite is operational.	 For 2013 – received on time.  For 2014 – due by: <ul style="list-style-type: none"> <li>Jul. 30, 2014 – received Jul. 29, 2014.</li> <li>Jan. 30, 2015 – received Feb. 4, 2015.<sup>a</sup></li> </ul>	 NOT REQUIRED  Because Eutelsat, the entity financed, is a private company with no military end use. <sup>b</sup>	At Ex-Im's discretion; none planned at this time.
<b>Three satellites for the government of Mexico:</b>  <b>Fixed service satellite</b> <ul style="list-style-type: none"> <li>Launched Dec. 2012.</li> <li>Became operational Feb. 2013.</li> </ul>	 For 2013 – received late or not at all.  For 2014 – no longer required, now that satellite is operational.	 For 2013 – received late or not at all.  For 2014 – due by: <ul style="list-style-type: none"> <li>April 15, 2015 – received Jun. 20, 2014 and Jan. 29, 2015.<sup>c</sup></li> </ul>	 For 2013 – received late. <sup>e</sup>   For 2014 – due by: <ul style="list-style-type: none"> <li>April 1, 2015 – received Mar. 30, 2015.<sup>e</sup></li> </ul>	At Ex-Im's discretion; none planned at this time. <sup>f</sup>
<b>Mobile service satellite 1</b> <ul style="list-style-type: none"> <li>Satellite destroyed in May 2015 launch failure.</li> </ul> <b>Mobile service satellite 2</b> <ul style="list-style-type: none"> <li>Launch planned for Oct. or Nov. 2015.<sup>d</sup></li> </ul>	 For 2013 – received late or not at all.  For 2014 – due by: <ul style="list-style-type: none"> <li>Jul. 30, 2014 – received Jun. 20, 2014.<sup>c</sup></li> <li>Jan. 30, 2015 – received Jan. 29, 2015.<sup>c</sup></li> </ul>	 Not required at this time because satellites are not yet in operation.		
<b>Construction equipment for the government of Cameroon</b> <ul style="list-style-type: none"> <li>Shipped to Cameroon military and put to use in 2013.</li> </ul>	 NOT REQUIRED  Because the Cameroon transaction was an equipment sale and did not involve Ex-Im's support of specific physical projects. <sup>g</sup>	 NOT REQUIRED  Because the Cameroon transaction was an equipment sale and did not involve Ex-Im's support of specific physical projects. <sup>g</sup>	 For 2013 – received late.   For 2014 – due by: <ul style="list-style-type: none"> <li>April 1, 2015 – received April 1, 2015.</li> </ul>	At Ex-Im's discretion; Ex-Im conducted an inspection in June 2015.

Legend: Ex-Im = Export-Import Bank of the United States.

Source: GAO analysis of Ex-Im documents. | GAO-15-611

<sup>a</sup>This report was received 5 days late, but Ex-Im did not consider this a significant delay.

<sup>b</sup>Ex-Im did not finance the parts of the satellite owned and operated by the government of Qatar's state-owned telecommunications operator, ictQatar.

<sup>c</sup>The Mexican government, with Ex-Im's approval, combined into one document the progress reports for the two mobile service satellites and the technical operating report for the fixed service satellite already in use.

<sup>d</sup>According to Ex-Im officials, the failed launch of the first mobile service satellite will not affect the launch of this satellite because a different launch provider will be used. A successful launch would be followed by several months of in-orbit testing before the satellite becomes operational.

<sup>e</sup>The government of Mexico submitted one annual end-use certification and report projecting the end use of all three satellites.

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<sup>f</sup>According to the credit agreement, Ex-Im officials may inspect records regarding the end use of the satellites, provided the government of Mexico does not consider the inspection a breach of Mexico's national security.

<sup>g</sup>Ex-Im requires progress and technical operating reports when supporting the construction of a specific project or asset. The Cameroon transaction was an equipment sale and did not involve Ex-Im's support of specific physical projects.

While Ex-Im's financing agreement with the government of Mexico calls for separate progress and technical operating reports for each satellite, Ex-Im officials decided to allow the government of Mexico to combine the progress reports for the two Mexican satellites that are not yet operational with the technical operating report for the one satellite already in use. The Vice President for Engineering and Environment approved this decision, and the engineer responsible for monitoring the transaction documented it. The combined report adheres to the timing specified in the Mexico financing agreement for the progress reports and exceeds the timing specified for technical operating reports. Submitting one combined report means that the technical operating report is submitted more frequently than required—twice a year instead of annually, according to Ex-Im officials. They also stated that combining these reports is more efficient because it allows Mexican officials to submit and Ex-Im officials to review a single document instead of three separate documents submitted at different times.

#### Ex-Im Has Begun to Systematically Document Dual-Use Monitoring Activities

In accordance with Ex-Im's revised guidance, the engineers responsible for monitoring each dual-use transaction have created an electronic folder system to document their monitoring activities. This system contains separate folders for each of the three fiscal year 2012 dual-use transactions. We examined these folders and found that they contained the required information. Each transaction folder contained, among other things, information associated with monitoring the end use of the exported item(s), such as

- annual end-use certification and reports;
- the engineer's annual determination regarding compliance with the bank's dual-use policy;
- correspondence determined by the engineer to be key to monitoring end use, such as an e-mail from the buyer transmitting required reports; and
- any applicable progress or technical operating reports or documentation of trips to inspect end use.

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## Ex-Im Has Made Determinations Regarding Compliance with Dual-Use Policy

In accordance with Ex-Im's revised guidance, the engineers responsible for monitoring the Cameroon and Mexico transactions have each made a determination that the information received during the previous calendar year (2014) was adequate to demonstrate that the transaction complied with the requirements of the bank's dual-use policy. The engineer responsible for monitoring the Eutelsat transaction did not make such a determination because none was required. Further details for each transaction are described below.

- *Cameroon.* The engineer monitoring the Cameroon transaction conducted a detailed analysis of equipment usage data within the 2014 calendar year in Cameroon's end-use certification and report and determined that the use of the equipment was overwhelmingly civilian in nature and thus met the bank's dual-use requirement of being used primarily for civilian purposes.<sup>11</sup> After meeting with military officials during a trip to Cameroon in early June 2015 and inspecting their operations, visiting current projects and assessing current and future needs, the engineer confirmed his determination that the use of the equipment was overwhelmingly civilian in nature.
- *Mexico.* The engineer monitoring the Mexico transaction determined that, while all three satellites are not yet fully operational, the government of Mexico continues to project a ground terminal allocation of 40 percent military and 60 percent civilian as the basis for its dual-use compliance. The Mexican government submitted an annual end-use certification and report for 2014 listing the civilian and military entities to which a total of 115,424 terminals would be allocated and the number of terminals allocated to each entity; 46,324 (40 percent) were allocated to military entities. This information is identical to that submitted by the Mexican government for 2013. Ex-Im officials stated that any end-use monitoring the bank might conduct would likely involve meeting with the U.S. military attaché in Mexico and obtaining information from a small sample of terminals. The officials acknowledged that once all the satellites are operational, it will be very difficult to ascertain actual end use, since that would involve monitoring over 100,000 ground terminals, obtaining logs showing bandwidth usage, and examining the bandwidth use

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<sup>11</sup>The engineer concluded that the civilian use of the equipment was over 80 percent. We applied this analysis to the information in Cameroon's end-use certification and report and arrived at the same conclusion. Civilian projects include activities such as road grading and construction, drainage and flood control, and civilian housing.

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associated with each terminal. They said the engineer responsible for monitoring this transaction would instead base his annual determination on the percentage of ground terminals allocated to military entities, although they identified limitations with using this percentage measure.<sup>12</sup> However, the officials said that, based on pre-approval vetting with the U.S. military attaché in Mexico, the bank determined that it is highly unlikely that the satellites would be used for mostly military purposes. According to the bank's board memorandum authorizing the Mexico satellite transaction, and as we noted in our August 2014 report, the Mexican Secretariat of Communications and Transportation—and not the Mexican military—is operating the satellites.

One of the mobile service satellites was destroyed during a failed launch in May 2015, leaving two satellites—the fixed service satellite launched in 2012 and already in use, and one more mobile service satellite with a planned launch in the fall of 2015. According to the engineer, the three-satellite system requires only one mobile service satellite to operate at a time, with the other functioning as a spare; the two mobile service satellites would thus be able to exchange operational and spare roles as needed. He said the government of Mexico has not yet determined whether to replace the destroyed satellite.

- *Eutelsat*. No annual determination regarding end use is required for the Eutelsat transaction because, as we noted in our August 2014 report, once the satellite became airborne in 2013, the number and capacity (bandwidth) of the military transponders on the satellite could not be modified.<sup>13</sup> As we previously reported, these transponders, which are dedicated to nonlethal military use by the government of

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<sup>12</sup>The officials explained that satellite usage would be difficult to monitor because the Mexican military would be using the satellites on a demand-assigned basis, with no particular dedicated use of capacity or transponders. They noted that limiting the military's use of ground terminals does not ensure that the satellites, at any given time, will be used mostly by civilian government agencies, or even that they will be used mostly for civilian purposes. However, in commenting on a draft of this report, Ex-Im officials stated that the preponderance of usage by civilian agencies and by the military (for search and rescue missions, response to natural disasters, drug interdiction) is expected to be for civilian purposes since purely military missions cannot be supported by the Mexsat satellite system.

<sup>13</sup>[GAO-14-719](#). In January 2014, Eutelsat certified that the majority of the satellite's transponders are for commercial (civilian) use and that this certification would remain valid until the end of the satellite's operational life.

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Qatar, were not financed by Ex-Im and represent only 6 of the satellite's 46 transponders and less than half its total transponder capacity. A senior Ex-Im official stated that if Eutelsat were to sell any of its transponders on the satellite to the Qatari government—thereby increasing the number of transponders that could potentially be used by that government's military for military purposes—the French company would have to report this information in its technical operating report and in financial reports required in its credit agreement with the bank. According to Eutelsat's two most recent technical operating reports, submitted in July 2014 and February 2015, there has been no change in transponder ownership.

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## Ex-Im Did Not Finance Any New Dual-Use Export Transactions in 2014, According to Application Data and Ex-Im Reviews

Ex-Im did not finance any new exports under its dual-use authority in fiscal year 2014, according to Ex-Im officials and our review of relevant data on Ex-Im authorizations.<sup>14</sup> According to Ex-Im officials, each application for financing requires the entry of numerous data elements for the application record. Several of these elements relate to whether there are any military implications in the application, and one field relates to whether or not the application would go forward under the bank's dual-use authority. The Engineering and Environment Division, which administers the bank's military policy and consequently its dual-use policy, is responsible for filling in this data field.<sup>15</sup>

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## Agency Comments

We provided Ex-Im a draft of this report and Ex-Im provided comments on June 12, 2015 (see app. II). Ex-Im agreed with our findings and stated that it is the bank's understanding that it has implemented the recommendation in our August 2014 report. This understanding is correct

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<sup>14</sup>As we reported last year, Ex-Im did not finance any new exports under its dual-use authority in fiscal year 2013.

<sup>15</sup>As we reported last year, according to Ex-Im officials, Ex-Im's Engineering and Environment Division finds that roughly 70 percent of all requests for financing of military items under the dual-use authority have no credible civilian application; the division therefore deems these requests ineligible for financing. The remaining requests, those that the division formally identifies as eligible under the dual-use authority, are considered for approval by the board, which serves as an additional level of review. After preliminary board approval, the House Committees on Appropriations and Financial Services and the Senate Committees on Appropriations and Banking, Housing, and Urban Development are notified 15 days before the dual-use transaction is returned to the board for final approval.

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and we will close that recommendation. We also received technical comments from Ex-Im officials. The officials updated information on their monitoring of the end use of the Cameroon equipment and clarified information about progress and technical operating reports and the expected use of the Mexican satellites. We made changes to our report in response to these comments where appropriate.

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

If you or your staff have any questions about this report, please contact me at (202) 512-8612 or [GianopoulosK@gao.gov](mailto:GianopoulosK@gao.gov).

A handwritten signature in black ink, reading "Kimberly Gianopoulos". The signature is fluid and cursive, with the first name "Kimberly" written in a larger, more prominent script than the last name "Gianopoulos".

Kimberly Gianopoulos  
Director, International Affairs and Trade



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### *List of Committees*

The Honorable Richard Shelby  
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The Honorable Sherrod Brown  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Lindsey Graham  
Chairman  
The Honorable Patrick J. Leahy  
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Committee on Appropriations  
United States Senate

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

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

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# Appendix I: Objectives, Scope, and Methodology

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To examine how the Export-Import Bank of the United States (Ex-Im) addressed weaknesses in monitoring the end uses of the dual-use exports it continued to finance in fiscal year 2013, and to identify what dual-use exports, if any, Ex-Im reported it financed in fiscal year 2014, we reviewed Ex-Im documentation regarding its dual-use policy, including a 1997 memorandum on implementing that policy; a revised 2015 memorandum; Ex-Im documentation associated with each of the three dual-use transactions Ex-Im financed in fiscal year 2012; and data on dual-use determinations. In addition, we examined Ex-Im's new electronic filing system for dual-use transactions, including the folder and subfolder structure and enclosed documents, so that we could determine what documents were filed in the system, and interviewed the official who created the system. We also observed a demonstration of the automatic e-mail reminders that prompt the appropriate Ex-Im official to notify buyers of upcoming due dates for end-use documents. We interviewed Ex-Im officials in Washington, D.C., 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 did not independently verify the information provided to Ex-Im or assess the appropriateness of the metrics or the effectiveness of the controls Ex-Im was using to determine end use. Through interviews with cognizant agency officials about Ex-Im's procedures for identifying and categorizing dual-use transactions in its Application Processing System, we determined that Ex-Im data were sufficiently reliable for the purpose of identifying dual-use exports financed under Ex-Im's dual-use authority in fiscal year 2014.

We conducted this performance audit from February 2015 to June 2015 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.

# Appendix II: Comments from the Export-Import Bank of the United States



EXPORT-IMPORT BANK  
OF THE UNITED STATES

June 12, 2015

Kimberly Gianopoulos  
Acting Director, International Affairs and Trade  
U.S. Government Accountability Office  
Washington, D.C. 20584

Dear Ms. Gianopoulos:

Thank you for providing the Export-Import Bank of the United States ("Ex-Im Bank" or "the Bank") with the Government Accountability Office (GAO) report, "EXPORT-IMPORT BANK: Dual-Use Export Monitoring Guidance Revised and Implemented" (GAO-15-611) (June, 2015).

The Bank appreciates the GAO's acknowledgment that "Ex-Im addressed weaknesses in monitoring the end use of 'dual-use' items by revising and implementing its guidance for monitoring these items" consistent with the GAO's 2014 recommendation. In order to address the GAO's recommendation issued in August 2014, the Bank revised the "Dual-Use" policy which has now been in effect since March 2015. It is the Bank's understanding from GAO that the issuance of the final report will close the 2014 audit's recommendation as implemented. In addition, this audit did not make any new recommendations. The Bank supports the GAO's work and audits which complement the Bank's efforts to continuously improve its practices and procedures.

Ex-Im Bank appreciates GAO's professionalism and courtesy throughout this audit.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Hall".

Charles J. Hall  
Executive Vice President and Chief Risk Officer  
Export-Import Bank of the United States

811 VERMONT AVENUE, N.W. WASHINGTON, D.C. 20571

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# Appendix III: GAO Contacts and Staff Acknowledgments

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## GAO Contact

Kimberly Gianopoulos, (202) 512-8612 or [Gianopoulosk@gao.gov](mailto:Gianopoulosk@gao.gov).

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## Staff Acknowledgments

In addition to the contact named above, Adam Cowles, Assistant Director, and Kay Halpern made key contributions to this report. In addition, Ashley Alley, Nabajyoti Barkakati, Tina Cheng, Debbie Chung, Martin De Alteriis, Michael Kaeser, and Hai Tran provided technical assistance.

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# Related GAO Products

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*Export-Import Bank: Status of Actions to Address GAO Recommendations since the Bank's 2012 Reauthorization.* [GAO-15-557T](#). Washington, D.C.: April 15, 2015.

*Export-Import Bank: Monitoring of Dual-Use Exports Should Be Improved.* [GAO-14-719](#). Washington, D.C.: August 28, 2014.

*Export-Import Bank: Financing of Dual-Use Exports.* [GAO-13-628R](#). Washington, D.C.: May 29, 2013.

*Export Promotion: The Export-Import Bank's Financing of Dual-Use Exports.* [GAO-12-628R](#). Washington, D.C.: April 12, 2012.

*Export Promotion: The Export-Import Bank's Financing of Dual-Use Exports.* [GAO-10-1052R](#). Washington, D.C.: September 15, 2010.

*Export Promotion: The Export-Import Bank's Financing of Dual-Use Exports.* [GAO-08-1182R](#). Washington, D.C.: September 30, 2008.

*Ex-Im Bank: The U.S. Export-Import Bank's Financing of Dual-Use Exports.* [GAO-07-1234R](#). Washington, D.C.: September 27, 2007.

*Export-Import Bank: The U.S. Export-Import Bank's Financing of Dual-Use Exports.* [GAO-01-1110R](#). Washington, D.C.: August 31, 2001.

*Export-Import Bank: The U.S. Export-Import Bank's Financing of Dual-Use Exports.* [NSIAD-00-231R](#). Washington, D.C.: September 1, 2000.

*International Affairs: U.S. Export-Import Bank's Financing of Dual-Use Exports.* [NSIAD-99-241R](#). Washington, D.C.: September 1, 1999.

*International Affairs: U.S. Export-Import Bank's Financing of Dual-Use Exports.* [NSIAD-98-244R](#). Washington, D.C.: September 1, 1998.

*U.S. Export-Import Bank: Process in Place to Ensure Compliance With Dual-Use Export Requirements.* [NSIAD-97-211](#). Washington, D.C.: July 17, 1997.

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