

CANADIAN COMPETITION RECORD

REGULATORY AND TRADE DEVELOPMENTS

U.S. EXPORT FINANCING: A SURVEY OF RECENT DEVELOPMENTS AT THE EX-IM BANK AND OPIC

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Over the past two years, the Clinton Administration has strongly promoted the linkage between export promotion and export financing in its overall economic policy as U.S. companies are increasingly faced with both export opportunities and competitive challenges in today's international economy. The recent conclusions of such multilateral trade agreements as the North American Free Trade Agreement ("NAFTA"), the Asia-Pacific Economic Cooperation Forum ("APEC") and the Uruguay Round Multilateral Trade Agreement of the General Agreement on Tariffs and Trade ("GATT", now the World Trade Organization ("WTO")), have opened global trade by allowing for the easier movement of goods and services. In addition, the emerging economies of the developing world have increased privatization and global output during the last several years. As a result, the demand for government assistance with export promotion and financing has increased dramatically.

Two U.S. agencies which play an important role in assuring the viability of certain export transactions are the Overseas Private Investment Corporation ("OPIC") and the Export Import Bank ("Ex-Im Bank").

Both OPIC and the Ex-Im Bank are part of the export promotion strategy of the U.S. Administration. One of the main areas of focus for the Administration has been on the "Big Emerging Markets" which currently are Taiwan, Hong Kong, the People's Republic of China, India, Brazil, Indonesia, South Korea, Argentina, Mexico, Poland, Turkey, and South Africa. Therefore, during the past year, these two agencies have refocused their work in these countries as well as in the emerging markets of the former Soviet Union.

Established in 1971, OPIC is a government agency which assists businesses and investors who are investing in fast growing yet risky global economies. It has three departments which are designed to decrease the risks associated with overseas investment. The Finance Department offers financing packages of loans and loan guarantees. The Insurance Department offers political risk insurance which protects against losses due to expropriation, inconvertibility of currency and political violence. Insurance is available to U.S. citizens, U.S. corporations and partnerships and foreign businesses which are at least 95% owned by the investors eligible under the above criteria. Finally, the Investment Development Department sponsors conferences and seminars in the U.S. and overseas for American businesses interested in countries with promising business opportunities. OPIC investment missions allow U.S. business executives to meet with key private sector leaders,

CANADIAN COMPETITION RECORD

government officials and potential joint venture partners.

In order to be eligible for OPIC assistance, a project must have a positive effect on U.S. employment, and be beneficial to the social and economic development of the host country (i.e., increase the availability of goods and services at better quality or lower cost, develop skills through training, transfer technological and managerial skills, and stimulate other local enterprises). OPIC will not support projects which adversely affect the U.S. economy, adversely affect the host country's development or environment, or contribute to violations of internationally recognized worker rights.¹

OPIC strongly encourages private business investment in the developing world and in the newly emerging democracies in order to improve American competitiveness in the international market place. It also aims to assist developing countries in expanding their economies and, as a result, become markets for U.S. goods while also increasing global trade in the long term. Projects include new investments, privatization, expansions and modernization of existing plants. Currently, programs are available for new and expanding U.S. businesses in 140 countries and areas.

1994 marked the highest level of activity in OPIC's 23 year history when it administered \$11.3 billion worth of projects in 48 countries.² As the governments of developing countries turned to the private sector for infrastructure growth, U.S. businesses encountered many opportunities. During the past year, OPIC focused much of its emphasis on Russia and the Newly Independent States ("NIS"). Thirty projects worth \$2.1 billion of investment occurred in the NIS. In June 1994, the agency

approved \$225 million in loan guarantees for financing projects in the areas of telecommunications, energy development, transportation and metals processing. A portion of that amount was also used for taking equity positions in new or expanding companies engaged in such sectors as financial services, infrastructure development and consumer products.

The same month, OPIC also approved \$200 million in political risk insurance for a U.S.-Russian-German joint aviation venture which would design, test, and manufacture parts for an improved version of an existing Russian commercial aviation engine. In addition, a drilling project in the Ardalin Oil Field in Russia received \$200 million in political risk insurance from OPIC.

Among U.S. projects in Asia which OPIC approved were \$100 million in investment guarantees for a power plant in India, \$200 million in political risk insurance for an electric power generating facility in Indonesia, and \$200 million in political risk insurance for construction of a geothermal electric power plant in the Philippines.

Many U.S. companies involved in projects in Latin America also received assistance from OPIC. OPIC approved a \$29.7 million loan guarantee for the expansion of production facilities of an Argentinean aluminum can factory and \$8.5 million in political risk insurance for one American company for the design, construction and operation of an \$800 million cellular telephone system serving all of Argentina outside of Buenos Aires. An oil and gas project in Venezuela also received \$80 million in political risk insurance from OPIC.

CANADIAN COMPETITION RECORD

In addition to these financial instruments, OPIC sponsored several investment missions over the past year. One of these included a trip to South Africa during which U.S. businesses interested in finding South African partners for local projects met with South African business and community leaders. OPIC also led U.S. companies on a mission to Hungary in order to explore opportunities in Eastern Europe.

A second U.S. financing agency is the Ex-Im Bank. Although the Bank is an independent agency of the U.S. government, it plays a major role in assisting with the Administration's commitment to increasing U.S. exports and thereby creating U.S. jobs. Under the Clinton Administration, the Bank's strategy has focused on continued export growth, an emphasis on exports to developing countries, stimulating small business transactions, promoting the export of environmentally beneficial goods and services, and expanding its project finance capabilities.³

During the past sixty years, around \$290 billion in U.S. exports have been supported by the Ex-Im Bank. The Bank has accomplished this by offering programs that help U.S. exporters make sales when other sources of assistance are unavailable or inadequate. Many of the transactions which the Bank supports would not have been awarded to U.S. companies without Ex-Im assistance. Therefore, the Ex-Im Bank supplements commercial financing and absorbs some of the repayment risks which the private sector cannot.

Bank support is offered through a wide range of programs. These include working capital guarantees provided to lenders who can then provide creditworthy small and medium sized exporters with the working capital they need to buy, build or

assemble products for export sales; export credit insurance which protects an exporter against both commercial and political risks of a foreign buyer defaulting on a payment; loan guarantees to creditworthy foreign buyers in order to encourage sales by having Ex-Im Bank assume all political and commercial risks of non-payment; and, finally, direct loans to foreign buyers which provide them with competitive fixed rate financing for their purchases from U.S. exporters.⁴

In order to qualify for these programs, a product or service must have at least 50% U.S. content and must not affect the U.S. economy in an adverse way.⁵ Also, U.S. legislation restricts the Bank's operation in certain countries and does not allow for the financing of exports of goods and services if they are militarily related.

In recent years the Bank has been shifting its focus as a result of the many changes in the global arena. Several years ago Ex-Im business was involved in development projects backed by foreign government guarantees. However, now with the spread of market-oriented economic policies and privatization in countries such as Mexico, Hungary, and the Philippines, economic development has moved away from government control and into the hands of private institutions. Billions of people are entering into the free market system. Developing countries now produce one-half of global output and are growing at twice the rate of industrial nations. Thus, the Ex-Im Bank is focusing its efforts on broadening its range of customers and the types of sales it supports in these emerging markets.

In 1994, Ex-Im authorized a record high of \$15 billion in loans, loan guarantees and insurance and also expanded financing programs in approximately 40

CANADIAN COMPETITION RECORD

countries.⁶ Latin America received the largest amount with \$5.2 billion, while Asia received \$4.6 billion which is an increase of 15% from 1993. The four countries which received the most amounts were Brazil (\$1.8 billion), Mexico (\$1.4 billion), Russia (\$1.3 billion), and China (\$1.1 billion). While two years ago more than 95% of the Bank's activity was with projects where the foreign government was a buyer or guarantor for repayment of money, over 50% of the Bank's activity in 1994 was with the private sector in the developing countries mentioned above.⁷

The Bank's increased lending in these countries matched the Clinton Administration's policies. For example, the Administration has placed much emphasis on strengthening the economies of Russia and the NIS. Therefore, in the past year, the Bank has supported several loans in these countries, especially in the area of oil and gas projects. Among these loans include a Memorandum of Understanding signed in November 1994 between Ex-Im and Gazprom, Russia's leading gas production company. Ex-Im is providing medium-term guarantees of commercial loans for U.S. sales to Gazprom. As a result, an estimated \$750 million worth of U.S. exports will go to Russia in order to help rehabilitate the country's aging natural gas production facilities and pipelines. Previously, loans for purchases by Gazprom depended on the credit-worthiness of the Russian Federation. Now transactions are based on the creditworthiness of Gazprom backed by the guarantees. Also, in January 1995 Ex-Im announced a loan guarantee to back the export of U.S. equipment and services for construction in Russia's oil and gas industry.

Ex-Im is also channeling billions of dollars in new loans to Asia. China was the Bank's largest customer in this region. In early October 1994, Ex-Im

Chairman Kenneth Brody visited China in order to lay the groundwork for speeding up the pace of U.S. support for purchases of U.S. goods and services in China. Most of the meetings focused in particular on large private sector projects such as power plants and communications systems. As a result of the economic reforms occurring in China, U.S. businesses are now faced with unique opportunities in these areas.

Another area in which Ex-Im Bank has become very active is the promotion of environmentally beneficial exports. As developing countries of the world experience rapid economic and population growth, they are also attempting to address environmental protection issues as well. Therefore, international demand for environmental products and services has increased over the past several years. Ex-Im Bank has responded to this demand by supporting environmentally beneficial projects. Among these include two geothermal power plants in the Philippines and a \$1 billion satellite surveillance system for the Amazon River basin which tracks deforestation, wildlife destruction, illegal mining and drug trafficking.

In addition, the Bank approved environmental review procedures and guidelines in December 1994. The Bank's Charter authorizes the Board of Directors to grant or withhold financing support after considering the beneficial and adverse environmental effects of proposed transactions. Yet now, large, long-term projects which involve exports that will affect particular locations such as tropical forests and national parks will require environmental assessments before being approved by the Bank.⁸

OPIC and the Ex-Im Bank will continue to play an important role in the U.S. Administration's efforts

CANADIAN COMPETITION RECORD

to promote exports. In 1995, the U.S. Congress approved \$33.94 billion for OPIC and \$786.55 million for the Ex-Im Bank. It is estimated that the amount for the Bank alone will result in \$19 billion in U.S. exports during 1995. Currently, the U.S. Administration is requesting even higher amounts in 1996. Its proposal asks for \$34 billion in funds for OPIC and \$823 million for the Ex-Im Bank. As a result, both agencies will allow businesses to take advantage of the unprecedented growth in emerging economies over the next several years where high political and commercial risks too often preclude support from private financial sources.

Notes

- ¹ Overseas Private Investment Corporation, (1994) *Program Handbook* at 4.
 - ² Overseas Private Investment Corporation, (1994) *Annual Report 1994* at 18.
 - ³ Export-Import Bank of the United States, (1994) *Annual Report 1994* at 4.
 - ⁴ The Export-Import Bank of the United States, (1994) *Fact Sheet* at 2.
 - ⁵ *Ibid.* at 1.
 - ⁶ Export-Import Bank of the United States, (1994) *Annual Report 1994* at 3.
 - ⁷ "Ex-Im Bank, EBRD Are Working More Closely with Private Partners" (1994) 11 *International Trade Reporter* 1535.
 - ⁸ "Ex-Im Bank Directors Approve Environmental Procedures, Guidelines" (1994) 11 *International Trade Reporter* 1964.
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