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THE EXPORT-IMPORT BANK OF INDIA ACT, 1981

ACT NO. 28 OF 1981

[11*th September*, 1981.]

An Act to establish a corporation to be known as the Export-Import Bank of India for providing financial assistance to exporters and importers, and for functioning as the principal financial institution for co-ordinating the working of institutions engaged in financing export and import of goods and services with a view to promoting the country's international trade and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Export-Import Bank of India Act, 1981.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "Board" means the Board of Directors of the Exim Bank referred to in section 6;

(*b*) "Development Bank" means the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964);

(*c*) "Exim Bank" means the Export-Import Bank of India established under section 3;

(*d*) "export" and "import" mean, respectively, export from or import into India or any other country of goods or services, or both;

(*e*) "goods" includes all materials, commodities and articles in a solid, liquid or gaseous state and all forms of energy;

(*f*) "notification" means a notification published in the Official Gazette;

(*g*) "prescribed" means prescribed by regulations made under this Act;

(*h*) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934);

(*i*) "scheduled bank" means a bank, for the time being, included in the Second Schedule to the Reserve Bank of India Act, 1934 (2 of 1934);

(*j*) "services" includes,—

(*I*) providing personnel (including skilled or unskilled workmen and persons for rendering technical or other services) for the purposes of any work or project (by whatever name called) or any activity;

(*II*) transferring of technology, including transferring, or securing the transfer of rights, knowhow, expertises or other skill with respect to any patent, invention, model, design, secret formula or process or similar property;

1. 1st January 1982, *vide* notification No. S.O. 919(E), dated 29th December, 1981 (except section 26), *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).

1st March 1982, *vide* notification No. S.O. 91(E), dated 23rd February, 1982 (in respect of section 26), *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*)

(*III*) furnishing any information, blueprints, plans, or advice with respect to any matter; and

(*IV*) making available any other resources.

CHAPTER II

ESTABLISHMENT OF THE EXPORT-IMPORT BANK OF INDIA AND INCORPORATION THEREOF

3. Establishment and incorporation of Export-Import Bank of India.—(*1*) With effect from such date as the Central Government may, by notification, appoint, there shall be established for the purposes of this Act a corporation to be known as th ia.

(*2*) The Exim Bank shall be a body corporate with the name aforesaid having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue or be sued.

(*3*) The head office of the Exim Bank shall be at Bombay or at such other place as the Central Government may, by notification, specify.

(*4*) The Exim Bank may establish offices, branches or agencies at such places in or outside India as it may consider necessary.

4. Authorised capital.—[1][(*1*) The authorised capital of the Exim Bank shall be ten thousand crores of rupees:

Provided that the Central Government may, by notification, increase the said capital up to an amount that it may deem necessary from time to time.]

(*2*) The issued capital of the Exim Bank shall be wholly subscribed by the Central Government.

CHAPTER III

MANAGEMENT OF THE EXIM BANK

5. Management.—(*1*) The general superintendence, direction and management of the affairs and business of the Exim Bank shall vest in the Board, which may exercise all powers and do all acts and things which may be exercised or done by the Exim Bank.

(*2*) Save as otherwise provided in the regulations made under this Act—

(*a*) the chairman, if he is a whole-time director or if he is holding offices both as the chairman and the managing director, or

(*b*) the managing director, if the chairman is not a whole-time director, or, if the chairman being a whole-time director, is absent,

shall also have powers of general superintendence, direction and management of the affairs and business of the Exim Bank and may also exercise all powers and do all acts and things which may be exercised or done by the Exim Bank.

(*3*) Subject to the provisions of this Act, the Board in discharging its functions shall act on business principles with due regard to public interest.

(*4*) In the discharge of its functions under this Act, the Exim Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.

6. Constitution of Board.—(*1*) The Board of Directors of the Exim Bank shall consist of the following, namely:—

(*a*) a chairman and a managing director appointed by the Central Government:

Provided that the same person may be appointed to function both as chairman and as managing director;

[2][(*aa*) two whole-time directors appointed by the Central Government;]

1. Subs. by Act 11 of 2012, s. 2, for sub-section (*1*) (w.e.f. 1-2-2012).
2. Ins. by s. 3, *ibid*. (w.e.f. 1-2-2012).

(*b*) one director nominated by the Reserve Bank;

(*c*) one director nominated by the Development Bank;

(*d*) one director nominated by the Export Credit and Guarantee Corporation Limited, being a Government Company within the meaning of section 617 of the Companies Act, 1956 (1 of 1956);

(*e*) not more than twelve directors nominated by the Central Government of whom—

(*i*) five directors shall be officials of the Central Government;

(*ii*) not more than three directors shall be from the scheduled banks;

(*iii*) not more than four directors shall be persons who have special knowledge of, or professional experience in, export or import or financing thereof.

(*2*) The chairman and the managing director [1][or the whole-time director] shall hold office for such term, not exceeding [2][five years], as the Central Government may specify in this behalf and any person so appointed shall be eligible for re-appointment.

(*3*) Notwithstanding anything contained in sub-section (*1*), the Central Government shall have the right to terminate the term of office of the chairman or the managing director, [1][or the whole-time director] as the case may be, at any time before the expiry of the term specified under sub-section (*2*), by giving him notice of not less than three months in writing or three months' salary and allowances in lieu thereof, and the chairman or the managing director,[1][or the whole-time director] as the case may be, shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (*2*) by giving to the Central Government notice of not less than three months in writing or three months' salary and allowances in lieu thereof.

(*4*) The chairman and the managing director [1][or the whole-time director] shall receive such salary and allowances as may be determined by the Central Government.

(*5*) The Central Government may, at any time, remove the chairman or the managing director, [1][or the whole-time director] as the case may be, from office:

Provided that no person shall be removed from his office under this sub-section unless he has been given an opportunity of showing cause against his removal.

[3][(*6*) Subject to the provisions contained in sub-section (*7*), any director nominated under clause (*b*) or clause (*c*) or clause (*d*) or clause (*e*) of sub-section (*1*) and not being an official of Government or not being a whole-time director or official of the Reserve Bank or the Development Bank or the said Export Credit and Guarantee Corporation Limited or a scheduled bank, shall hold office for such term, not exceeding three years, as the Central Government or, as the case may be, the authority nominating him, may specify in this behalf [4]***, and shall be eligible for re-nomination:

Provided that no such director shall hold office continuously for a period exceeding six years.]

(*7*) Any [5]***director nominated under this section shall hold office during the pleasure of the authority nominating him.

(*8*) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

(*9*) The chairman or, if for any reason he is unable to attend a meeting of the Board, the managing director [1][or the whole-time director] or, in the event of both the chairman and the managing director [1][or the whole-time director] being unable to attend a meeting, any other director nominated by the chairman in this behalf and in the absence of such nomination any director elected by the directors present from among themselves, shall preside at the meeting.

1. Ins. by Act 11 of 2012, s. 3 (w.e.f. 1-2-2012)
2. Subs. by Act 81 of 1985, s. 16, for "three years" (w.e.f. 1-5-1986).
3. Subs. by Act 66 of 1988, s. 39, for sub-section (*6*) (w.e.f. 30-12-1988).
4. The words "and thereafter until his successor enters upon his office" omitted by Act 45 of 2006, s. 18 (w.e.f. 16-10-2006).
5. The word "other" omitted by Act 66 of 1988, s. 39 (w.e.f 30-12-1988).

(*10*) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the directors present and voting, and in the event of an equality of votes, the chairman, or in his absence, the managing director, [1][or the whole-time director] or in the absence of both the chairman and the managing director, [1][or the whole-time director] the person presiding, shall have and exercise a second or casting vote.

(*11*) Save as otherwise provided in sub-section (*10*), every director of the Board shall have one vote.

7. Committees.—(*1*) The Board may constitute such Committees whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons for such purpose or purposes as it may think fit.

(*2*) Any Committee constituted under sub-section (*1*) shall meet at such times and places and shall observe such rules or procedure in regard to the transaction of business at its meeting as may be prescribed.

8. Fees and allowances of directors and members of Committees.—The directors and the members of a Committee shall be paid such fees and allowances as may be prescribed for attending the meetings of the Board or of any Committee constituted in pursuance of this Act and for attending to any other work of the Exim Bank:

Provided that no fees shall be payable to the chairman, if he is appointed as a whole-time chairman, or to the managing director [1][or the whole-time director] or to any other director or member who is an official of the Government, the Reserve Bank or the Development Bank.

9. Disqualifications.—No person shall be a director of the Board constituted under this Act, who—

(*a*) is, or at any time has been, adjudged insolvent, or

(*b*) is of unsound mind and has been so declared by a competent court, or

(*c*) is, or has been, convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or

(*d*) has, in the opinion of the Central Government, so abused his position as a director, as to render his continuance on the Board detrimental to the interests of the general public, or

(*e*) has been, for any reason, removed from the Board.

CHAPTER IV

BUSINESS OF THE EXIM BANK

10. Business of Exim Bank.—(*1*) The Exim Bank may grant in or outside India loans and advances by itself or in participation with any bank or financial institution whether in or outside India for the purposes of export or import and shall also function as the principal financial institution for co-ordinating the working of institutions engaged in financing of the export and import in such manner as it may deem appropriate.

(*2*) The Exim Bank may also carry on and transact all or any of the following kinds of business, namely:—

(*a*) granting loans and advances to a scheduled bank or any other bank or financial institution notified in the Official Gazette by the Central Government in this behalf by way of refinance of loans and advances granted by it for purpose of export or import;

(*b*) underwriting the issue of stocks, shares, bonds or debentures of any company engaged in export or import;

1. Ins. by Act 11 of 2012, s. 4 (w.e.f. 1-2-2012).

(*c*) issuing bid bonds or guarantees in or outside India by itself or in participation with any government, bank or financial institution in or outside India;

(*d*) accepting, collecting, discounting, re-discounting, purchasing, selling or negotiating in or outside India, bills of exchange or promissory notes arising out of transactions relating to export or import and granting of loans and advances in or outside India against such bills or promissory notes;

(*e*) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder;

(*f*) undertaking any transaction involving a combination of government to government and commercial credit for purposes of export or import;

(*g*) granting lines of credit to the government of any foreign State or any financial institution or person outside India for purposes of export or import;

(*h*) granting loans and advances outside India for any Indian joint venture;

(*i*) granting loans and advances to any person in India in connection with his equity contribution in any joint venture in any country outside India;

(*j*) financing export or import of machinery and equipment on lease basis;

(*k*) subscribing to, or investing in, or purchasing of, stocks, shares, bonds or debentures of any development bank or Export-Import Bank of any country outside India;

(*l*) buying or selling of, or entering into such other dealings in, foreign exchange, as may be necessary for the discharge of its functions;

(*m*) opening of any account in any bank in or outside India or the making of any agency arrangement with, or acting as an agent or correspondent of, any bank or other institution in or outside India;

(*n*) transferring, for consideration, any instrument relating to loans and advances granted by it;

(*o*) issuing participation certificates;

(*p*) subscribing to, or investing in, or purchasing of stocks, shares, bonds or debentures to the extent necessary for the enforcement of a lien, pledge or other contractual right;

(*q*) undertaking and financing of research, surveys, techno-economic or any other study in connection with the promotion and development of international trade;

(*r*) providing technical, administrative and financial assistance of any kind for export or import;

(*s*) planning, promoting, developing and financing export-oriented concerns;

(*t*)

forming or conducting subsidiaries for carrying out its functions;

(*u*) acting as agent of the Central Government, any State Government, the Reserve Bank, the Development Bank or any other person as the Central Government may authorise;

(*v*) collecting, compiling and disseminating market and credit information in respect of international trade;

(*w*) doing any other kind of business which the Central Government may authorise;

(*x*) generally doing such other acts and things as may be incidental to, or consequential upon, the exercise of its powers or the discharge of its duties under this Act or any other law for the time being in force, including sale or transfer of any of its assets.

(*3*) The Exim Bank may receive in consideration of any of the services mentioned in sub-sections (*1*) and (*2*) such commission, brokerage, interest, remuneration or fees as may be agreed upon.

(*4*) The Exim Bank shall not grant any loan or advance or other financial accommodation on the security of its own bonds or debentures.

CHAPTER V

RESOURCES OF THE EXIM BANK

11. Loans by Central Government.—The Central Government may, after due appropriation made by Parliament by law in this behalf, advance to the Exim Bank—

(*a*) a loan of twenty crores of rupees at a rate of interest of five and a quarter per cent. per annum repayable in fifteen equal annual instalments, commencing on the expiry of a period of fifteen years from the date of receipt of the loan; and

(*b*) such further sums of money by way of loan on such terms and conditions as may be agreed upon:

Provided that the Central Government may, on a request being made to it by the Exim Bank, increase the number of instalments or alter the amount of any instalment or vary the date on which any instalment is payable under clause (*a*).

12. Borrowings and acceptance of deposits by Exim Bank.—(*1*) The Exim Bank may, for the purposes of carrying out its functions under this Act,—

(*a*) issue and sell bonds and debentures with or without the guarantee of the Central Government;

(*b*) borrow money from the Reserve Bank—

(*i*) repayable on demand or on the expiry of fixed periods not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(*ii*) against bills of exchange or promissory notes arising out of *bona fide* commercial or trade transactions and bearing two or more good signatures and maturing within five years from the date of the borrowing;

(*iii*) out of the National Industrial Credit (Long Term Operations) Fund established under section 46C of the Reserve Bank of India Act, 1934 (2 of 1934) for any of the purposes specified in that section;

(*c*) borrow money from such other authority, organisation or institution in India as may generally or specially be approved by the Central Government;

(*d*) accept deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit on such terms as may generally or specially be approved by the Reserve Bank.

(*2*) The Central Government may, on a request being made to it by the Exim Bank, guarantee the bonds and debentures issued by that Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Gover

13. Loans in foreign currency.—Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973 (46 of 1973) or in any other law for the time being in force relating to foreign exchange, the Exim Bank may, for the purpose of granting loans and advances under this Act, borrow, with the previous consent of the Central Government, foreign currency from any foreign State or from any bank or financial institution in any foreign country or otherwise.

14. Grants, donations, etc., to Exim Bank.—The Exim Bank may receive gifts, grants, donations or benefactions from Government or any other source in or outside India.

CHAPTER VI

EXPORT DEVELOPMENT FUND

15. Export Development Fund.—With effect from such dateas the Central Government may, by notification, appoint, the Exim Bank shall establish a special fund to be called the Export Development Fund.

16. Credits to Export Development Fund.—To the Export Development Fund shall be credited—

(*a*) all amounts received for the purposes of that Fund by way of loans, gifts, grants, donations or benefactions from Government or any other source in or outside India;

(*b*) repayments or recoveries in respect of loans, advances or other facilities granted from the Fund;

(*c*) income or profits from investments made from the Fund; and

(*d*) income accruing or arising to the Fund by way of interest or otherwise, on account of the application of the Fund in accordance with the provisions of section 17.

17. Utilisation of Export Development Fund.—(*1*) Where the Exim Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (*2*) and (*3*), disburse or spend from the Export Development Fund any amount on account or in consequence of the grant of any loan or advance, or on account or in consequence of entering into any arrangement under sub-section (*1*) or clause (*b*) or clause (*c*) or clause (*d*) or clause (*q*) or clause (*r*) or clause (*s*) or clause (*w*) or clause (*x*) of sub-section (*2*) of section 10:

Provided that before granting any such loan or advance or entering into any such arrangement, the Exim Bank shall obtain the prior approval of the Central Government.

(*2*) Before seeking the approval of the Central Government under sub-section (*1*), the Exim Bank shall satisfy itself that banking or other financial institutions or other agencies are not likely to grant such loan or advance, or to enter into any such arrangement in the ordinary course of business.

(*3*) The Central Government shall, before giving its approval, satisfy itself that such loan, advance or arrangement is necessary as a matter of priority in the interests of the international trade of the country.

(*4*) For the removal of doubts, it is hereby declared that nothing contained in this section shall be deemed to preclude the Exim Bank from granting any loan or advance or from entering into any arrangement under sub-section (*1*) or clause (*b*) or clause (*c*) or clause (*d*) or clause (*q*) or clause (*r*) or clause (*s*) or clause (*w*) or clause (*x*) of sub-section (*2*) of section 10 without the approval of the Central Government, if no amount in respect thereof is to be disbursed or spent from the Export Development Fund.

18. Debits to Export Development Fund.—(*1*) To the Export Development Fund shall be debited—

(*a*) such amounts as may from time to time be disbursed or spent under sub-section (*1*) of section 17;

(*b*) such amounts as may be required for discharging the liabilities in respect of loans received for the purposes of that Fund;

(*c*) any loss arising on account of investment made out of that Fund; and

(*d*) such expenditure arising out of, or in connection with, the administration and application of the Fund as may be determined by the Board.

(*2*) No amount shall be debited to the Export Development Fund except as provided for in sub-section (*1*).

19. Accounts and audit of Export Development Fund.—(*1*) The balance-sheet and accounts of the Export Development Fund shall be prepared in such form and manner as may be prescribed.

(*2*) The Board shall cause the books and accounts of the Export Development Fund to be closed and balanced as on the 31st day of Decembereach year .

(*3*) The Export Development Fund shall be audited by one or more auditors appointed by the Central Government under section 24 who shall make a separate report thereon.

(*4*) The provisions of sub-sections (*2*), (*3*), (*4*) and (*6*) of section 24 shall, so far as may be, apply in relation to the audit of the Export Development Fund.

(*5*) The Exim Bank shall furnish to the Central Government, within four months from the date on which the accounts of the Export Development Fund are closed and balanced, a copy of the balance-sheet and accounts together with a copy of the auditors' report and a report on the operation of the Fund during the relevant year and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

20. Liquidation of Export Development Fund.—The Export Development Fund shall not be closed or wound up save by order of the Central Government and in such manner as that Government may direct.

CHAPTER VII

GENERAL FUND, ACCOUNTS AND AUDIT

21. General Fund.—All receipts of the Exim Bank other than those which are to be credited to the Export Development Fund under this Act shall be credited to a Fund to be called the General Fund and all payments by the Exim Bank, other than those which are to be debited to the Export Development Fund, shall be made out of the General Fund.

22. Preparation of accounts and balance-sheet.—(*1*) The balance-sheet and accounts of the Exim Bank shall be prepared in such form and manner as may be prescribed.

(*2*) The Board shall cause the books and accounts of the Exim Bank to be closed and balanced as on the 31st day of December each year.

23. Disposal of Profits accruing to General Fund.—(*1*) The Exim Bank may establish a Reserve Fund to which may be transferred such sums as that Bank may deem fit out of the annual profits accruing to the General Fund.

(*2*) After making provision for bad and doubtful debts, depreciation of assets and for all other matters for which provision is necessary or expedient or which is usually provided for by bankers and for the Reserve Fund referred to in sub-section (*1*), the Exim Bank shall transfer the balance of the net profits to the Central Government.

24. Audit.—(*1*) The accounts of the Exim Bank shall be audited by auditors duly qualified to act as auditors under sub-section (*1*) of section 266 of the Companies Act, 1956 (1 of 1956), who shall be appointed by the Central Government for such term and on such remuneration as the Central Government may fix.

(*2*) The auditors shall be supplied with a copy of the annual balance-sheet of the Exim Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Exim Bank and shall at all reasonable times have access to the books accounts, vouchers and other documents of the Exim Bank.

(*3*) The auditors may, in relation to such accounts, examine any director or any officer or other employee of the Exim Bank and shall be entitled to require from the Board or officer or other employee of

the Exim Bank such information and explanation as they may think necessary for the performance of their duties.

(*4*) The auditors shall make a report to the Exim Bank upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Exim Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the Exim Bank whether it has been given and whether it is satisfactory.

(*5*) The Exim Bank shall furnish to the Central Government within four months from the date on which its accounts are closed and balanced, a copy of its balance-sheet and accounts together with a copy of the auditors' report and a report of the working of the Exim Bank during the relevant year, and the Central Government shall, as soon as may be, after they are received by it, cause the same to be laid before each House of Parliament.

(*6*) Without prejudice to anything contained in the preceding sub-sections, the Central Government may, at any time, appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the Exim Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the Exim Bank to the Comptroller and Auditor-General of India.

25. Saving.—Save as otherwise provided in sub-section (*4*) of section 19, nothing contained in this Chapter shall apply to the Export Development Fund.

CHAPTER VIII

TRANSFER OF PART OF BUSINESS OF DEVELOPMENT BANK

26. Transfer of part of business of Development Bank.—(*1*) On such date as that Central Government may, by notification, appoint, all business, property, assets and liabilities, rights, interests, privileges and obligations of whatever nature of the Development Bank in so far as they relate to the export financing functions of that Bank shall stand transferred to, and vest in, the Exim Bank.

(*2*) For the transfer to, and vesting in, the Exim Bank under sub-section (*1*), the Exim Bank shall pay to the Development Bank such amount in such manner and in such number of instalments as may be determined by the Central Government.

(*3*) All contracts, deeds, bonds, agreements, powers-of-attorney, grants of legal representation and other instruments of whatever nature of the Development Bank which relate to the export financing functions of that Bank and which are subsisting or having effect immediately before the date referred to in sub-section (*1*) and to which the said Bank is a party or which are in favour of that Bank shall,—

(*a*) if they relate exclusively to the export financing functions of that Bank, be of full force and effect against or in favour of the Exim Bank, as the case may be, and may be enforced and acted upon as fully and effectively as if instead of the Development Bank the Exim Bank had been a party thereto or as if they had been issued in favour of the Exim Bank; and

(*b*) if they relate not only to the export financing function of the Development Bank but also to any of the other functions of that Bank, be of full force and effect against or in favour of both the Development Bank and the Exim Bank and may be enforced or acted upon as fully and effectively as if in addition to the Development Bank the Exim Bank had also been a party thereto or as if they had been issued in favour of the Development Bank and also the Exim Bank.

(*4*) If, on the date referred to in sub-section (*1*), any suit, appeal or other legal proceeding of whatever nature relating to the export financing functions of the Development Bank is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to the Exim Bank of the business of the Development Bank or of anything contained in this Act, but the suit, appeal or other proceeding may,—

(*a*) where it relates exclusively to the export financing functions of the Development Bank, be continued, prosecuted and enforced by or against the Exim Bank; and

(*b*) where it relates not only to the export financing functions of the Development Bank but also to any of the other functions of that Bank, be continued, prosecuted and enforced by or against the Development Bank and the Exim Bank or, if the Central Government by special order in writing so directs, by or against such one of the said two Banks, as may be specified in such order.

(*5*) If any question arises as to whether any contract, deed, bond, agreement, powers-of-attorney, grant of legal representation or other instrument referred to in sub-section (*3*) or any suit, appeal or other legal proceeding referred to in sub-section (*4*) relates or relates exclusively to the export financing functions of the Development Bank, it shall be referred to the Central Government for decision and the decision of the Central Government thereon shall be final.

(*6*) The provisions of this section shall have effect notwithstanding anything contained in the Industrial Development Bank of India Act, 1964 (18 of 1964) or any other law or any instrument having force by virtue of the said Act or other law.

CHAPTER IX

MISCELLANEOUS

27. Staff of Exim Bank.—(*1*) The Exim Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine the terms and conditions of their appointment and service.

(*2*) Without prejudice to the provisions of sub-section (*1*), it shall be lawful for the Exim Bank to utilise, and for the Development Bank to make available the services of, such staff of the Development Bank having experience relating to export financing functions on such terms and conditions as may be agreed upon between the Exim Bank and the Development Bank.

(*3*) The duties and conduct, terms and conditions of service and the establishment and maintenance of a Provident Fund or any other Fund for the benefit of the officers and other employees of the Exim Bank shall be such as may be prescribed.

28. Delegation of powers.—The Board may, be general or special order, delegate to any director or any officer or other employee of the Exim Bank, subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act as it may deem necessary.

29. Returns.—The Exim Bank shall furnish, from time to time, to the Central Government such returns as the Central Government may require.

30. Obligation as to fidelity and secrecy.—(*1*) The Exim Bank shall not, except as otherwise required by this Act or any other law, divulge any information relating to, or to the affairs, of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for the Exim Bank to divulge such information.

(*2*) The Exim Bank may, for the purpose of efficient discharge of its functions under this Act, collect from, or furnish to, the Central Government, the Development Bank or any scheduled bank or such other financial institution, as may be notified in the Official Gazette by the Central Government in this behalf, credit information or other information as it may consider useful for the purpose, in such manner and at such times, as it may think fit.

Explanation.—For the purpose of this sub-section, the expression "credit information" shall have the same meaning as in clause (*c*) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934), subject to the modification that "banking company" referred to therein shall mean the Development Bank, any scheduled bank or other financial institution as aforesaid.

(*3*) Every director, member of a committee, auditor or officer or other employee of the Exim Bank or of the Development Bank whose services are utilised by the Exim Bank under the provisions of this Act, shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the First Schedule.

[1][(*4*) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Ac

31. Defects in appointments not to invalidate acts, etc.—(*1*) No act or proceeding of the Board or of any committee of the Exim Bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board or the committee, as the case may be.

(*2*) No act done by any person acting in good faith as a director shall be deemed to be invalid merely on the ground that he was disqualified to be a director or that there was any other defect in his appointment.

32. Arrangement with Exim Bank on appointment of directors to prevail.—(*1*) Where any arrangement entered into by the Exim Bank with a company provides for the appointment by the Exim Bank of one or more directors of such company, such provisions and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the

1. Ins. by Act 30 of 2005, s. 34 and the Schedule (w.e.f. 14-12-2006).

Companies Act, 1956 (1 of 1956), or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the company, and any provision regarding share qualification, age-limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Exim Bank in pursuance of the arrangement as aforesaid.

(*2*) Any director appointed as aforesaid shall—

(*a*) hold office during the pleasure of the Exim Bank and may be removed or substituted by any person by order in writing of the Exim Bank;

(*b*) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(*c*) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

33. Indemnity of directors.—(*1*) Every director shall be indemnified by the Exim Bank against all losses and expenses incurred by him, in, or in relation to, the discharge of his duties, except such as are caused by his own wilful act or default.

(*2*) A director shall not be responsible for any other director or for any officer or other employees of the Exim Bank or for any loss or expenses resulting to the Exim Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the Exim Bank or the insolvency or wrongful act of any debtor or any person under obligation to the Exim Bank or anything done in good faith in the execution of the duties of his office or in relation thereto.

34. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against the Exim Bank or any director or any officer or other employee of the Exim Bank or any other person authorised by the Exim Bank to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any other law or provision having the force of law.

35. Act 18 of 1891 to apply in relation to Exim Bank.—The Bankers' Books Evidence Act, 1891 shall apply in relation to the Exim Bank as if it were a Bank as defined in section 2 of that Act.

36. Section 34A and section 36AD only of Act 10 of 1949 to apply to Exim Bank.—Nothing contained in the Banking Regulation Act, 1949, except section 34A and section 36AD thereof, shall apply to the Exim Bank.

37. [*Act* 43 *of* 1961 *and Act* 7 *of* 1964 *not to apply to Exim Bank*.] *Omitted by Finance Act*, 1998 (21 *of* 1998) *s*. 117 (*w.e.f*. 1-4-1999).

38. Liquidation of Exim Bank.—No provision of any law relating to the winding up of companies or corporations shall apply to the Exim Bank and the Exim Bank shall not be placed in liquidation save by an order of the Central Government and in such manner as it may direct.

39. Power to make regulations.—(*1*) The Board may, with the previous approval of the Central Government,make regulations not inconsistent with this Act to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(*a*) the times and places of the meetings of the Board or of any committee constituted under this Act and the procedure to be followed at such meetings including the quorum necessary for the transaction of business;

(*b*) the fees and allowances that may be paid to the directors and the members of a committee;

(*c*) the form and manner in which the balance-sheets and the account of the Export Development Fund and the Exim Bank shall be prepared;

(*d*) the duties and conduct, and the terms and conditions of service of the officers and other employees of the Exim Bank;

(*e*) the establishment and maintenance of provident fund or any other fund for the benefit of the officers and other employees of the Exim Bank; and

(*f*) any other matter which is to be, or may be, prescribed.

(*3*) Every regulation made by the Board under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

40. [*Amendment of certain enactments.*]—*Rep. by Repealing and Amending Act,* 1988 (19 *of* 1988), *s*. 2, *and the First Schedule* (*w.e.f*. 31-3-1988).

41. Power to remove difficulty.—If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, do anything, not inconsistent with such provisions, for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the date on which this Act receives the assent of the President.

THE FIRST SCHEDULE

[*See* section 30(*3*)]

DECLARATION OF FIDELITY AND SECRECY

I……..., do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as director, member of…….committee, auditor, officer or other employee (as the case may be) of the Export-Import Bank of India and which properly relate to the officer or position held by me in or in relation to the said Exim Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Export-Import Bank of India or to the affairs of any person having any dealing with the said Exim Bank, nor will I allow any such person to inspect or have access to any books or documents belonging to or in the possession of the said Exim Bank and relating to the business of the said Exim Bank or the business of any person having any dealing with the said Exim Bank.

(Signature)

Signed before me.

[*THE SECOND SCHEDULE*]. *Rep. by the Repealing and Amending Act,* 1988(19 *of* 1988)*, s. and the First Schedule (w.e.f.* 31-3-1988*).*