



441 G St. N.W.
Washington, DC 20548

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Report to Congressional Committees

Export-Import Bank: Monitoring of Exports with Dual Military and Civilian Uses as of 2024

The mission of the Export-Import Bank of the United States (EXIM) is to support the export of U.S. goods and services through loans, loan guarantees, and insurance, thereby supporting U.S. jobs. EXIM's charter contains a general prohibition on support for defense articles and services, with limited exceptions. In 1994, Congress gave EXIM statutory authority to support exports of defense articles and services with both civilian and military uses, known as dual-use exports, provided that EXIM determines the items are nonlethal and primarily for civilian use.¹ For example, in 2011, EXIM directly loaned about \$64 million to a French company to finance a dual-use export—a geosynchronous satellite,² mainly intended to supply civilian services such as direct-to-home TV and broadband.³

The Further Consolidated Appropriations Act, 2020 extended EXIM's authority to finance dual-use exports until December 31, 2026, when EXIM's operating authority expires under 12 U.S.C. § 635f.⁴ The law that granted EXIM's dual-use authority in 1994 included a provision for GAO, in consultation with EXIM, to report annually on the end uses of dual-use exports supported by EXIM during the second preceding fiscal year.⁵ This report (1) examines the status of EXIM's monitoring of dual-use exports that it continued to finance in fiscal year 2022, as of August 2024, and (2) identifies any new dual-use exports that EXIM financed in fiscal year 2023.

To address these objectives, we reviewed EXIM guidance and database records as well as

¹Pub. L. No. 103-428, § 1(a), 108 Stat. 4375 (Oct. 31, 1994), codified at 12 U.S.C. § 635(b)(6)(I). This authority was initially set to expire in 1997, but Congress has subsequently extended it.

²A geosynchronous, or geostationary, satellite travels in earth's orbit but remains in the same place over the earth.

³According to EXIM's Military Policy, the terms "defense articles" and "defense services" (including for dual-use exports) are defined by using criteria based on the identity of the foreign end user, the nature of the item, and the use to which the item will be put. If the items are sold to a military entity or designed primarily for military use, they are presumed to be defense articles, unless proven otherwise. These exclusions apply even in the case of exports

associated with a military end user. For example, humanitarian items (such as ambulances and hospital supplies) are not considered defense articles, even if sold to a military end user. In addition, even if an export is determined to be a defense article, there are two statutory exceptions to the prohibition on EXIM's support of defense articles that are incorporated into EXIM's Military Policy. The first exception applies to the dual-use exports exception discussed in this report. It provides that any export that has been determined to be a defense article is eligible for financing as a dual-use item if convincing evidence exists that the export is nonlethal in nature and will be used primarily for civilian activities. 12 U.S.C. § 635(b)(6)(I). The second exception permits EXIM support for certain defense article or service exports that are sold primarily for antinarcotics purposes. 12 U.S.C. § 635(b)(6)(B).

⁴Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, Div. I, Title IV, § 401(a), 133 Stat. 2534, 3021 (Dec. 20, 2019).

⁵Pub. L. No. 103-428, § 1(a). GAO is required to report annually on the end uses of dual-use exports supported by EXIM, which includes dual-use exports financed during the extended time frame established in the Further Consolidated Appropriations Act, 2020.

EXIM documentation related to an existing dual-use transaction. This documentation included a technical operating report, an annual end-use certification report, and a dual-use compliance determination. We also interviewed EXIM officials in Washington, D.C. We did not independently verify the information that buyers provided to EXIM or assess the effectiveness of EXIM's methods of determining end use. We determined that data used to identify the status of dual-use exports were sufficiently reliable for purposes of identifying dual-use exports financed by EXIM. We based this determination on our prior assessments of the data as well as EXIM's confirmation that, as of August 2024, no changes affecting dual-use transactions had been made to its data collection procedures or the database it uses to maintain information on dual-use exports.

We conducted this performance audit from May 2024 to August 2024 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.

Background

EXIM's Engineering and Environment Division, with assistance from the bank's Office of the General Counsel, Office of Congressional and Intergovernmental Affairs, and Office of Policy Analysis and International Relations, is responsible for implementing EXIM's dual-use authority. EXIM defines "defense article" and "defense service" on the basis of the end user, the nature of the item, and its use.

In 2015, EXIM revised its guidance for monitoring dual-use transactions in response to findings we reported in August 2014.⁶ Specifically, in response to our recommendation, EXIM's revised guidance called for the EXIM engineer assigned to monitor the transaction to take the following actions:

- **Notify buyers.** In advance of deadlines specified in EXIM's credit agreements with buyers, the engineer is to remind buyers of the reports due to be submitted to EXIM. If a dual-use report becomes overdue, the engineer is to notify the buyer and alert EXIM's Office of the General Counsel within 30 days of the date when the report or related information was due.
- **Document monitoring activities.** The engineer is to keep a record of monitoring activities in an electronic folder, which is also to contain documents such as reports that the bank requires from the buyer. These required documents vary by loan agreement and may include progress reports on construction, testing, and delivery of financed exports; technical operating reports once the item is in use; and annual end-use certifications or reports. The annual end-use certification describes the civilian and military uses of the exported item and includes certification by the buyer that the item is being used primarily for civilian purposes.
- **Determine dual-use compliance.** Within 120 calendar days of the beginning of each calendar year, the engineer is to determine whether information received relating to the buyer's usage of the exports during the previous year was adequate to

⁶GAO, *Export-Import Bank: Monitoring of Dual-Use Exports Should Be Improved*, [GAO-14-719](#) (Washington, D.C.: Aug. 28, 2014). In June 2015, we reported that EXIM had revised its guidance and implemented the revised guidance. See GAO, *Export-Import Bank: Dual-Use Export Monitoring Guidance Revised and Implemented*, [GAO-15-611](#) (Washington, D.C.: June 25, 2015). In August 2017, we reported that EXIM had made annual dual-use compliance determinations for 2015 and 2016 but had sometimes done so before receiving end-use documents or after internal deadlines. See GAO, *Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2017*, [GAO-17-730R](#) (Washington, D.C.: Aug. 29, 2017).

demonstrate that the transaction complied or failed to comply with the dual-use policy in the previous year, as set forth in the financing agreement and EXIM's charter. If the engineer determines that the buyer is, or may be, out of compliance with the agreement's dual-use requirements, the engineer must retain files documenting the referral of this determination to senior management and the Office of the General Counsel. In addition, the engineer must retain files documenting any follow-up correspondence with the buyer to confirm the actual end use of the exports.

EXIM Continued to Monitor a Single Dual-Use Export Transaction

As of August 2024, EXIM was monitoring the end use of a single transaction that it had continued to finance in fiscal year 2022. This transaction with the government of Mexico, comprising two satellites, was approved in 2012 and required documentation in 2024. The transaction included a fixed-service satellite, which was launched in December 2012 and became operational in February 2013, and a mobile-service satellite, which was launched in October 2015 and became operational in December 2015.⁷ EXIM received final repayment of the fixed-service satellite in December 2022, which ends the requirement for the government of Mexico to report on it, according to EXIM.⁸ In 2024, EXIM received all required documents for the mobile-service satellite from the government of Mexico on time and subsequently determined that Mexico was in compliance with the bank's dual-use policy, as outlined in table 1.⁹

⁷We have previously reported on this transaction, including in 2021, 2022, and 2023. See GAO, Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2021, [GAO-21-105227](#) (Washington, D.C.: Sept. 1, 2021), Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2022, [GAO-22-106090](#) (Washington, D.C.: Aug. 30, 2022), and Export-Import Bank: Monitoring of Exports with Dual Military and Civilian Uses as of 2023, [GAO-23-106877](#) (Washington, D.C.: Aug. 31, 2023).

⁸According to EXIM officials, although the final monitoring and reporting requirements for the fixed-service satellite have concluded, they expect that the government of Mexico will continue to report on it when it submits its required documentation for the mobile-service satellite.

⁹Although the reporting and monitoring requirements only applied to the mobile-service satellite in 2024, the government of Mexico's submission of the required documents in 2024 covered both the mobile-service satellite and the fixed-service satellite in a combined reporting format.

Table 1: Requirements and Status of U.S. Export-Import Bank (EXIM) End-Use Monitoring of Government of Mexico Dual-Use Transaction, as of August 2024

Reporting and compliance requirements	Mobile-service satellite (Mexsat 2/Morelos 3) ^a
Maturity date and repayment term	January 25, 2025: Repayment term of 10 years, with 20 semi-annual payments beginning July 25, 2015. ^b
Technical operating reports	<ul style="list-style-type: none"> • submitted on time • Due from buyer (government of Mexico) by February 4, 2024. Buyer submitted a joint technical operating report covering both satellites in English on January 23, 2024.^{c, d}
Annual end-use certification	<ul style="list-style-type: none"> • submitted on time • Due from buyer (government of Mexico) by March 31, 2024. Buyer submitted the certification in English on March 25, 2024.^c
Annual determination of dual-use compliance	<ul style="list-style-type: none"> • submitted on time • Due from EXIM by April 30, 2024. EXIM engineer communicated on March 26, 2024, that certification and supporting data demonstrated the government of Mexico's compliance with EXIM's dual-use policy.

Legend: ✓ = submitted on time.

Source: GAO analysis of EXIM documents and testimony. | GAO-24-107589

^aThe dual-use transaction with the government of Mexico comprises two satellites: a fixed-service satellite and a mobile-service satellite. EXIM received final repayment of the fixed-service satellite in December 2022, which ends the requirement for the government of Mexico to report on it, according to EXIM. However, EXIM officials noted that although the final monitoring and reporting requirements for the fixed-service satellite have concluded, they expect that the government of Mexico will continue to report on it when it submits its required documentation for the mobile-service satellite. In 2024, the government of Mexico's submission of the required documents covered both the mobile-service satellite and the fixed-service satellite in a combined reporting format.

^bEXIM officials stated that payment in full ends the buyer's dual-use reporting obligations to the bank and effectively ends the bank's end-use monitoring responsibilities for the transaction.

^cThe credit agreement with the government of Mexico states that all documents submitted to EXIM must be in English or, if originally written in another language, accompanied by an English translation.

^dAccording to the credit agreement with the government of Mexico, the technical operating report for this satellite is due annually, on the date that is 60 days after the satellite's in-orbit acceptance date of December 6, 2015.

EXIM Did Not Finance Any New Dual-Use Exports in Fiscal Year 2023

EXIM did not finance any new exports under its dual-use authority in fiscal year 2023, according to EXIM authorization data and EXIM officials. According to EXIM officials, no applications for dual-use projects reached EXIM's Board of Directors for approval in fiscal year 2023 or in fiscal year 2024 as of August 2024.¹⁰ The board last approved a new dual-use transaction in fiscal

¹⁰EXIM has a five-member Board of Directors, with three members constituting a quorum. According to EXIM officials, all new dual-use transactions must be approved by a quorum of the board.

year 2012.¹¹

¹¹EXIM's Board of Directors did not have a quorum from July 2015 to May 2019, precluding the board from approving any new dual-use transactions during this period.

Agency Comments

We provided a draft of this report to EXIM for comment. EXIM provided technical comments, which we incorporated, as appropriate. We are sending copies of this report to the appropriate congressional committees and to the President and Chair of the Export-Import Bank. In addition, the report will be 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) 512-7279 or elhodirin@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report include Joyee Dasgupta (Assistant Director), Victoria Lin (Analyst in Charge), Aldo Salerno, Reid Lowe, Samantha Lalisian, and Terry Richardson.



Nagla'a El-Hodiri

Director, International Affairs and Trade

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Related GAO Products

Export-Import Bank: Monitoring of Exports with Dual Military and Civilian Uses as of 2023. [GAO-23-106877](#). Washington, D.C.: August 31, 2023.

Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2022. [GAO-22-106090](#). Washington, D.C.: August 30, 2022.

Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2021. [GAO-21-105227](#). Washington, D.C.: September 1, 2021.

Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2020. [GAO-20-688R](#). Washington, D.C.: August 27, 2020.

Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2019. [GAO-19-656R](#). Washington, D.C.: August 12, 2019.

Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2018. [GAO-18-683R](#). Washington, D.C.: August 30, 2018.

Export-Import Bank: Status of End-Use Monitoring of Dual-Use Exports as of August 2017. [GAO-17-730R](#). Washington, D.C.: August 29, 2017.

Export-Import Bank: Status of Dual-Use Exports as of August 2016. [GAO-16-844R](#). Washington, D.C.: August 31, 2016.

Export-Import Bank: Dual-Use Monitoring Guidance Revised and Implemented. [GAO-15-611](#). Washington, D.C.: June 25, 2015.

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.