

SEAL OF THE ROYAL COMMAND

Export-Import Bank of Thailand Act

1993 (B.E. 2536)

Bhumibhol Adulyadej, Rex.

Given this 27th day of August 1993

Being the 48th Year of the Present Reign

By the royal command of His Majesty King Bhumibhol Adulyadej, it is hereby proclaimed that:

Whereas it is expedient to establish a bank for the exportation and importation of Thailand,

His Majesty the King is thus graciously pleased that an act shall be promulgated, by and with the advice and consent of the Parliament, as follows:

Section 1. This Act shall be called the “Export-Import Bank of Thailand Act, 1993 (B.E. 2536).”

Section 2. This Act shall come into force from the day following the date of its publication in the Government Gazette.

Section 3. In this Act:

“Bank” means the Export-Import Bank of Thailand;

“Exporter” means the domestic business operator, including the person having the qualifications as prescribed by the Board, who exports goods or services for selling

abroad in order to obtain returns in currency or any other property equivalent in value to currencies into Thailand and shall also mean the provider of services to persons abroad;

“Exporter’s bank” means the commercial bank or other financial institution providing credit facilities for the exporter or processing export documents for the exporter;

“Buyer” means the importer abroad, who buys goods or services from Thailand or goods manufactured in Thailand;

“Buyer’s bank” means the commercial bank, other financial institution or any other organization providing credit facilities for the buyer or processing import documents for the buyer;

“Investor”⁽¹⁾ means:

(1) The domestic business operator connected with the exportation of goods or services from Thailand, the business, which earns foreign exchange or contributes to foreign exchange earnings or the business which saves foreign exchange.

(2) The business operator abroad having the investor or joint investor who is:

(a) A Thai national or

(b) A juristic person registered in Thailand having the majority capital held by the person(s) under (a) or a juristic person having the person(s) under (a) holding a majority share of the total capital in such juristic person and having the authority, by the law or regulation or agreement to appoint the majority directors or to cast a majority vote to formulate operational policies of such juristic person.

⁽¹⁾ Added by Section 3 of the Export – Import Bank of Thailand Act (No.2), 1999 (B.E. 2542)

“Investor’s bank”⁽²⁾ means the commercial bank, financial institution or any other organization providing the credit facilities, guarantee or other financial services for the investor in connection with investment.”

“Capital fund” means the sum of the initial capital under Section 9, the fund received from the capital increase under Section 10, the remaining reserve and net profit after appropriation less losses in all accounting periods and the reserve arising from property appraisal;

“Financial instrument” means bill, debenture, bond and other instrument as prescribed by the Board;

“Board” means the Board of Directors of the Export-Import Bank of Thailand;

“Director” means the member of the Board of Directors of the Export-Import Bank of Thailand;

“President” means the President of the Export-Import Bank of Thailand;

“Minister” means the Minister in charge and control of the execution of this Act.

Section 4. The Minister of Finance shall be in charge and control of the execution of this Act and shall be authorized to issue ministerial regulations for carrying out the duties under this Act.

Such ministerial regulations shall come into force upon their publications in the Government Gazette.

⁽²⁾ Added by Section 3 of the Export – Import Bank of Thailand Act (No. 2), 1999 (B.E. 2542)

Chapter 1

Establishment and Capital

Section 5 A bank shall be established and called the “Export-Import Bank of Thailand”, abbreviated as “EXIMBANK” and shall be a juristic person.

Section 6 The head office of the Bank shall be set up in Bangkok and its branches or representative offices may be set up anywhere inside or outside Thailand. However, the setting up of branches or representative offices outside Thailand shall first be approved by the Minister.

Section 7⁽³⁾ The Bank shall have the objective of conducting the business which promotes and supports exports, imports, and investment, both domestic and overseas, for the purpose of national development by providing credit facilities, guarantee, risk insurance or other necessary services under the provisions of this Act.

Section 8 Within the scope of the Bank’s objective under Section 7, the Bank shall be authorized to:

(1) Hold ownership or have possessory right or have various real rights, buy, procure, sell, dispose of, lease, lease out, hire-purchase, hire-purchase out, borrow, lend, accept pledge, accept mortgage, exchange, transfer, accept transfer or execute any acts regarding the property, both inside and outside Thailand, as well as accepting property given by others;

(2)⁽⁴⁾ Provide credit facilities for the exporter’s bank, the exporter, the buyer’s bank, the buyer, the investor’s bank or the investor;

⁽³⁾ Amended by Section 4 of the Export-Import Bank of Thailand Act (No. 2), 1999 (B.E. 2542)

⁽⁴⁾ Amended by Section 5 of the Export-Import Bank of Thailand Act (No. 2), 1999 (B.E. 2542)

(3) Provide credit facilities for the importation of goods or services for use in manufacturing goods for export or for national development;

(4)⁽⁵⁾ Provide credit facilities or other forms of financial services in respect of international trade and investment customary to commercial banks or other financial institutions;

(5)⁽⁶⁾ Guarantee the debts in case of the exporter, the buyer or the investor having received the credit facilities from the exporter's bank, the buyer's bank or the investor's bank, as the case may be;

(6) Provide insurance against risk of non-payment from the buyer or the buyer's bank;

(6/1)⁽⁷⁾ Guaranteeing the risks of receiving payment from selling goods or services for the exporter;

(6/2)⁽⁸⁾ Guaranteeing the risks of the exporter's bank or the investor's bank being demanded for payment in accordance with the letter of guarantee, in this respect, according to the rules, procedures and conditions prescribed by the board of directors;

(7)⁽⁹⁾ Guaranteeing the risks of investment abroad by the investor in accordance with (2) of the definition of the term "Investor" in Section 3 specific for political risks, in this respect, according to the rules, procedures and conditions prescribed by the ministerial regulations;

⁽⁵⁾ and ⁽⁶⁾ Amended by Section 6 of the Export – Import Bank of Thailand Act (No. 2), 1999 (B.E. 2542)

⁽⁷⁾ and ⁽⁸⁾ Added by Section 3 of the Export – Import Bank of Thailand Act (No. 3), 2018 (B.E. 2561)

⁽⁹⁾ Amended by Section 4 of the Export – Import Bank of Thailand Act (No. 3), 2018 (B.E. 2561)

(7/1)⁽¹⁰⁾ Guarantee the risks of granting credits of the investor's bank specific for political risks, in this respect, according to the rules, procedures and conditions prescribed by the ministerial regulations;

(8)⁽¹¹⁾ Jointly invest or provide credit facilities for investment in overseas business operations contributing to the importation or exportation of the goods and services of Thailand or resulting in the promotion of overseas business operations of the investor and jointly invest in domestic business operations in order to support export or national development;

⁽¹²⁾The guarantee of the risks under (6), (6/1), (6/2), (7) and (7/1) shall also include the reinsurance;

(9) Buy, discount or rediscount the financial instruments or take transfer of claims of the beneficiaries in respect of such instruments;

(10) Aval, accept or intervene to honor bills;

(11) Charge interests, discounts, collect fees or other service charges on account of lending money, buying, discounting, rediscounting, guaranteeing and providing other financial services;

(12) Issue financial instruments;

(13) Sell, discount or rediscount financial instruments;

(14) Borrow money domestically or abroad for the Bank's business;

⁽¹⁰⁾ Added by Section 5 of the Export – Import Bank of Thailand Act (No. 3), 2018 (B.E. 2561)

⁽¹¹⁾ Amended by Section 7 of the Export – Import Bank of Thailand Act (No. 2), 1999 (B.E. 2542)

⁽¹²⁾ Added by Section 6 of the Export – Import Bank of Thailand Act (No. 3), 2018 (B.E. 2561)

(15) Accept money deposits for the benefits of the Bank's business operations or for mobilizing funds from financial institutions and money markets, excluding the mobilization of deposits from the general public;

(16) Engage in foreign exchange business;

(17) Invest the Bank's surplus money for revenue gains as permitted by the Board; and

(18) Take all other actions in respect of or in connection with the execution to achieve the objective of the Bank.

Section 9 The initial capital of the Bank shall be two thousand five hundred million bahts, consisting of:

(1) Profit plus interests earned under the Regulation of Ministry of Finance Governing Administration of Profits Received from Commercial Banks due to Improvement of the Currency Exchange System to Promote the Business Earning Foreign Currencies, 1986; and

(2) The money contributed by the Bank of Thailand to pay up such initial capital.

The Ministry of Finance shall undertake to transfer the money under (1) and the Bank of Thailand shall transfer the money under (2) in the amount not less than one billion bahts to the Bank within sixty days from the date this Act coming into force and the balance shall be gradually paid by the Bank of Thailand until the initial capital amount under paragraph one shall be attained within two years from the date this Act coming into force.

Section 10 The capital increase of the Bank shall be made from the fund contributed by the Bank of Thailand or from the national budget appropriation or from other sources subject to the approval of the Minister.

Section 11 The working capital for undertaking the business shall consist of:

- (1) Capital fund;
- (2) Borrowings from the Bank of Thailand;
- (3) Proceeds from issuing financial instruments of the Bank;
- (4) Security money against providing loans and services;
- (5) Offshore and domestic borrowings;
- (6) Proceeds from selling, discounting or rediscounting financial instruments;
- (7) Revenues of the Bank;
- (8) Money given by others; and
- (9) Money from other sources as approved by the Minister.

Section 12 The Bank shall be exempted from paying fees for the registration of rights and juristic acts in the course of the Bank's business.

Chapter 2

Board of Directors and Management

Section 13 ⁽¹³⁾ There shall be a board of directors called “The Board of Directors of the Export-Import Bank of Thailand” consisting of the Director-General of Foreign Trade Department, the Director-General of International Economic Affairs Department, the Secretary-General of Agricultural Economics Office, the Director of Fiscal Policy Office, the Director of Industrial Economics Office and the President as the directors and other directors not exceeding five persons as appointed by the Minister under the approval of the Cabinet, at least three of which shall be qualified experts from the private sector.

The Minister shall appoint one director under paragraph one as the chairperson of the Board subject to the approval of the Cabinet. The removal of the chairperson from office shall be ordered by the Minister subject to the approval of the Cabinet.

The Board may appoint any person as its secretary.

Section 14 The directors appointed by the Minister shall have the tenure for a period of three years.

In case of the minister-appointed directors retiring from office prior to the expiration of tenure or in the event of additional directors being appointed during the unexpired tenure of the directors already appointed, the replacement appointees or the additional directors shall hold office for the remaining tenure of the directors already appointed.

⁽¹³⁾ Amended by Section 7 of the Export – Import Bank of Thailand Act (No. 3), 2018 (B.E. 2561)

Upon the expiration of the said tenure in paragraph one, if the new directors have not yet been appointed, the directors retiring at the end of such tenure shall remain in office until the newly appointed directors shall have assumed the office.

A director retiring at the end of the tenure is eligible for reappointment but the directorship shall not exceed two consecutive tenures.

Section 15 Apart from retiring from office upon the expiration of the tenure under Section 14, the minister-appointed director shall retire from office upon:

- (1) Death;
- (2) Resignation;
- (3) Being removed by the Minister subject to the approval of the Cabinet;
- (4) Becoming a bankrupt;
- (5) Becoming an incompetent or quasi-incompetent person; or
- (6) Being sentenced to prison term by the final judgment to imprisonment except for the offences committed through negligence or misdemeanors.

Section 16 A meeting of the Board shall be attended by directors in the number not less than one-half of the total in order to constitute a quorum. If the chairperson of the Board is not present at the meeting, the directors attending the meeting shall elect one director to preside over the meeting.

The decision of the meeting shall be made by a majority of votes, except for the appointment or removal of the President under Section 17 (1) whereas the voting shall not be

less than three-fourths of the votes of all directors. One director shall have one vote. In case of an equality of votes, the chairperson of the meeting is entitled to a casting vote.

Section 17 The Board has the authority to lay down the policy and supervise the business of the Bank in general within the scope of the objective under Section 7. Such authority shall include:

(1) Appointing and removing the President subject to the approval of the Minister;

(2) Prescribing regulations regarding the administration of personnel, remuneration and expenses;

(3) Prescribing regulations regarding procurement, employment, finance, property and accounting, including inspection and internal audit;

(4) Prescribing regulations regarding administration and operations;

(5)⁽¹⁴⁾ Prescribe the qualifications, types of goods, services and manner of operations of the exporter, the buyer and the investor eligible to be supported;

(6) Prescribing rules regarding the risk insurance, issuance of insurance policy, insurance premium, property appraisal and insurance claim payment;
and

(7) Approving the Bank's budget.

⁽¹⁴⁾ Amended by Section 8 of the Export – Import Bank of Thailand Act (No. 2), 1999 (B.E. 2542)

Section 18 The Board is authorized to appoint a committee of executive directors comprising the President and at least two other, but not exceeding four, directors whereas no more than half of such directors shall be appointed from *ex officio* directors and one executive director, other than the President, shall be made the chairperson of the committee of executive directors.

The committee of executive directors shall have the authority as assigned by the Board.

Section 19 The chairperson of the Board, the directors, the chairperson of the committee of executive directors and the executive directors shall be remunerated as prescribed by the Minister.

Section 20 The President has the authority to carry out the business of the Bank in accordance with the objective and authority of the Bank and under the policies and regulations prescribed by the Board.

The President is shall be the legal representative of the Bank in respect of business dealings with other parties and, in this regard, the President may authorize any agent or person to carry out specific business on behalf of the President but such authorization shall be in accordance with the regulations prescribed by the Board.

Chapter 3

Supervision, Operation and Control

Section 21 The Minister shall have the authority to supervise the business of the Bank in general and, in this regard, may order the Bank to explain facts, express opinions, prepare reports or may stop the acts of the Bank being in conflict with government policies or cabinet resolutions as well as having the authority to order the Bank to comply with government policies or cabinet resolutions and may order an inquiry of facts regarding the Bank's operations.

Section 22 The Bank shall maintain the capital fund proportional to the assets, debts or obligations under the rules, procedures and conditions as prescribed by ministerial regulations.

Section 23 In the event that the Bank suffers damages from its business operation in compliance with government policies or cabinet resolutions, the Ministry of Finance shall appropriate fund from the annual budget to compensate the Bank for such damages.

Section 24 ⁽¹⁵⁾ In case of the Bank suffering damages from the business operations of guaranteeing the risks under the authority in Section 8, (6), (6/1), (6/2), (7) or (7/1), possibly affecting the operations of the Bank or resulting in the Bank being unable to maintain the fund in accordance with the ministerial regulations issued under Section 22, the Ministry of Finance shall appropriate the annual expenditure budget or other sums for compensation of the said burden or for capital appreciation.

Section 25 In the event of the Bank requesting the Government to guarantee the loans taken by the Bank from offshore or domestic sources, the Government shall have the authority to guarantee such loans, which shall not exceed twelve times the Bank's capital fund upon conversion into Thai currency when combined with the outstanding loans under the guarantees of the Government whether or not the guarantees are made under the authority provided by any law.

⁽¹⁶⁾ For the calculation of foreign currencies to Thai currency in order to learn of the total sums of the loan under paragraph one, the exchange rates as prescribed by the law governing public debts administration shall apply.

⁽¹⁵⁾ Amended by Section 8 of the Export – Import Bank of Thailand Act (No. 3), 2018 (B.E. 2561)

⁽¹⁶⁾ Amended by Section 9 of the Export – Import Bank of Thailand Act (No. 3), 2018 (B.E. 2561)

Section 26 The Office of the Auditor-General of Thailand shall be the auditor of the Bank and submit the audit reports to the Minister.

The Bank shall submit its annual report, balance sheet, profit and loss account, duly certified by the auditor under paragraph one, to the Minister for forwarding to the Cabinet and the Parliament for acknowledgment within one hundred eighty days from the end of each accounting year.

Chapter 4

Appropriation of Profits

Section 27 For the appropriation of annual net profits, the Bank shall appropriate no less than half of the net profits as the reserve for its business. The balance shall be appropriated to the capital fund and/or submitted as the national revenue.

Countersigned by :

Chuan Leekpai

Prime Minister

Note: The rationale for promulgating this Act is: due to the considerable importance of international trade to national economic growth at present as well as increased international trade competition, it is expedient to establish the Export-Import Bank of Thailand as the agency to provide financial services and other services to support the same and thus making contribution to national economic growth. Hence, it is necessary to promulgate this Act.

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