

## Appendix H: Human Rights and Other Foreign Policy Considerations

Pursuant to the 1978 amendments to the Export-Import Bank Act of 1945, Ex-Im Bank may deny financing based on international human rights or other foreign policy considerations only upon a determination by the President that such denial furthers U.S. policy goals (this legislation, P.L. 95-630, 92 Stat. 3724, is also referred to as the "Chafee Amendment"). The Chafee Amendment, as amended in 2002 by P.L. 107-189, states that the Board of Directors of Ex-Im Bank may not deny applications for non-financial or non-commercial reasons unless the President determines that such denial will clearly and importantly advance U.S. policy in such areas as international terrorism, nuclear proliferation, the enforcement of the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, the Export Administration Act of 1979, environmental protection and human rights (including child labor).

It should also be noted that, pursuant to Executive Order 12166, the President has delegated his authority to make Chafee determinations to the Secretary of State, who must consult with the Secretary of Commerce and the heads of other interested Executive agencies.

Ex-Im Bank has developed procedures with the State Department, including the Bureau for Democracy, Human Rights, and Labor, for regular consultation regarding human rights concerns. According to these procedures, Ex-Im Bank periodically receives a list of countries where the State Department has found no "consistent pattern of gross violations of internationally recognized human rights." Where a proposed transaction over \$10 million dollars involves goods or services to be exported to a country that has not received "pre-clearance" on such list, Ex-Im Bank refers the transaction to the State Department for human rights review. In addition, Ex-Im Bank country economists may work in concert with the State Department to, where appropriate, examine human rights and other foreign policy considerations in their assessment of the risks associated with transactions in specific countries.

