No Rewards for Shipping Jobs Overseas

By Owen E. Herrnstadt | March 21, 2013

In his recent State of the Union Address, President Obama said, “Our first priority is making America a magnet for new jobs and manufacturing.” Last year, he explained, “... my message is simple. It is time to stop rewarding businesses that ship jobs overseas, and start rewarding companies that create jobs right here in America.” A large majority of Americans agree with the President and, according to a recent Harris poll, two-thirds say that buying American goods is very important for keeping jobs here at home. Another 75 percent agreed that a product needs to be manufactured within the U.S. to be considered American.

Given this consensus, it is ironic that on the same day that one federal agency extolled the virtues of U.S. goods stamped with *Made in America*, another federal agency issued a notice that it was conducting a review of its domestic content policies, and suggestions made by some businesses to reduce domestic content requirements—giving them greater incentives to *Make it Elsewhere*. It is even more ironic that the agency being asked to adopt these suggestions on weakening domestic content requirements is the United States Export-Import Bank, whose primary purpose is to support U.S. exports that create and maintain jobs here at home.

The Export-Import Bank’s mission, established by federal law, is clear: “The Bank’s objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers.” [12 U.S.C. Section 635(a)(1)]

The Bank fulfills its mission by providing U.S. exporters with more favorable financing than they could obtain privately, on the condition that they meet certain public policy requirements. One of these policies requires exporters to manufacture their product in the United States. The Bank’s policy is simple, effective, and based on common sense: If a company wants government support for its exports, it has to produce its goods and services in the United States. Taxpayers shouldn’t finance the use of foreign goods and services.

Last year, Congress mandated that the Export-Import Bank review its domestic content policies. The review was encouraged by exporters that believe the Bank should provide them with greater support even though their products exceed the limits on foreign content currently permitted by the Bank’s policy. In other words, they want more support for foreign-made parts, components, and services.

The Export-Import Bank's policy already allows support of goods with significant foreign content and costs related to foreign goods and services. According to the Government Accountability Office, the policy allows the Bank to support up to 30 percent of the value of the export contract in local costs (project-related costs for foreign goods and services incurred in the buyer's country), and 15 percent foreign content (parts and components produced outside the *U.S.*)."

In addition, the Bank already provides exporters with great flexibility in calculating domestic content. It permits exporters to include costs associated with research and development, intellectual property rights, CEO compensation, and profits. Any one of these items could be used by an exporter to dilute the true domestic content of an export more accurately reflected by direct costs for labor, materials, parts, components, and production.

In 2001, the Bank modified its method for calculating domestic content to permit exporters to report the domestic content of the contract's entire value rather than requiring exporters to report the domestic content of each individual item in a contract. Under this method, it is conceivable that items supported by Ex-Im financing could have little or no domestic content.

The Bank makes it even easier to satisfy domestic content requirements because it relies on exporters to self-report the domestic content of their goods and services. Inquiries from the Bank concerning the domestic content of materials, parts, and components that exporters receive from suppliers are limited. Inquiries into sub-tier suppliers are practically non-existent.

The flexibility that the Bank gives exporters in defining content is directly at odds with the Federal Trade Commission's standard for *Made in the USA*. According to the FTC:

> A product that is all or virtually all made in the United States will ordinarily be one in which all significant parts and processing that go into the product are of U.S. origin. In other words, where a product is labeled or otherwise advertised with an unqualified "Made in USA" claim, it should contain only a *de minimis*, or negligible, amount of foreign content…. in order for a product to be considered "all or virtually all" made in the United States, the final assembly or processing of the product must take place in the United States."

Some exporters want even more government support for the foreign goods and services in their products. Among other things, they suggest that Ex-Im promote a fiction that foreign content is domestic content. Many of their suggestions would give U.S. companies more incentive to ship U.S. jobs and technology to other countries and raise serious questions:

1. Consider all components from sub-suppliers who are U.S. manufacturers to be 100 percent made in the U.S., even if the components (or the materials like steel used in them) are made in China, Mexico, South Korea, Brazil, or anywhere else in the world.
2. Permit actual foreign parts and components (e.g., foreign tires and other goods) to be magically transformed into domestic content if they are incorporated into U.S. production, even if they constitute as much as 10 percent of the export's value, which in some cases could be millions of dollars.
3. Consider that U.S. ownership of a license constitutes U.S. content regardless of where the work regarding a contract is performed.
4. Accept that if the exporter contract holder's nationality is U.S., the entire contract's product will be considered to be domestic, regardless of its actual domestic content.
5. Allow a certification of "intent" to employ U.S. workers as sufficient evidence of U.S. content, regardless of whether U.S. workers will actually perform the work in the contract and regardless of whether U.S. workers already perform the work.
6. Consider that the product in the contract is domestic even though 49 percent of it is foreign.
7. Permit exporters to consider parts and components from China, Mexico, South Korea and elsewhere in the world as made in the U.S. if the same goods produced by U.S. workers would be more than 25 percent more expensive.

If the Bank were to adopt these and other suggestions for weakening its domestic content policies, it would be giving U.S. companies further incentives to ship more U.S. jobs to other countries. As our nation seeks to recover from the loss of nearly three million manufacturing jobs in the past ten years, and 12 million Americans look for jobs that aren't there, it would be unconscionable to reward companies for using greater foreign content in exports that receive taxpayer support.

The Bank should use its domestic content review to examine how to strengthen its current policy—not weaken it. Suggestions that the Bank reduce its content requirements and adopt a fiction that foreign parts, components and services qualify as domestic content should be dismissed. If they were adopted, they would undermine the Bank's mission to support U.S. jobs and impede the President's efforts to "stop rewarding businesses that ship jobs overseas and start rewarding companies that create jobs right here in America."

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