

**Comments of
The International Association of Machinists and Aerospace Workers
Regarding
The Export-Import Bank of the United States
Proposal to Consider Changes to the U.S. Export Import Bank's Content Policy With
Respect to the Program on China and Transformational Exports**

Re: Public Notice: EIB-2020-0011

The International Association of Machinists and Aerospace Workers (IAM) represents several hundred thousand workers in the United States in a variety of export-related industries including aerospace, ship building and ship repair, agricultural equipment, electronics, auto parts, woodworking, defense, and transportation. IAM members produce, assemble, maintain, and service almost every imaginable product that is exported to other countries. Our members understand the importance of U.S. exports and how critical they are in creating and supporting U.S. jobs. IAM members also understand the importance of the U.S. Export Import Bank ("Ex-Im" or "Bank") and its mission to support exports that support U.S. jobs, a mission that is not shared by most other countries' export credit agencies.

As an affiliate, the IAM shares the AFL-CIO's strong opposition to proposals for reducing domestic content, none of which have been subjected to a rigorous empirical analysis.¹ With millions of U.S. manufacturing and service sector workers unemployed during what continues to be the worst economic period since the Great Depression, current proposals to significantly reduce domestic content requirements for several select industries give greater incentives for corporate offshoring, negatively impact domestic suppliers and benefit foreign countries by including non-domestic materials, parts and components in U.S. exports. These serious concerns are underscored because to our understanding, none of the proposals to reduce the Bank's domestic content policy have been subjected to the careful empirical analysis the Office of the Inspector General recommended in its 2013 report, "Export-Import Bank's Content Policy".²

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, including those concerning domestic content. One of these policies requires exporters to manufacture their product in the United States if they want public finance support, as opposed to private sector financing. The Bank's policy is simple, effective, and

¹ IAM International President Robert Martinez, Jr. who also serves as Chair of the AFL-CIO's Industrial Union Council signed the AFL-CIO submission along with AFL-CIO President Rich Trumka. As subsequently explained in these comments, we are not aware of the explicit proposal being considered by the Board of Directors at its Dec. 17, 2020, meeting. To our knowledge, such a proposal has not been made public. We are aware of a proposal approved by the majority of the Advisory Committee over four no votes and a very strong dissent.

² <https://www.exim.gov/sites/default/files/oig/OIG-Final-Report-Audit-of-Ex-Im-Bank-s-Content-Policy-12-11-13.pdf>

based on common sense: If a company wants government support for its exports, it has to use domestically produced materials and other goods (e.g. parts and components)--not use tax payer support to finance its use of foreign goods and services.³

Although the Bank will be considering an as yet to be specified proposal to reduce domestic content requirements in just a few days, it has yet to undertake a comprehensive review of the short-comings of its current content policy to fulfill its mission to maintain and create jobs here at home. The Office of the Inspector General's 2013 audit report of the Bank's content policy was very clear about the importance of the Bank's content policy and its criticisms of the Bank's methodological failures with respect to the Bank's implementation of it⁴:

Ex-Im Bank's content policy connects its financing activities to U.S. jobs by limiting the amount of foreign content (foreign labor, materials, and other production costs) that can benefit from Ex-Im Bank financing....

...Due to the lack of verification efforts and because we identified concerns regarding exporter certifications of content, we believe Ex-Im Bank has limited assurance that content requirements are met and, therefore, that (1) the Bank finances only eligible exports, and (2) its financing activities effectively achieve the agency's mission of maintaining or increasing U.S. employment.

In exchange for allowing flexibility in content calculations, the Bank requested exporters to submit detailed Content Reports. Ex-Im Bank sought such information to allow the Bank, Congress, and the Department of Labor to analyze the impact of the policy changes, develop specific content trends, and conduct follow-up analyses. However, because Ex-Im Bank made submission of Content Reports voluntary, the Bank has not received any statistically valid data to date. Therefore, Ex-Im Bank did not collect information described as "an integral part of the ongoing process of crafting a content policy," and was unable to comply with its Board of Directors' requirements regarding the analysis and reporting of detailed content trend information...

To provide reasonable assurance that content requirements are met and as Ex Im Bank considers changes to its content policy, the Bank should (1) implement procedures to verify exporter self certifications for a representative sample of transactions each fiscal year; (2) resolve with the Board of Directors the outstanding requirement to provide annual reports based on Content Reports and foreign content review procedures; and (3) establish mechanisms to obtain specific, measurable, and reliable data to analyze the impact of any content related procedural changes approved by the Board of Directors by the end 2013

³ As noted in the AFL-CIO's submission, the Bank is already given flexibility in applying domestic content in a number of ways; including how content is calculated, the ability to finance 30 percent in local foreign costs, and other mechanisms.

⁴ <https://www.exim.gov/sites/default/files/oig/OIG-Final-Report-Audit-of-Ex-Im-Bank-s-Content-Policy-12-11-13.pdf>

To our knowledge, the Bank has yet to comply with all of the OIG's recommendations, especially "establishing[ing] mechanisms to obtain specific, measurable, and reliable data to analyze the impact of any content related procedural changes..." Nevertheless, the Bank is moving ahead to consider changes to its policy.

In addition to other concerns expressed in the AFL-CIO submission, the IAM is also concerned about the rushed timing of the Bank's review. The Bank posted its Notice in the Federal Register inviting comments on its domestic content policy only on November 25, 2020, the day before Thanksgiving. Comments are due on December 14, 2020. According to the Bank's website, the Bank's Board of Directors will be considering a "Proposal to Consider Changes to Content Policy with Respect to the Program on China and Transformational Exports" on December 17, 2020.⁵ As of this date, the proposal under consideration has not been made public, at least to our knowledge. It was not contained in its November 25, 2020, notice in the Federal Register requesting these comments. The extraordinary quick timeline and lack of transparency for considering a proposal that has not even been made public raises serious questions.

As mentioned, the IAM incorporates by reference the submission of the AFL-CIO regarding this matter (attached). The IAM also poses the following questions:

1. The Bank states that Congress directed it to review its content policy relying on language in its recent 2019 reauthorization which included the Program on China and Transformational Exports. Where in the Program does it directly reference the Bank's content policies as a subject for review? Why does the provision's language limiting changes to the "extent practicable" not exclude critical basic public policies, like domestic content requirements from the Bank's current review?
2. Some of the specific industries listed in the Program on China are being relied on for future domestic job growth and the restoration of our manufacturing sector. How will reducing the Bank's domestic content requirements for each of these industries impact U.S. manufacturing employment in the short and long term? What will it mean for communities that could benefit greatly from the domestic employment that could result from these innovative industries? Won't the proposals being considered by the Bank cede these critical industries and supply chains to other nations? What impact could this have on our nation's future economy and national security?
3. Will increasing the amount of foreign materials, parts and components in U.S. exports in the specified industries, financed by the Bank, have a negative impact on current domestic suppliers? What impact will it have on any business that hopes to initiate domestic production in the future?

⁵ <https://www.exim.gov/news/minutes/board-meeting-minutes-2020-12-17>

4. What effort has the Bank made to include the views of labor unions, workers, communities, academics and others from civil society in its review of its domestic content policy (other than requesting comments through its November 25, 2020, notice in the Federal Register)? Has it undertaken the same degree of effort to gather information from these groups as it has for exporters?

5. Won't increasing foreign content open the door for China to increase its supply of materials, parts and components in U.S. exports? Will materials, parts and components from China come through Mexico or other countries and be included in U.S. exports covered by the Bank's finance support? How will efforts to prevent China from supplying materials, parts and components for U.S. exports financed by the Bank be enforced, especially given the criticisms expressed in the OIG's 2013 report regarding the Bank's reliance on self-reporting? If materials, parts and components make their way into Ex-Im financed exports, won't this hurt domestic suppliers of materials, parts and components and other products which must compete with China, directly contradicting the desired objectives of the Program on China and Transformational Exports?



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of Labor and
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AFL-CIO

AMERICA'S UNIONS

December 14, 2020

Ms. Joyce B. Stone
Assistant Corporate Secretary
Export Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571

Re: Public Notice: EIB-2020-0011

Dear Ms. Stone:

On behalf of the 12.5 million working men and women of the AFL-CIO, we submit these comments in strong opposition to proposals to decrease the domestic content requirements of the Ex-Im Bank as would result from the Proposal to Consider Changes to the U.S. Export Import Bank's ("Ex-Im Bank" or "Bank") Content Policy with respect to the Program on China and Transformational Exports. Instead of providing even more incentives for U.S. exporters to offshore work and more opportunities for China to supply materials and supports for U.S. exports by reducing content requirements and increasing foreign content financing, the Ex-Im Bank should be strengthening its domestic content rules. The proposal would undermine production and employment in the U.S. We also raise serious concerns over the rushed review of this critical policy just a few weeks before the new Administration comes into office.

As you know, the AFL-CIO and its affiliate unions strongly support Ex-Im Bank's mission to support U.S. jobs through increased exports. We also strongly supported the Bank's recent reauthorization in December 2019, including the creation of the new Program on China and Transformational Exports (the China Program) to combat China's aggressive use of export credit and other tools to capture market share in strategic sectors, including renewable energy, wireless communications equipment, and semiconductor manufacturing.

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At the outset, it is vital to keep in mind that the principal goal of the Ex-Im Bank is not simply to make more loans, but to support U.S. jobs through increased exports. As current federal law makes 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.”¹

Given the centrality of the Ex-Im Bank’s domestic employment creation objective, it is alarming that the Bank is apparently considering using the new China Program, in contravention of Congressional intent, to weaken its domestic content policies in a way that is likely to undermine U.S. jobs notably without any empirical support. In its public notice, the Bank repeats the longstanding complaint of some in the corporate sector that the domestic content policy is an unreasonable requirement to receive Bank financing. We note that many of the sectors that were included in the China Program, such as renewable energy, are sectors upon which future U.S. jobs and our economy will increasingly depend.

As we and many Members of Congress have stated countless times, the Bank’s most effective tool in supporting its domestic jobs mission is its domestic content policy - which incentivizes U.S.-based production by awarding higher levels of financing to exports that have higher levels of U.S. content. If anything, we must strengthen the current content rules to ensure that the Bank’s taxpayer-subsidized loans and guarantees are truly focused on domestic job creation in the United States, not on the corporate bottom line.

It is critical to note that the Ex-Im Bank’s existing domestic content 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 current 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.).² In addition, the Bank already provides exporters with great flexibility in calculating domestic content, allowing them to include costs associated with research and development, intellectual property rights, CEO compensation, and profits.

¹ See 12 U.S.C. Section 635(a)(1)

² See “U.S. Export-Import Bank: Actions Needed to Promote Competitiveness and International Cooperation,” General Accounting Office (GAO), Feb. 2012, available at: <https://www.gao.gov/assets/590/588267.pdf>

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If the domestic content policy is weakened, the Bank would be able to lend greater financial support than it currently can for a given level of foreign content, thus giving U.S. companies further incentives to ship more U.S. jobs to other countries. In an especially ironic twist, proposals to lower domestic content requirements and thereby increase foreign content financed by the Ex-Im Bank, will increase competition from China, since materials, parts and components from China could constitute the foreign content that will now be financed by U.S. taxpayers through the Bank. In the midst of the current economic and jobs crisis, entertaining suggestions that would reward companies for using greater foreign content in their exports that receive taxpayer support is inappropriate and counterproductive. Indeed, if these proposals were adopted, they would undermine bipartisan efforts to bolster U.S. manufacturing, re-shore supply chains and reduce dependence on China.

Weakening the Ex-Im Bank's domestic content rules is also an entirely misguided policy response to China's predatory form of state capitalism. Instead, the U.S. Government should fully utilize its domestic trade remedy laws and work with its allies at the OECD, WTO, and other multilateral fora to create new rules to reign in China's illegal trade practices.

We are also very troubled by the recent proposal made by the Ex-Im Bank Advisory Committee that would gut domestic content by 20-30 percent and create a large loophole for the "national interest." This proposal was opposed by four members of the committee with the labor representatives strongly dissenting. In addition, we note that while many exporters participated in several meetings over the summer to discuss content policies, labor unions appear to have been shut out of these consultations.

Thank you for your time and attention to this matter.

Sincerely,



Richard L. Trumka
President, AFL-CIO



Robert Martinez, Jr.
Chair, IUC
International President, IAM