HERBERT A. STIEFEL CENTER FOR TRADE POLICY STUDIES

Free Trade Bulletin

No. 48 • March 14, 2012

# Expanding Ex-Im's Mandate Is a Big Mistake

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## Introduction

Throughout its history, the Export-Import Bank of the United States (Ex-Im Bank) has limited its activities mostly to financing and guaranteeing U.S. export transactions. But in anticipation of Ex-Im's charter expiry on May 31, 2012, the Obama administration has called for a massive and unprecedented new role for the Ex-Im Bank: to finance U.S. corporations' domestic sales, as well.

The bank was first established in the 1930s to finance exports to the Soviet Union, but long after the fall of Communism it still exists, picking favorites among U.S. producers. It has special programs for certain industries, acting as a sort of financier of industrial policy, and puts its financial muscle behind politically connected firms, leaving taxpayers exposed to tens of billions of dollars of potential losses on loan guarantees.

One of those chosen firms, incidentally, was Solyndra—the notorious and now-bankrupt company into which the U.S. government sunk more than $500 million of taxpayers' money in subsidies and loan guarantees. According to the Ex-Im Bank's *2011 Annual Report*, Solyndra received a $10 million loan guarantee from Ex-Im, which financed a sale of Solyndra products to a customer in Belgium.[1]

A state credit agency that dispenses tens of billions of taxpayer dollars mainly to large U.S. corporations to underwrite their export sales distorts markets enough. But if the bank's supporters and the Obama administration have their way, Ex-Im will start to finance the purchase of American goods in the United States as well, clearing the way for even more intervention in international commerce and the domestic economy than already exists.

## The Justifications for Ex-Im's Corporate Welfare

Proponents of the Ex-Im Bank rely on four chief rationales for the bank's existence.[2] First, they argue that the bank creates jobs, a dubious proposition when one considers that the bank's resources are simply diverted from other uses where they would be employed more productively by the private sector. The bank has special programs for certain types of industries—green energy, for example—and certain groups of people (women, minorities). The conditions and preferences that the bank sets in its activities compound the market distortions stemming from the bank's intervention in credit markets, leaving the economy less efficient and less prosperous than it would be overall, even if certain firms or groups happen to benefit.

A similar objection applies to the bank's second rationale: that it encourages exports and "improves" the trade balance. The bank may well help facilitate exports of goods from companies with political connections, but other factors, such as relative savings and consumption rates, are more important determinants of the trade balance than the bank's activities. And, again, the resources for helping some industries or firms come at the expense of others.

Third, proponents claim that the bank provides finance to companies when the private sector is unable or unwilling to step in. That assertion flies in the face of the claim that the bank only invests in "sure bets" and that taxpayers' money is safe. Somehow, that claim is not reassuring in light of the taxpayers' recent bailouts of Fannie Mae, Freddie Mac, and other ostensibly independent entities. And the two claims are mutually exclusive, of course: the bank does not and cannot explain why its transactions are safe (or necessary) in light of private financiers' supposed unwillingness to put their own money at risk. In any event, the bank does not provide details about how much evidence it requires, or even requests, from client firms about their efforts to obtain private financing before seeking funds from Ex-Im.

The fourth justification for the bank's existence is that it "levels the playing field" by stepping in to match official export credit provided to U.S. firms' rivals by their own gov-

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ernments. This justification is slightly more defensible than the others, but it is still motivated by a misguided mercantilist worldview in which foreign governments' subsidies are seen as something to lament and correct.

In any event, spending by rich-country governments on official export credit has actually fallen in recent years, although the bank and its supporters claim that export credit financing has increased markedly in fast-growing developing countries against which U.S. firms have to compete. It is this last role that the Obama administration hopes to expand in size and scope, by increasing Ex-Im's exposure cap and by allowing the bank to finance domestic sales. It is not difficult to imagine a never-ending cycle of subsidies and countersubsidies as official export credit agencies seek to gain advantages at home and abroad.

### Veiled Countervailing

It is worth examining just how much of the bank's resources are currently devoted to "countervailing" subsidies given to U.S. exporters' competitors abroad, simply because the administration and the bank's supporters stress that as a vital role of the bank. It is also useful to gauge how big the bank's footprint could become if its countervailing role is expanded and broadened.

Historically, that role has been small, although it has increased in recent years. Buried in appendices of the bank's annual competitiveness reports and its annual report are aggregate expenditure figures and numbers of transactions by funding rationale (i.e., whether the finance was sought because no private sector financing was available, or to "meet competition"—that is, to match official export credit financing given to competitors.) Table 1 was constructed from data in those appendices.[3]

The data reveal a few salient points. First, we could cut the bank's funding and size by half immediately, and the bank would still be able to play the "countervailing" role that is ostensibly so vital. The data show that between 2002 and 2010 just under 40 percent of the bank's transactions by value were authorized to "meet competition." A majority of its activities—just over 60 percent by value, and over 90 percent by number of transactions—occurred because "no private sector financing was available."[4]

Second, the information provided by Ex-Im about its funding activities is of limited quality and value. The bank provides little to no detail about how it evaluates the accuracy or legitimacy of applicants' claims, what the standards are (if they even exist), or how much effort applicants undertook to justify their claims. Taxpayers are entitled to know more about the process of how the bank determines which firms "deserve" their support, and to have that information easily accessible.

Third, even though "countervailing" financing accounted for 40 percent of the bank's business by dollar value, it constituted just 4 percent of the bank's transactions. The obvious implication is that those seeking countervailing finance are responsible for disproportionately large transaction values. The beneficiaries of the bank's largesse are, in other words, a small number of firms. Knowing more about those firms and those transactions would seem to be a minimal requirement of transparent government.

**Table 1**
**Justifications for Ex-Im Bank Transactions**

| Year | No Private Sector Financing (average) | | | | Meet Competition (average) | | | | Total Authorizations (average) | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Transactions | Share of Total (%) | Amount ($ m) | Share of Total (%) | Transactions | Share of Total (%) | Amount ($m) | Share of Total (%) | Transactions | Amount ($m) |
| 2010 | 3,316 | 93.88 | 12536 | 51.23 | 158 | 4.47 | 8952 | 36.59 | 3,532 | 24,468 |
| 2009 | 2,658 | 91.94 | 15263 | 72.61 | 118 | 4.08 | 11489 | 54.65 | 2,891 | 21,021 |
| 2008 | 2,383 | 88.13 | 7848 | 54.50 | 233 | 8.62 | 7942 | 55.16 | 2,704 | 14,399 |
| 2007 | 2,447 | 87.61 | 6221 | 49.49 | 246 | 8.81 | 5809 | 46.22 | 2,793 | 12,569 |
| 2006 | 2,354 | 87.93 | 7449 | 61.31 | 51 | 1.91 | 4182 | 34.42 | 2,677 | 12,151 |
| 2005 | 2,716 | 86.83 | 7918 | 56.82 | 43 | 1.37 | 3413 | 24.49 | 3,128 | 13,936 |
| 2004 | 2,897 | 93.24 | 9096 | 68.28 | 41 | 1.32 | 4502 | 33.80 | 3,107 | 13,321 |
| 2003 | 2,565 | 94.75 | 8268 | 78.69 | 20 | 0.74 | 2689 | 25.59 | 2,707 | 10,507 |
| 2002 | 2,489 | 98.93 | 6828 | 67.48 | 31 | 1.23 | 2881.5 | 28.48 | 2,516 | 10,119 |
| Average, 2002–10 | 2,647 | 91.44 | 9047 | 61.46 | 105 | 3.61 | 5762 | 39.14 | 2,895 | 14,721 |

Sources: Fiscal Year Authorizations Summaries, Ex-Im Bank Annual Reports, 2002–2010; Appendix B: Purpose of Ex-Im Transactions, Annual Competitiveness Reports, 2002–10.

### A New and More Costly Role for the Bank

Clearly the Obama administration is keen to emphasize and increase the countervailing role of the bank. In February 2012 President Obama used the occasion of a speech at a Boeing plant in Washington State to announce that he would "give American companies a fair shot by matching the unfair export financing that their competitors receive from other countries."[5] A concerted marketing push by the administration will presumably see the handful of countervailing financing recipients joined by many more.

Not made explicit during that speech but clarified in the release of a subsequent White House statement was the administration's intention to increase significantly the *scope* of Ex-Im's activities to include domestic sales. This is perhaps the most disconcerting aspect of the proposal. The statement read "The Administration will actively employ its existing authorities so that the Export-Import Bank can provide U.S. firms competing for *domestic* or third-country sales with matching financing support to counter foreign non-competitive official financing that fails to observe international disciplines" (emphasis added).[6]

The Ex-Im Bank has traditionally focused on financing exports—sales in countries abroad. So the intention to begin financing sales in the United States is a significant departure from the bank's traditional role. The idea that financing domestic sales is a legitimate and legal use of Ex-Im resources requires a convoluted, if not perverted, reading of the Ex-Im Bank charter. Two particular provisions of the bank's charter would come into play.[7] The first provision (12 U.S.C. §635a-3) would ordinarily allow Ex-Im to finance sales in the United States if the foreign countries' export credit agencies were violating international rules. According to an unnamed administration official, quoted in World Trade Online, another provision in the bank's charter (12 U.S.C. §635a-1(b)) would allow the bank to intervene regardless of whether or not the export credits were given in accordance with international export credit guidelines, on the basis that the foreign export credit agency's activity was disadvantaging U.S. firms.[8] In other words, the bank can cover all angles when it dispenses taxpayers' money: if the firm is "harmed," then it can receive financing regardless of whether or not its competitor's financing meets international rules. On the other hand, a firm can receive "competitiveness" financing even if it is not harmed, so long as its competitor received financing subsidies.

So it seems that the statement released by the administration was not accurate; matching support would not be conditional upon a competitor's official assistance "fail[ing] to observe international disciplines," at least if the above analysis of the bank's charter provisions (specifically 12 U.S.C. §635a-1(b)) is correct. This is of more than rhetorical interest: if no internationally agreed-upon norms need to be violated for Ex-Im to step in, then what (if any) are the standards for assessing applicants' claims? This significant loophole means that Ex-Im financing could continue effectively without limit.

Aside from the somewhat shaky legal justifications for this sort of expansion of the bank's activity, it is worth reiterating the following questions: On what basis are decisions made about who gets financing? According to the quoted official, the administration would make the determination of "competitive disadvantage" in accordance with Treasury officials and "on a case-by-case basis."[9] A loose definition of "competitive disadvantage" and the absence of consistent standards or even guidelines opens the door wider to lobbying and politically motivated financing, and suggest that the extent and scope of Ex-Im activities would be potentially limitless. Any firm put at what Ex-Im and treasury bureaucrats consider a "competitive disadvantage" by imports could conceivably apply for Ex-Im assistance. It all sounds like a license to dole out favors.

Moreover, U.S. producers already have access to the U.S. countervailing duty law, which results in the imposition of duties on imports found to be subsidized and injurious to a domestic industry. At least there is some semblance of a standard in countervailing duty cases. Under the administration's proposal for the bank, it is conceivable that U.S. industry could hide behind protectionist tariffs and also receive subsidized financing in the event imports manage to penetrate the protection, so they would be protected two-fold, and at consumers' and taxpayers' expense.

Firms are oversubsidised and overprotected enough already without opening up a new front.

### Stop the Madness

Perhaps the most worrying aspect of the administration's plans is the apparent lack of standards or limits on where this subsidy race would end. Multilateral efforts to solve the growth of official export credits—the best way of dealing with this problem—don't appear to feature prominently in the administration's plans. The administration and other bank supporters have expressed concerns in the past about China, which is not a member of the Organization for Economic Cooperation and Development and thus not bound by its 1978 agreement that limits export finance subsidies. But the "solution" put forward by the administration appears to accept export credit subsidies as a fact of life, as a substitute for trying to open dialogue to limit the export credit arms race. The administration's proposal, in other words, would see the United States match "export" financing, including for sales on home turf, to a pace and scope set by Beijing.

Rather than set off an ever-escalating round of tit-for-tat export credit subsidies, the federal government should seek to promote free markets at home and abroad and, in any case, refrain from growing ever larger in a futile and counterproductive attempt to micromanage the economy. The Ex-Im Bank's activities, even now, do not constitute a legitimate role of the federal government. Expanding the bank would be a mistake. Legislators should be looking toward winding down the bank completely, not expanding its role.

### Notes

The author wishes to thank Carl Forrest and Ian Yamamoto for their research assistance.

1. Export-Import Bank of the United States, *2011 Annual Report*, http://www.exim.gov/about/reports/ar/2011/index.html, p. 30.

2. For a more comprehensive discussion of these rationales, as well as the bank's activities, see Sallie James, "Time to X Out the Ex-Im Bank," Cato Institute Trade Policy Analysis no. 47, July 6, 2011.

3. The table was constructed by matching Appendix B of the bank's annual competitiveness reports with total authorizations as reported in the bank's annual reports. The figures are at best an approximation, because Appendix B of the competitiveness reports is reported on a calendar year basis, whereas the annual report lists Total Authorized Transactions on a fiscal year basis.

4. Data taken from Ex-Im Bank annual reports, 2002–2010, http://www.exim.gov/about/reports/ar/ and Ex-Im Bank Competitiveness Reports, 2002–2010, http://www.exim.gov/about/reports/compet/.

5. The White House, Remarks by the President on American Manufacturing, February 17, 2012, in Everett, Washington, http://www.whitehouse.gov/the-press-office/2012/02/17/remarks-president-american-manufacturing.

6. White House Office of the Press Secretary, "President Obama Takes Actions to Promote American Manufacturing and Increase U.S. Exports at Boeing," February 17, 2012, http://www.whitehouse.gov/the-press-office/2012/02/17/president-obama-takes-actions-promote-american-manufacturing-and-increas.

7. "Export-Import Bank of the United States," 12 U.S.C., Title 12, Chapter 6A, Subchapter I, General Provisions, http://codes.lp.findlaw.com/uscode/12/6A/I.

8. World Trade Online, "Ex-Im Financing for Foreign-Backed Sales in U.S. Hinges on Charter," February 23, 2012, http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-02/24/2012/ex-im-financing-for-foreign-backed-sales-in-us-hinges-on-charter/menu-id-172.html.

9. World Trade Online, "Ex-Im Financing for Foreign-Backed Sales in U.S. Hinges on Charter," February 23, 2012, http://insidetrade.com/Inside-US-Trade/Inside-U.S.-Trade-02/24/2012/ex-im-financing-for-foreign-backed-sales-in-us-hinges-on-charter/menu-id-172.html.