

**STATEMENT OF
JAMES H. LAMBRIGHT
PRESIDENT AND CHAIRMAN (ACTING)
OF THE
EXPORT-IMPORT BANK OF THE UNITED STATES
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE AND FINANCE
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE**

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Mr. Chairman, Senator Bayh and Members of the Subcommittee:

I am happy to be here today to testify on Ex-Im Bank's procedures involving economic impact.

As I stated in my testimony of March 8, the mandate of the Export-Import Bank of the United States ("Ex-Im Bank" or the "Bank") is to preserve and create U.S. jobs by supporting U.S. exports that would not otherwise go forward. Consistent with this mandate, Ex-Im Bank fully agrees with the principle that it should not approve a transaction that would harm the U.S. economy. This is the foundation of our economic impact procedures. But as the Bank acknowledges the importance of this principle and these procedures, these decisions are among the most difficult to make.

Through the economic impact process, the Bank seeks to determine whether a transaction under consideration would adversely affect U.S. production or employment, or result in the manufacture of a good subject to specified trade measures. The statutory language requiring consideration of economic impact, which has existed in various forms for over thirty-five years, reflects Congressional intent to balance two competing priorities – supporting U.S. export transactions and denying support for otherwise

creditworthy transactions due to the possibility of long-term adverse economic consequences to the U.S.

The Bank's economic impact procedures are intended to lay out a reasonable and logical process for analyzing the impact of Ex-Im Bank support for a particular export transaction. The economic impact analysis considers issues such as whether the goods and services Ex-Im Bank is asked to support would establish or expand foreign production capacity of an exportable good, whether the product is the subject of trade measures, the global supply and demand for the good to be produced, and the competitive impact on U.S. industry from increased foreign production. The process includes review by other U.S. government agencies, as well as input solicited from interested parties through notification in the Federal Register.

The Bank does not take this obligation lightly, and thoroughly analyzes these transactions in an attempt to reach the right result. Ex-Im Bank strives to implement the Congressional mandate in a thoughtful, considered, and transparent manner, with full participation of interested stakeholders. At the same time, the Bank stands ready to work with the Congress, affected industries, exporters, organized labor, and others to refine the process for considering these transactions, based on experience over the past several years.

I would like to take this opportunity to explain how Ex-Im Bank's current economic impact procedures were developed, how they are applied to export transactions, and the Bank's experience with these procedures over the last four years.

Procedures Prior to 2001

In 2001, Ex-Im Bank recognized the shortcomings in the then-existing economic impact procedures, and initiated a process to improve the procedures. At that time, the principal criticisms of the economic impact procedures were that they: (i) lacked clear definitions and criteria for important terms, such as “surplus” and competitive impacts; (ii) only considered final trade measures, as opposed to preliminary determinations and injury findings; (iii) did not provide for sufficient interagency consultation; and (iv) provided for inconsistent and inadequate notice to potentially interested parties.

The process of vetting changes to the economic impact procedures was extensive and included representation of all stakeholders. Ex-Im Bank held a public hearing to discuss the procedures and consulted with members of Congress, other U.S. government agencies, as well as representatives of industry, exporters, and organized labor. In March 2003, Ex-Im Bank released the new economic impact procedures reflecting changes developed through public consultation, as well as changes mandated by Congress in the Bank’s 2002 reauthorization. These procedures addressed many of the shortcomings of the prior economic impact analysis, including:

Clearer Criteria and Definitions. The procedures clarified important concepts such as oversupply by establishing indicators relevant to the determination. Such indicators include commodity prices, capacity utilization rates, employment levels, and bankruptcies. In addition, Ex-Im Bank broadened its evaluation of the impact of new production on an industry by consulting with a variety of knowledgeable industry sources, including independent industry observers, trade associations and U.S. government agency experts.

Broad Consideration of Trade Policies. In addition to final trade measures, the economic impact procedures consider preliminary antidumping and countervailing duty determinations, suspensions agreements arising from trade investigations, and Section 201 injury findings.

Enhanced Interagency Consultation. Ex-Im Bank changed the procedures to include regular consultation with other U.S. government agencies (including the Department of Commerce and the Office of the U.S. Trade Representative). Ex-Im Bank alerts these agencies early in the process to all transactions that may be subject to detailed economic impact analysis. The Bank solicits agency views on the applicability of trade measures, industry information, and the appropriateness of its findings.

Notice to Interested Parties. Ex-Im Bank promptly notifies interested parties of transactions that are subject to detailed economic impact analysis. These notices are published in the Federal Register and on the Bank's website. U.S. government agencies are separately notified of such transactions.

Current Analytical Process

Ex-Im Bank staff subjects each transaction to a series of questions to assess the potential adverse impact. First, staff ascertains whether an export to be supported by Ex-Im Bank will enable the foreign buyer to establish or expand production capacity of an exportable good. Transactions that enable a foreign buyer to establish or expand production capacity of an exportable good are subject to further analysis.

Second, staff determines whether the resultant production will be "substantially the same product" as a good that is the subject to an applicable trade measure, including antidumping orders, countervailing duty orders, and Section 201 safeguards. If a trade measure is applicable, then Ex-Im Bank is prohibited from supporting the transaction.

If the resultant production is not the subject of a trade measure, and the Ex-Im Bank transaction is more than \$10 million, then Ex-Im Bank staff considers whether the resultant production will meet the "substantial injury" threshold of 1% or more of United States production. Transactions under \$10 million are included in a post- authorization annual review to determine whether the Bank authorized multiple transactions to a single buyer that, in the aggregate, exceeded \$10 million.

If a transaction meets the 1% threshold, then Ex-Im Bank staff conducts a detailed economic impact analysis that weighs the benefits of an export against the potential costs and harm to the U.S. economy from supporting the transaction. At this stage, Ex-Im Bank publishes the details of the transaction in the Federal Register and on its website and notifies relevant U.S. government agencies. These public notices are intended to reach out to trade associations and other interested parties for comments on the proposed transaction.

The staff's analysis seeks to determine: (1) the likelihood that the product in question will be in "surplus" (or oversupply) on global markets at the time it is first sold; and (2) whether the product in question competes with U.S. production of the same, similar or competing product.

If either of these two circumstances exists, then Ex-Im Bank is prohibited from supporting the transaction unless the Board of Directors determines that the short- and long-term benefits to industry and employment in the United States are likely to outweigh the short- and long-term injury to United States producers and employment of the same, similar or competing commodity. Comments received pursuant to public notice are included in the analysis that is presented to the Board of Directors for decision.

Recent Experience with Economic Impact Analysis

Since the new economic impact procedures took effect, Ex-Im Bank has received requests to support capital equipment sales to a variety of foreign buyers. Economic impact issues have arisen in a number of these transactions, including those relating to the production of textiles, chemicals, steel, semiconductors, soda ash, and solar panels.

Ex-Im Bank must balance the need for inclusiveness with commercial practices that require efficiency and timeliness on transactions. While Ex-Im Bank makes every effort to complete the economic impact analysis expeditiously, it requires a substantial dedication of staff resources, and usually takes 8 to 10 weeks. Completion of an economic impact analysis may take up to one year, depending on the extent to which the feedback and information obtained through the notice and comment period are consistent with the Bank's analytical findings. The oversupply assessment requires an analysis of future supply and demand balances of the new production associated with Ex-Im Bank financing. However, a lack of consensus among industry observers about the outlook on supply and demand balances can lead to an inconclusive finding on oversupply and may impede the Bank's analysis.

Trade measures, oversupply and trade flow impacts have figured prominently in Ex-Im Bank's analysis of these transactions. Since 2002, Ex-Im Bank has conducted a detailed economic impact analysis of 22 transactions, a quarter of which involved sales primarily by small business exporters. Ex-Im Bank's Board of Directors has approved 11 transactions, and two were denied on economic impact grounds. Seven transactions were withdrawn prior to Board consideration. While applicants may withdraw their transactions for any reason, exporters have indicated that the delay and uncertainty associated with the Bank's economic impact policy have in some instances frustrated their commercial relationships and caused them to lose export sales to foreign competitors. The Bank must ensure that potential transactions are properly vetted and all interested parties have an opportunity to be heard. At the same time, it is critical that Ex-

Im Bank's processes permit U.S. exporters to remain competitive in the global marketplace.

Conclusion

The revisions to the economic impact procedures implemented in 2003 have been successful from a number of perspectives. They clarified the criteria for Ex-Im Bank's review and expanded participation by other U.S. government agencies and stakeholders in the process. Despite this progress, economic impact analysis continues to present challenging issues for Ex-Im Bank. The analysis inherently pits one set of interests and U.S. jobs – those of the prospective exporter and its suppliers – against those of another U.S. company or industry that may be harmed by the export sale. Moreover, Ex-Im Bank continues to grapple with some of the core concepts raised by economic impact analysis, including the determination of oversupply and the evaluation of trade flow impacts. Despite these challenges, Ex-Im Bank strives to implement the economic impact procedures so that they are transparent, predictable, effective, and fair to exporters, affected industry, and other stakeholders.

I look forward to working with you to achieve these objectives.