The Ex-Im Bank: An Important Tool for U.S. Exporters

The Export-Import Bank is a quasi-public agency that offers credit for the export of American manufactured goods, mitigating the risks often encountered in selling to foreign markets. Ex-Im does not compete with private sector lenders. Rather, it fills the gap when commercial financing is not otherwise available. The Ex-Im charter is due to expire September 30, 2014. While renewal of Ex-Im enjoys strong support, reauthorization of its charter has been delayed until now.

- **Why Does Reauthorization of the Ex-Im Bank Matter?** The answer is simple: exports! Access to foreign markets can grow small companies into big companies. Exports can reinvigorate entire communities through job growth. The Ex-Im Bank plays a vital role in making exports happen. In 2013, Ex-Im supported $37 billion of U.S. sales to customers in other countries, supporting more than 3,600 U.S. companies (90 percent of whom are small businesses) and over two hundred thousand jobs in the U.S. On large projects, the Ex-Im Bank may provide low-cost financing for the foreign buyer of U.S. goods. For smaller contracts, the Ex-Im offers credit insurance - a critical resource for smaller manufacturers to sell to nations with less-developed legal and financial systems. Without the Ex-Im Bank, U.S. companies - large and small - would be at a significant disadvantage when competing for business in foreign markets. In today's tight credit market, Ex-Im financing very often means the difference between landing a foreign sale versus losing out to an overseas competitor.
- **Global Competitiveness:** There are almost 60 export credit agencies similar to Ex-Im in other countries around the world, working aggressively to support their domestic industries. European and Asian governments provide several times as much financing for their own exporters as we do. It would be a mistake to abandon U.S. exporters by ending the Ex-Im Bank.
- **The Cost To Taxpayers:** Ex-Im is one of the rare government entities that is not only self-sustaining, it actually makes money! In the last fiscal year, Ex-Im contributed more than $1 billion to the U.S. Treasury, mostly through fees paid by foreign customers purchasing U.S. goods. While U.S. taxpayers are potentially at risk for the loans and loan guarantees of Ex-Im, the agency has a proven track record over its 80-year history, with a default rate of less than 2 percent - a target set by Congress.
- **Critics of Ex-Im:** Critics say Ex-Im Bank financing only goes to big companies, like Boeing or Caterpillar, calling it "crony capitalism." Yet, they ignore the fact that a foreign buyer who utilizes Ex-Im Bank financing to purchase a jet airliner from Boeing is creating high quality jobs in America - not only at Boeing plants, but also among the thousands of suppliers who make the 100,000 parts that comprise a jet airliner. Would opponents prefer the foreign buyer to choose Airbus? And while the total dollar amount of Ex-Im financing goes for large projects, ***almost 90 percent of the transactions in fiscal year 2013 directly served small businesses***. When it was last authorized in 2012, Congress tightened Ex-Im policies and procedures, providing strong oversight and transparency. Certainly, the bank is not perfect. If more reforms are needed, then let's talk about how to strengthen it. In the meantime, we urge Congress to reauthorize the Ex-Im Bank before the September 30 deadline.

Visit http://exportersforexim.org for more detailed information about the Ex Im Bank and a state-by-state look at the companies whose exports are made possible by Ex Im.

The Trade Agenda: Unfinished Business

When you talk about job creation and stimulating the economy, the first place to look is Congress' unfinished trade agenda. Trade has long been the engine that propels the economy and it remains so today. The following items are long overdue for action. *In fact, many of the following issues were the subject of NCBFAA member lobbying at the last GAC and still await action by the Congress.* Passage of these legislative initiatives will make a difference. This is just the beginning, of course. But these are the essential elements that will support U.S. companies seeking to sell to export markets, help U.S. workers looking for jobs and benefit consumers by keeping costs of merchandise down.

- **Customs Reauthorization**: Legislation in the House (H.R. 6642 in the 112th Congress) and the Senate (S. 662) contains important provisions to modernize trade processes and provide the tools to make customs facilitation and trade enforcement a priority. The House Ways and Means Committee and the Senate Finance Committee have worked hard over the past several years to develop and update these legislative proposals. NCBFAA has strongly supported passage of a robust customs reauthorization bill that provides firm direction to revitalize CBP's commercial trade facilitation and enforcement function, including:
    - Completion of the "core functions" (end-to-end electronic processing of customs entries) of the Automated Commercial Environment (ACE) and full participation by other agencies in the International Trade Development System (ITDS) to fulfill the promise of a single window interface to ACE for other government agencies with import or export data requirements, as stipulated by Executive Order 13659.
    - Revising House language that requires customs brokers to be accountable for importers under a vague, ambiguous standard, with harsh penalties for violations. Instead, Congress should support the collaborative dialogue now taking place between CBP and customs brokers to address that issue.
    - Invigorating CBP's focus on commercial functions through structural refinements.
    - Modernizing the Duty Drawback program.
    - Leveraging the process now taking shape to promote the role of the customs broker in reaching, educating and acting for importers, including thousands of small and medium-size importers.
- **Water Resources Bill and Harbor Maintenance Fee**: For years, needed dredging and maintenance of our nation's ports has been neglected, despite the fact that importers pay a Harbor Maintenance Fee on each shipment. In fact, the Harbor Maintenance Trust Fund (HMTF), which collects around $1.6 to $1.8 billion per year yet spends only $800 million for its intended purpose, runs a large surplus, while the backlog of port maintenance projects grows. NCBFAA was pleased earlier this year when Congress passed and the President signed the Water Resources Development Act, which included a provision to increase the percentage of HMTF collections that are spent on port maintenance and dredging to 67% in FY 2015, with incremental increases each year until 2025, when harbor maintenance spending must match revenue. Yet, shortly after passage of this hard-fought provision, an FY 2015 Corps of Engineers funding bill failed to appropriate the required level of fees for port maintenance. Only after an amendment was offered on the House floor by Representative Janice Hahn of Los Angeles was the proper funding level

restored. Since the Senate has yet to act, this issue will resurface this fall when Congress attempts to complete the FY 2015 funding bill.

- It is critical for Congress to allow the Corps of Engineers access to user fees paid by importers for port dredging and maintenance. Only in this way can we ensure that the U. S. has the infrastructure necessary to compete in world trade.
- **Generalized System of Preferences (GSP) Renewal**: GSP expired July 31, 2013. The cost to U.S. companies – a significant proportion of which are small businesses – amounts to $2 million per day in increased tariffs. For the smallest companies operating on slim profit margins, the cash flow burden of these duties is particularly detrimental, as are the administrative costs to government and industry. And, yet, there is longstanding, bipartisan consensus that GSP is a valuable program that should be extended. Congress knows that GSP helps lower the costs of raw materials or component parts for U.S. manufacturers, an important factor in keeping U.S. companies competitive in foreign markets and lowering the cost of finished products to U.S. consumers. GSP only applies to products where there is no U.S. production. Further delay in renewing the program is bad for U.S. companies and U.S. workers. NCBFAA calls on Congress for action to renew GSP.
- **Miscellaneous Tariff Bill (MTB):** By suspending or reducing duties on specific products where there is no U.S. production of a like or competing product, the MTB allows U.S. companies to reduce costs on inputs, contributing to the competitiveness of U.S. manufacturers globally. Duty suspensions also help to keep prices of finished products affordable for consumers. In July 2013, House trade leaders reintroduced an MTB (H.R. 2708) that contains over 800 duty suspensions/reductions. H.R. 2708 provides broad benefits across the economy. The legislation was the culmination of a process with unprecedented transparency, including a public comment period and an in-depth analysis by the International Trade Commission. After this thorough and lengthy review, only noncontroversial bills with an annual revenue impact less than $500,000 were allowed into the MTB package. It is long past time for Congress to approve this legislation.

Trade Promotion Authority (TPA) Renewal: Trade Promotion Authority is the authority of the President to negotiate international trade agreements that Congress can approve or disapprove, but cannot amend or filibuster, under an expedited procedure. TPA is an essential tool for U.S. negotiators as they head into the final and most intense phase of the Trans-Pacific Partnership talks and as the Administration seeks to progress on a comprehensive U.S.-E.U. agreement.   These bold new trade initiatives promise to tear down barriers to U.S. exports. Every President since Franklin D. Roosevelt has had trade negotiating authority – every President should have it. NCBFAA continues to urge Congress to move forward on bipartisan TPA in collaboration with the President.

Modernizing the Logistics of Trade: An Enhanced Role for the Customs Broker

Developments in how government and the private sector interact in the conduct of trade have launched an explosion of new ideas about streamlining the process and enhancing homeland security in 2014. Intermediaries, like the customs broker, the ocean freight forwarder, the non-vessel operating common carrier (NVOCC) and the indirect air carrier (IAC), lie at the heart of trade logistics. For our industry, it is a time of enormous challenge; a time to think about how we can best serve our clients, the importer and exporter; and a time to lead trade in innovative new directions while adapting to those demands.

CBP and the Other Government Agencies Come On-Line: A principal catalyst was the issuance of the Executive Order mandating completion of the International Trade Data System (ITDS) by December 2016. The EO effectively mobilized the 47 government regulatory agencies that feed into Customs and Border Protection's processes for approving the import and export of commercial goods. Not only must they come on line with CBP's Automated Commercial Environment (ACE), but they must develop policies and operations necessary to making the "single window" a reality. FDA, for example, will receive data through ACE, evaluate its consistency with the agency's health and safety regulations, and decide whether to "green light" movement of cargo into U.S. commerce, electronically.

Supply Chain Logicians are Key: On a parallel path, an influential report of the Stimson Center, a non-profit security and trade policy organization, concluded *inter alia* that ITDS would "improve supply chain performance, reduce costs and harmonize risk assessment processes." At the same time, the Stimson Report described Logistics Service Providers as the "connective tissue" among a disparate universe of global participants. These providers must play a prominent role in implementing trade policy for the future, the experts concluded. Customs brokers and other intermediaries are at the core of this responsibility.

Enhancing the Broker's Role in Facilitating Trade: A customs broker is a private sector, licensed entity whose "customs business" is regulated closely by U.S. Customs and Border Protection. This relationship is premised on the belief that the broker can be an extension of CBP in gathering accurate trade data for processing transactions, provide some level of assurance and confidence in the *bona fides* of thousands of importers and exporters, and be subject to the strict standards of expertise and integrity demanded of that license. As we move closer to the changes that implementation of ACE will create, the industry is looking at ways to preserve the value that licensure brings to CBP. Fewer licensed brokers is not a sound strategy for modern risk management and CBP will be asked to work with the National Customs Brokers and Forwarders Association of America (NCBFAA) to provide the needed incentives to brokerage firms to maintain and, indeed, to increase the number of licensed brokers.

Congress' Role: At the same time, customs brokers must embrace change so that they can better serve their clients with streamlined processes and efficiencies. As trade becomes more complex and the challenges multiply, the role of the customs broker in facilitating the movement of cargo will only expand, especially assisting small to medium size enterprises advance into the international marketplace. Technology has advanced the art of logistics and sophisticated automated tools are the customs broker's best friend. ACE and ITDS are a partnered investment by CBP and customs brokers. They are the pathway towards a seamless supply chain. Congress must continue to authorize and fund ACE and ITDS, exercising careful oversight to make sure that funds are spent wisely and that these systems are completed on schedule.

BACKGROUNDER – HMT Funding for Port Dredging

Last May, Congress passed the Water Resources and Development Act (WRDA), which included a provision to increase the amount of funds drawn from the Harbor Maintenance Trust Fund for maintenance dredging of federal navigation channels and to provide equity for ports nationwide. To date, only half of the funds deposited into the Harbor Maintenance Trust Fund are actually utilized for harbor and channel dredging. The rest has been repeatedly appropriated by Congress for other, unrelated expenditures. The new water bill increases each year the amount of funding generated by the tax for harbor maintenance activities, culminating in 100% of the funds going toward these activities by 2025.

Whether the recommendations prescribed in the WRDA bill are followed will depend on Congressional appropriators. Earlier this summer, the House passed an amendment to the Energy and Water spending bill to ensure the Harbor Maintenance Trust Fund target for FY 15 as outlined in WRDA, is met. The amendment passed on a largely bipartisan vote indicating widespread support in the House.

The Senate has yet to move on any of its spending bills, but the Appropriations Subcommittee on Energy and Water did release its bill text right before Congress adjourned for recess. In it, they do not hit the Harbor Maintenance Trust Fund target saying they are unable to do so due to lack of funds. In response, Rep. Hahn (and fellow members of the PORTS Caucus) penned a letter to Appropriations Committee Chairwoman Barbara Mikulski (D-MD) and Ranking Member Richard Shelby (R-AL) emphasizing the need to match the Harbor Maintenance Trust Fund targets as outlined in WRDA.

At present, there is no letter circulating in the Senate on this issue. This is likely due to the Congressional recess and the fact that many offices expect Congress to take up another Continuing Resolution, or CR, rather than work together on individual spending bills in the limited time leading up to the midterm elections. Instead, the House and Senate will likely work on a comprehensive spending bill, or omnibus, later this fall or early in the New Year. The timing will depend on who controls the Senate post-November. If the Democrats retain control, an omnibus could be produced in the Lame Duck. If the Republicans take over, Congress won't likely take up an omnibus until after the new members are sworn in next year. Regardless of timing, the fate of Harbor Maintenance Funding for FY15 will be decided during negotiations relating to the omnibus rather than through the traditional appropriations process.

Support from the White House for target funding is likely to be limited. In the Administration's FY 2015 budget released back in March, funding for dredging activities fell far short of the $1.6 billion collected by the ports via the Harbor Maintenance Tax. The proposal also highlighted the Obama Administration's opposition to reforming the harbor maintenance and inland waterway trust funds. At one point, the sharp disparity between the reforms sought by Congress and the President's position raised concerns about whether he would sign the major water legislation. Ultimately, he did sign the legislation.