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

December 14, 2020

Re: Proposal to Consider Changes to EXIM’s Content Policy with Respect to the Program on China and Transformational Exports; Public Notice: EIB-2020-0011

Dear Ms. Stone,

The Information Technology Industry Council (ITI) appreciates the opportunity to submit a response to the Export-Import Bank of the United States (EXIM) regarding its proposal to consider changes to its medium- and long-term U.S. content policy as it seeks to develop its “Program on China and Transformational Exports.”

ITI represents the world’s leading information and communications technology (ICT) companies. We promote innovation worldwide, serving as the ICT industry’s premier advocate and thought leader in the United States and around the globe. ITI’s membership comprises top innovation companies from all corners of the technology sector, including hardware, software, digital services, semiconductor, network equipment, and other internet and technology-enabled companies that rely on ICT to evolve their businesses.

It is clear that the global technology environment is more competitive than ever, and it is equally clear that, in many instances, American businesses face challenges as a result of China’s unfair trade practices and policies -- including subsidization of domestic firms -- which have favored domestic Chinese companies, especially in the technology sector. While countering China’s unfair practices will require a multifaceted approach, we appreciate that EXIM is considering how to strengthen its Program on China and Transformational Exports through a revision of the rules that govern its content policy.

EXIM should update its content policy to reflect the realities of the global ICT supply chain

We have engaged in several public consultation processes previously on related USG actions, most notably on the National Strategy to Secure 5G Implementation Plan. Among a series of other suggestions we made that were intended to help the USG shape its approach to 5G both in the United States as well as internationally, we recommended that EXIM, in particular, reconsider the content rules that govern transactions. It is our view that these rules are not necessarily applicable to the tech sector and oftentimes hurt the ability of EXIM to support transactions that would, at the end of the day, actually bolster the competitiveness of U.S. companies.

In the global wireless telecommunications marketplace, in particular, it is difficult for multinational companies to compete with Chinese suppliers who benefit from subsidized financing. Indeed, in our submission to the National Strategy to Secure 5G Implementation Plan, we noted that current U.S.

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1 https://www.itic.org/policy/ITICommentstoNTIARFC5GStrategy.pdf
content requirement, which falls at 85 percent, hinders the ability of EXIM to support the deployment of trusted networking equipment overseas and will likely continue to hinder the ability of EXIM to support other transactions in “transformational industries.”

Intellectual property (IP) and R&D contribute significantly to the U.S. economy, especially in the tech sector. A 2016 USPTO report found that IP-intensive industries comprise 38.2 percent of gross domestic product in the United States. Yet the U.S. content requirements of EXIM do not reflect the value that U.S.-based IP and R&D add. ITI has many companies in our membership that have R&D and IP based in the United States, even if the product itself is manufactured elsewhere. It is also worth noting that many of our companies have diverse teams of developers that work collaboratively, based both within the U.S. and outside of it. Additionally, software is developed by companies with contributors located worldwide. These important aspects are not considered in the current iteration of U.S. content requirements that dictate whether EXIM can support an overseas deal, therefore making it significantly more difficult for EXIM to support deals related to 5G and other technology. It is this IP and R&D, as well cross-border collaboration, that helps the United States to maintain a competitive edge in many of the technological areas deemed “transformational industries.”

Given this, we are pleased to see that EXIM is seriously considering amending its U.S. content rules. We believe that doing so in many of the technology sectors listed, including “wireless communications equipment,” will be a positive step and will address some of the nuances of the global technology supply chain. Therefore, we support EXIM’s proposal to modify its U.S. content rules in the technology areas listed. We think this will help EXIM to support more transactions, bolstering the competitiveness of the United States and solidifying technological leadership.

**EXIM should consider a more flexible content policy to align with the steps taken by other Export Credit Agencies (ECAs)**

Other ECAs globally are taking steps to provide competitive financing, particularly with regard to their content policy. Although Congress mandates that EXIM provide U.S. exporters with financing terms and conditions that are “fully competitive” with those financing terms and conditions provided by foreign governments to their exporters, it is our view that EXIM’s current content policy falls short of that.

The current 85 percent threshold is much higher than that of other ECAs. As referenced in its June 2018 report to Congress, EXIM itself noted that countries have taken steps to make their content policies more flexible. For example, Italy has changed its policy from requiring 70 percent Italian content to simply an Italian “national interest.” Sweden has also altered its content policy to reflect the fact that significant manufacturing takes place outside of its borders, Japan has shifted its emphasis to capital productivity, and Switzerland takes into account a range of factors, like marketing functions, location of management, and where R&D takes place when determining Swiss content. Another relevant example is the United Kingdom, which fully supports projects with as

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5 Ibid.
little as 20 percent of UK content, explaining that this threshold “recognises the global nature of modern supply chains and the nature of the UK economy, which includes some of the world’s leading service (including design and engineering) companies. This contribution may form a relatively small proportion of the overall contract value but still represents significant business for UK exporters that, in the absence of UKEF support, may be placed in other countries.” A similar approach is applicable to the United States, as it is also home to some of the world’s leading service companies.

We therefore recommend that EXIM consider how other ECAs are allowing for more flexible content requirements, thus ensuring that it can, in fact, remain competitive with conditions offered by foreign governments. This shift should include:

1) Lowering the threshold for U.S. content to 20 percent, in line with the approach taken by the UK.
2) Revising the content policy to reflect important developments in R&D and IP, as well as the contribution to U.S. employment more holistically, based on the overall footprint of the U.S. company.
3) Considering adding a “national interest” prong to the transaction analysis, similar to that of Italy. This flexibility is especially important when a transaction is taking place in a strategic or “transformational” industry. This will allow EXIM the flexibility to bypass a rigid, expensive and lengthy content eligibility threshold analysis and instead look at the broader impact on the U.S.’s competitiveness and economic growth.

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Once again, ITI appreciates the opportunity to provide comments in response to EXIM’s proposal to consider changes to its content policy with respect to the Program on China and Transformational and Exports. We are glad to see EXIM considering this important change and believe it will serve to improve the competitiveness of U.S. companies globally. We are happy to share additional thoughts.

Sincerely,

Courtney Lang
Director of Policy
Trust, Data, and Technology
Information Technology Industry Council

6 https://www.gov.uk/government/publications/ukefs-approach-to-foreign-content/ukefs-approach-to-foreign-content