

The Efic reform bill: maximising Australian benefits even to the detriment of our neighbours

by Stephen Howes

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Labor has now announced that it will be supporting the Coalition in voting for the Efic Amendment (Support for Infrastructure Financing) Bill, which will authorise Australia's export credit agency to finance overseas infrastructure projects.

There are two major flaws in this [Efic reform bill](#), both of which have survived the rushed [Senate committee inquiry](#). This concluded last week with both major parties [backing](#) the bill as is, with only the [Greens](#) opposing it and [Senator Tim Storer](#) suggesting some amendments.

The first flaw is that while the bill (in Section 2) requires that any infrastructure project supported by Efic be of benefit to Australia, there is no requirement in the legislation that the project benefit the recipient country.

The Senate Committee that reviewed the bill was at pains – on the basis of advice from DFAT – to reassure us that there was no need for any such requirement since Efic has signed up to various OECD export credit guidelines, and will “carefully assess” any number of things to ensure that only good projects are selected, in particular the country's capacity to repay the loan.

This response is inadequate. First, if we are so confident that the recipient's benefits will be fully taken into account, then why not make it a legislative requirement? Surely we should be concerned about the optics of a piece of legislation that requires an Australian institution, operating overseas, to certify that the projects it funds will benefit Australia but not that they will benefit recipient countries?

Second, the Committee's response completely ignores the point I have been making (both in my [blog](#) and in my own [submission](#) to the Committee) that an infrastructure project may be commercially viable and may meet environmental, social and even anti-corruption guidelines and yet not be in the interests of the recipient country. What matters is the policy framework, and this is something the bill and the Committee are silent on. There are all sorts of infrastructure white elephants, not only “[roads to nowhere](#)”, but also overpriced power plants and oversized ports, none of which are debarred by any of the OECD guidelines. (Anyone who thinks this is just a theoretical problem should read up on [IPPs in Suharto's Indonesia](#) – deeply problematic electricity generation projects funded in

part by export credits.)

The other major flaw in the Efic reform bill is the requirement (under Section 5) that Efic is to “perform [its] overseas infrastructure financing functions in such a manner as Efic reasonably believes is likely to result in the maximum Australian benefits.” This will require the organisation to push for **maximum** Australian content and participation in every project it funds. As the Assistant Trade Minister has already **said**: “Efic will continue to be required to maximise Australian participation in overseas infrastructure projects.”

The only constraint on the achievement of this objective will be the willingness of the recipient government to resist Australian pressure during project negotiations. I am particularly concerned about the Pacific. For those who think that Pacific governments can look after themselves, consider (a) our reluctance to hand over any of our aid funds to them and (b) the hundreds of millions we provide annually in governance assistance.

The two legislative flaws are interlinked. Since there is no legislative requirement that Efic take into account the interests of the recipient country, the organisation will be required by law to maximise Australian benefits even to the detriment of the borrowing country, which will likely be one of our neighbours. For example, Efic could be required to pressure borrowing countries to use Australian goods or labour, even when cheaper alternatives are available.

It would be easy to fix these two flaws. As Senator Storer pointed out in his **dissenting note**, the requirement that Efic should maximise Australian benefits should be dropped. This has no place in an initiative designed to promote international development. And, as I also suggested in my **submission**, the requirement that projects will only be financed by Efic if they are certified as likely to result in Australian benefits should be matched by a parallel requirement that the project also be certified as likely to result in benefits to the recipient country. Since the key determinant of whether an infrastructure project is beneficial is the policy framework, the best way to operationalise this would be by requiring Efic to certify that the relevant domestic policy framework is satisfactory.

It is disappointing that Labor has signed on to the Efic reform bill without requiring any amendments at all. Labor seems to acknowledge there are shortcomings in the bill: they say in a **supplementary statement** to the main report that “there are some elements of the Bill which may have some unintended consequences.” They seem to think that the shortcomings can largely be overcome by ministerial directives. But why rely on executive restraint to overcome legislative shortcomings? Even if Labor is convinced of its own ability to provide wise rulings, it must recognise it is only

likely to be in office about half the time. Moreover, ministerial directives can only go so far. No guidance from a minister will be able to relieve Efic of its duty under the Bill, once passed, to maximise Australian benefits, even to the detriment of the borrowing country.

Labor's cop-out is to say that it will order a review after 18 months. The same flaws that are already evident now will still be there in 18 months time. Why not try to get it right the first time?

Do Labor and the Coalition really want the first legislative manifestation of the Pacific step-up to require Australian benefit to be maximised even at the potential expense of the Pacific and other developing countries? This is the legislative path we are walking down.

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