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"Buy American" Schemes And Maritime Graft Will Only Inflate Biden's Astronomical Infrastructure Price Tag

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President Biden is calling his $2.25 trillion infrastructure spending proposal the "American Jobs Plan," which reminds of a story about the late free-market economist, Milton Friedman. The Nobel-laureate was in China, observing the construction of a dam with a local official, and noticed there were no tractors or excavators on site—just scores of workers digging with shovels. When Friedman asked why no heavy equipment was being deployed, his host explained that the project created jobs and that the use of machines would reduce the need for labor. Dr. Friedman replied: "Oh, I thought you wanted to build a dam. If it's more jobs you want, take away the shovels and give the workers spoons."

Apocryphal or not, the lessons of the allegory are apt. Producing *efficiently* and "creating jobs" are discordant objectives. You can't maximize both simultaneously. Biden conflates the economic value of infrastructure and the political expedient of creating jobs because he isn't constrained by the accounting, which is typical of politicians given blank checks to spend other people's money.

Biden's plan calls for $621 billion in spending on transportation infrastructure, which includes construction, maintenance, and repair of roads, bridges, tunnels, railways, ports, and inland waterways. Anyone who has traveled recently in Europe or Asia would likely concur that the quality of U.S. transportation infrastructure has fallen behind global standards. But the proposed amount of spending exceeds the entire value of the $600 billion U.S. federal procurement market.

This new spending would be subject to requirements that public and private sector entities purchase products made and services provided by U.S. firms and workers, as spelled out in our deleterious Buy American provisions and archaic restrictions on maritime transportation and construction.

Broadly, Buy American rules direct federal agencies to purchase raw materials, intermediate goods, and final products that are made in the United States. Waivers to those requirements can be granted if (1) doing so would be in the public interest; (2) the products are not available from domestic sources in sufficient quantity or of satisfactory quality; or (3) the cost of using U.S.-made products is deemed "unreasonable."

Conditions for meeting these waiver requirements are already so tight that, according to the U.S. Chamber of Commerce, only 3 percent of federal procurement is spent on foreign products. Yet, that didn't stop the president from issuing an executive order five days after his inauguration mandating the closing of these "loopholes" and even tighter restrictions on government procurement spending.

Cordoning off procurement to U.S. suppliers means higher price tags, fewer projects funded, and fewer people hired. And by precluding foreign suppliers from bidding on these contracts, any short-term increases in U.S. economic output and employment likely would be offset by lost export sales and the jobs that go with them because of copycat protectionism abroad.

Buy American may sound noble and patriotic, but it is merely a way for politicians to ingratiate themselves to protectionist interest groups and flag-waving citizens at the expense of the broader economy.

Meanwhile, two protectionist maritime laws will conspire to make Biden's infrastructure plans even more costly. The Jones Act requires that all domestic waterborne transport (from one point in the United States to another—something called "cabotage") be performed using ships that are U.S.-built, U.S.-flagged, at least 75 percent U.S.-owned, and at least 75 percent U.S.-crewed. Those requirements were established in 1920 as measures to ensure adequate domestic shipbuilding capacity and a ready supply of merchant mariners available during wars or other national emergencies, but the evidence is overwhelming that the Jones Act has failed in that regard.

Beyond its immediate adverse impact on the cost of ships and shipping rates, the Jones Act imposes enormous costs on the U.S. economy through other channels. Higher shipping rates force much more freight onto the nation's highways and railways, increasing wear and tear on transportation infrastructure, worsening traffic congestion along U.S. interstates, and causing significantly more environmental damage that does cargo moved on the water. The problems Biden's infrastructure plan is intended to resolve are exacerbated by the Jones Act.

Trucks (18-wheelers) account for 10 percent of the vehicle miles travelled annually in the United States but are responsible for 75 percent of the Federal Highway Administration's pavement maintenance costs, according to a study published by the Institute for Global Maritime Studies. Environmental costs could be reduced by $8 billion annually through "intensive and extensive" changes to the Jones Act, according to a recent Cato Institute study. And INRIX, a U.S. transportation consultancy, estimates that Americans, on average, lost 97 hours to traffic congestion in 2018, costing nearly $87 billion in foregone wages (which Transportation Secretary Pete Buttigieg cited on CNN this week as a crucial reason for Biden's transportation infrastructure proposal). Trucks moving freight are estimated to account for 20 percent of these costs.

Biden's plan also calls for funding to dredge harbors and rivers to clear accumulating silt, widen channels, and deepen harbors to accommodate larger containerships calling on U.S. ports, and for the construction of levies and dikes to mitigate the effects of climate change. But impeding progress and guaranteeing a much higher price tag for Biden's plan is something called the Foreign Dredge Act of 1906. The 115-year-old law prohibits foreign-built, -chartered, or -operated dredges from competing in the United States. The result is a domestic dredging industry that is immune to competition, has little incentive to invest in new equipment, and cannot meet the growing demand for dredging projects at U.S. ports.

Modernizing ports, such as Houston's, whose underdeveloped harbor and docking infrastructure, is key to alleviating bottlenecks that have been impeding the growth of U.S. energy exports since the fracking revolution began. Meanwhile, the world's shipyards have been producing a new class of supersize container vessels for which the Panama Canal was widened last decade. The much greater cargo capacity has reduced average shipping costs. But of the 17 major U.S. container ports on the Gulf and Atlantic coasts, only five have the channel depth to accommodate these larger ships.

The absence of suitable harbors, especially in the fast-growing Southeast, means fewer infrastructure- and business-development projects to underpin regional growth. It also means that supersized containerships will have to continue calling on West Coast ports, where their containers will be put on trucks and railcars to get products from Asia to the U.S. East and Midwest—a slower, more expensive, more infrastructure-taxing process.

According to data from the U.S. Army Corps of Engineers, one company accounted for 25 percent of the value of all dredging contracts awarded between 1990 and 2018. Four companies accounted for more than half of the awards and controlled 98.3 percent of U.S. hopper dredge capacity. A 2018 study by the Center for Strategic and International Studies found that the cost of removing silt declined by 32 percent when there were two companies bidding on the project, as opposed to one, and it declined by 65 percent when there were four or more bidders.

The world's best dredging companies are in Europe, where mastery of marine engineering projects has been developed over centuries of battling mother nature. There would be a lot more of these job-creating investments if European dredging companies were permitted the opportunity to bid on U.S. dredging projects.

Like the local official hosting Milton Friedman's tour of that Chinese dam, President Biden is pursuing incongruous objectives. His interest in upgrading U.S. infrastructure is at odds with his political inclination to show obeisance to the AFL-CIO. Suspending Buy American, Jones Act, and Dredge Act restrictions so that U.S. infrastructure needs can be met at more reasonable costs would make good economic sense. But it's more likely the president is counting on you not paying attention.