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A Thing Called Character: Bringing the Export-Import Bank of the United States and West Virginia to the World

Kimberly A. Reed

Export-Import Bank of the United States

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A THING CALLED CHARACTER: BRINGING THE EXPORT-IMPORT BANK OF THE UNITED STATES AND WEST VIRGINIA TO THE WORLD

*The Honorable Kimberly A. Reed**

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* President and Chairman of the Board of Directors, Export-Import Bank of the United States. J.D., 1996, West Virginia University School of Law; B.S., 1993, West Virginia Wesleyan College. This Article is an adaptation of a lecture that Chairman Reed presented as the inaugural West Virginia University College of Law and John Chambers College of Business and Economics Distinguished Lecture at the West Virginia University College of Law on March 2, 2020. Just a few days after the inaugural lecture, the President of the United States declared a national emergency because of the outbreak and rise of the rate of infection of COVID-19 in the United States. Proclamation No. 9994, 85 Fed. Reg. 15,337–38 (Mar. 18, 2020). While this Article does not address the negative economic impact caused by the COVID-19 global pandemic, the Export-Import Bank of the United States immediately took swift action to support America’s exporters, especially the nation’s small businesses and workers. Chairman Reed dedicates the inaugural Lecture to all who experienced immense economic harm or lost their lives because of COVID-19, including the Honorable Carole L. Brookins, who was one of Chairman Reed’s closest mentors and was in her heart as she wrote about “important mentors . . . in my life” in the Lecture. See Katharine Q. Seelye, *Carole Brookins, A Rare Woman on 1970s Wall Street, Dies at 76*, N.Y. TIMES (Apr. 22, 2020), <https://www.nytimes.com/2020/04/22/obituaries/carole-brookins-dead-coronavirus.html>. Chairman Reed also dedicates this Article to West Virginia Wesleyan College Professor Dr. Robert Rupp, West Virginia University College of Law Professor Emeritus Forest “Jack” Bowman, and the West Virginia University College of Law and John Chambers School of Business Class of 2020 students who were unable to complete their final semester together in the classroom or gather in-person with their families for their May 2020 commencement. They all have “a thing called character.” Chairman Reed thanks her EXIM colleagues—515 political appointees, career civil servants, and contractors—and especially recognizes Molly Conway, Richard Kisielowski, Kelsey Koberg, and Jennifer Porter for their comments and review.

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I. INTRODUCTION

Thank you, Dean Greg Bowman, for that kind introduction. We last saw each other, along with West Virginia University President Gordon Gee, at the West Virginia Chamber of Commerce's 83rd Annual Meeting and Business Summit, which is the largest gathering of West Virginia's business, industry, financial, and political leaders, at the Greenbrier this past August. I also would like to thank Chambers College of Business and Economics Dean Javier Reyes and West Virginia University College of Law Associate Dean Shine Tu.

I am excited to be back at the West Virginia University College of Law, my law school alma mater, and deeply honored to be with all of you to present the inaugural West Virginia University College of Law and John Chambers College of Business and Economics Distinguished Lecture.

Today, I want to share some key points on the value of growing up in West Virginia, my career trajectory, which has focused on job creation, trade, economic development, and government reform, the history and purpose of the Export-Import Bank of the United States—or EXIM as the agency is known today—and where the agency is headed in the future. I also want to explain how EXIM operates in a fiercely competitive global marketplace and how the agency is “Keeping America Strong,” including for businesses and workers here in West Virginia.

A. *My Home Among the Hills*

Growing up in Buckhannon, West Virginia, and being educated in “The Mountain State,” my home among the hills, instilled in me those core West Virginia University Mountaineer values—service, curiosity, respect, accountability, and appreciation—we all share and continue to be the foundation of my life.

But I did not always think I would end up in law school, and I certainly did not think I would end up as President and Chairman of the Board of Directors of the Export-Import Bank of the United States.

I would like to recognize my father, Terry Reed, who currently practices law with my brother Mark in Buckhannon. When I was born in 1971 in Charleston, my father was committed to public service as a special assistant to Governor Arch Moore, the father of Senator Shelley Moore Capito. I am told that my first word as a toddler was “more.” Of course, my father was very

impressed that I was saying the Governor's last name: M-o-o-r-e. Some would say that I was a born leader, proclaiming "I want *more* of this" or "I want *more* of that"—be it jobs, economic growth, or America's great agricultural products like milk and baby food. But my father is a great teacher, and we both know I was communicating not only my first word but also my first double-entendre: "four M-o-o-r-e years!"

Daddy, thank you for all you have done for me. Not only did you teach me about the law, but you have taught me by example about so many important things in life. It was such an honor to have you with me as an eighth grader in 1985 when Governor Moore knighted me as a "Lady of the Order of the Golden Horseshoe" for being a top scorer on the statewide West Virginia history test focused on citizenship, civics and government, economics, geography, history, and current events.¹ I wear my Golden Horseshoe pin with immense pride today. Thank you for standing with me as I was sworn into the West Virginia State Bar and, then, 22 years later, next to me holding our family Bible in the Oval Office when President Donald J. Trump and Vice President Michael R. Pence administered my oath as the first woman and the West Virginian to lead the Export-Import Bank of the United States.²

In addition to my father, I have had other important mentors, especially teachers, in my life. I encourage each of you to have the same, as a network of mentors will help you develop as a professional and support you throughout life.

I would like to share two examples of how professors set me on my current trajectory. When it came time to enroll at West Virginia Wesleyan College, I wanted to be a doctor. I majored in biology and minored in chemistry. However, my government professor inspired me to get a second major in government.

During my freshman year, I took a course taught by Dr. Robert Rupp entitled "Kennedy, Catholicism, and the 1960 West Virginia Primary," which focused on President John F. Kennedy's journey to the White House. We learned how the West Virginia primary was a pivotal election for then-candidate Kennedy. It showed a rural, Protestant state could vote for a Catholic from Boston. In 1963, Kennedy said, "I would not be where I now am, I would not have some of the responsibilities which I now bear, if it had not been for the people of West Virginia."³

¹ *West Virginia Golden Horseshoe Database*, W. VA. DEP'T OF ARTS, CULTURE & HIST., <http://www.wvculture.org/history/wvmemory/ghdetail.aspx?Id=11000> (last visited Oct. 7, 2020).

² See Press Release, Exp.-Imp. Bank of the U.S., EXIM Chairman Kimberly Reed Sworn in by President Trump and Vice President Pence in Oval Office Ceremony (May 29, 2019), <https://www.exim.gov/news/exim-chairman-kimberly-reed-sworn-president-trump-and-vice-president-pence-oval-office-ceremony> [hereinafter Swearing in Press Release].

³ John F. Kennedy, President of the United States, Remarks at the State Centennial Celebration in Charleston, West Virginia (June 20, 1963), <https://www.jfklibrary.org/asset-viewer/archives/JFKPOF/045/JFKPOF-045-010>.

During this class, Dr. Rupp challenged me to interview West Virginia Secretary of State Ken Hechler about his insights from the 1960 campaign. As a shy 18-year-old freshman, I could not fathom doing such a thing. Yet, Dr. Rupp gave me the courage to “ask big”—make the request—and then get out of my comfort zone and “show up” to meet the man who had first-hand knowledge on an important part of our nation’s history. I will never forget sitting across from Secretary Hechler in his office in the magnificent gold-domed West Virginia State Capitol.⁴

In hindsight, I learned more about myself during that class and at that interview than I did about the election of 1960. I discovered that I really enjoyed learning about policy, history, law, government, international relations, and politics and engaging with people on these topics. These things were in my DNA. They were my passion.

When it came time to decide what direction to take after completing my undergraduate degree—the choice was clear—I set my sights on law school. I wound up sitting right where you are today and even attended similar guest lecture events, just like this one.

In June 1993, the summer before I began law school, I read in the newspaper that a big national convention was taking place in Charleston.⁵ Remembering the lesson Dr. Rupp taught me a few years earlier about having the courage to “ask big” and then “show up,” I immediately got in my car and drove from Buckhannon to Charleston and bought a ticket on the spot without knowing anyone at the convention.

I soon found myself in a room with hundreds of young leaders from around the nation listening to a speech on President Abraham Lincoln. I, along with the rest of the room, was absolutely mesmerized by the dynamic speaker. He punctuated his remarks from time to time with the statement: “It’s a thing called character, and Lincoln had it!”⁶ During his speech, this “orator extraordinaire,” with a full head of snow-white hair and a thick white mustache,

⁴ ROBERT O. RUPP, *THE PRIMARY THAT MADE A PRESIDENT* (1st ed. 2020). In the book’s acknowledgments, Dr. Rupp “thank[s] all of [his] students who have made teaching so enjoyable and rewarding, and especially the students who enrolled in [his] ‘Kennedy, Catholicism, and Charisma’ course at Wesleyan and conducted interviews with and collected documents from people across the state of West Virginia.” *Id.* The Author thanks and recognizes Dr. Rupp for his exceptional scholarship, leadership, mentorship, and teaching—especially for his instruction of this pivotal course, then called “Kennedy, Catholicism, and the 1960 West Virginia Primary,” to her 30 years ago during Rupp’s first year as a West Virginia Wesleyan College faculty member—and congratulates him on the recent publication of this significant book which examines an important point in the history of West Virginia and the U.S..

⁵ *Young Republicans National Convention*, C-SPAN (June 24, 1993), <https://www.c-span.org/video/?43720-1/young-republicans-national-convention>.

⁶ Forest “Jack” Bowman, Professor, W. Va. Univ. Coll. of Law, Address at the Young Republicans National Convention (June 24, 1993), <https://www.c-span.org/video/?43720-1/young-republicans-national-convention>.

took me back to my eighth grade West Virginia history class when he noted that “the story of the creation of West Virginia is the story of triumph of character in times of difficulty.”⁷ He underscored that President Lincoln stood up for what he believed and gave West Virginia statehood. “It’s a thing called character, and Lincoln had it!”⁸ From that moment, I knew my destiny was to further issues important to West Virginia at the federal level.

Imagine how I felt just a few months later when this dynamic white-haired speaker stood in front of me again—here in this very building. My jaw dropped when Dr. Jack Bowman walked into the classroom as my professor for Contracts I. I learned so much from him.

My experience at the West Virginia University College of Law set me on this path. Going to law school does not confine you to become a so-called “traditional lawyer” but rather opens doors “to do great things,” which is exactly what President Trump told me to do when I was sworn in as Chairman of EXIM.⁹ In many ways, the lessons I learned at law school and early in my career have guided my path in public service and the work I am doing at EXIM.

Dean Bowman, I am so delighted your extraordinary father, Professor Forest “Jack” Bowman, accepted our invitation and joined us today. To the many students in the audience, I would like to introduce you to Professor Bowman, who, as you can see, still has that full head of snow-white hair and thick white mustache. Professor Bowman, you have made a huge impression on me, as well as on thousands of law students, lawyers, and others in the legal profession and beyond, which endures to this day. Thank you. It’s a thing called character, and Professor Jack Bowman has it!

To the faculty and staff, I offer this reminder: your actions today, both in and out of the classroom, make a big difference in the lives of your students. Your students will not forget their time here. They are always watching and will remember those of you who led by example. It is a thing called character, and I thank those of you who take the extra step to make a positive difference in your students’ lives. Thank you for preparing our 21st century lawyers and leaders to serve the public, government, and business—whether in West Virginia, across our great nation, or around the world—while focusing on justice, ethics, professionalism, and service in a diverse, vibrant, and respectful community.

⁷ *Id.*

⁸ *Id.*

⁹ *Oversight and Reauthorization of the Export-Import Bank of the United States Before the Senate Committee on Banking, Housing, & Urban Affairs*, 116th Cong. 37 (2019) (testimony of Kimberly Reed, President and Chairman, Exp.-Imp. Bank of the U.S.), [hereinafter *Oversight and Reauthorization of the Exp.-Imp. Bank*], <https://www.govinfo.gov/content/pkg/CHRG-116shrg37922/pdf/CHRG-116shrg37922.pdf>.

B. A West Virginia Lawyer Serving in Our Nation's Capital and on the Global Stage

After graduating from the West Virginia University College of Law, I began my legal career on Capitol Hill, in Washington, D.C., serving as counsel to three Congressional Committees—Education and the Workforce; Government Reform and Oversight; and Ways and Means—where I focused on oversight and reform to improve our federal agencies. I deeply appreciate the valuable role Congress plays in oversight of federal programs, including EXIM, and the importance of faithfully executing all our laws consistent with the intent of Congress.

For all the students, let me share a bit of advice. Pay attention in your legal research and writing classes. They will be the most important classes you take here, as they develop critical skills you will use every day of your life. If I would have known how important Chapter 6 of *Studying Law: An Introduction to Legal Research* by J. Clark Kelso, which focuses on sources of legislative law,¹⁰ was when I was a 1L student, I would have mastered it and peppered my professor with many more questions. I still have my copy and brought it with me today. I say this with all honesty, as a former Congressional counsel in the Legislative Branch, I was responsible, to quote Kelso, for “laws made ‘in Pursuance’ of the Constitution.”¹¹ And now, serving in the Executive Branch, I am charged with implementing and enforcing the law. I will be testifying at a Congressional hearing on Wednesday, March 4, 2020, and you can be sure I will remember my 1L legal research class exercises if I have to underscore relevant federal legislative history when responding to questions.¹²

I also had the privilege to serve as Senior Advisor to U.S. Treasury Secretaries John Snow and Henry Paulson, where we worked to strengthen our nation's economy. This taught me the value of working as part of an Administration's team and ensuring Congress and the American people are fully informed about a President's economic agenda.

And, as Director of the Treasury Department's Community Development Financial Institutions Fund under President George W. Bush, we focused on creating jobs in distressed communities. I oversaw efforts to provide \$4 billion in financing—in the forms of New Markets Tax Credits, loans, and grants—to financial institutions and economic development groups that were

¹⁰ J. CLARK KELSO, *STUDYING LAW* (3d ed. 1999).

¹¹ *Id.* at 63.

¹² Press Release, Exp.-Imp. Bank of the U.S., EXIM Chairman Reed Testifies Before Congress (Mar. 4, 2020), <https://www.exim.gov/news/exim-chairman-reed-testifies-congress>.

investing in our nation's rural, Native American, and urban communities.¹³ As I traveled the country, visiting some of the nation's poorest communities, including here in West Virginia, I saw the untapped potential for job growth and economic development in our country. I also witnessed the strength and innovation of Americans who worked every day to provide for their families.

And most recently, as President of the International Food Information Council Foundation, I worked with the U.S. Department of Agriculture and the U.S. Department of State in emerging market countries around the world to increase acceptance of U.S. agricultural exports. I focused on the intersection of U.S. law and policy and international frameworks and political declarations when engaging with multilateral institutions like the United Nations in New York, World Health Organization in Geneva, World Bank in Washington, and Food and Agriculture Organization in Rome, on topics including diet, health, non-communicable disease prevention and control, food safety, and sustainable development goals.

II. BACKGROUND

A. *Brief History of the Export-Import Bank of the United States*

My non-traditional legal background taught me it is important to know where you come from when looking to the future. When President Trump nominated me to be President and Chairman of the Board of Directors of EXIM, following my time at the International Food Information Council Foundation, I dug into the history of the agency.

President Franklin Roosevelt established the Export-Import Bank of Washington in 1934.¹⁴ The agency originally was founded to help normalize relations with the Soviet Union by financing U.S. exports.¹⁵ However, due to the Soviet Union's history and record of unpaid debts, it soon became clear any transaction would be improbable and likely impossible all together.¹⁶

Consequently, a month later, a Second Export-Import Bank of Washington was formed, this time, with lending authority to "any part of the

¹³ *Treasury Deputy Secretary Kimmitt and CDFI Fund Director Reed Announce \$3.9 Billion in Tax Credits for Low-Income Community Investment*, CMTY. DEV. FIN. INSTS. FUND, U.S. DEP'T OF THE TREASURY (Oct. 5, 2007), https://www.mycdfi.cdfifund.gov/news_events/KimmittandReedAnnounceNMTCTaxCredits2007.asp.

¹⁴ *Full Historical Timeline*, EXP.-IMP. BANK OF THE U.S., <https://www.exim.gov/about/history-exim/historical-timeline/full-historical-timeline> (last visited Oct. 13, 2020).

¹⁵ WILLIAM H. BECKER & WILLIAM M. McCLENAHAN, JR., *THE MARKET, THE STATES, AND THE EXPORT-IMPORT BANK OF THE UNITED STATES, 1934–2000* 10 (Cambridge Univ. Press ed. 2003).

¹⁶ *See id.* at 15–16.

world except Russia.”¹⁷ The Second Export-Import Bank of Washington’s first approved transaction was a loan of \$3.8 million to Cuba for the purchase of U.S. silver ingots,¹⁸ followed by its first transaction in Europe, a loan for \$1.3 million for the purchase of tobacco.¹⁹ Then, shortly after, came the first transaction in South America, for the purchase of “Victor” pens from the U.S. Fountain Pen Company, totaling \$10,000.²⁰ Imagine how many pens that would buy back then—literally a ship full! Then came the first transaction in Asia—\$100,000 to purchase printing presses from Duplex Printing Co.—and the first transaction in Africa—\$300,000 authorized for the construction of port facilities.²¹ This was just the start of the agency getting more American goods and services into international markets.

By 1935, the Export-Import Bank of Washington and the Second Export-Import Bank of Washington merged, creating one agency: the Export-Import Bank of Washington.²² The agency expanded to support American companies as they exported their products abroad.²³ It became involved in several monumental international development programs that had a transformational impact around the globe.²⁴

In December 1938, the agency loaned \$25 million to China for the purchase of U.S. agricultural and industrial products.²⁵ These products allowed China to maintain a supply line between Burma and China’s wartime capital of Chungking—what is now called the “Burma Road.”²⁶ And, while the loan was officially a commercial endeavor, it unofficially defined the agency as an instrument of U.S. foreign policy—supporting the Chinese in the Sino-Japanese war.²⁷ This was the first time the agency publicly became a foreign policy instrument.²⁸

In 1941, the agency financed the Pan-American Highway, a road traveling through Canada, the United States, Mexico, Guatemala, El Salvador,

¹⁷ *Full Historical Timeline*, *supra* note 14.

¹⁸ *Id.*

¹⁹ EXP.-IMP. BANK OF WASH., EXPORT-IMPORT BANK LOGBOOK 1934–1951 2.

²⁰ *Id.*

²¹ *Id.*

²² *Full Historical Timeline*, *supra* note 14.

²³ See BECKER & McCLENAHAN, *supra* note 15, at 17–26.

²⁴ HAWTHORNE AREY, HISTORY OF OPERATIONS AND POLICIES OF EXPORT-IMPORT BANK OF WASHINGTON 10 (1953).

²⁵ BECKER & McCLENAHAN, *supra* note 15, at 39.

²⁶ AREY, *supra* note 24, at 18.

²⁷ BECKER & McCLENAHAN, *supra* note 15, at 38–39.

²⁸ *Id.*

Honduras, Nicaragua, Costa Rica, Panama, Colombia, Ecuador, Peru, Chile, and Argentina.²⁹

Then, following World War II, the agency was instrumental in guaranteeing many of the Marshall Plan's credits to European countries to assist in the reconstruction of Europe.³⁰ The agency's emergency and reconstruction loans supported the economies of post-war Europe. As a result of the assistance, 1945 and 1946 were record years for credit authorizations approved by EXIM. In 1945 alone, EXIM authorized more than \$2 billion for post-World War II reconstruction in Europe, Asia, and Africa.³¹ These transactions included \$650 million to France for general materials and construction for war reconstruction and \$19 million to the Prague Credit Bank for the purchase of cotton exports.³²

EXIM's role in Europe's reconstruction demonstrated the need for the agency to have a drastically higher lending capacity and paved the way for Congress to pass the Export-Import Bank Act of 1945, which converted the organization into an independent federal agency and increased its lending authority to \$3.5 billion.³³ But by making it an independent federal agency, Congress took even more control over the agency's future. In 1947, Congress reincorporated the agency, extending its life to June 30, 1953, but also requiring that it be periodically reauthorized—a requirement the agency has to this day.³⁴

Then, in 1968, EXIM's name was modernized to the one used today—the Export-Import Bank of the United States—which more accurately reflects the true scope of the agency's reach.³⁵

And while today, EXIM's Chairman position is a full-time job, this was not always the case for some of my early predecessors. Jesse Jones, for example, was Chairman of EXIM from 1941 to 1943. For a period, it was just one of 32 jobs he held within the government, including positions such as Secretary of Commerce and head of the Reconstruction Finance Corporation.³⁶

²⁹ See EXP.-IMP. BANK OF THE U.S., ANNUAL REPORT 1941, <https://www.digitalarchives.exim.gov/digital/collection/ExImD01/id/8232/rec/9>; see also EXP.-IMP. BANK OF THE U.S., ANNUAL REPORT 2018 16, <https://www.exim.gov/sites/default/files/reports/annual/2018/EXIM-AnnualReport-2018.pdf> (providing EXIM historical timeline highlights).

³⁰ BECKER & McCLENAHAN, *supra* note 15, at 4.

³¹ EXP.-IMP. BANK OF THE U.S., 7 SEMI-ANNUAL REPORT FOR THE PERIOD JULY-DEC. 1948 11, https://fraser.stlouisfed.org/files/docs/historical/martin/12_04_1949xxxx.pdf#:~:text=Seventh%20Semiannual%20Report%20of%20the%20Export-Import%20Bank%20of,of%20the%20Export-Import%20Bank%20Act%20of%201945%2C%20as.

³² *Id.* at 32–36.

³³ *Full Historical Timeline*, *supra* note 14.

³⁴ An Act to Provide for the Reincorporation of Export-Import Bank of Washington and For Other Purposes, Pub. L. No. 80-89, 61 Stat. 130, 131 (1947) (codified as amended at 12 U.S.C.A. §§ 635–635t (West 2020)).

³⁵ BECKER & McCLENAHAN, *supra* note 15, at 136.

³⁶ BASCOM N. TIMMONS, JESSE H. JONES 281 (1956).

Secretary Jones's influence over the country was so vast during President Roosevelt's Administration that he was referred to, on multiple occasions, as the "fourth branch of government."³⁷ It is rumored he lived in what is now my office at EXIM, with a Murphy bed hidden in a closet opposite his desk. I also have heard that America's wartime economy during World War II was planned from a small dining room—turned conference room—right off the Chairman's office.

EXIM was reauthorized in 1997, and Congress mandated the agency to increase financing of U.S. manufactured goods and services to sub-Saharan Africa, while still maintaining a reasonable assurance of repayment.³⁸

All of these phases of development in EXIM's history—alongside decades of domestic and international economic, trade, ideological, national security, foreign policy, political, regulatory, and other dynamics—have worked together to make the agency what it is today.³⁹

B. *What EXIM Does*

Today, EXIM is open for business in 191 countries.⁴⁰ We have a statutory lending cap of \$135 billion and have supported U.S. businesses in every state.⁴¹

As the official export credit agency ("ECA") of the United States, we are a self-sustaining federal agency that supports American jobs by facilitating U.S. exports—at no cost to U.S. taxpayers.⁴² EXIM achieves this in two principal ways.

³⁷ *Brother, Can You Spare a Billion? The Story of Jesse H. Jones—A Fourth Branch of Government*, PBS, https://www.pbs.org/jessejones/fyi_quotes.htm (last visited Oct. 7, 2020).

³⁸ Export-Import Bank Reauthorization Act of 1997, Pub. L. No. 105-121, 111 Stat. 2528, 2529–30 (codified as amended at 12 U.S.C.A. §§ 635–635t (West 2020)).

³⁹ See generally Robert E. Lighthizer, *How To Make Trade Work for Workers, Charting a Path Between Protectionism and Globalism*, FOREIGN AFFS., (July/August 2020), <https://www.foreignaffairs.com/articles/united-states/2020-06-09/how-make-trade-work-workers>. U.S. Trade Representative Robert E. Lighthizer serves as an ex officio member of the EXIM Board of Directors. See *infra* note 55.

⁴⁰ Press Release, Exp.-Imp. Bank of the U.S., EXIM Board of Directors Meets To Focus on Small Business and Approves Updated List of Countries Where Agency Is Open for Business (Dec. 17, 2019), <https://www.exim.gov/news/exim-board-directors-meets-focus-small-business-and-approves-updated-list-countries-where>.

⁴¹ 12 U.S.C.A. § 635e (West 2020); see also EXP.-IMP. BANK OF THE U.S., EXIM BANK IN EVERY STATE 2014–2019 (2019), <https://www.exim.gov/sites/default/files/congressional-resources/20200106-50-States-brochure.pdf>.

⁴² EXP.-IMP. BANK OF THE U.S., ANNUAL REPORT 1 (2016), [hereinafter EXIM 2016 ANNUAL REPORT], <https://www.exim.gov/sites/default/files/reports/annual/EXIM-2016-Annual-Report.pdf>; see also EXP.-IMP. BANK OF THE U.S., CONGRESSIONAL BUDGET JUSTIFICATION FISCAL YEAR 2021 5 (2020), [hereinafter FY 2021 BUDGET JUSTIFICATION], <https://www.exim.gov/sites/default/files/congressional-resources/budet->

First, when U.S. exporters or their international buyers are unable to access export financing from private sources, the agency equips them with the necessary tools, such as buyer financing, export credit insurance, or working capital.⁴³

Second, when U.S. exporters face foreign competition backed by other governments, EXIM helps to “level the playing field” by providing the buyer financing to match or counter the financing offered by competing nations and their ECAs.⁴⁴

EXIM assumes credit and country risks when the private sector is unable or unwilling to extend financing.⁴⁵ The agency’s charter includes our governing laws and requires all transactions EXIM authorizes to demonstrate a reasonable assurance of repayment.⁴⁶ EXIM monitors its credit and other risks in its portfolio very closely. This has resulted in EXIM consistently maintaining a default rate substantially below the maximum limits set in the agency’s authorizing legislation. The agency’s default rate is reported quarterly to Congress.⁴⁷

We face requirements no other ECA around the world does. First, we undergo a periodic “reauthorization,” as prescribed by Congress. Historically, the average term between reauthorization is just over four and a half years.⁴⁸ The other requirement is a quorum of the Board of Directors, nominated by the President and confirmed by the Senate, is required to approve and transact deals over \$25 million.⁴⁹ Without either, EXIM activity grinds to a halt.

justification/EXIM%20FY%202021%20Congressional%20Budget%20Justification%20February%202020.pdf (“EXIM also aids American taxpayers through the reduction of U.S. debt. As a self-financing agency, EXIM has managed its operational costs and financing risks to provide more than \$9.4 billion to the Department of the Treasury (Treasury) since 1992.”).

⁴³ EXIM 2016 ANNUAL REPORT, *supra* note 42.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ FY 2021 BUDGET JUSTIFICATION, *supra* note 42.

⁴⁸ See generally CONG. RSCH. SERV., EXPORT-IMPORT BANK: OVERVIEW AND REAUTHORIZATION ISSUES, R43581 (2019) [hereinafter OVERVIEW AND REAUTHORIZATION ISSUES], <https://fas.org/sgp/crs/misc/R43581.pdf>.

⁴⁹ Export-Import Reform and Reauthorization Act of 2015, Division E of Fixing America’s Surface Transportation Act, Pub. L. No. 114-94 (codified as amended at 12 U.S.C.A. §§ 635–635t (West 2020)); see also Press Release, Exp.-Imp. Bank of the U.S., Newly Sworn-In EXIM Board of Directors Holds First Meeting Since July 2015 (May 30, 2019), <https://www.exim.gov/news/newly-sworn-exim-board-directors-holds-first-board-meeting-july-2015> (noting that at its June 30, 2019, EXIM Board of Directors meeting, the Board, in accord with the intent of Congress as set forth in EXIM’s 2015 Reform and Reauthorization Act, approved a proposed resolution on individual delegated authority (“IDA”) under which short- and medium-term transactions can be approved by specific senior officers. Under the approved resolution, the upper limit of the dollar amount of individual transactions eligible for IDA was raised from the previous limit of \$10 million per transaction to \$25 million).

In 2015, the agency's charter and operating authority lapsed for five months, the longest gap in operation in EXIM's history.⁵⁰ This lapse sent uncertainty into the global marketplace, with U.S. companies unsure how they would get export credit financing and foreign buyers wary of deals not backed by a fully functional EXIM.⁵¹

In December 2015, EXIM was reauthorized, but the Senate would not confirm nominated board members, leaving it unable to complete transactions of large deals requiring board authorization.⁵² This remained the case until May 2019, when me and my two fellow board members, Spencer Bachus III and Judith DelZoppo Pryor, were confirmed by the Senate.⁵³ And while I am a conservative, free-market Republican nominated by President Trump, I am pleased to report not a single Democrat voted in opposition to my nomination.⁵⁴ U.S. Secretary of Commerce Wilbur L. Ross, Jr. and U.S. Trade Representative Robert E. Lighthizer also serve, *ex officio* and without vote, as additional members of the EXIM Board of Directors.⁵⁵

⁵⁰ *Full Historical Timeline*, *supra* note 14.

⁵¹ SHAYERAH ILIAS AKHTAR, DAVID H. CARPENTER, GRANT A. DRIESSEN, & JULIA TAYLOR, CONG. RSCH. SERV., R43671, EXPORT-IMPORT BANK: FREQUENTLY ASKED QUESTIONS 1 (2016), <https://fas.org/sgp/crs/misc/R43671.pdf>.

⁵² *See* Export-Import Reform and Reauthorization Act of 2015, Division E of Fixing America's Surface Transportation Act, Pub. L. 114-94 (codified as amended at 12 U.S.C.A. §§ 635–635t (West 2020)) (noting originally EXIM was prohibited from transacting deals over \$10 million; however, this cap was raised by the incoming Board to \$25 million to offer more flexibility in the future).

⁵³ *Id.*; *see also* David Lawder, *U.S. Senate Approves EXIM Bank Nominees, Restores Lending Powers*, REUTERS (May 8, 2019), <https://www.reuters.com/article/us-usa-trade-eximbank-idUSKCN1SE2IC>.

⁵⁴ *Roll Call Vote No. 100, 116th Cong.*, U.S. SENATE (May 8, 2019), https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=116&session=1&vote=00100.

⁵⁵ The *ex officio* positions were created under special authority granted to the President of the U.S. to reorganize the executive functions and responsibilities within the government. In 1979, President Carter issued the Reorganization Plan No. 3 of 1979, 44 Fed. Reg. 69,271–76; 93 Stat. 1381, 1382–83 (Dec. 3, 1979), relating to international trade. Section 3 reads: “The Trade Representative and the Secretary [of Commerce] shall serve, *ex officio* and without vote, as additional members of the Board of Directors of the Export-Import Bank of the United States.” Reorganization Plan No. 3 of 1979, 44 Fed. Reg. 69271, 69274. Pursuant to presidential authorities under the Reorganization Act of 1977 and the Trade Agreements Act of 1979, the reorganization plan became effective on November 29, 1979. Congress passed H.R. Res. 6225, 98th Cong. (1984), codifying the plan as Pub. L. 98-532, 98 Stat. 2705 (codified as amended in 5 U.S.C.A. §§ 901, 906). The *ex officio* positions are not referenced in the Export Import Bank Act of 1945, as amended, and there is no reference to them in the section of EXIM's Charter that otherwise lays out the structure and responsibilities of EXIM's Board of Directors. 12 U.S.C.A. § 635a(c).

C. *My Nomination Story*

I was first officially nominated as First Vice President and Vice Chair of EXIM in 2017,⁵⁶ but when the first nominee for Chairman was unable to be confirmed by the Senate, the President asked me to step up and lead the agency.⁵⁷ I was not confirmed right away, though. Following my volunteer work on the Trump-Pence Presidential Transition Team at the U.S. Department of the Treasury between the 2016 election and the 2017 inauguration, I was part of a very long Senate confirmation process for two and a half years. Once I was selected by the President, I underwent an intense vetting process, testified before Congress two times, had three successful bipartisan Senate Banking Committee votes on my nomination, and spent countless hours on Capitol Hill meeting with Members of Congress.

I saw the President in late-April 2019, and he asked me how I was doing. I said, “Sir, I am not confirmed yet.” The President has a lot on his plate, but took a half hour out of his day and negotiated with a key Senator. Within a week of him doing that, Majority Leader Mitch McConnell filed cloture on my nomination.⁵⁸ I was confirmed by the Senate with a bipartisan vote of 79–17 on May 8, 2019.⁵⁹ This meant I had a year and a half remaining in my four-year term and an ambitious agenda to fully reopen, reform, and reauthorize EXIM, while protecting the American taxpayer.⁶⁰

III. DISCUSSION

A. *A New Day at EXIM*

Once I, and my fellow board members, got through the nomination process, I turned my focus to implementing reforms at the agency. In one of my testimonies to Congress, I committed to six broad categories of reform for EXIM that would return the agency to its focus on American jobs, businesses, and

⁵⁶ 163 CONG. REC. S6292 (daily ed. Oct. 3, 2017) (nomination of Kimberly A. Reed, First Vice President, Exp.-Imp. Bank of the U.S.).

⁵⁷ 165 CONG. REC. S282 (daily ed. Jan. 16, 2019) (nomination of Kimberly A. Reed, President, Exp.-Imp. Bank of the U.S.); 164 CONG. REC. S4306 (daily ed. June 20, 2018) (nomination of Kimberly A. Reed, President, Exp.-Imp. Bank of the U.S.).

⁵⁸ 165 CONG. REC. S2593 (daily ed. May 2, 2019) (noting cloture motion filed by Sen. McConnell on the confirmation of Kimberly A. Reed for the Export-Import Bank of the United States).

⁵⁹ 165 CONG. REC. S2780 (daily ed. May 13, 2019); 165 CONG. REC. S2710 (daily ed. May 8, 2019) (noting Senator Kyrsten Sinema (D-AZ) also stated in a vote explanation included in the Congressional Record that she was “was necessarily absent, but had [she] been present, would have voted yes on . . . the confirmation of Kimberly A. Reed”).

⁶⁰ See, e.g., *Oversight and Reauthorization of the Export-Import Bank*, *supra* note 9, at 4–6; Swearing in Press Release, *supra* note 2.

economic development.⁶¹ U.S. Senator Pat Toomey from Pennsylvania had been a leading vocal critic of EXIM before my arrival, and under oath during my Senate testimony in July 2018, I committed to him to

1. Increase transparency;
2. Strengthen taxpayer protections;
3. Improve protection for domestic companies from economic harm;
4. Ensure EXIM does not crowd out private-sector financing;
5. Crack down on bad actors; and
6. Reduce global reliance on export credit agencies.⁶²

These critical reforms are part of an ongoing transformation process, and I will ensure the agency continues to take steps to fulfill this commitment to Congress.

During the implementation of these reforms, EXIM established a mission, vision, and values for the agency to “Support American Jobs by Facilitating U.S. Exports”—and it guides all we do at EXIM. That mission was included in our revised Strategic Plan through Fiscal Year 2022.⁶³

I am committed to improving EXIM’s transparency to the greatest extent practicable without divulging confidential business information. Greater transparency will increase EXIM stakeholders’ confidence in EXIM pursuing our mission appropriately while protecting taxpayers. To do so, we hold open EXIM Board of Directors, Advisory Committee, and Sub-Saharan Africa Advisory Committee meetings and post the transcripts online. EXIM is the most open and transparent export credit agency in the world and is the gold standard other ECAs are compared to and rarely match.⁶⁴

To protect the American taxpayer, EXIM makes the following considerations: we evaluate the trustworthiness and reliability of the parties to a transaction; we assess the cash-flow, debt burden, and financial stability of these parties; we review the source of the down-payment; we appraise the quality of

⁶¹ *Confirmation Hearing on the Nomination of Kimberly A. Reed To Be President of the Export-Import Bank: Hearing Before the S. Comm. on Banking, Hous., & Urb. Affs.*, 115th Cong. 18 (2018), <https://www.govinfo.gov/content/pkg/CHRG-115shrg32318/pdf/CHRG-115shrg32318.pdf>.

⁶² *Id.*

⁶³ See EXP.-IMP. BANK OF THE U.S., STRATEGIC PLAN FY 2018–2022 (REVISED FOR FY 2020–2022) 7, [hereinafter STRATEGIC PLAN FY 2018–2022], <https://www.exim.gov/sites/default/files/reports/Strategic-Plan-2018-2020.pdf>.

⁶⁴ See, e.g., EXP.-IMP. BANK OF THE U.S., REPORT TO THE U.S. CONGRESS ON GLOBAL EXPORT CREDIT COMPETITION (2019) [hereinafter GLOBAL EXPORT CREDIT COMPETITION], https://www.exim.gov/sites/default/files/reports/competitiveness_reports/2019/EXIM2019CompetitivenessReport-final.pdf.

the collateral; and we implement limitations on the use of the requested financing.⁶⁵

This analysis is critical for EXIM to determine whether a transaction adheres to the statutory requirement of a reasonable assurance of repayment.⁶⁶ Since I became Chairman, we have approved a Chief Risk Officer and a Chief Ethics Officer, established a Risk Management Committee, and developed an anti-fraud strategy to ensure we are protecting the American taxpayer. These actions also have protected EXIM from “bad actors,” those who seek to take advantage of or defraud the agency at the expense of American workers.

We also have restored and expanded staffing at our EXIM field offices, strengthening small business outreach, capability, and staffing to provide export tools to small businesses nationwide. This increased support is designed to improve protection for domestic companies exporting their products around the world.

EXIM’s governing legislation also mandates we supplement, but do not compete with, private-sector financing.⁶⁷ To ensure this, we initiated a review of EXIM’s economic impact to ensure EXIM is “adding to,” not competing with, the private sector.⁶⁸ We met with vocal critics of EXIM, letting them know I hear their complaints, and I am working to improve the agency and address many of their concerns.

Among our first priorities when I was confirmed as Chairman was to dramatically strengthen our relationship with private-sector lenders and brokers—as well as with federal, state, and local government agencies that regularly communicate with U.S. businesses—through a forward-leaning, proactive strategy focused on providing improved resources that will help them more effectively communicate to small businesses about how EXIM financing solutions can make a difference in boosting their sales and protecting their bottom lines.

⁶⁵ See, e.g., *Oversight and Reauthorization of the Export-Import Bank*, *supra* note 9, at 31.

⁶⁶ 12 U.S.C.A. § 635(b)(1)(B) (West 2020).

⁶⁷ *Id.* (“It is also the policy of the United States that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital.”).

⁶⁸ See Press Release, Exp.-Imp. Bank of the U.S., EXIM Advisory Committee Meets To Focus on EXIM’s Continued Implementation of Reform Efforts and the Agency’s New Congressional Directive to Compete with China (Jan. 21, 2020), <https://www.exim.gov/news/exim-advisory-committee-meets-focus-exim’s-continued-implementation-reform-efforts-and-agency’s>; Press Release, Exp.-Imp. Bank of the U.S., EXIM 2019 Advisory Committee Reviews EXIM’s Public-Private Reinsurance Program and Potential Reforms to EXIM Policies and Procedures; Convenes Diverse Stakeholders and Experts (Oct. 31, 2019), <https://www.exim.gov/news/exim-2019-advisory-committee-reviews-exim’s-public-private-reinsurance-program-and-potential>; Press Release, Exp.-Imp. Bank of the U.S., EXIM Seeks Public Comment on Economic Impact Procedures and Proposed Guidelines for Assessing “Additionality,” (Sept. 10, 2019), <https://www.exim.gov/news/exim-seeks-public-comment-economic-impact-procedures-and-proposed-guidelines-for-assessing>.

And, while as a conservative I believe in free-market principles and will use my position to reduce global reliance on ECAs, we cannot unilaterally disarm, allowing U.S. companies to fall prey to aggressive trade tactics of countries around the world.

Immediately after being sworn in as Chairman of EXIM, I traveled to China and participated in the annual G12 Heads of Export Credit Agencies meeting, setting the expectations of transparency and a level playing field.⁶⁹ We will be hosting the 2020 G12 meeting in Washington, D.C., where I will continue to advocate for a global reduction in the reliance on ECAs.

1. EXIM Reauthorization

Because of these reforms, in December 2019, Congress passed with bipartisan support, and President Trump signed into law, the longest reauthorization in EXIM's 85-year history.⁷⁰ This reauthorization provides certainty and stability in a previously tumultuous market, and it will preserve and reshore domestic manufacturing supply chains, combat what our stakeholders have reported as increasingly aggressive efforts by foreign governments to undercut the competitiveness of U.S. exports, and further America's national and economic security objectives.

With a renewed mission and vision, and the longest reauthorization in EXIM's history, we can turn to the challenges and opportunities we will face in coming years.

The world did not simply hit pause while EXIM was shuttered without a board quorum. In 2015, there were approximately 85 ECAs around the world.⁷¹ During my first confirmation hearing, in November 2017, this increased to 95 ECAs, and there are 113 present today, including EXIM.⁷² The effect of all this is that trade has become much more competitive, making it harder to get "Made in the U.S.A." goods and services in the global market.

We have reemerged fully open to a dramatically more competitive environment that has officially supported export credit as compared to when the

⁶⁹ Press Release, Exp.-Imp. Bank of the U.S., The United States To Host 2020 G12 Heads of Export Credit Agencies Meeting in Washington, D.C. (May 14, 2019), <https://www.exim.gov/news/united-states-host-2020-g12-heads-export-credit-agencies-meeting-washington-dc>.

⁷⁰ See Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, 133 Stat. 3021, 3023 (codified as amended at 12 U.S.C.A. §§ 635–635t).

⁷¹ Press Release, Off. Press Sec'y, White House, Fact Sheet: The Export-Import Bank: Supporting American Exports and American Workers in Every State Across the Country (June 30, 2015), <https://obamawhitehouse.archives.gov/the-press-office/2015/06/30/fact-sheet-export-import-bank-supporting-american-exports-and-american>.

⁷² *Export-Import Bank Nominations Hearing Before the S. Comm. on Banking, Hous., & Urb. Affs.*, 115th Cong. (2017) (statement of Kimberly A. Reed, nominee for First Vice President, Exp.-Imp. Bank of the U.S.); GLOBAL EXPORT CREDIT COMPETITION, *supra* note 64, at 24.

agency was last fully functional in 2015. While EXIM's foreign-buyer financing programs remained largely dormant, the U.S. exporting community reported that over the last five years, foreign ECAs have become more flexible, agile, and responsive as they seek to sell their own country's goods to support their workers, manufacturers, and economies.

2. Looking Ahead

A growing number of governments are choosing a proactive approach to export financing, which puts their ECAs at the center of their trade policies.⁷³ Foreign ECAs are no longer reactive or merely the lender of last resort, rather, they are increasingly seeking out transactions, putting financing packages in place, and identifying ways to maximize the number of domestic suppliers or exporters involved in the global supply chain of strategic sectors, often engaging in "matchmaking" efforts between their suppliers and foreign buyers.⁷⁴ They are using export credit to support robust domestic supply chains, enhance efficient shipping and logistics, open the door to follow-on exports, deepen economic ties, and develop engineering and technological expertise in key sectors.⁷⁵

For decades, the U.S. has worked through the Organisation for Economic Co-operation and Development ("OECD") to establish a level playing field, or framework, for the provision of original export credit, including risk-based pricing. This is the OECD Arrangement on Officially Supported Export Credits (the "Arrangement").⁷⁶ The focus of the Arrangement is to restrict foreign export credit subsidies and encourage global export competition based on the quality and price of goods and services exported, rather than predatory financing terms.⁷⁷ Over the years, EXIM has regularly contributed its technical expertise and experience to support the U.S. in establishing market-oriented rules based on best export-credit practices—not trade-distorting ones. The Arrangement also is a "gentleman's agreement" and is only as good as the commitment of the participants to its guidelines.

⁷³ GLOBAL EXPORT CREDIT COMPETITION, *supra* note 64, at 45.

⁷⁴ *Id.* at 15.

⁷⁵ *Id.* at 39–51.

⁷⁶ See *Levelling the Playing Field*, OECD, <https://www.oecd.org/trade/topics/levelling-the-playing-field> (last visited Sept. 4, 2020); *Organisation for Economic Co-operation and Development*, EXP.-IMP. BANK OF THE U.S., <https://www.exim.gov/who-we-serve/congressional-and-government-stakeholders/facts-about-exim/oecd> (last visited Sept. 4, 2020).

⁷⁷ See *Organisation for Economic Co-operation and Development*, *supra* note 76; see also *Export Credits Work at the OECD*, OECD, <https://www.oecd.org/trade/topics/export-credits/> (last visited Sept. 4, 2020).

Some countries follow the guidelines of the Arrangement; others, like China, do not.⁷⁸ But because of the growing trend for countries to use their ECA as instruments to achieve strategic policy objectives, financing provided under the terms of the OECD Arrangement accounted for just 36% of total government-backed export and trade-related financing in 2018, including development financing.⁷⁹

3. Trade and Tactics by China

Most aggressive among these countries is the People's Republic of China, which has been very explicit in its efforts to extend its economic influence through its export credit and investment support for its Belt and Road Initiative.⁸⁰ More than 60 countries are discussing or developing projects with China now. Estimates show China could spend as much as \$1.3 trillion by 2027 on investments throughout the Belt and Road Initiative region.⁸¹

China is known to provide export and trade-related financing through at least three different entities to turn these aspirations into reality.⁸² The China Export and Credit Insurance Corporation (also known as SINOSURE), the Export-Import Bank of China, and the China Development Bank all provide export credits and, in doing so, are playing central roles in helping Chinese companies gain international strength and move up global value supply chains.⁸³ Through this whole-of-government approach, these Chinese entities are boosting projects through Asia and Africa, primarily utilizing Chinese technology, engineering, and services.⁸⁴

⁷⁸ See *Official Export Credit Agencies*, OECD, <https://www.oecd.org/trade/topics/export-credits/documents/links-of-official-export-credit-agencies.pdf> (last visited Sept. 4, 2020).

⁷⁹ See GLOBAL EXPORT CREDIT COMPETITION, *supra* note 64, at 31.

⁸⁰ See, e.g., U.S. SENATE COMM. ON SMALL BUS. & ENTREPRENEURSHIP, MADE IN CHINA 2025 AND THE FUTURE OF AMERICAN INDUSTRY (2019); U.S. CHAMBER COM., MADE IN CHINA 2025: GLOBAL AMBITIONS BUILT ON LOCAL PROTECTIONS (2017); *China's Belt and Road Initiative in the Global Trade, Investment and Finance Landscape*, OECD (2018), <https://www.oecd.org/finance/Chinas-Belt-and-Road-Initiative-in-the-global-trade-investment-and-finance-landscape.pdf>.

⁸¹ Andrew Chatzky & James McBride, *China's Massive Belt and Road Initiative*, COUNCIL ON FOREIGN RELS. (Jan. 28, 2020), <https://www.cfr.org/backgrounders/chinas-massive-belt-and-road-initiative>.

⁸² See generally GLOBAL EXPORT CREDIT COMPETITION, *supra* note 64, at 15–16.

⁸³ See generally *id.*; see also U.S. SENATE COMM. ON SMALL BUS. & ENTREPRENEURSHIP, *supra* note 80.

⁸⁴ See GLOBAL EXPORT CREDIT COMPETITION, *supra* note 64, at 15–16; U.S. S. COMM. ON SMALL BUS. & ENTREPRENEURSHIP, *supra* note 80.

And since China is not a party to the OECD Arrangement, countries that rely on Chinese financing are increasingly finding themselves stuck in debt traps, in which China has the upper hand.⁸⁵

Take the Hambantota Port in Sri Lanka, for example. Sri Lanka took on massive debt to China to build the port, even though it was of questionable commercial value.⁸⁶ Several years later, with rising debt and next to no profit, Sri Lanka turned the keys of the port directly over to China.⁸⁷ The same day, China's state-run news agency boasted on Twitter, "Another milestone along the path of #BeltandRoad."⁸⁸

Or in Djibouti, a country that is home to the U.S.' largest military base in Africa but also a country whose debt to China was 71% of its GDP in 2019.⁸⁹ As a part of its Belt and Road Initiative, China built a multipurpose cargo facility at Djibouti's Doraleh Container Terminal, and Djibouti handed over a quarter of its stake in the terminal to China Merchants Port Holdings.⁹⁰

This is not the beginning of China's story. As Vice President Pence said in a speech to the Hudson Institute in October 2018, "After the fall of the Soviet Union, we assumed that a free China was inevitable Heady with optimism, at the turn of the 21st Century, America agreed to give Beijing open access to our economy and bring China into the World Trade Organization."⁹¹

Under this arrangement, China flourished, becoming the second-largest economy in the world.⁹² But the free China of which Vice President Pence spoke

⁸⁵ ORG. FOR ECON. CO-OPERATION & DEV., WORKING PARTY ON EXPORT CREDITS AND CREDIT GUARANTEES: CHINESE EXPORT CREDIT POLICIES AND PROGRAMMES (2015), [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=tad/ecg\(2018\)4&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=tad/ecg(2018)4&doclanguage=en); Mark Green, *China's Debt Diplomacy*, FOREIGN POL'Y (Apr. 25, 2019), <https://foreignpolicy.com/2019/04/25/chinas-debt-diplomacy>.

⁸⁶ Maria Abi-Habib, *How China Got Sri Lanka To Cough Up a Port*, N.Y. TIMES (June 25, 2018), <https://www.nytimes.com/2018/06/25/world/asia/china-sri-lanka-port.html>.

⁸⁷ *Id.*

⁸⁸ China Xinhua News (@XHNews), TWITTER (Dec. 10, 2017, 2:07 AM), <https://twitter.com/XHNews/status/939753813115789312>.

⁸⁹ Max Bearak, *In Strategic Djibouti, A Microcosm of China's Growing Foothold in Africa*, WASH. POST (Dec. 30, 2019, 5:00 AM), https://www.washingtonpost.com/world/africa/in-strategic-djibouti-a-microcosm-of-chinas-growing-foothold-in-africa/2019/12/29/a6e664ea-beab-11e9-a8b0-7ed8a0d5dc5d_story.html.

⁹⁰ See Costas Paris, *China Tightens Grip on East African Port*, WALL ST. J. (Feb. 21, 2019), <https://www.wsj.com/articles/china-tightens-grip-on-east-african-port-11550746800>; Costas Paris, *Djibouti Rejects Court Ruling To Hand Back Container Terminal*, WALL ST. J. (Jan. 17, 2020), <https://www.wsj.com/articles/djibouti-rejects-court-ruling-to-hand-back-container-terminal-11579296713>.

⁹¹ *Remarks by Vice President Pence on the Administration's Policy Toward China*, WHITE HOUSE (Oct. 4, 2018), <https://www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-administrations-policy-toward-china/> (last visited Oct. 21, 2020).

⁹² See generally *id.*

was nowhere to be found. Instead, the Chinese Communist Party has used tariffs, quotas, forced technology transfer, and industrial subsidies to distort free trade, often at the expense of American companies.⁹³ It used technological advances to censor its own people, implementing a social-credit score system to “allow the trustworthy to roam freely under heaven while making it hard for the discredited to take a single step.”⁹⁴

B. EXIM and a Focus on the United States’ Future

Congress has recognized the challenges China poses and included, as part of EXIM’s historic 2019 reauthorization, a mandate that directs EXIM to establish a “Program on China and Transformational Exports.”⁹⁵ This program sets a goal of reserving 20% of EXIM’s total financing authority for exports that compete directly with China, with a focus on

1. Artificial intelligence.
2. Biotechnology.
3. Biomedical sciences.
4. Wireless communications equipment (including 5G or subsequent wireless technologies).
5. Quantum computing.
6. Renewable energy, energy efficiency, and energy storage.
7. Semiconductor and semiconductor machinery manufacturing.
8. Emerging financial technologies (including technologies that facilitate financial inclusion through increased access to capital and financial services; data security and privacy; payments, the transfer of funds, and associated messaging services; and efforts to combat money laundering and the financing of terrorism).
9. Water treatment and sanitation (including technologies to reduce contaminants and improve water quality).
10. High-performance computing.
11. Associated services necessary for the use of any of the foregoing exports.⁹⁶

⁹³ See generally *id.*

⁹⁴ Bernard Marr, *Chinese Social Credit Score: Utopian Big Data Bliss or Black Mirror on Steroids?*, FORBES (Jan. 21, 2019) (quoting Matthew Carney, *Leave No Dark Corner*, ABC NEWS (July 31, 2020) <https://www.abc.net.au/news/2018-09-18/china-social-credit-a-model-citizen-in-a-digital-dictatorship/10200278?section=world&nw=0>), <https://www.forbes.com/sites/bernardmarr/2019/01/21/chinese-social-credit-score-utopian-big-data-bliss-or-black-mirror-on-steroids/#262989cf48b8>.

⁹⁵ See Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, 133 Stat. 3021, 3023 (codified as amended at 12 U.S.C.A. §§ 635–635t (West 2020)).

⁹⁶ See *id.*

Already, EXIM has helped U.S. companies as they compete with China, all while supporting jobs and economic growth here at home.⁹⁷

The first deal EXIM's Board of Directors authorized, after the quorum was restored, was \$5 billion for the development and construction of an integrated liquefied natural gas project in Mozambique—the largest transaction in EXIM's history.⁹⁸ Both China and Russia were slated to finance this deal before the board's quorum was restored, but the project will now be completed without their involvement.⁹⁹ Instead, “Made in the U.S.A.” products and services will be used.¹⁰⁰

And while Congress has directed EXIM to focus a percentage of its exposure on competing with China in specific industries, supporting all businesses, no matter the size, is important to EXIM's mission.¹⁰¹ Twenty-five years ago, EXIM established its Small Business Division focused entirely on ensuring small businesses have access to the trade finance tools they need to succeed in markets around the world.¹⁰²

Since then, the export-credit market has changed drastically, but our commitment remains the same—to ensure U.S. exporters and workers can compete on the quality and price of their goods and services and not lose business to foreign competitors because of their government-backed financing.

C. *West Virginia and EXIM*

Coming from West Virginia, small business is very important to me. I grew up in a family and in a community where small business was our backbone. This instilled in me a dedication to small businesses. Since I became Chairman, EXIM has completed more than 1,400 small business transactions, totaling over \$1.49 billion in authorizations.¹⁰³ These transactions have supported

⁹⁷ See GLOBAL EXPORT CREDIT COMPETITION, *supra* note 64, at 12.

⁹⁸ See EXIM Board Votes To Notify Congress of Proposed \$5 Billion Financing To Support U.S. Export to Mozambique LNG Project, EXP.-IMP. BANK OF THE U.S. (Aug. 22, 2019), <https://www.exim.gov/news/exim-board-votes-notify-congress-proposed-5-billion-financing-support-exports-mozambique-lng>.

⁹⁹ See EXIM Approves \$5 Billion To Finance U.S. Exports to Mozambique LNG Project, EXP.-IMP. BANK OF THE U.S. (Sept. 26, 2019), <https://www.exim.gov/news/exim-approves-5-billion-finance-exports-mozambique-lng-project>.

¹⁰⁰ *Id.*

¹⁰¹ See Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, § 402, 133 Stat. 3021, 3023 (codified as amended at 12 U.S.C.A. §§ 635–635t (West 2020)).

¹⁰² *Oversight and Reauthorization of the Export-Import Bank*, *supra* note 9, at 33.

¹⁰³ EXP.-IMP. BANK OF THE U.S., TRANSCRIPT OF FEBRUARY 20, 2020 EXIM BOARD OF DIRECTORS OPEN SESSION (Feb. 20, 2020), https://www.exim.gov/sites/default/files/board-meetings/2020-02-20_Transcript_OPEN_Portion.pdf; see also EXP.-IMP. BANK OF THE U.S.,

approximately 12,000 jobs.¹⁰⁴ And, I am proud EXIM has averaged a default rate of less than 0.5% over the last decade because of the care and thoughtfulness that goes into the review and structuring of our transactions.¹⁰⁵

And, over the past five years, West Virginia has benefitted from \$12 million in EXIM support, and 57% of these exporters were small businesses.¹⁰⁶ For example, EXIM has supported more than \$2 million in exports for Wheeling Truck Center through our export credit insurance program.¹⁰⁷ Exports make up 25% of the company's revenue.¹⁰⁸ You can see the 15 West Virginia exporters on our website, which include American Airworks in Sophia, Helmick Corporation in Fairmont, and Preiser Scientific in Saint Albans.¹⁰⁹ Now that EXIM is fully reopened, I look forward to seeing even more export opportunities for West Virginians, and I am committed to working with your elected officials and stakeholders to make sure this happens.

IV. CONCLUSION

EXIM's new vision is "Keeping America Strong: Empowering U.S. Businesses and Workers to Compete Globally."¹¹⁰ Through economic and national security, EXIM is committed to supporting its U.S. workers and businesses. I am honored to be the first woman and West Virginian to take steps to deliver on this vision. And, I also look forward to watching each of your stars rise—as you are West Virginia's future legal and business leaders—and

TRANSCRIPT OF MARCH 30, 2020 EXIM BOARD OF DIRECTORS OPEN SESSION 4–5 (Mar. 30, 2020), <https://www.exim.gov/sites/default/files/board-meetings/2020-03-30-transcript---open.pdf>.

¹⁰⁴ *EXIM Approved 1,585 Small Business Authorizations Totaling More Than \$1.4 Billion and Supporting Approximately 12,000 Jobs Across the United States Since Board Quorum Restored*, EXP.-IMP. BANK OF THE U.S. (Mar. 4, 2020), <https://www.exim.gov/news/exim-approved-1585-small-business-authorizations-totaling-more-14-billion-and-supporting>.

¹⁰⁵ EXP.-IMP. BANK OF THE U.S., ANNUAL REPORT 2019 8, https://www.exim.gov/sites/default/files/reports/annual/2019/EXIM_2019%20AnnualReport_508C_Web.pdf.

¹⁰⁶ EXIM BANK IN EVERY STATE, *supra* note 41, at 53.

¹⁰⁷ *Open Account Credit Terms Are Building Sales for West Virginia Company*, EXP.-IMP. BANK OF THE U.S., <https://www.exim.gov/about/success-stories/open-account-credit-terms-are-building-sales-for-west-virginia-company> (last visited Sept. 4, 2020).

¹⁰⁸ *Id.* In May 2019, during her first month at EXIM, Chairman Reed invited Chad Remp, Operations Manager and Director for International Sales at Wheeling Truck Center (now known as Legacy Truck Centers) in Wheeling, West Virginia, to participate in a small business roundtable at EXIM's headquarters in Washington, D.C. to underscore West Virginia business success in the competitive global marketplace. *See EXIM Hosts Small Business Round Table in Washington, D.C.*, EXP.-IMP. BANK OF THE U.S. (May 31, 2019), <https://www.exim.gov/news/exim-hosts-small-business-round-table-washington-dc>.

¹⁰⁹ *See generally Export Data—USA: West Virginia*, EXP.-IMP. BANK OF THE U.S., https://customermap.exim.gov/state_map.cfm?state=WV (last visited Sept. 4, 2020).

¹¹⁰ STRATEGIC PLAN FY 2018–2022, *supra* note 63.

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encourage you to reach big. Make those asks and show up. And, always remember what Professor Bowman taught me: It's a thing called character—and, as West Virginians, you have it!

