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WHAT HAS EX IM BANK DONE FOR SMALL BUSINESS LATELY?

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

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CONTENTS

WITNESSES

	Page
Merrill, Hon. Philip, President and CEO, Export Import Bank of the United States	4
Hadfield, Ms. Victoria, President, Semiconductor Equipment and Materials International (SEMI) North America	5
Vaden, Mr. Michael, President and CEO, Rutland Plastic Technologies, Inc.	8

APPENDIX

Opening statements:	
Manzullo, Hon. Donald A.	49
Velazquez, Hon. Nydia	54
Otter, Hon. C.L. "Butch"	56
Simpson, Hon. Michael and Hon. C.L. "Butch" Otter	58
Prepared statements:	
Merrill, Hon. Philip, President and CEO, Export Import Bank of the United States	60
Hadfield, Ms. Victoria, President, Semiconductor Equipment and Materials International (SEMI) North America	65
Vaden, Mr. Michael, President and CEO, Rutland Plastic Technologies, Inc.	73
Attachments	
April 1, 2005 letter to Chairman Philip Merrill from Semiconductor Manufacturing International Corporation	77
Attachment A—Chronology of SMIC Transaction	82
Attachment B—Appendices	86
Appendix A: March 21, 2005 Letter from EX-IM Chairman Philip Merrill to Congressman Donald A. Manzullo (R—IL)	87
Appendix B: Congressional letters written on SMIC and equipment suppliers behest [Items A—Q]	88

″WHAT HAS EX IM BANK DONE FOR SMALL BUSINESS LATELY?″

WEDNESDAY, APRIL 6, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The Committee met, pursuant to call, at 3:25 p.m., in Room 311, Cannon House Office Building, Hon. Donald A. Manzullo [chair of the Committee] Presiding.

Present: Representatives Manzullo, Kelly, Velazquez, Faleomavaega, Christensen, and Grijalva.

Chairman MANZULLO. The hearing will come to order. There's the bell. We are going to take a recess because the bells just went off for two votes. Probably be about 25 minutes or so, sorry about that.

[recess.]

Chairman MANZULLO. Good afternoon and thank you for appearing before the committee. As you know, the Export-Import Bank, or EX-IM, plays a crucial role in supporting American exports and American jobs. I was proud to support EX-IM during previous authorization debates. EX-IM is the primary, and in many instances, sole source of assistance to small businesses that must overcome the challenges of globalization in order to survive. Small businesses often find themselves trying to open new export markets in the face of unfair competition and foreign government subsidies. Foreign governments pursue aggressive programs and subsidize home grown companies and they play to win.

This is why EX-IM serves such a critical need. EX-IM's programs for credit insurance, working capital and loan guarantees to U.S. exporters play an essential role in maintaining America's competitive edge.

Against that background this committee has taken note of some disturbing trends regarding EX-IM and its core clients, American small businesses. In 2002, as part of EX-IM's reauthorization, Congress imposed on EX-IM a small business set-aside of 20 percent. But EX-IM failed to meet this mandate, achieving 19.7 percent in 2003 and just 16.7 percent in 2004. These numbers are frankly quite suspect. Moreover, the trend is clearly in the wrong direction. We know of some worthy efforts to improve and streamline EX-IM's processes and to make it more friendly to small businesses. But these efforts remain frustrated by bureaucratic inertia, corporate culture issues within the Bank and adversarial relationships between EX-IM and its customers and partners.

For over 2 years, the Bank's financial service partners have been trying to work with EX-IM on developing a more streamlined application process for small business exporters. It is called Fast Track, and it is used particularly for working capital between $10 million and $25 million. This Fast Track application has strong support among lenders and businesses. But EX-IM hasn't done its job. Two years to come up with the program and they have failed. That is inexcusable, and it also hurts small businesses.

Other small business initiatives have also fallen by the wayside. For example, there is a dealer/distributor financing program which could be a boon to small U.S. manufacturers by helping them set up distribution networks in foreign countries, a vital requirement in getting a foothold into the foreign market. To date there have been no implementing guidelines for the program. EX-IM small business customers continue to wait, and that is why we have oversight hearings.

In the meantime, while small businesses idle, international competition races forward. During the 2002 reauthorization, EX-IM emphasized that the "mandate of the Export-Import Bank is to sustain jobs here in the U.S. by helping to finance U.S. exports that would not take place without us." EX-IM also said, "our motto is jobs through exports, and our mantra, of course, is jobs, jobs, jobs."

We know that China poses a historic challenge to the U.S. in terms of trade. Recent statistics show that the U.S. is running the largest trade deficit on earth with China. Last year U.S. imports from China were $196.7 billion, an increase of 29 percent, and exceeded our exports to China by five times. Wait till next year when GM, working with China, is manufacturing a car in China. They will be exporting that to the United States. Their goal is one million cars. Solving this trade deficit is of overriding significance.

Today we are going to hear from two witnesses who will describe their difficulties with EX-IM in the China trade context. The first witness is Mike Vaden, CEO of a small North Carolina firm, Rutland Plastic Technologies, Inc., a company from Congresswoman Sue Myrick's district, and when she gets back she will be introducing you, Mike. The second witness is Victoria Hadfield of the trade association, SEMI, which represents many semiconductor equipment manufacturers.

As with many export oriented industries, American semiconductor equipment makers are leading the world in terms of innovation, exports and additional export potential. Without EX-IM financing, many global customers turn to non-U.S. suppliers subsidized by their own governments. For example, the Japanese court foreign buyers openly with attractive loan subsidies and the Chinese subsidize in a wide variety of ways, directly and indirectly. Then add to this the many other cost advantages of producing in China. It is certain American equipment makers cannot begin to compete without the leveling provided by EX-IM.

One particular situation of concern to this committee, an application to support hundreds of millions of dollars in sales of American semiconductor equipment to a company in China, has been indefinitely tabled by the EX-IM board. More than 50 members of the Senate and House, including the Speaker and three Governors, have written to EX-IM with concerns over how EX-IM has handled

this application, but most particularly EX-IM's refusal to give it a vote. Both law and equity entitle the applicant to a vote on its application. Why EX-IM refuses to vote is baffling. It is inexcusable, particularly when so many American jobs are at stake.

EX-IM is a critical tool in maintaining American innovation and export readiness. We think it is imperative that changes be made and quickly. We urge EX-IM to consider the following key reforms: Timely roll out of such programs as Fast Track and dealer financing; two, an effective small business advocacy modeled after the one at the Overseas Private Investment Corporation; three, new initiatives to get more banks to offer export financing; four, create and manage an organization-wide small business plan; five, define problem solving and EX-IM processes and procedures that are pragmatic, timely, and squarely address challenges faced by American exporters and those who wish to purchase from American companies; and last, establish board procedures that take applications to a vote and which provide applicants with a transparent and open process.

[Chairman Manzullo's statement may be found in the appendix.]

I now recognize the ranking Democratic member from New York, Representative Velazquez, for her opening statement.

Ms. VELAZQUEZ. Thank you, Mr. Chairman, and I am going to use my time to set the record straight. I miss the time when this committee worked in a bipartisan way at a time when we really believed that our responsibility was to protect small businesses in this country and to enact legislation and craft legislation that really brought relief to small businesses, that provided economic tools for small businesses to succeed in this country. When Chairman Talent, today a Senator from Missouri, was the chairman of this committee, we passed 24 bills. Twenty of them became law. In the last Congress only two bills, two extensions for SBA were passed from this committee.

So let me just say that, Mr. Chairman, what happened here today is a travesty. What was done to Mr. Barrow, Ms. Moore and Ms. Sanchez was unconscionable, and I will not stand idly for that type of disrespect to the minority's right for an open debate. And yes, indeed, Chairman Talent and I had deep and big differences, but we were able to discuss those differences and respectfully disagree. So if you think that you can run this committee in a partisan way, unilaterally so, fine with me. Go ahead and do it. And then we don't have—it doesn't make any sense for me to stay here and for the members of the Democratic side to stay here and participate in this hearing.

[Ranking Member Velazquez's statement may be found in the appendix.]

Chairman MANZULLO. Next time we offer to meet with your staff maybe they can take us up on it. Thank you for your comments.

Mr. Merrill, we are gratified to have you here and look forward to your testimony. You can start. They are having a problem. Go ahead.

Mr. MERRILL. I just want to stay out of that argument.

Chairman MANZULLO. Oh, no, we have got enough issues going on.

Mr. MERRILL. Okay. Just tell me when you want me to start.

Chairman MANZULLO. You can start right now. That is a general clock, you know.

STATEMENT OF THE HON. PHILIP MERRILL, EXPORT-IMPORT BANK OF THE UNITED STATES

Mr. MERRILL. Okay. Thank you, Mr. Chairman.

Mr. Chairman, and Members of the Committee, the Export-Import Bank of the United States is committed, very committed to assisting small business exporters. That is the role the Bank assumed years ago and one I supported throughout my tenure as chairman. I commend this Committee for its key role in supporting small businesses. I thank you, Mr. Chairman, for offering valuable advice and support to Ex-Im Bank and its mission of sustaining U.S. jobs by supporting exports that would not otherwise go forward.

I am happy to report that the direct support of the Export-Import Bank for small businesses has increased in each of the last two fiscal years. Specifically, it stood at $1.78 billion in fiscal year 2002, $2.08 billion in fiscal year 2003 and reached $2.26 billion last year, fiscal year 2004. That is a 27 percent increase in the period that I have been in this Bank, roughly two and a half years.

This increased funding has also been matched by an increase in the actual number of small business deals. We closed 2,154 small business transactions in fiscal year 2002, 2,258 in fiscal year 2003 and finally, 2,572 in fiscal year 2004. That is a 19 percent increase over 2 years. I am proud of the steadily increasing support the Bank has provided to small businesses during my tenure over the last 2 years plus.

Also, during that period, over 80 percent of the Bank's transactions have directly benefited small businesses. Ex-Im Bank makes the most of its limited staff by using partners to reach small business exporters, partners such as financial institutions, brokers, our City-State Partners and the export assistance centers of the Department of Commerce. Other partners include trade associations, such as the Small Business Exporters Association, industry associations, some of whom are here today—I saw Peggy Hoolihan behind me— chambers of commerce, world trade centers and other business groups.

One additional partnership recently expanded is with the Small Business Administration. Through a co-guarantee program established in fiscal year 2004 with SBA's export working capital program, SBA can with the assistance of Ex-Im Bank seamlessly serve eligible small exporters whose needs exceed the SBA's lending ceiling. By seamless, I mean it is one application. We lay over on top of them if the loan is larger.

Even our larger transactions benefit small businesses because small businesses are frequently suppliers for larger exporters. This is what we term "indirect" support for small business. Our charter provides that we make available 20 percent of our overall authorization for the "direct" benefit of small business.

As I have said, the numbers of transactions and dollars authorized for small business exporters have steadily increased during my tenure at Ex-Im Bank. But as a share of overall financing, the small business percentage has been variable. In fiscal year 2002,

the rate was 17.6 percent compared to 19.8 percent in fiscal year 2003 and 16.9 percent in fiscal year 2004. I want to assure the committee that we take the 20 percent very seriously. Our analysis shows that we were on track to exceed 20 percent for small business, but for two large transactions approved by the board very late in the fiscal year. We have several programs, large transactions, percentage drop. We have several programs in development or newly established to increase the number of small business exports and get us toward the 20 percent.

While Ex-Im Bank is primarily demand driven and in the final analysis only has the ability to do those transactions that are brought to us, we continue striving to make ourselves more accessible to the small business community. There are 240,000 exporters in the United States, many of whom are small businesses.

A program in development called "Ex-Im On Line" is designed to provide on-line application submission and electronic automatic processing and servicing for our short and medium term insurance and guarantee products. In addition, we will leverage our relationships with credit unions, City-State Partners and other agencies similar to what we have done with the new arrangement with the SBA. Again, this will allow us to reach out beyond our small employee base and work with others to increase the benefits provided by our small business programs.

In regard to our budget, the Administration is requesting $186.5 million in program budget, which when you add it to carry over funds and cancellations from previous years would give us $400.5 million to use as a loss reserve to support a projected $13.8 billion in authorizations for fiscal year 2006. That is more than sufficient to support our projected demand for small business authorizations.

For fiscal year 2006, the Administration is requesting $73.2 million for our administrative budget. Just $600,000 more than this year's appropriation. It is out of this budget that we fund the technological improvements and outreach programs that I discussed above. Mr. Chairman, we need every dollar of that budget appropriated if we are to continue making progress towards the small business objectives we all share.

Mr. Chairman, I thank you for your support of small business and the Ex-Im Bank. I am ready to answer any questions you or your colleagues may have, Mr. Chairman. Thank you.

[The Honorable Merrill's statement may be found in the appendix.]

Chairman MANZULLO. Thank you. Okay. I am going to go to Victoria Hadfield. Even if you came from North Carolina I would be going to you anyway [Laughter-reference to North Carolina's win over Illinois in NCAA final]. I am waiting for Mrs. Myrick to come back. Ms. Hadfield is President of SEMI North America and assumed that position in June of 2002. Lots of qualifications. Great background. We look forward to your testimony.

STATEMENT OF VICTORIA HADFIELD, SEMICONDUCTOR EQUIPMENT AND MATERIALS INTERNATIONAL (SEMI) NORTH AMERICA

Ms. HADFIELD. Okay. Thank you. Thank you for the invitation to be here today. SEMI, Semiconductor Equipment and Materials

International, is an industry association that represents nearly a thousand American companies specializing in the manufacture of capital equipment and materials for the production of semiconductors.

While the SME [semiconductor equipment] industry is quite diverse, the majority of U.S. companies are small, privately held firms with annual sales of less than 25 million. Many of these are part of a wide network of suppliers to larger publicly held semiconductor capital equipment and materials firms who serve the global semiconductor industry.

The U.S. can be proud of its world class competitive semiconductor equipment and materials infrastructure. This also serves as a base for providing enabling technology to new and emerging industries such as those in nanotechnology and MEMS.

Our industry has been one of the most innovative in the U.S., fueling many of the manufacturing technology advances that have helped to improve semiconductor capability and performance. The average SEMI member spends upwards of 15 percent of annual revenues on research and development. The ability to fund these investments has always been dependent on export revenues, which now account for over 70 percent of sales for most U.S. leading semiconductor equipment companies in our industry. Thus, access to overseas markets and the ability to compete in these markets with leading edge technology is vital to the long-term health of the U.S. semiconductor capital equipment and materials infrastructure.

The Asia Pacific region now comprises 70 percent of the world's market for semiconductor capital equipment and materials, and it is the fastest growing market for our members. If you look at my written testimony there are charts showing the shift of semiconductor manufacturing to the Asia Pacific region. Of these Asian markets China is becoming one of the most important players. The size of the China market for new equipment for 2004 was $2.68 billion, an increase of over 130 percent from the previous year.

U.S. SME producers face strong competition from Europe and Japan and markets around the world. In China last year U.S. producers sold 51 percent of the new wave for fab equipment and 34 percent of test and assembly equipment purchased by China. Early access to the China market is very important. Gaining the tool of record designation with a customer in a new market cannot be underestimated since this means companies will be a part of future manufacturing facilities.

As stated already, U.S. companies have been fairly successful so far in the China market, but we are still competing fiercely for market position. The U.S. Ex-Im Bank historically has provided beneficial export assistance to the U.S. SME industry. Transaction support in the last several years include loan guarantees and loans for exports to semiconductor manufacturing facilities in Malaysia, Russia and Singapore. Ex-Im's assistance is needed now more than ever. The cost of a single semiconductor fabrication facility is on the order of $2 to $3 billion. Approximately 80 percent of this cost is for equipment. Export financing is increasingly important and necessary to help private banks make investments in large purchases of capital equipment.

Just 5 months ago, Ex-Im approved a loan guarantee for over $650 million for Chartered, a semiconductor foundry located in Singapore. This guarantee supported exports from at least 12 U.S. suppliers and the Ex-Im Bank determined in this case that the transaction would create and sustain high quality jobs in the United States.

This Chartered deal is quite similar actually to a deal currently pending before Ex-Im for a $770 million loan guaranteed to SMIC, the leading semiconductor foundry in China. For the time being, the SMIC deal has been put on hold due to an objection from one U.S. Company claiming potential competition. It is my understanding that this objection has already been addressed and the deal has been scaled back to insure that the equipment supported by the loan guarantee will not be used for products that directly compete with this company.

We urge the Ex-Im Bank to put this deal back on the agenda. While making these decisions is not easy, we believe this case is clearly one where the Ex-Im loan guarantee would have a strong positive impact on the U.S. economy. Beneficiaries include the U.S. suppliers of capital equipment and materials, many of whom are fairly small companies, as well as the many U.S. semiconductor companies who are in partnership with SMIC and rely on them as a source of production. All of these companies represent high value-added exports for the U.S. and manufacturing jobs.

In reviewing this and future applications from the SME industry, the long-term ramifications for the industry should be taken into account. The Ex-Im Bank will see more of these deals in the future, we are sure. In this instance, without Ex-Im support SMIC could be forced to go to non-U.S. suppliers whose governments are able to provide a loan guarantee. In fact, we have been told that there already have been conversations with other governments and that they are very interested in this deal and would be willing to supply financing. If this deal does not go to U.S. suppliers, it could have a chilling impact and result in long-term changes to the semiconductor supplier base in China since other companies look to SMIC for leadership in making SME purchases.

The U.S. Semiconductor equipment and material industry is a technology intensive, high value-added, net exporting American success story. Other nations recognize the importance of the SME manufacturing infrastructure as a valuable base for a range of enabling technologies in the semiconductor industry and other industries in the future such as MEMS and nano. They are willing to support their industry through a range of tools, including export financing. Continued Ex-Im Bank support for U.S. SME exports to leading markets is critical to the economic health and technological leadership of the U.S. SME industry, and we hope it can be retained. Thank you.

[Ms. Hadfield's statement may be found in the appendix.]

Chairman MANZULLO. Thank you. Michael Vaden is the President and CEO at Rutland Plastics Technologies in Pineville, North Carolina. He joined Rutland in 1973, and we look forward to your testimony.

STATEMENT OF MICHAEL VADEN, RUTLAND PLASTIC TECHNOLOGIES, INC.

Mr. VADEN. Thank you for the opportunity, Mr. Chairman. Rutland is a company that is based in North Carolina, probably typical of, fairly typical I should say, of the small manufacturers in the United States, particularly those that we find are heavily associated with textiles activities. We have got about 113 employees.

We have one facility that we manufacture in and we serve a niche marketplace with a product called plastisols, and those plastisols are used to supply products that go into automotive applications such as air filters and oil filters and fuel filters. It goes into a lot of textile and fabric coating applications.

And then we have a very large segment of our business associated with what we call screen print ink business, and that really goes into garment embellishments for T-shirts, athletic apparel, ladies garments and things of that sort. What we have found is that our business has shifted dramatically as has the textile industry, as you know probably what everybody in Washington is talking about these days. But what we are finding is that export business is a way for us to survive and even thrive in a situation where many companies are not able to grow in that environment, particularly smaller manufacturers.

What we have been able to do in the last 5 or 6 years is actually grow our export sales from a little under 3 percent of our business to currently over 25 percent of our business. The way we have been able to do this is by going overseas and exporting product. We recognized this back in the late '90s.

We have gotten tremendous assistance and support from the Department of Commerce and aligned organizations, such as some of those that have been mentioned in the previous comments. And when we did that, we said that we needed to find a way to insure that our size company would not be at risk for the products that we were selling overseas.

The Department of Commerce actually suggested that we consider the Ex-Im services because they had a mission to help companies such as ours. We have been using this now for over 5 years, probably over closer to 6 years, and we have found it to be a very successful approach in what we are trying to do in the marketplace. We have insured over $27 million worth of transactions over that time period and we have gone to about 45 different countries selling product. We have worked closely with the Ex-Im folks. We would comply with their policies and procedures and feel that it has been a good partnership. And we have paid, not insignificant for our company, a sum of about $160,000 in premiums over those years also to provide ourselves this coverage.

We have had a problem, in that when we did last year submit a claim for lack of payment from a company that we were selling product to over in China. We were—we basically encountered some difficulty in how you work through the organization. We—I don't want to dwell too heavily on just what the particulars of that were, but we feel like that we need better support as a small company and being able to work effectively through Ex-Im to continue our success. We have to grow globally. That is—

Chairman MANZULLO. Mr. Vaden, you can be specific if you want.

Mr. VADEN. Well, the specifics were that we sold goods to a Chinese buyer. The Chinese buyer took our goods, did not pay for our goods, is actually selling those goods into the marketplace over there, proclaiming their company to be the Rutland product line over in China. We would think that there have actually been some intellectual property theft that has occurred also in this activity. And so what we are encountering is increased—of course we are no longer in business with this company so we have actually seen our business drop off in China, which is the largest growth market and opportunity that we have in the world these days. And we have to be there. We have to be positioned there.

The problem that we have is we have to know that we are not at risk. It is very difficult for us to find trustworthy partners to do business with over there. And what we have encountered and found is that if we have good support such as the Ex-Im insurance, we can then continue to grow our business not only in China, which is the biggest market opportunity for our growth, but also in Asia and in the other parts of the world.

So we are frustrated with the situation that arose when we did apply for a claim to be reimbursed. And basically the response that we got was, I felt like, a technicality in regards to what we—how we saw the situation versus how the folks at Ex-Im saw the situation. But more frustratingly was the circumstance that we were advised to go back and get a judgment against this company in China, in the courts in China, which we do not have the resources to do, do not have the time to do. And frankly, it is just not worth chasing. The amount of monies that we have lost—

Chairman MANZULLO. Who advised you? I want to—this is an oversight hearing. The purpose of oversight is to hold agencies accountable for things that they may be doing wrong, also to give praise when they are doing things that are right. Was it Ex-Im that told you you had to go to China to get the judgment?

Mr. VADEN. Well, my understanding was that since we did not have a judgment against this person in China, that that would toss out the consideration for any payment of claim. And that was my understanding from our financial group and our CFO's discussions with some of the folks in the Ex-Im organization.

Chairman MANZULLO. Proceed.

Mr. VADEN. Okay. Basically, when we get beyond that point, my company is a privately financed and private equity held business. One of the things that we have to do in that business is to continue to grow our business, not just sustain business levels that we are at. For us to be able to do that, we have to grow in the export market. Our borrowing base of activity and the financing that we have in our business right now is predicated and tied to collateral and accounts receivable. And as we grow our business internationally Ex-Im becomes all the more vital to what we are doing.

And I do want to say again that Ex-Im has helped us grow this business dramatically over those years. Our new investors and owners have a great deal of comfort knowing that we have worked with and through Ex-Im, and so they have agreed to make that part of our borrowing base. If we were under circumstances where

there is doubt and question as to whether we will be able to rely on Ex-Im should we run into situations, and I suspect we are going to run into a few out there, where we going to find bad actors who will not pay for product as we sell that product overseas, then we are going to have a hard time running our business. If I can't grow my business in the export activity, we are going to have a hard time running our business and our business surviving.

So basically I guess what I would like to see, and really the reason that I had contacted your committee, knowing that there were going to be some discussions and hearing this week, is to implore and encourage and ask that not only in a very personal situation with our company, I wanted to be able to find a way to work better through Ex-Im to cut through some of the red tape and find out how we can get support for what we need personally. But we need to know that that support is out there as we try to grow our business in the future, and I think that is indicative not just of my company but of a lot of small manufacturing companies in the U.S.

So what we are looking for is ways that we can know that we have to go to a marketplace and have some backup support through the Ex-Im organization. Ex-Im is the best choice I think to assist us, but we cannot operate and be told that we need to go back and litigate in foreign courts and chase things on those activities with our size organization. And I think with respect to the export markets in general that we are working in and the Chinese market in particular, you know, we are faced with a very drastic choice. If we cannot get Ex-Im to do what we think we have been paying for insurancewise, we may be told by our investors, you have to forego growing in those markets. If we forego growing in those markets as business continues to migrate offshore, then our business will not grow. It will shrink and our business will not survive.

[Mr. Vaden's testimony may be found in the appendix.]

Chairman MANZULLO. I appreciate your testimony. I will start the round of questions here. Mrs. Myrick could not make it back to introduce you. She probably would have said all kinds of nice things about you, I am sure, but also about North Carolina. So these things happen.

I am concerned, I have got a letter here to Mr. Eric Lang. Is that your attorney?

Mr. VADEN. That is our attorney, yes.

Chairman MANZULLO. And I am just—I am absolutely astonished at this letter that came from Export-Import Bank. It is short and I am going to read it. It says this letter is in response to your letter dated March 10 to Richard Bragg, from the Ex-Im Bank Assets Management Division. "You have argued that the word ″dispute″ in article V, letter F of the policy is ambiguous because it is unclear if it applies only to disputes with respect to the insured transaction or also to disputes existing out of the insured transaction. Further, you have argued in that case that the dispute does not involve the insured transaction since the debtor is not contending the price, quantity—or quantity of the products has already accepted these products and is selling them on the market." That is the pirate, is that correct?

Mr. VADEN. Yes.

Chairman MANZULLO. "You have argued that the interpretation should prevail because when interpreting an insurance policy the ambiguity should be construed in favor of the insured. While we agree that ambiguities are construed in favor of the insured, we do not agree with your analysis. The word ″dispute″ in article V, letter F refers to any dispute with respect to the validity or legal enforceability of the debt. In this case, the buyer is disputing its obligation to pay the insured because it claims to have certain set-off rights against Rutland. The fact that such set-off rights stem from a previous transaction between the parties is irrelevant. Furthermore, whether the buyer is correctly or incorrectly invoking a set-off right to extinguish its obligation to pay the insured debt should either be determined by the parties pursuant to a settlement satisfactory to the Ex-Im Bank or by the competent authorities."

"Article V, letter F clearly provides that Ex-Im Bank will only entertain a disputed claim when such dispute has been settled by the parties"—you would have to work with the pirate with a patch over his eye who steals your stuff and sells it on the open market, does reverse technology and refuses to pay you.

"Or in a manner satisfactory to Ex-Im Bank, or when the final determination of the validity and legal enforceability of the debt has been made by the courts of the buyer's country or another form acceptable to Ex-Im Bank."

I mean, I am just—I am absolutely astonished that Andrea Gunderman, counsel, would sign her name to this letter.

The last paragraph is finding the exclusion from coverage of losses resulting from disputes between the buyer and the insured constitutes a standard market practice.

Let me read that again. "The exclusion from coverage of losses resulting from disputes between the buyer and the insured constitutes a standard market practice."

Okay. That is not covered. Ex-Im doesn't cover disputes. They only pay when there is an agreement. So why have insurance? Why have Ex-Im insurance? Congress is asking why have Ex-Im at this point. Indeed, the insurer has the right to first pay the claim to reassign the debt documents in order to collect the debt. That is called the right of subrogation. If the debt is not valid or is not legally enforceable, the insurer will be prevented from collecting. And I read this, and if I was in your position, I would go absolutely ballistic, and wonder what did you get from Ex-Im, and what did you hope to get from them when you signed the contract?

Mr. VADEN. Well, what we got from Ex-Im and what we hoped to get from Ex-Im was some mitigation of credit risk which would then enable our lenders and owners in our business to enable us to go and grow our business overseas and take on debt in the export market. Without that we can't survive. We will die. I am, of course, from North Carolina. It is fairly simple in the concept. The concept that I thought we were entering into was that we had the best of both worlds. We had not only an insurer, so that if we did have risk on some of those collectibles, it would not damage the business that we are running, which is a small business. But also I felt like that we had the Federal Government behind us, and that carries a lot of weight. That is a marketing tool that has actually been positively received in the marketplace when we talk to these

people we are working with and we utilize when we run against a tough situation. We can't do that because Ex-Im Bank will not agree and let us do it.

Chairman MANZULLO. So you were told here by somebody at Ex-Im Bank, do you recall who it was, Mr. Vaden? Was it this Andrea Gunderman?

Mr. VADEN. Well, that conversation occurred with our attorney. I think John Conat might have been the person that had some conversation with our financial folks because I believe John was the one that notified us initially that they were going to deny the claim.

Chairman MANZULLO. And so you were told that you had to go to China and file an IT lawsuit?

Mr. VADEN. That was the basic message that we received at Rutland.

Chairman MANZULLO. And how much did you lose in this transaction?

Mr. VADEN. Well, the transaction was for $86,000, approximately, which occurred in late summer, I believe it was, of 2003. I think the way our policy is written, we would be out about $66,000 if we do not collect the claim because there was a 20 percent deductible, I guess you would call it. And of course what we are out is not just that situation, but we had to discontinue doing business with this gentleman. We have had to go find other folks in the marketplace. This gentleman, the pirate, is out there now selling our product under our tradenames.

Chairman MANZULLO. And can't you prove that in—I mean did Ex-Im ever offer to sit down and talk to you about this at length?

Mr. VADEN. We provided documents and we provided information accordingly, but basically I think what we got distracted on was that this gentleman claimed that he had a dispute with Rutland as a company.

Chairman MANZULLO. Well, there's always a dispute. That is why you have insurance because there is a dispute.

Mr. VADEN. Well, with these kind of people, there is absolutely a dispute because he is not a trustworthy, honest individual, number one. And number two, the other issue that we encountered was that we sold goods. He received goods. He had no dispute about the goods, and the goods are being used in the marketplace against us.

Chairman MANZULLO. Mr. Merrill, are you aware of this particular transaction?

Mr. MERRILL. No. This is the first I heard about it. I mean, I heard of it a few minutes ago.

Chairman MANZULLO. Could you turn on your mike, please? You don't know the details of it?

Mr. MERRILL. No, you have the advantage over me by being a lawyer. I am very sympathetic. I thank the gentleman for his kind words. I am very sympathetic because I personally as a businessman looked at insurance policies like that. But the answer to your question is no.

Chairman MANZULLO. Could you help us on some general principles here as to when you have a dispute, why the Ex-Im Bank would say go to China and get a judgment from a Chinese court?

I mean, doesn't that seem pretty difficult, especially for a small businessman to do that?

Mr. MERRILL. Small business or large business, I would think that—let me say it is not language that I would choose to use. However, I don't know what answer I can give you in principle. You asked for an answer, and the question is, some principles—first, there is a difference between insurance, which is conditional. I don't know the conditions of this particular insurance policy and just—we can find out but I don't know. A guarantee, which in a general sense is unconditional, and let me call it a project finance which is subject to the individual—let me say the cash flow for the individual product. So the answer here is, I just don't know enough about his insurance policy, or guarantee policy, or whatever it is policy to answer intelligently. I am answering your question about the principles.

Chairman MANZULLO. That is fair.

Mr. MERRILL. I think I ought to add that I was in China for 10 days in January. You only have to pick up a paper anywhere in the world really to see that piracy and I am going to call it—I think you used the term ″reverse engineering.″ I don't know whether you did or not.

Chairman MANZULLO. Pirate. Black patch over one eye.

Mr. MERRILL. Say it again.

Chairman MANZULLO. That is a pirate.

Mr. MERRILL. Pirating. Thank you.

Chairman MANZULLO. They look like this [placing one hand over one eye].

Mr. MERRILL. Pirating is an extent that would understate the issue in China. And so I think that there are a lot of companies that have similar problems. And by the way, companies in Japan and Korea have also similar problems.

Chairman MANZULLO. Okay. On this issue—Mrs. Kelly, why don't you go ahead? Go ahead.

Mrs. KELLY. Mr. Chairman, have you finished your line of questioning?

Chairman MANZULLO. You go ahead.

Mrs. KELLY. Mr. Merrill, I noticed in the chairman's statement, he noted that there is a lower number of small business, that your role within the small business community has a lower number. I would like to ask why that is true.

Mr. MERRILL. Lower number, you mean lower percentage?

Mrs. KELLY. Yes. Lower percentage.

Mr. MERRILL. Yes, ma'am.

Mrs. KELLY. Why is that?

Mr. MERRILL. It is very simple. It really is simple. I mean not many answers in life are simple.

Mrs. KELLY. That is okay. I don't have a whole lot of time so if you can just give me an answer quickly, I would appreciate it.

Mr. MERRILL. Okay. A billion and a half dollars worth of deals for all practical matter, one billion dollar deal, airline deal, one-half billion dollar deal, an export of Lucent technologies, export of knowledge based industry, came in toward the end of the fiscal year. We were at 20.234, 21 percent round terms. In comes a billion and a half dollars and obviously the percentage drops at the

last minute. It is literally impossible to divide two billion—I am just using round terms—by an average small business loan of $242,000 and get enough loans of that to match $2 billion in a period of weeks. So the last—these two deals came in. These were real jobs, which were American jobs. The transactions were approved at the very end of the fiscal year and bingo, the percentage went down slightly. That is what happened.

Mrs. KELLY. Had there been more involvement with the small business community prior to that, that might not have been quite such a strong drop, don't you think?

Mr. MERRILL. Frankly, I think it was a very modest drop, because the drop of a percent or a percent and a half against $2 billion is really not much. I mean, total authorization in [FY 2004] was 13 billion and total authorizations for next year that we are seeking is a little over $13.8 billion. To correctly anticipate when billion dollar deals are going to drop is an estimate. I mean we can't do it on the basis of where it is in the fiscal year. You can estimate where the small businesses are because there are a lot of them. But you can't estimate the big ones.

Mrs. KELLY. Yeah. We need—we are interested in small businesses. The second thing I would like to ask you is why fast track isn't in place yet. We have had a long time to get it done. Why isn't it there yet?

Mr. MERRILL. Yes, ma'am. I am very frustrated by it. Again I think the answer is I hope relatively simple. We have gone out three times now to the banking community with, let me call it a proposal inside the banking community. The asset-base lenders and the commercial lenders were arguing with each other about what the terms for fast track lending should be. So they sent back, we got a lot of complaints. Went back for a second round. Similar lot of complaints. There also were complaints not only inside the same banks, but among the banks to have each one tailored—there are 14,000 banks in the United States—to have them tailored to bank-by-bank credit or other similar standards. We went back for a third round which is now being considered, and we hope we have it right. However, the fast track is a program that goes between 10 million and 25 million. Any deal that would be fast tracked can also go through the board as one did just a few weeks ago for $14 million. The idea is to make it easier to do medium-term businesses, mainly 10 to 25 million. But no deal has been turned away because we haven't got the fast track in place.

Mrs. KELLY. I understand that.

Mr. MERRILL. So we hope to get it place in early next year.

Mrs. KELLY. It may not have even been approached because fast track wasn't in place. Businesses need speed. Sometimes timeliness makes all the difference in the world.

The other things I wanted to ask you about was, and I am making this quick because I am running out of time here. You have no guidelines yet for the dealer/distributor financing program. Why is that?

Mr. MERRILL. I heard about that just a few minutes ago while we had the waiting period here, I called back to find out. I mean I just heard about that. I never heard of guidelines. We don't have any guidelines. We don't need any guidelines. The program is open.

We have promoted it in all of our pieces of paper, in all of our communications with bankers. We have 1,500 people coming, or between a thousand hotel rooms reserved for our annual Bank conference, Trade Finance Export Credit, at Omni Shoreham next week. It has been promoted in all of the literature that goes there. We will promote it again there. We are open for that. I don't know anything about implementing guidelines. I don't know where that comes from. At least that is what I was told when I called back to the people in the Bank just an hour ago. We are open.

Mrs. KELLY. How many people have taken advantage of that?

Mr. MERRILL. I don't know.

Mrs. KELLY. Is there anyone, do you have staff here that could answer these questions?

Mr. MERRILL. Well, answer which question, ma'am?

Mrs. KELLY. Well, you don't know the answer to the question I just asked. Is it possible that there is someone here in the audience that you brought with you?

Mr. MERRILL. What is the question you asked?

Mrs. KELLY. My question is whether or not anyone had taken advantage of the dealer/distributor financing program.

Mr. MERRILL. I genuinely do not know the answer to that question.

Mrs. KELLY. But do you have staff here that might know the answer to the question, since you don't?

Mr. MERRILL. There is staff here but I don't know which one would know the answer.

Mrs. KELLY. Is there anyone here who does? Can we ask them? Sir, you have your hand up.

Chairman MANZULLO. Will you come up to the table?

Mrs. KELLY. Will you come up and identify yourself please and tells us—

Mr. MILLER. My name is Jeffrey Miller with the Ex-Im Bank. As the Chairman said, the program is operational. We are in the marketing rolling out stages. No one has taken advantage as of yet. And our annual conference will be one of the platforms where we will try to capture a lot of attention.

Mrs. KELLY. Thank you very much, Mr. Miller. I am glad you clarified that. I am concerned that the Ex-Im Bank fulfill for the small businesses the function that Mr. Vaden and the other people who have come to this committee asking for our help with regard to Ex-Im Bank and small business. I am very concerned that that be addressed. The job we have right now is to help American businesses do business and be in the world economic market. I am concerned that Mr. Vaden's company has lost intellectual property and is apparently not getting the quality support that he feels he needs. Issues like that need to be addressed with regard to our small businesses.

I am also concerned because we know that other countries in the world are subsidizing aggressively loans that give our industries and our businesses a disadvantage. What your function is, Mr. Merrill, is to make sure that our people at least get an even, level playing field.

I am very hopeful that the next time you come to talk to us there will be a larger percentage of small businesses involved with you.

I will hope that fast track will be in place and people are using it, and I would hope that more than one person will have taken advantage of this dealer/distributor financing program because these are the programs that our industries, the people that I represent, the people that the chairman represents and everybody else on this committee, our small businesses need help. We are in a global economy that needs our help right now. Our businesses need our help to be players in that field.

So I would hope that you would be coming back to us and giving us some real solid information. I thank you for what you have done, sir, but I know very well that it is easy to loan large amounts because the same amount of paperwork is required for a big amount as a small amount. But it is our small businesses that generate seven out of 10 jobs in this country. We need those new jobs. We need that, the small businesses to be able to have the financing and to be internationally playing in the world economy.

So I thank you for appearing here today. I hope when you come back you will have strong answers to those questions.

Mr. MERRILL. Me too. I am on your side.

Chairman MANZULLO. Ms. Kelly, in your questioning of Mr. Miller, I believe he said he was rolling out this program in stages.

Mrs. KELLY. The dealer/distributor program?

Chairman MANZULLO. What does that mean?

Mrs. KELLY. He said that the conference—correct me if I am wrong, the conference—

Chairman MANZULLO. People come to Washington D.C.

Mr. MERRILL. He meant in terms of promotion. We have promoted it in paper and letters and export credit. Big place to promote it. Excuse me, I don't mean to interrupt the Chairman.

Chairman MANZULLO. I mean, here is what we are hearing. The guys that want to export, they check with Ex-Im about the program. And you know what Ex-Im is saying? "We have no guidelines." Those people aren't testifying here. You know why? They are afraid of retaliation by Ex-Im. There is a problem here. There is a big problem, because you have had this program around for some time and not one person has taken advantage of it.

Mr. MERRILL. Mr. Chairman, we have no guidelines. All you have to do is ask.

Chairman MANZULLO. We do and we are told there are no guidelines. I don't think you guys know what you are doing.

Mr. MERRILL. I understand floor planning and that is what it is.

Chairman MANZULLO. Why hasn't one person in the United States been able to take advantage of the program?

Mr. MERRILL. I don't know.

Chairman MANZULLO. Does somebody have the answer? Mr. Miller?

Mrs. KELLY. Mr. Chairman, perhaps we could ask for you to submit to the committee a written program of the written guidelines that you have, whatever you have, that is the methodology for the small businesses that can use the bank.

Mr. MERRILL. I would be happy to submit such a report. I agree with the Chairman and with you.

Chairman MANZULLO. I want the document in 7 days. The document you will give us will be the document that goes to people who

want to avail themselves of that loan. And if you get it wrong, that is your problem. You understand that?

Mr. MERRILL. Mr. Chairman, in fairness, can I ask you to let us include the documentation that we do—

Chairman MANZULLO. No. I want you to include—I am sorry, finish.

Mr. MERRILL. We have a conference where this is a main line issue to announce. Can we—if you give us a deadline, the conference is the 14th and 15th. If you give us until the 17—

Chairman MANZULLO. I want it in 7 days because I want to see what you are rolling out. Our people back home get on an airplane and they are all excited and they are going to Washington for a big Ex-Im conference. Got a great opportunity to sell things. And then they go there and there is this big show that costs them thousands of dollars. And if this program is already operational, why don't you have one person involved in it? Not one person has taken advantage of it.

Mr. Miller, do you have an answer to that? Do you know why you don't have an answer to that? When these people ask, they are told there are no guidelines. I think there is a corporate governance problem here. There is a big problem, a huge problem, because you guys don't even know there is a problem.

Mr. MERRILL. Mr. Chairman, if I had known this issue was going to come up today, I guarantee you that we would have—

Chairman MANZULLO. Can I document to you the number of times that we have talked to you about this? I don't know how many times—I mean we had a hearing on it. It was last year at the financial services. And I sit on the Financial Services Committee, the committee of jurisdiction.

Mr. MERRILL. You were very helpful.

Chairman MANZULLO. And so does Mrs. Kelly. I want it done in 7 days. I don't care if you work 24/7. It is the only way things get done around here is that I have to force the issue. Will you have it in my office in the next final 7 days, the final document? And I will review it with the people, the people who are afraid to sit here because of retaliation by Ex-Im, and then I will get back to you. Do you understand that?

Mr. MERRILL. Yes, Mr. Chairman. And—

Chairman MANZULLO. Mr. Vaden, is your attorney here?

Mr. VADEN. No, he is not.

Chairman MANZULLO. Is Andrea Gundleman here from Ex-Im? Anybody here from your legal department? Mr. Saba, is he here, general counsel? Mr. Saba, I would like to meet with you and Mr. Vaden and I want to find out why—and you, Mr. Merrill, why this man is being asked to go to a Chinese court. Can you meet with us after the hearing?

Mr. MERRILL. Of course.

Chairman MANZULLO. Mr. Bradley, do you have any questions?

Mr. BRADLEY. Yes.

Mr. MERRILL. Just let me say for the record, I am extremely sympathetic to the gentleman to my right [referring to Mr. Vaden].

Chairman MANZULLO. Our goal is we are going to get this resolved tonight. See that door over there? That door will be locked until we come to a conclusion. This man got screwed. You told him

and your people at Ex-Im that they had to go to China to litigate an IT claim and you just sat there and said there is no intellectual property protection in China.

Mr. MERRILL. I didn't say that.

Chairman MANZULLO. Yes, you did. It is a joke in China.

Mr. MERRILL. That may be, but I said it was a problem that has been reported in all the newspapers.

Chairman MANZULLO. It is not just a problem. It is an epidemic over there. They are pirates and you know that. And is she still with you, Andrea Gundleman? Mr. Saba, is she still with you? Is she working today? Could you call her and have her be here in an hour, please.

Mr. SABA. We don't need her here.

Chairman MANZULLO. It may not be necessary?

Mr. SABA. That is correct.

Chairman MANZULLO. You are chief counsel. I take your word for it. Mr. Bradley?

Mr. BRADLEY. Thank you, Mr. Chairman, I apologize for having to leave the hearing. Mr. Merrill, I have a couple of questions. And if they have already been asked, just say so. And if not, have at it. Over the past year or so, the board of directors has approved several new financing programs which have been aimed at small businesses, lease financing, dealer financing, but the bank's staff seemed to have dropped the ball from what we have heard in implementing what the board has approved. When will these board approved initiatives actually be implemented, because they would help in increasing small business financing?

Mr. MERRILL. I am listening to two representatives of Congress saying they received complaints, which I have not received. I take what the Chairman and you, sir, say seriously. We will have to look into it. I wish I had been aware of this even a day or two ago.

Mr. BRADLEY. Let me continue then. The bank seems to take the view that the annual 20 percent minimum for small businesses as a percent of the total financing issue is a guideline. But the legislation which passed in 2002 makes it clear that it is a requirement, not just a general guideline. Is that your view of what the 20 percent means or do you interpret that to mean it is a guideline?

Mr. MERRILL. I don't have an interpretation either way. I will give you an example in the instant case. The question is whether it is a guideline. I think that it is basically whatever you say it is, whatever is written—whatever is written down, I accept as being valid. In the instant case, there were three choices. You could reject the—I am going to say $2 billion in round terms of last-minute deals; two, three large ones, two particular. You could manage the numbers by kicking them over into the next fiscal year. In the world of Enron, Fannie Mae and AIG, I am not prepared to do that, and I wouldn't be prepared to do it before any of those.

Or you could take the business and help create American jobs and something had to give. We voted—we decided to create the American jobs. It did drive the percentage down. We intend to honor that percentage to do everything we can to honor the percentage to ensure that the 20 percent guideline, goal, mandate, objective, target, whatever word you wish to use, is met and we hope

we can exceed it. We are on track to do it this year. We are doing everything we can to make that happen.

I was once a small business man. The President wants to help. There is no objection to this. The President of the United States is wound up on helping small business. We are wound up on helping small business. And I agree with whoever made the point about the job creation of small business. Virtually all of the businesses being created in the United States is through small businesses like his [referring to Mr. Vaden] and mine in my nongovernment role.

Mr. BRADLEY. Mr. Chairman, one last question and thank you for that answer. Congress has made it pretty clear over the years that small business has to be a priority for your bank. Several years ago, though, the bank's small business division apparently was downgraded. Have you considered reinstating the small business division to make it more high profile and something that reports directly to the board of directors?

Mr. MERRILL. In a certain sense, everything is reported to me directly. We can't stop people from talking to the board or any member of the board. The small business thread—the focus, culture, ethic, objective of small business is threaded into the culture of the Bank. It is kind of like saying, do you still love me. We love small business. No matter how many times we say it, we still love them just as much. You can't love somebody more than you already love them. The culture is small business-oriented.

Let me say that the Bank's principal lines of business are small, medium and long-term; large, medium and small in size and the Bank is oriented also towards guarantees, insurance and project finance. All of those have within them a culture of small business. All of them are involved in emphasizing the maximum number of small businesses that we can serve. And there isn't anybody at the Bank who is outside the culture of small business. I don't know who the janitorial contract is with, but I suspect it is small business. But in any professional sense, all of those operating divisions are conscious of trying to emphasize or focused on the maximum number of small businesses.

Mr. BRADLEY. Thank you.

Chairman MANZULLO. Let me follow up. I guess it goes to the question that we have been asking you that it is obvious that people who work for you have not conveyed these complaints to you, which is problematic, I think. I would want to know.

Mr. MERRILL. Mr. Chairman, you can swear me 10 times over. The two complaints—

Chairman MANZULLO. I believe you entirely. I guess my concern is why these never reached your desk.

Mr. MERRILL. We are going to find out.

Chairman MANZULLO. Did you know there is a directive at Ex-Im that no staff of Ex-Im may communicate with any board member without the consent of the general counsel's office? Were you aware of that?

Mr. MERRILL. No, I was not. However—the short answer is I was not. The Bank, like the rest of the country, is e-mail crazy. I got 8,000 e-mails one weekend. Everybody copies everybody else. This is just not the thing which one can operate on. They are all doing e-mail back and forth and everybody gets copied. That is about the

best I can answer to that one. And I have made it clear that my office is open to anybody who wants to talk to me. I take all phone calls and return all phone calls within human possibility unless I am in China, and that includes people that work for us, particularly people who work for us.

Chairman MANZULLO. We get this information because as Members of Congress, we are close to the people. And this has come in from staff at Ex-Im themselves. This is pretty serious.

Mr. MERRILL. I haven't gotten an answer to that.

Chairman MANZULLO. Would you be willing to put out a directive to your employees that anybody at any time could talk to any of the board members?

Mr. MERRILL. I don't know if it is a directive or not a directive.

Chairman MANZULLO. That would be a simple yes or no.

Mr. MERRILL. It is not a simple yes or no, because if anybody at any time can talk to any director on any subject that has not gone through in some way and contacted their supervisor, I would not be able to function. If somebody has a complaint after they have talked to their supervisor, I would be happy to talk to them. If they have something they think I need to know, I would be happy to receive it in an open line. But I don't think—

Chairman MANZULLO. We are not talking about HR [human resources] matters. This is some pretty serious stuff where people at the Ex-Im bank feel an obligation at times to talk directly, particularly, to the other board members.

Mr. MERRILL. Board members can talk to each other. They can't, three people together. Not a good idea for two.

Chairman MANZULLO. That is regular staff talking to board members. Not board member to board member. Max Cleland is a board member, is that correct?

Mr. MERRILL. Yes, he is.

Chairman MANZULLO. And he came on for what purpose?

Mr. MERRILL. The President appointed him.

Chairman MANZULLO. And was he assigned a particular task to—in fact, he has been designated by you as the small business person on the board, is that correct?

Mr. MERRILL. That is correct. The charter requires that a board member—one board member take a special interest in environmental affairs. Another one take an interest in small business affairs. Senator Cleland asked for that portfolio. Senator Sarbanes and two of the other Senators called and asked that he be given that area to represent. And the answer is yes.

Chairman MANZULLO. Have you met and talked with him about what he is doing there? Does he have staff to work on that?

Mr. MERRILL. He gets the same staff that everybody else in the Bank gets, except that he—because of his handicap—gets a little extra staff.

Chairman MANZULLO. I understand that. Let me go back to the—with regard to meeting the numbers where you came in at 16.7 percent on the small business goals. Is that 16.7 percent of the total amount of money that is loaned that goes to small business—that is authorized that goes to small businesses?

Mr. MERRILL. Yes, but it is 80 percent, Mr. Chairman, of the transactions.

Chairman MANZULLO. Explain that to me.

Mr. MERRILL. The difference is the—small business, by definition, is a small business. So 80 percent of the transactions go to small business. But not 80 percent of the volume, because—

Chairman MANZULLO. The goal—

Mr. MERRILL. How many $240,000 loans can you do to match one Boeing jetliner?

Chairman MANZULLO. Let me—Ms. Hadfield, you have mentioned in your testimony where you brought up the fact that Ex-Im had entered into an agreement with Chartered. Explain that again.

Ms. HADFIELD. Recently, Ex-Im approved a loan of $650 million for the export of semiconductor equipment to Chartered Semiconductor in Singapore.

Mr. MERRILL. To who?

Ms. HADFIELD. Recently, there was an approval by Ex-Im of a loan of $650 million to Chartered in Singapore in November of 2004.

Chairman MANZULLO. Then you went on to—there is another pending deal now that has caused some concern.

Ms. HADFIELD. There is a deal that is pending that has been set aside indefinitely by the Ex-Im bank for an export of up to $770 million to SMIC, a semiconductor foundry in China. And we are very concerned that that deal should be attended to and should go forward. We believe it has strong economic benefits for the U.S. economy and very similar to the Chartered deal.

Chairman MANZULLO. Are you familiar with the SMIC, with the application?

Mr. MERRILL. Yes.

Chairman MANZULLO. Let me tell you where I am coming from and the reason I have a concern in this. First of all, I don't have any employees from SMIC in my congressional district. I lost 29 percent of my manufacturing base. Rockford, Illinois used to be the machine tool center of the world, grease, machine oil. And today, we are down to the fact that if we go into what is left of our industry, with the exception of Haas from California, there aren't that many machine tools made in this country.

I get called all the time to go and look at machines. I mean, I get excited phone calls: "I have a new Gleason 500 shaper. Would you like to see it?" I saw my first creep feed grinder and got really excited about that. But these things are not made in the United States. And the guys struggle on a continuous basis in the district that I represent. We have lost 14,000 manufacturing jobs.

The fastener industry was in the process of recovering. They are getting killed again. There are still tariffs on stainless steel and hot rolled steel. And manufacturing is a base in this country that has been destroyed. The Pentagon leads the charge on it. They say they live by the application of the Buy America Act. If you read it [Pentagon's understanding], you could fulfill the Buy America Act in the Defense Department and not have one ounce of American products in it.

We are withering on the vine. And the only thing that is left is the dry machine tools. Applied Materials put in millions of dollars worth of machine tools when IBM made the very wise decision to

make the 300-millimeter wafer in East Fishkills, New York. And I have looked at this thing. In terms of the machine tool industry, this country is desperate. I know manufacturing probably better than 95 percent of the people in this place. I live it. My dad was a master machinist. 80 percent of my time in Washington is spent on manufacturing. This committee has held 60 hearings on manufacturing, manufacturing techniques. Anything that involves manufacturing, this committee has been involved in.

I have to speak next week in Nashville, St. Louis and Tucson within a matter of 5 days in trying to maintain our manufacturing base in this country. And that is my interest. And what I see going on now when, according to what you said is—why don't I do this. Why don't you tell us the status of SMIC's application at Ex-Im to sell $770 million worth of machine tools, or rather to purchase those?

Mr. MERRILL. Is that the question, Mr. Chairman?

Chairman MANZULLO. Yes.

Mr. MERRILL. Let me say first, we are well aware of manufacturing, too. We are aware of the evolution of manufacturing taking place in the world and in our country. And I do not want to pretend special expertise in solving that, let me call it, continental revolution to you. So I am very sympathetic. And I understand. You come from a great district, U.S. Grant's hometown, and a manufacturing base of America. And so I am entirely empathetic.

Chairman MANZULLO. Well, Grant would drink away his problems and I am not predisposed to do that. I know he won a war.

Mr. MERRILL. My problem is I don't drink and smoke, but if you give me an ice cream cone, that is where my weakness is. The status at the moment is that this was left with the applicant. Now I personally, in December, met with all—met with the applicant, whose own request to us was to say they would come back with an industry-wide consensus, and we said we were available for that and we are available for that. They have not come back to us. So that is the status at the moment. By the way, I would add, I have met with all three companies personally, in 2 cases, the chairmen; in all cases, the senior executive staff. And in the case of the applicant, twice, once here and once in China. I found them to be wonderful people unanimously. I would invest in one of them personally. But if you ask me where it stands, it stands where they left the ball in their court.

Chairman MANZULLO. You have gotten letters from me and the Speaker of the House, and a letter that was just sent April 1. There is no industry agreement. So what are you going to do in that case?

Mr. MERRILL. Mr. Chairman, we have heard—I am kind of astonished about this. When I talked to these people, I thought in December, I thought this was normal business. Anybody who wants to come in and talk, comes in and talks.

Chairman MANZULLO. I don't think it is normal to get a letter from the Speaker of the House asking to bring this to a vote.

Mr. MERRILL. Mr. Chairman, I have letters and correspondence and phone calls from Members in both House and Senate of both sides on all sides of this issue, but principally on both sides on this issue. It puts us between a rock and a hard place.

Chairman MANZULLO. That is why you are paid. My only interest in this is procedural. So my question to you is, it is obvious there is no industry agreement. When is your board going to meet to vote up or down on this application? I want a date.

Mr. MERRILL. I don't think—

Chairman MANZULLO. Mr. Merrill, I want a date.

Mr. MERRILL. I don't think I am going to give you one, Mr. Chairman.

Chairman MANZULLO. Then maybe you ought to step aside so the board can get the job done. You have two companies that are fighting. You are paid to make a decision and so are the members of the board. And the applicant says "we can't reach an agreement with the industry." You don't bookshelf an application based upon the fact that they can't reach an agreement.

Mr. MERRILL. That was not our suggestion, but their suggestion.

Chairman MANZULLO. But you bookshelved it. And you have been advised many times since they tried to do an industry-wide agreement that they just can't agree. They just absolutely cannot agree. What are you going to do if they can't agree on it?

Mr. MERRILL. Mr. Chairman, I am going to do what any person between a rock and hard place is going to do, which is to be extremely conservative.

Chairman MANZULLO. And that means doing nothing.

Mr. MERRILL. No. That means sticking as close to our—

Chairman MANZULLO. Don't you think you have an obligation to bring it to the board for a vote or are you going to sit on it? If you are going to sit on it, then you have helped people who are opposed to the application.

Mr. MERRILL. Mr. Chairman, there are serious problems. We have thick briefs on both sides.

Chairman MANZULLO. I understand that. But you are supposed to be reading these things in order to come to a conclusion, and so are the other directors.

Mr. MERRILL. Senior members of the Bank ask of me before they consider a case that we deliver a proposition to the board, that is a case statement to the board the Friday before the case—

Chairman MANZULLO. So when are you going to do that?

Mr. MERRILL. Not likely to, because there are serious questions here of economic impact, additionality.

Chairman MANZULLO. Let us go back to economic impact. Do you have a written report from your staff? Have you seen the written report on economic impact?

Mr. MERRILL. I have seen volumes of reports.

Chairman MANZULLO. And based—and you are supposed to take those into consideration and make a decision, isn't that correct?

Mr. MERRILL. Those and the reports that came as a result of the public notice process.

Chairman MANZULLO. The fact that there are a lot of problems doesn't mean that you can't just schedule a vote on this thing.

Mr. MERRILL. The fact that there are a lot of problems means in order for us, the senior management, to take a case to the board—to take a case to the board that said there were economic impact issues here of substantial import, that there were additionality issues of substantial import.

Chairman MANZULLO. What are you reading from?

Mr. MERRILL. I am reading from my own notes to myself.

Chairman MANZULLO. I understand that. You have to make an economic analysis under the Toomey amendment, am I correct?

Mr. MERRILL. You have me there.

Chairman MANZULLO. The Toomey amendment was the amendment that mandated you do an economic analysis. That is what was added. And I guess my issue here is when are you going to make up your mind on this thing?

Mr. MERRILL. We made up our minds on this thing.

Chairman MANZULLO. What did you make up your mind on?

Mr. MERRILL. We made up our minds that there was economic impact. These are my notes to myself when you were speaking. Just key words. These are the remarks I made when I started the conference. I am not reading from testimony. Economic impact is an issue.

Chairman MANZULLO. Let me finish right there. We can do this seriatim. The fact that it is an issue, does that mean that you are going to deny the application?

Mr. MERRILL. What it means is, Mr. Chairman, is there are several issues that are involved that are complex.

Chairman MANZULLO. I understand that. I am trying—

Mr. MERRILL. Not only economic impact.

Chairman MANZULLO. I want to start with that one because I haven't received a satisfactory answer on it.

Mr. MERRILL. There is a serious economic impact issue, which involves market definition, what is the market involved and whether—

Chairman MANZULLO. If this is the case then, why didn't you just call your board of directors and vote on it? Apparently you have made up your mind that there is going to be an adverse economic impact.

Mr. MERRILL. Under the bank's normal and permanent—long before I got there and long after I will ever be there, the cases presented to the board are presented by the management of the Bank and there are 50 to 100-page documents which give you the general drift of the loan and everything that is associated with it or the guarantee or the insurance if it is over $10 million.

Chairman MANZULLO. Have you seen the economic analysis provided by your staff? Have you had a chance to read it?

Mr. MERRILL. I have not personally looked at that economic analysis except in a glancing way. But I have also seen the economic analysis presented as a result of the public notice period and several other economic analyses. And to be honest with you, the several economic analyses are together in my mind and I am not quite capable of separating what was said in one economic analysis as opposed to what was said in another economic analysis. But the general answer to your question is, yes, I have seen these economic analyses.

Chairman MANZULLO. At what point will you come to a conclusion as to whether or not there is an adverse impact upon a company? I think that is a fair question.

Mr. MERRILL. It is a fair question.

Chairman MANZULLO. If they don't get the loan from you they are going to Japan. They are going to get the same stuff from Japan, the same machine tools.

Mr. MERRILL. Mr. Chairman, the applicant in question, a very, very, very likeable person with whom I met with twice—

Chairman MANZULLO. You are not answering my question. I want to know at what point—I know he is a likeable person. When are you going to make up your mind as to the issue of economic impact?

Mr. MERRILL. There are three other issues as well and they interact.

Chairman MANZULLO. Go ahead.

Mr. MERRILL. I am trying to be responsive the very best I can. I want to be responsive.

Chairman MANZULLO. Proceed.

Mr. MERRILL. There is an issue of additionality.

Chairman MANZULLO. What does that mean?

Mr. MERRILL. We are not supposed to give—to make credit available on a basis that competes with any other financial institution. In other words, if anybody else takes the deal, we are the lender of last resort.

Chairman MANZULLO. I imagine if they went to you and didn't go to anybody else and were turned down, that is pretty simple. Isn't that a simple determination of additionality? Isn't that a simple determination?

Mr. MERRILL. It could be a very simple determination.

Chairman MANZULLO. They could just give you a letter that said that they can't get financing anywhere else. What do you require from the applicant?

Mr. MERRILL. When I met with him in China and here—now this is not somebody else, this is me, you know. It is not somebody six levels down in the Bank that I am not familiar with, me—this is not good English—me and my associates and several people from other government agencies and the—inside the embassy in China and here, were told by the applicant that they were going to get financing from Chinese banks. It would cost 80 basis points more; that they wanted to use us because we were 80 basis points less. After that meeting, representatives of at least two other U.S. government agencies rather surprised me, said to me, boy, you really have a question of additionality here.

Chairman MANZULLO. When did that conversation take place?

Mr. MERRILL. That conversation took place in the last week of January in China. And so the additionality factor got raised not only by me, but by other agencies who sit either ex-officio on our board or who attend our meetings.

Chairman MANZULLO. Go ahead with your list.

Mr. MERRILL. We will come back to economic impact. There is an oversupply issue. The industry consensus now is that there is an oversupply.

Chairman MANZULLO. What does that mean?

Mr. MERRILL. Chips—

Chairman MANZULLO. Oversupply of someone making machine tools?

Mr. MERRILL. No. It means there is a market.

Chairman MANZULLO. Why would that be a consideration, because machine tools are going to be brought from Japan if not the United States. They still will be manufacturing.

Mr. MERRILL. We are mandated to analyze the economic impact, it goes back to that, of anything that impacts.

Chairman MANZULLO. Well, in that case, you probably can't approve any loan.

Mr. MERRILL. Might be. But in the instant case, this lady—give me your first name [referring to Ms. Victoria Hadfield]—that Vicky referenced earlier, the Chartered company, there were no objections by public—through the public notice process. No objections from other experts, so to speak. No objections put to us as a result of our required procedures. Here we have objections put to us. We have to look at those objections. I take very seriously, very seriously, all comments by any Member or Members of the House and Senate. We also have experts on both sides.

There are people who are presenting papers to us on both sides. For the record, just so I convey this, one of those experts who gave us an eight-inch stack of paper was an old friend of mine and I think of yours, Jim Miller, who used to be director of OMB in the Reagan administration when I was in the Defense Department. There is not a better mind in the world than Jim Miller's. In the interest of full disclosure, I supported him when he ran for public office and I supported his wife when she ran for public office. But I didn't talk to him personally about this case. His view is opposite to those of the proponents in respect to the impact on the marketplace of the 1 percent and the impact of, let me call it, the estimated amount, lack of oversupply, if you will, that would be extant 18 months from now. The argument on one side—Mr. Chairman, I think you need to know this.

Chairman MANZULLO. There is a hearing going on, because a lot of people don't know anything. We are just asking.

Mr. MERRILL. I don't want to overstate my welcome. I want to be responsive. If the impact on the market is more than 1 percent, there is a question of definition of what is the market as in an antitrust case. Is the market the Washington area? Is the market Maryland? Virginia? Is the market the east coast? It is open to question.

Chairman MANZULLO. What is the fourth point?

Mr. MERRILL. The second part is an estimate of a product that is now in oversupply, but the estimate of the applicant is that it will not be in oversupply 18 months from now. If I took all—when this bureau becomes operative—if I took all the philosophers in the world and rounded them up end to end around the world, half of them could make a reasonable case on one side and half of them could make a reasonable case on the other side. It is an ambiguous circumstance. You could make a reasonable case for either side.

Chairman MANZULLO. That is why you have lawyers. They are paid to make reasonable cases. But there are also people like you and the directors that are paid to make decisions based upon the information they are given.

Mr. MERRILL. And what I was asked to do and the applicant said to me and this is not to somebody else, again back to me, that they wanted this case brought to the board within the next week. This

is in January, toward the end of January. I haven't gotten the exact date, but when I was in China, but within the next week; that they had to make a decision; that they were going to get Chinese financing; that they were going to get Chinese bank financing. In the context of the fact that the Chinese have $600 billion cash on hand. And this is a Chinese company. That was not an unreasonable thing for them to say.

So we considered all of these factors that I just mentioned, definition of market, oversupply, additionality, economic impact. And as soon as we decided these were just too complex and too difficult to overcome, we went immediately back to the borrower, the applicant, I should say, and said no, we are not going to take it to the board in the next week. There are too many issues here. The applicant said, thank you and then offered up this suggestion that they would come back to us with an industry—

Chairman MANZULLO. You are aware of the fact that there is no industry agreement. You knew that before you came in this room.

Mr. MERRILL. I am not sure I know that.

Chairman MANZULLO. When you look at the letters from different Members of Congress that are fighting like crazy, do this, do that. Isn't it obvious to you that there is not an agreement?

Mr. MERRILL. Mr. Chairman, my bias is totally towards the exporter. You know that.

Chairman MANZULLO. I don't know. I am asking you to do your job. I know you have a lot of heavy lifting to do in this case.

Mr. MERRILL. I am going to step out of line and say my old friend Senator Gramm called me this morning about this case and he said—I said to him the same thing I said to you I am between a rock and hard place, to use the same analogy. And he is no longer in the Senate, but he is an old friend. And he said you know when you are in difficulty and you are between a rock and a hard place, what you have to do is do what is right and live with the consequences. In my view, what is right here and the view of all of the senior staff of this Bank is that the obstacles here are the same obstacles that we gave back to the applicant the first week—either the last week—

Chairman MANZULLO. The parties can't resolve it. Do you agree that it is your job and the job of the other—is it five directors?

Mr. MERRILL. It is my job to take the case to the board if we believe the case does not violate the mandate of Congress.

Chairman MANZULLO. So you believe that it does?

Mr. MERRILL. Yes.

Chairman MANZULLO. Why don't you deny them the loan? Send them a letter. We want those directors to vote on it, because I believe they may disagree with you, and that is a matter of corporate governance. They are also appointed by the President of the United States. They have an obligation also. I mean you are telling me that you can sit there and you can pigeonhole one application that nobody else—can anybody else on that board individually or somebody else force a vote up or down?

Mr. MERRILL. The normal procedures of this Bank are that a board gets a paper, which gives the plusses, minuses, risk factors, and all of the liabilities. Any paper that we would give to the board

now would have to say that we believe that there is a significant, substantial additionality issue. There is a significant—

Chairman MANZULLO. Have you asked—

Mr. MERRILL. That this loan be voted on.

Chairman MANZULLO. Why don't you do that?

Mr. MERRILL. We have done it.

Chairman MANZULLO. Why don't you get everybody from the board. Because you know, they have minds of their own and they may disagree with you and they may say, just a second, Mr. Chairman. We have also examined the same materials that you have and we believe you are wrong. But what you are doing now is you won't even let it come up for a vote. And that is wrong. That is not what Congress envisioned. I am not talking about the staff. I am talking about the presidential appointees, that they also have an obligation and they have a right to vote on these applications. You are not—let me finish.

Mr. MERRILL. I am sorry.

Chairman MANZULLO. What you are telling me is that you have sole discretion, that nobody else can bring a matter before the board except you. And that if you decide that just based upon the fact that there are problems, just the fact that there are problems, even though if you read the documents, you may come to a conclusion that maybe one side is right and the other side is wrong, that you can completely withhold the vote. That is why the Speaker is engaged in this thing. He has also lost 29 percent of his manufacturing base. I mean, we are getting killed around the country and you are sitting there and you are sitting on an application and that is why I got involved procedurally. Let the members of the board exercise their right to pass upon this application. Can't you do that?

Mr. MERRILL. Let me know when you are finished.

Chairman MANZULLO. Can't you do that?

Mr. MERRILL. Is that the question, sir?

Chairman MANZULLO. Yes.

Mr. MERRILL. Mr. Chairman, what I believe I am doing is faithfully executing the duties.

Chairman MANZULLO. You are doing nothing. You have deep-sixed this thing just because there are problems. You won't even give me a time table within which you think you can resolve these problems.

Mr. MERRILL. Mr. Chairman, I have sworn an oath to faithfully execute the office.

Chairman MANZULLO. No one is sitting here denying your patriotism, all right. I am trying to get you to act. If you can't move on this application, then why don't you at least recuse yourself from this case. You haven't lost the manufacturing jobs. You don't go back home and face people with 9 percent unemployment in Rockford, Illinois. You don't see the closed factories.

And you don't see what is happening to the industry in this country. If this applicant buys the stuff from the Japanese, do you know what that is going to do for the reputation for buying machine tools that make chips in this country? Do you know what the Japanese are saying? "Don't buy from the Americans. That Ex-Im Bank. Don't worry about them. You have visa problems coming in. You

can't rely upon those people. They won't make a decision. Why buy from the Americans." And you are part of it, because I can't get any answers out of you.

Mr. MERRILL. Mr. Chairman, we let the applicant know—

Chairman MANZULLO. He is right here. He is ready to move.

Mr. MERRILL. I had trouble, ma'am understanding some of your language. I did not realize you were—

Chairman MANZULLO. No. He is back there in the first row [referring to SMIC official]. The applicant is sitting there. He came here. I am trying to get you to make a decision.

Mr. MERRILL. We made a decision.

Chairman MANZULLO. And what is the decision?

Mr. MERRILL. Mr. Chairman, as we informed the applicant as soon as we had decided in late January that there were sufficient problems here that we were not going forward to the board with it—

Chairman MANZULLO. No. No. No. Who has the final decision, you or the board? You can surely answer that question.

Mr. MERRILL. There is a question of analyzing the economic—

Chairman MANZULLO. No. I am asking you a question. If the board takes a vote to approve this loan and you vote no and the rest of them or any proportion votes yes, is the loan approved or the application approved?

Mr. MERRILL. That is a hypothetical question.

Chairman MANZULLO. That is not a hypothetical question. This one is a hypothetical--when you get up in the morning, do you tie your shoes?

Ms. HADFIELD. Mr. Chairman, may I ask a question? I am curious as to how, if this loan is turned down, and SMIC is forced to turn to a foreign source for financing, Japan or Europe or some combination thereof, and change their overall strategy which has been to mainly use U.S. equipment—how that is going to benefit the U.S. Industry and also the U.S. Semiconductor industry because ultimately, it will go forward. They will get the financing.

Mr. MERRILL. Just speak a little bit slower.

Ms. HADFIELD. I am curious as to how it ultimately benefits the U.S. economy for the Ex-Im bank to deny this deal, when ultimately, they will get financing and they will buy equipment that will not be from U.S. companies. They will still be a competitor. They will not compete in any area that is directly competing with the company that is opposing this deal, but they will remain a strong competitor and they will get financing and they will buy equipment. Right now, they are buying U.S. Equipment, but they need the financing to continue doing that. And they have come to the Ex-Im bank to get that financing. And I don't understand that economic impact issue.

Secondly, I don't understand the issue of oversupply, because that is constantly changing in the industry. The industry prognosis on that is constantly wrong. You can go to any number of experts on this and get a different story. So you are always going to have that issue with these loans. The complexity of this industry is going to be longstanding, and it has been a problem predicting when oversupply is going to kick in and when there is a problem with capacity.

What you are saying to me right now as I hear it on behalf of SEMI, is that we are going to face future continued—"this is too complex for us to deal with, so we don't want to give you any financing because it might be a problem in the future or it might have a negative economic impact to one company even though you have letters from governors from the State of California, Texas, Massachusetts, about jobs that are impacted in those companies and in those States."

It is a very important issue for us because export financing is going to be a key tool in the future in these deals. If we want to retain a semiconductor, capital equipment and a materials base, we need access to this as a tool. And that helps fund the R&D necessary to be a world class industry.

Mr. MERRILL. I am not sure if I am answering your question or the Chairman's question. I would like the Chairman to hear what I said. The answer to that question or comment is that first of all, I agree with every word you said personally or close to every word. I didn't hear quite every syllable. But the Congress has mandated an economic impact analysis of anything that affects more than 1 percent of the relative market. We had weigh in on us somebody who has 15,000 jobs and who claims that there will be a severe economic impact on those jobs. So we are caught between the desire of ourselves to support an exporter and the requirement of Congress to protect those jobs that would be affected by let me call it an adverse economic impact.

Chairman MANZULLO. And the other thing that you have is an analysis from SMIC?

Mr. MERRILL. Yes.

Chairman MANZULLO. Can both be right? Both economic analyses can be correct? I mean, you have to make a decision as to whose economic analysis is correct.

Mr. MERRILL. And the decision we have made is that the impact—

Chairman MANZULLO. The decision that you have made, because you have not allowed the board of directors to vote on this. So you made the decision to sit on it.

Mr. MERRILL. If you ask does the buck stop here, the buck stops here.

Chairman MANZULLO. It stops at a point of responsibility and personal acceptance of the fact that you are frustrating Congress's intent. Why do you think we have Ex-Im governors or directors? If you make the decision, these people must be wasting their time, because you are the one who is saying, I have to bring it before the board.

Mr. MERRILL. Mr. Chairman, I want to be sure you are finished. I don't want to interrupt.

Chairman MANZULLO. Show me your by-laws, Mr. Miller. Show me your by-laws or your rules that say only you can present this.

Mr. MERRILL. Mr. Chairman, I am the Chairman and Chief Executive Officer of this Bank. The manager reports to me by law. The directors are not the management of the Bank. They are directors, as in a company. When we make a judgment on whether or not as we are required to do here whether we assess the economic impact on a company as mandated by Congress outweighs—

Chairman MANZULLO. That is fine. Have you told that to the directors?

Mr. MERRILL. I have told that to the applicant.

Chairman MANZULLO. Have you told it to the directors? Do you think they appreciate people hounding them all the time because you won't make a decision?

Mr. MERRILL. The directors ask of me a complete package without serious liabilities that we are violating the expressed will of Congress as expressed through our Charter. I would not have put the economic statement in our Charter.

Chairman MANZULLO. I am not talking about that. I mean, isn't the vice-chair, hasn't that typically been the CEO of Ex-Im?

Mr. MERRILL. Sometimes yes, sometimes no.

Chairman MANZULLO. You are not making a decision. You are making a decision to shelve this thing, is that correct?

Mr. MERRILL. We are making a decision—the senior management of this Bank has looked at what the economic impact analysis—

Chairman MANZULLO. That means that you believe the analysis of the people that are objecting to the loan, is that correct?

Mr. MERRILL. That is essentially correct, according to law.

Chairman MANZULLO. Now that is the most I have gotten out of you in an hour.

Mr. MERRILL. I have made it clear.

Chairman MANZULLO. No. You have not made it clear. I have asked you several different times. Now what you are saying is this. I want to make sure this is correct. You are adopting the economic analysis of the people objecting to this loan?

Mr. MERRILL. I did not say that.

Chairman MANZULLO. Then what did you say? You are agreeing with it?

Mr. MERRILL. There are several economic analyses.

Chairman MANZULLO. Whose do you believe?

Mr. MERRILL. Our own. Our own says that the economic—

Chairman MANZULLO. That is not what your staff has been telling us. They came to us.

Mr. MERRILL. Mr. Chairman, I am not a lawyer.

Chairman MANZULLO. I mean the staff is so frustrated, they end up calling Congress. We can't say who these people are.

Mr. MERRILL. Mr. Chairman, there are several hundred employees in the Bank. Many of them are conflicted and divided.

Chairman MANZULLO. You have to make a decision. Is the application still pending?

Mr. MERRILL. Still pending? I don't know what that means.

Chairman MANZULLO. You don't know what the word ″pending″ means?

Mr. MERRILL. I don't know what pending means in the context right now, no, I don't. I could give you an answer as to where we stand with it, but I don't know what ″pending″ means.

Chairman MANZULLO. Has the application been withdrawn?

Mr. MERRILL. I don't know the answer.

Chairman MANZULLO. The answer is no. It hasn't been withdrawn. You should have known that before you came here.

Mr. MERRILL. Mr. Chairman, we informed them that we were not going forward with this loan as far back as the first week in February or maybe the last week—

Chairman MANZULLO. But you said you needed further data, additionality. So it is still pending.

Mr. MERRILL. They wanted an answer in a week.

Chairman MANZULLO. My question is, is this application still pending?

Mr. MERRILL. We gave them an answer.

Chairman MANZULLO. Would you answer my question. Is it still pending?

Mr. MERRILL. I don't know the answer to that question. I can't answer something I don't know.

Chairman MANZULLO. You don't know. And you are the chairman of the Ex-Im Bank and on one of the most controversial loans, you don't even know if the application is still pending.

Mr. MERRILL. Pending is a technical term.

Chairman MANZULLO. What about the word "is"?

Mr. MERRILL. Mr. Chairman, I am trying to be as responsive.

Chairman MANZULLO. Just a second. Everybody here who is with the Ex-Im bank, would you please stand. Please stand. Everybody with the Ex-Im bank. We have about 10 people. Now start over here. Is the application still pending, do you know?

VOICE. I don't know.

Chairman MANZULLO. Do you know, Mr. Miller?

Mr. MILLER. Yes, it is.

Chairman MANZULLO. Could you have a seat up here next to your boss and help him out.

Mr. MERRILL. Could I offer one more sentence?

Chairman MANZULLO. No. I would like to talk to Mr. Miller.

Chairman MANZULLO. Could you enlighten us.

Mr. MILLER. The application has not been withdrawn.

Chairman MANZULLO. It means it is still there?

Mr. MILLER. Yes.

Chairman MANZULLO. Have you been seeking further information on it, Mr. Miller, further data? To your knowledge, has further data, new data been coming in on a daily basis?

Mr. MILLER. I understand that there still has been some data being passed.

Chairman MANZULLO. Stay there, please, if you could. Mr. Merrill, the application is still pending, you have heard. Do you believe you have an obligation to dispose of a pending application?

Mr. MERRILL. I believe that I do and I believe I got back to the applicant or we got back to the applicant as soon as we had decided—

Chairman MANZULLO. That is not the answer. The applicant has not withdrawn that.

Mr. MERRILL. But we have disposed of it in terms of the practical sense of it by saying to the applicant that we are not going forward with this and we did this back in February and that is where it was left. We were very clear with them. That is what we said. They asked for a decision in a week and did not get a decision that they liked, but they got a decision.

Chairman MANZULLO. It is obvious with all this interest by Members of Congress. You have three.

Mr. MERRILL. Three sides?

Chairman MANZULLO. No. No. No. You have people from Idaho and people from other States and people like me who are interested in keeping manufacturing here. I think there are probably two sides to this issue.

Mr. MERRILL. Reduced to two sides.

Chairman MANZULLO. Did you confer with any of the directors in this case?

Mr. MERRILL. We have talked a little bit about it.

Chairman MANZULLO. Just in the last couple of days.

Mr. MERRILL. We are unable to talk about any case with three people together. It is illegal under the Sunshine Act. We do not confer in advance of cases. And as a practical matter, I find—I don't know whether it is a legal question, but I find and our directors find I believe that we each take our own briefings so that we are not impinging on the Sunshine Act or putting Democrats versus Republicans if somebody is left out. So essentially, each director does their own work.

Chairman MANZULLO. Now is it asking, would it violate the Charter or the intent of Congress—I had a little bit to do with the Charter, would you agree? You guys were in bad shape several years ago and I had to jump in. Remember that?

Mr. MERRILL. You are a big supporter of the Bank.

Chairman MANZULLO. Maybe I have some credibility and let us talk about congressional intent. Don't you think I have something in this?

Mr. MERRILL. You have a sense of credibility. And other Congressmen and Senators also have credibility.

Chairman MANZULLO. My question is does your Charter say, or your by-laws, that only you can bring a matter before the board for a vote? Yes or no?

Mr. MERRILL. I can't answer yes or no, because I don't know what the by-laws say. I just don't know.

Mr. MILLER. I don't know the answer to that.

Chairman MANZULLO. General counsel, do you want to have a seat up here and answer that question? This thing is coming up for reauthorization.

Mr. MERRILL. I can tell you what I think is right.

Chairman MANZULLO. What you are doing is wrong.

Mr. MERRILL. That may be. Half the time in life, my purpose in life is to be right 51 percent of the time.

Chairman MANZULLO. Mr. Saba, can you answer my question?

Mr. SABA. The Charter provides that the President of the Bank is the chief executive officer. Also as Chairman, he presides over the board meetings. In that context, he sets the agenda just as I believe you probably set your agenda here for this committee or other committees. It does not specifically make the statement you say, but he has those powers historically and that is how it has been. Before my time and continuing further, he sets the agenda.

Chairman MANZULLO. Don't you think it is interesting—and how many directors are there? There are five?

Mr. SABA. Including the chairman, there are five.

Chairman MANZULLO. All five are presidential appointments, correct?

Mr. SABA. That is correct.

Chairman MANZULLO. Does one of the five simply say that is it?

Mr. SABA. Not just one of the five. The chairman of the board who presides over the board.

Chairman MANZULLO. I understand that. I don't have— people that work for me aren't elected by my constituents nor are they appointed by the President, but they are there for a purpose. And one of their [Ex-Im Directors] purposes is to pass upon the applications, and they are being denied the opportunity to do that in this case.

Mr. SABA. I think what the chairman was saying was that at the time that the applicant requested action, this case was not ready for action. And at that time, it would have been—in his view, I believe, he was talking about fulfilling the duties of his office—it would have been—he would not have been fulfilling his duties to have brought the case with these serious issues out there.

Chairman MANZULLO. My question to you, do you think that these issues should be resolved? I mean you have an issue of, what is that word called—additionality. Can that issue be resolved?

Mr. SABA. I don't think it is a simple yes-no issue. It has always been a gray area.

Chairman MANZULLO. I mean how do you go about making conclusions and decisions?

Mr. SABA. It is very hard. You have an applicant in this case who most recently sent a letter saying that they are looking for Ex-Im Bank financing, in large part, because they don't want to be overly dependent on Chinese banks. That is in their most recent letter. Should the U.S. Ex-Im Bank—

Chairman MANZULLO. They are buying American stuff.

Mr. SABA. Should the U.S. Ex-Im Bank be financing a Chinese company when they have alternative Chinese bank financing available?

Chairman MANZULLO. Based upon that—all I want you to do is to rule and make a decision so nobody has to bother you anymore. If you feel that based upon that, they do not fulfill the Ex-Im requirements, then the application should be turned down, isn't that correct, if that is your decision?

Mr. SABA. We effectively are acting in response to their request for action by a certain date. And we told them that that could not happen. They have now continued to move the goal post and they have increased their efforts. Additional data has been provided, but most of the stuff we have just seen frankly, has been, you know, efforts and lobbying.

Chairman MANZULLO. Just because you guys haven't made up your mind. That is because they were led to believe that you guys had deep-sixed this thing and we are trying to get you to make a ruling on it.

Mr. MERRILL. They wanted a decision and we gave them a decision.

Chairman MANZULLO. The Speaker of the House has requested that you meet and come to vote. Is that asking too much?

Mr. MERRILL. I am going to execute the office. That is my best ability.

Chairman MANZULLO. You aren't doing it. The best of your ability is insufficient because you have hung them out.

Mr. MERRILL. It means honoring the mandate of Congress that we do not support anything.

Chairman MANZULLO. Send them a letter and say look it, your application is denied. Can you do that? Can you send them a letter and say your application is denied?

Mr. MERRILL. Sure I can.

Chairman MANZULLO. Can you send them a letter?

Mr. MERRILL. I suppose we could send them a letter. Be happy to do it.

Chairman MANZULLO. Go ahead and do it. And I would be interested in knowing what the other five members, four members of your board would be—would have to say about the fact that you unilaterally turned it down and you didn't even bring it to them for a vote and they may have a different conclusion. Perhaps you have usurped their authority because they were appointed by the President to at least vote upon something. I don't think that is being a good CEO, not in this particular case. It is not like—

Mr. MERRILL. You have Congressmen on both sides of this issue and Senators on both sides of this issue.

Chairman MANZULLO. I just want you to make a decision.

Mr. MERRILL. We made a decision.

Chairman MANZULLO. Then tell them.

Mr. MERRILL. We told them in the first week in January.

Chairman MANZULLO. I challenge you to put it in writing. Phil, I am going to tell you right now, if you don't act on this thing, I am going to ask for your resignation.

Mr. MERRILL. We will do it.

Chairman MANZULLO. I want this thing disposed of. You can't keep people hanging out. Let them go buy from the Japanese. Make sure you carbon copy the other members of the board.

Mr. MERRILL. In the interest of civility, Mr. Chairman, we told them that directly and specifically the last week in January.

Chairman MANZULLO. Mr. Saba says the application is still pending. They are here because they think they have some hope of still getting the Ex-Im loan.

Mr. SABA. Mr. Chairman, in effect we told them, as Mr. Merrill said, that this application was not going to move forward.

Chairman MANZULLO. That is not in the letter you sent me.

Mr. SABA. From their own business perspective, it would be better than getting this denial letter. If they think they are better off with a denial letter, the Chairman has indicated he will provide that.

Chairman MANZULLO. Let me read this letter [from Mr. Merrill] dated March 21, 2005. "Thank you for your letter of March 17. Appreciate your interest in the SMIC application and the concern that SMIC receive a timely response. The application relates to large complex transactions that implicates a number of requirements under our Charter, including, among other things, an economic impact test and additionality. While our interest at Ex-Im is always to help U.S. exporters large and small, we must adhere to these extraordinary mandates."

Chairman MANZULLO. "The borrower, SMIC, indicated that a decision from Ex-Im in early February will proceed with securing alternative financing. We concluded that the deal as structured was unlikely to satisfy our charter requirements and obtain board approval. Consequently, we timely notified both SMIC and one of the primary exporters the application would not be put on the board agenda. SMIC and the exporter both stated an intention to pursue an industrywide solution to address any outstanding concerns related to our charter requirements. We remain open to considering such a new proposal if it is presented to Ex-Im."

Mr. MERRILL. It has not been presented and I sent—

Chairman MANZULLO. That is why I asked the question whether or not it is still pending. I mean they want to know what is expected of them.

Mr. MERRILL. You know, Mr. Chairman, I am not a lawyer and the definition of—

Chairman MANZULLO. Don't hide behind that. You are a CEO, all right? And I have seen your background. It is impressive.

Mr. MERRILL. Thank you, Mr. Chairman.

Chairman MERRILL. Well, don't tell me you don't know what this letter means.

Mr. MERRILL. I know exactly what it means. Mr. Chairman, that letter came, when I was en route, on a Friday on a 22-hour trip, and had to change planes in Chicago to Japan. I got there over the weekend. The letter was faxed to me. I cleared it and it got back to you on Monday. I have served in several administrations, and I have watched Congressmen, in fact I have watched White Houses and Presidents send letters to several departments in which I have served and get answers 3 months later. We turned this around over a weekend. I thought we were being very responsive and I stand by every word of that letter.

Chairman MANZULLO. I understand. It says we remain open to considering such a new proposal if it is presented to Ex-Im. I guess that answers the question of whether or not it is pending.

Mr. MERRILL. That is right. That is what they said about their intention.

Chairman MANZULLO. Yeah.

Mr. MERRILL. That is what they said when we told them we weren't going to go forward with it.

Chairman MANZULLO. Let me ask you a question. What if I hosted a meeting to come up with a solution to this? Would you be open to that?

Mr. MERRILL. If you can get the industrywide consensus that they—

Chairman MANZULLO. No. What if I hosted a meeting. I would have you there.

Mr. MERRILL. Mr. Chairman, I don't make any sense there without reliability of staff. I trust my staff.

Chairman MANZULLO. Well, you know, I think your staff isn't telling you some stuff. There is some stuff that came out of this hearing. No, I understand that. So you don't want to be—you don't think this is important enough to sit down with me, a Member of Congress, and try to come up with a solution?

Mr. MERRILL. Well, I don't know what a solution means. If a solution means—

Chairman MANZULLO. You don't know what a solution means?

Mr. MERRILL. If a solution means, Mr. Chairman, I am going to be—whether I am actually under oath or not, I feel that I am under oath and so I have to tell you what is the truth. It is the functional equivalent of being under oath. I wasn't sworn but you can swear me in. The truth is that we said to the applicant that the problems of economic impact—

Chairman MANZULLO. No, I understand. Can this thing—I mean, you know—

Mr. MERRILL. You have got a law. You have got the Congress mandating in our charter that we cannot impact an exporter, somebody who has 15,000 jobs at stake and they have a whole set of papers which—

Chairman MANZULLO. I am going to change the Ex-Im charter when it comes up for reauthorization to remove the power that you think you have to be the sole determinant as to whether or not this thing comes before the board. You will be out by then. You retire what, in June or July?

Mr. MERRILL. Mr. Chairman, that hasn't been determined.

Chairman MANZULLO. Well, maybe I can be part of that.

Mr. MERRILL. Perhaps. But if you are not part of it on this side there will be somebody else on the other side.

Chairman MANZULLO. No, it isn't. I am just asking you to make a decision.

Mr. MERRILL. I made a decision. The decision was not one the applicant liked.

Chairman MANZULLO. Then what do you need from SMIC here where it says we remain open to considering such a new proposal? What do you want from them?

Mr. MERRILL. I want something from SMIC that says that there is not an economic impact on somebody with 15,000 employees who is invoking the law against us.

Chairman MANZULLO. All right. So anybody who comes in there and says this has an economic impact on us, then you are going to accept their theory of it?

Mr. MERRILL. Not automatically, but we would certainly consider it.

Chairman MANZULLO. Well, I think you have.

Mr. MERRILL. We have in this case, yes.

Chairman MANZULLO. I think you have, and I think you have also done a disservice to the United States Congress by not allowing the other members of the Board of Directors duly appointed by the President to get involved in the decision making process. You are not a king of this organization.

Mr. MERRILL. Mr. Chairman, I think that I, and my general counsel—

Chairman MANZULLO. I am just telling you right now.

Mr. MERRILL. I am doing the best job I can.

Chairman MANZULLO. Well, I don't think it is enough, Phil. I really don't. You have been evasive. You have been dodging questions here. You didn't know what the word "pending" was. Maybe you have a problem with your staff. Maybe you have somebody else

running the organization that is not telling you what is going on. But this man sitting here in the crossfire of this period of time, I think you can see what happened to you, right, Michael? Do you see what happened to you when they said to go file a lawsuit in China?

Go ahead.

Mr. MERRILL. Mr. Chairman, I am old enough to have served in enough administrations, I have run enough businesses to know that when I don't know something I am infinitely better off to say I don't know it. And the technical context of the world ″pending″ is not something that I understood any more than this gentleman over here understood. I do not know that. What I know is that I conveyed—we conveyed clearly and substantially to the applicant that we were not going to go forward with this deal because of the economic impact and additionality issues. We are not supposed to make loans to somebody because they are 80 basis points less than another institution.

Chairman MANZULLO. Well, that is fine. It says that we remain open to considering such a new proposal if it is presented to Ex-Im. That is your letter. Did you see this letter?

Mr. MERRILL. Yes, I saw it. I cleared it and it is my signature.

Chairman MANZULLO. It says we remain open to considering such a new proposal.

Mr. MERRILL. Such a new proposal refers to an industrywide consensus.

Chairman MANZULLO. That is correct. So what that means is this. If one person out there objects and there is no consensus, just like that you turn it down.

Mr. MERRILL. What it means is there is a public hearing process, Mr. Chairman.

Chairman MANZULLO. I understand that.

Mr. MERRILL. There is a public hearing process. People have the right to respond to their public hearing process.

Chairman MANZULLO. I am going to be preparing amendments that I am going to give to Mrs. Kelly to make it as effective as possible that if two of the five people on the Board of Directors, and Phil, if you could work on that legislation, call for a vote on a pending application that they can do that and the application—would you be in favor of that? That would get you off the hook.

Mr. MERRILL. No, I would not.

Chairman MANZULLO. Why is that?

Mr. MERRILL. Because I think that I am a private businessman, Mr. Chairman.

Chairman MANZULLO. Not when you work for the government. Different rules apply here.

Mr. MERRILL. Yes, sir. Representation of the rules but also practical rules. This Bank is—again, in a spirit of comity and friendliness, this Bank is rather a government agency operated as a bank or a bank operated as a government agency or a combination of both. I believe that with the sums of money at stake here that somebody, whether it is me or somebody else, has to be the chairman and chief executive officer. If you want to make a co-chairman or a co-chief executive officer or multiple chief executive officers, I cannot stop the Congress from doing that. You asked me whether

you thought it was wise. I do not think it is wise. I would not be in favor of it.

Chairman MANZULLO. That means you want to make all the decisions yourself. This is a matter of public record.

Mr. MERRILL. I am required by the mandate of Congress—

Chairman MANZULLO. Well, this would be a new mandate. Could you live with that?

Mr. MERRILL. Congress can make another mandate.

Chairman MANZULLO. Could you live with that? By the way, there is no mandate that says at the suggestion of one or two members that you can't go ahead and call a vote.

Mr. MERRILL. There is a mandate that says we must take account of economic impact.

Chairman MANZULLO. No. I understand that. Do you think that they are ignoring it?

Mr. MERRILL. Who is they?

Chairman MANZULLO. The directors.

Mr. MERRILL. I think the directors, in the two and a half years I have been there, the directors have made it clear to me with unmistakable force that they want from me or from the staff and me, when a case is presented to the board, they want all the liabilities presented. They do not want open questions in it. They expect us to make a recommendation that says this is in accordance with all legal charter congressional mandates. And in the instant case I cannot make that certification.

Chairman MANZULLO. That is called a rubber stamp.

Mr. MERRILL. In the instant case I cannot make that certification.

Chairman MANZULLO. Well, then fine. Then why don't you tell them that?

Mr. MERRILL. I did.

Chairman MANZULLO. Tell your board that and then let them vote on it. Has it ever occurred to you that they may disagree with you?

Mr. MERRILL. As I said—

Chairman MANZULLO. These are presidential appointees who are appointed to approve loans and disapprove transactions.

Mr. MERRILL. As I said to you before, Mr. Chairman, I will have to repeat it again, that the board has made it unmistakably clear to me that they want you to present complete cases.

Chairman MANZULLO. Is that in writing?

Mr. MERRILL. It is a good faith understanding. I commit—we don't always make it. I commit in good faith to give them a complete case by the Friday before the Thursday of board meeting, which is what the applicant understood, and they commit in good faith to vote on it. If I don't give them the case by then they say they have not had enough time to consider it. They do not—some of them do not like to consider cases that are not complete. Some of them do not—some of them want to ask questions in advance. Each director plays his own role.

Chairman MANZULLO. You have had occasions, have you not—

Mr. MERRILL. Pardon?

Chairman MANZULLO. You have had occasions, have you not, when you brought a matter before the board and the board looks

at it and they say, you know, we need some further study on this and send it back for further study? You have done that?

Mr. MERRILL. I don't think so.

Chairman MANZULLO. Yes, you have. I have called you.

Mr. MERRILL. Not on actual cases where an applicant has requested a decision. There have been some policy issues where that has—

Chairman MANZULLO. No. Where you bring a matter up and then perhaps in the meeting with the directors something comes up and you say, you know, let's ice this thing for 30 or 60 days. That has happened?

Mr. MERRILL. That has happened with regard to certain kinds of policies, like whether you are open in a country or not or whether you change the rating of a country or risk rating or so forth.

Chairman MANZULLO. It has also happened with regard to certain applicants where it is come up before the board.

Mr. MERRILL. I can only tell you what I think is the truth. I will stand corrected if I am wrong. But in the nearly two and a half years that I have been there I believe that there has been no case, meaning a money case, that is a $10 million or more case that I can recall where the board has said send this back for further study. There are several cases where the board, or several instances where the board objected when they saw the case before the board meeting, before the board meeting, and said that there were issues in this case which were unresolved and they didn't want to vote on it until the issues were resolved by the management.

Chairman MANZULLO. Has the board ever disagreed with your recommendation?

Mr. MERRILL. Yes.

Chairman MANZULLO. Have you ever gone before the board and you took the advice of the board?

Mr. MERRILL. We had a vote. That is why they are there, to vote.

Chairman MANZULLO. Has it ever fallen upon you to present this before the board and let them vote on it?

Mr. MERRILL. The answer I come back to you again is the board—

Chairman MANZULLO. Yes or no. I mean, get this monkey off your back. Present it to them. Let them vote on it.

Mr. MERRILL. Mr. Chairman, I don't know how many times I can go back to the same point.

Chairman MANZULLO. Well, you don't have to because you are not making the point. The point is this. You go before them with the recommendation that it pass and then you will follow their will. Is that correct?

Mr. MERRILL. No. Sometimes I have gone before them and they have voted the other way.

Chairman MANZULLO. No. Have you ever gone before them with a recommendation that the application not be granted?

Mr. MERRILL. That the application not be granted?

Chairman MANZULLO. Right.

Mr. MERRILL. For reasons of illegality or violation of the charter, no.

Chairman MANZULLO. That still doesn't answer my question. Have you ever gone before your board with an application and say look, this thing is here, we need to dispose of it, I personally think it has a lot of problems but I will leave it up to you because I know you have an opinion on it?

Mr. MERRILL. Well, we do that every week.

Chairman MANZULLO. Well, then why didn't you do it with this one?

Mr. MERRILL. Because what the board asks of me and which I am obligated to provide is a complete case statement.

Chairman MANZULLO. Yeah. You are saying that the violation is illegal--the application is a violation of the charter or it is illegal.

Mr. MERRILL. We have a mandate from Congress that—

Chairman MANZULLO. But you are the one that makes the decision. Do you understand what I am trying to get at? Do you understand that I don't have—I don't think that one person should sit in that organization and make the decisions.

Mr. MERRILL. In every company, Mr. Chairman—

Chairman MANZULLO. No. This is not a bank. You can go work for a bank if you want. You have done that before.

Mr. MERRILL. It is a bank.

Chairman MANZULLO. You are accountable to Congress and you are accountable to the people. So other people have to weigh in on these decisions.

Mr. MERRILL. Congress has mandated that we consider—

Chairman MANZULLO. I understand that. I have not disagreed with you on that. I have never disagreed with you on that.

Mr. MERRILL. Mr. Chairman.

Chairman MANZULLO. But you are not acting—

Mr. MERRILL. You are extremely articulate.

Chairman MANZULLO. I am not extremely articulate. Phil, I am going to recommend the President not reappoint you, okay? And maybe he ought to clean house too with the staff.

Mr. MERRILL. Mr. Chairman, I am doing the best job that I can do.

Chairman MANZULLO. Well, you know, you have got this Member here who has been a big—I have carried your flag for years, Phil. You know that.

Mr. MERRILL. I know that.

Chairman MANZULLO. When people were stomping on Ex-Im Bank, who was out there trying to save the Ex-Im Bank?

Mr. MERRILL. Mr. Chairman, I am very aware of your support of the Ex-Im Bank and I am very grateful for it, as I said in my statement, as I say again.

Chairman MANZULLO. Well, you are not willing to sit down with the principals and me to try to come up to try to resolve this thing.

Mr. MERRILL. It is not up to me to resolve a private—

Chairman MANZULLO. Yes, it is.

Mr. MERRILL. No, it is not.

Chairman MANZULLO. It is up to you to resolve it.

Mr. MERRILL. It is up to the applicant to resolve it.

Chairman MANZULLO. Oh, the applicant. You can't sit there with the parties and say look, you guys, we only have $770 million at stake, let's try to figure out and get this thing done? Bring the

principals together? Is that legal to do that, Mr. Saba? Is that legal? Could he do that, as long as you don't have or have the other board members there, whatever your rules are. Could he do that?

Mr. SABA. You know, we are not doing anything to violate the antitrust law. From a board and a bank perspective, that would not be the case.

Chairman MANZULLO. Of course it is not. There is no problem there. You are trying to resolve this thing.

Mr. SABA. It depends what the resolution is. Clearly, if they are carving up the market, no, then we couldn't do that.

Chairman MANZULLO. Well—

Mr. SABA. It was the applicant and the main exporter that said that they were going to go back and provide this industry solution. They have not come back to us on that front since they have said that.

Chairman MANZULLO. I think the fact that—have the applicants given you more data since you had that conversation with them?

Mr. SABA. At this hearing was the first that I have heard that there have been—I know there have probably been ongoing discussions with the loan officers. I have not seen submissions of additional data. This is the first that I have heard of, you know, any additional data potentially being provided. The first we have heard from the applicant was basically the letter that was presented after this hearing was set up.

Ms. HADFIELD. Mr. Chairman, may I just interject that initially when an economic impact analysis was done by the Bank we heard, through the grapevine, through the economic staff at the Bank, that it was positive and that until the objections were raised by one single company this loan was going to go through, this loan guarantee. I want to understand—and then once those objections were raised the loan was scaled back to address these objections and there is no competitive impact now, with respect to the equipment that will be shipped to China, which will be used for two fabs that are not involved in any D-RAM-related products, and I don't understand how the economic impact analysis could be negative.

Chairman MANZULLO. Well, SMIC, they made concessions, isn't that correct?

Ms. HADFIELD. That is correct. So it has been scaled back significantly—

Chairman MANZULLO. Since the first of the year.

Ms. HADFIELD. Already to address any potential—

Chairman MANZULLO. We all seem to know about it here but this—

Ms. HADFIELD. So it is not like the applicant hasn't done anything to address this issue, and I am kind of surprised that now I am hearing that the economic impact is definitely going to be negative. I don't quite understand that.

Mr. SABA. If I could address—we are going to set the record straight. The process to scale this back in order to save this transaction by just doing the two fabs where there wasn't going to be D-RAM production was one that I made, and it was discussed with the senior management in an attempt to see if we could move this forward. We have tried to put out solutions to this and there have been, and there are still significant issues, questions raised about

economic impact. They deal with issues, as the chairman has said before, relating to oversupply even in logic, competition in logic, the enforceability of covenants, the ability to convert these fabs from logic to D-RAM production. They all remained open at the time that we were asked to provide a decision. I don't know why there is some sense here, that getting a "no" makes this company better off. Usually you ask about our experience with coming with denials to the board. Applicants don't want us to do that. They may say they want a quick response, but they then—if that response is going to be negative, they work with the Bank to seek resolution. And that is what we did here, until they determined that they said they had no more time.

Chairman MANZULLO. Well, SMIC is still offering to make concessions. I mean, I need to get this kicked up to the highest level. I mean—

Mr. MERRILL. It got kicked up to the highest level. You are not the only one who wanted it to get kicked up to the highest level.

Chairman MANZULLO. No, I mean to your level.

Mr. MERRILL. It did get kicked up to my level.

Chairman MANZULLO. No, they are still making concessions. Are you aware of the concessions they have been making over the past couple of months?

Mr. MERRILL. I am not aware of anything from them.

Chairman MANZULLO. I guess that is the point.

Mr. MERRILL. Until the letter was received a couple of days ago, when this hearing—I mean in the last 2 days before this hearing.

Chairman MANZULLO. Mr. Saba, you came up with a proffered solution, is that correct?

Mr. SABA. I don't know if it is a unique solution, but I was the one that pushed that through with staff and discussions and then staff discussions with SMIC as a potential way to transact—

Chairman MANZULLO. When did that discussion come up?

Mr. SABA. I believe that was in probably early January.

Chairman MANZULLO. Okay. First of all, I commend you for trying to come up with a solution on this because that shows a lot of good faith.

Mr. SABA. And we discussed that solution with the Chairman before it was put forward. It was done with his blessing.

Mr. MERRILL. We thought that would be helpful. We have tried. We have tried again and again.

Chairman MANZULLO. Well, where is—what is the status now? I mean is the objector just saying that is it, he is not interested?

Mr. SABA. I don't know the status because it was both the applicant and the main exporter that asked to go back and they felt fairly confident that they could achieve this industrywide solution. Obviously, as you have indicated, they have not been able to do that, and that is why we have seen this stepped up effort to pressure the Bank into doing this transaction.

Chairman MANZULLO. I am pressuring you to make a decision.

Mr. MERRILL. We made a decision.

Chairman MANZULLO. I don't have a dog to hunt in this thing. The other people do.

Mr. MERRILL. Mr. Chairman, you keep wanting a direct answer and I keep trying to give it to you. We have made a decision. We

are not taking this case forward to the board. Now, that decision was not the decision they wanted to hear.

Chairman MANZULLO. Don't use the word "we," use the word "I."

Mr. MERRILL. I said "we."

Chairman MANZULLO. No, "you" made the decision.

Mr. MERRILL. Mr. Chairman, I believe the decision was made by senior management collectively. Was it cleared by me? And do I approve of it? Am I the place where the buck stops? Yes.

Chairman MANZULLO. It has got to start there first.

Mr. MERRILL. The buck comes up. It does not go down. The applicant didn't like the decision that they got.

Chairman MANZULLO. They didn't get a decision.

Mr. MERRILL. They got a decision. They have one right now. If you have two co-chief executive officers or three co-chief executive officers I can't—maybe the decision would be different.

Chairman MANZULLO. No. You made the decision yourself.

Mr. MERRILL. Yes.

Chairman MANZULLO. And?

Mr. MERRILL. I approved the decision, and I take responsibility for it.

Chairman MANZULLO. And you let your staff come to you with suggestions and you followed those. But you never presented this before the entire board, to give any of these marvelous public servants also appointed by the President, to get their view.

Mr. MERRILL. It has been my experience, as I have said before, that the board wants me to present those cases—

Chairman MANZULLO. You have said that over and over again. You have said that over and over again. And I just don't think this is going to get anywhere, except I do know this. There is going to be some very substantial changes if I have anything to do with it with the governance of Ex-Im. You must be more accountable to the applicants than you are now. And you aren't.

I have no further questions. You know, in 7 days, you know what I want, Mr. Miller?

Mr. MILLER. Yes.

Chairman MANZULLO. I want you to prepare—it doesn't have to be in final form, but close to final form and get it to Mr. Eskeland. This is on the dealer finance. It would be an application form, if there is a separate application form, plus the guidelines of how people fit into it and how to implement it. This is something perhaps you were going to prepare for your—when is your expo coming up?

Mr. MILLER. Next Thursday Mr. Chairman.

Chairman MANZULLO. Next Thursday.

Mr. MILLER. Yeah.

Chairman MANZULLO. So you need it before then. Thursday is—yeah, you are going to roll it out.

Mr. MERRILL. We have already rolled it out.

Chairman MANZULLO. No, you haven't. You can't roll it out unless somebody takes advantage of it, and not one person has signed up for it. But I want you to meet with Mr. Eskeland and bring that in. I presume that is what you would be giving to the people at your show, is that correct?

Mr. MILLER. Yes, Mr. Chairman.

Chairman MANZULLO. Mr. Miller, do you expect this to be a lengthy set of guidelines? Is it a couple of pages or can you give us a thumbnail sketch? It is not regulations. I mean we are not in the area there.

Mr. MILLER. Mr. Chairman, as in all our products when we try to roll them out we try to make it as simplified a process as possible. We will try to do it in as minimum amount of effort to make it clear and understandable especially for small businesses.

Chairman MANZULLO. Okay. And then they would be using standardized forms that are already in existence?

Mr. MILLER. Yes.

Chairman MANZULLO. Okay. These would be the guidelines and how they fit into that.

Mr. MILLER. Mr. Chairman, there is a new insurance policy that was geared to incorporate the changes that we made for this particular program.

Chairman MANZULLO. Okay. And then I want a date on fast track. I am not going to wait 2 years. I have had all kinds of promises. It is up to you to come up with a product. When is that going to be done?

Mr. MERRILL. It is a question of what the reactions of the banks are to this third round. The third round, we have—they are our customers. There are 14,000 banks in the United States. About 175 of them do trade finance. We try—some expertise in trade finance.

Chairman MANZULLO. Go ahead.

Mr. MERRILL. Mr. Miller and other members of our staff have made three rounds with these banks and they all had problems. We have had to come back through the—just to meet our customer's requests. But no deal has been stopped.

Chairman MANZULLO. I just don't—

Mr. MERRILL. So we will get it done as soon as I can get the banks, as soon as we can get the banks to agree to a statement that is common to all of them, which was the purpose of having the fast track.

Chairman MANZULLO. We had—

Mr. MERRILL. It is not fast track if you have 175 banks each with a different set of criteria.

Chairman MANZULLO. I have got some interesting—

Mr. MERRILL. It is a little bit like herding cats. We think we have got it done. I thought we had it done 6 months ago. I am equally frustrated.

Chairman MANZULLO. What can I do to get this thing done? What can I do to help you?

Mr. MERRILL. Say it again, sir.

Chairman MANZULLO. What can I do to help you to get this fast track done? What if I convene a meeting of the principals?

Mr. MERRILL. I am just as frustrated as you are, Mr. Chairman.

Chairman MANZULLO. No, you aren't. The people that get turned down by you come to me and the CEO doesn't wait 2 years to get a project done.

Mr. MERRILL. Mr. Chairman, when our senior executives went around to talk to these banks they complained to us about the differences between asset-based lending and commercial lending, different standards. They didn't like the form. It didn't fit each indi-

vidual bank's standards. We have done this three times. It is herding cats. I think we have got it done right this time, but I don't know. I have to rely on both counsel and our staff who is in contact with these banks. We want a form that makes it easier for them. If each bank has a separate standard, then it is not fast track anymore. You can call it fast track but it wouldn't be fast track.

Chairman MANZULLO. I understand that. You know, this is a mandate of Congress. This is something that we want done and we can't accept the fact that 2 years have come and passed. I mean, you know, this is the testimony, your testimony, May 6 of 2004, before the Subcommittee on Domestic International Monetary Policy, on which I sit. This is a transcript, May 6 of 2004, your testimony before the Subcommittee on Domestic and International Monetary Policy on the Financial Services Committee, and I sit on that Subcommittee. "And the commitments, we are focusing on three key priorities, putting customers first, improving cycle time, and expanding support for knowledge-based and services exports. And putting customers first, we are implementing the three guiding principles President Bush has set for the government; namely, that this should be citizen-centered, results-oriented, and market-driven."

"For Ex-Im Bank putting customers first means ensuring that every customer receives quick answers and clear responses. We have assigned relationship managers to assist customers who do a high volume of business through Ex-Im Bank in order to ensure consistent processing."

"And as I discussed below we have made our website easier to use, with improved access to information, application and contracts. By improving cycle time, Ex-Im bank is particularly focused on reducing our transaction process cycle time in order to keep—in order to help our customers offer timely financing to their buyers. As any exporter knows, timeliness can mean everything when you are competing for international sales. To improve cycle time Ex-Im Bank has simplified applications for financing products that most benefit small business exporters. We are also modernizing other systems and procedures." And so—that is a year ago.

And so I have offered, as I have offered here with Mr. Vaden, in fact I just settled a monstrous case in my office, not using my legal hat, involving probably over a million dollars where the agencies were going at it with a small business person. And we just sat down and got the thing resolved. And so I am offering to sit down with you and a representative from the objecting group and the applicant to try to resolve this thing amicably. And you are not—are you willing to participate in something like that?

Mr. MERRILL. Not without counsel, Mr. Chairman.

Chairman MANZULLO. What is that?

Mr. MERRILL. I want counsel with me.

Chairman MANZULLO. That is okay. Would you be willing to participate in a meeting like that?

Mr. MERRILL. I want to be clear—

Chairman MANZULLO. I mean, can you give me a yes or no?

Mr. MERRILL. I just don't know what the answer is. Peter, what is the answer?

Mr. SABA. I am sorry. Are we talking about this meeting on the SMIC transaction?

Chairman MANZULLO. Yeah, very informal. We would have one representative from SMIC and one from the objectors and then Peter and then Phil, you.

Mr. MERRILL. Mr. Chairman, why can you not meet with the two alone? You have a lot more power.

Chairman MANZULLO. Because you made the decision. No, you have a lot more power than I do. You make the decision. I mean are you willing to do that?

Mr. MERRILL. Mr. Chairman, something doesn't add up to me. There is something there—I am punchy at the moment but something there does not add up. I have representations from the—a stack of documents inch inches thick that says we feel there is an economic impact on this deal and a set of documents, a set of—

Chairman MANZULLO. No, you don't understand. Maybe that is the problem, Mr. Merrill. I don't think you understand. I have offered to sit down with you and Peter and one person from the objecting group and one from SMIC to see if there can be a resolution, that these questions can be answered to the satisfaction of Ex-Im Bank.

Mr. MERRILL. Mr. Chairman, in that—

Chairman MANZULLO. Because I think that is picking up where Peter left off when he made that suggestion.

Mr. MERRILL. In that context the answer is 100 percent yes. We would never refuse to meet with a Member of Congress.

Chairman MANZULLO. All right. Do you have the calendar? Do you have my calendar there? Do you know your availability next week, Phil? Are you going to be in town, do you have any idea? Are you going to be out of the country? Peter, do you know?

Mr. MERRILL. Well, we have the conference Thursday and Friday.

Chairman MANZULLO. Okay.

Mr. MERRILL. That would be the 7th and 8th.

Chairman MANZULLO. Well, listen.

Mr. MERRILL. It would be infinitely better for me the following week when I know I am clear. We can probably make time. I am not sure. I have to check my schedule.

Chairman MANZULLO. Okay. I take your word.

Mr. MERRILL. But I am quite willing to do this.

Chairman MANZULLO. Okay, that is fine. I have no further—Peter, are you point on this, on setting up the meeting?

Mr. SABA. I have exchanged cards with your staff.

Chairman MANZULLO. Okay.

Mr. MERRILL. We will try and set up a schedule.

Chairman MANZULLO. Okay. Well, listen. This meeting has been very long. Then, Peter, we are going to meet with Mr. Vaden as soon as we conclude the hearing. And the hearing is—first of all, thank you for your patience. Phil, I am glad to see that you are up and at it after that open heart surgery.

Mr. MERRILL. Thank you.

Chairman MANZULLO. You gave us a scare.

Mr. MERRILL. You don't have to—I thank you for the comment, but I am perfectly capable of responding to a strong and committed

Congressman who is fighting for something he believes in. I have no problem with this.

Chairman MANZULLO. Appreciate this. This meeting is adjourned.

[Whereupon, at 6:45 p.m., the committee was adjourned.]

Statement of Donald A. Manzullo
Chairman
Committee on Small Business
United States House of Representatives
Washington, DC
April 6, 2005

What Has ExIm Bank Done
For Small Business Lately?

Opening Statement

Good afternoon. Thank you for appearing before the Committee. As you know, the Export-Import Bank, or ExIm as many people call it, plays a crucial role in supporting American exports and American jobs. I was proud to support ExIm during previous authorization debates. ExIm is the primary, and in many instances, sole source of assistance to small businesses that must overcome the challenges of globalization in order to survive. Small businesses often find themselves trying to open new export markets in the face of unfair competition and foreign government subsidies. Foreign governments pursue aggressive programs to subsidize homegrown companies, and they play to win.

That is why the ExIm Bank serves such a critical need. ExIm's programs for credit insurance, working capital, and loan guarantees to U.S. exporters play an essential role in maintaining America's competitive edge.

Against that background, this Committee has taken note of some disturbing trends regarding ExIm and its core clients -- American small businesses. In 2002, as part of ExIm's reauthorization, Congress imposed on ExIm a small business set-aside of 20 percent. But ExIm failed to meet this mandate, achieving 19.7 percent in 2003 and just 16.7 percent in 2004. Frankly, these numbers are suspect. Moreover, the trend is clearly in the wrong direction. We know of some worthy efforts to improve and streamline ExIm's processes, and to make it more friendly to small business. But these efforts remain frustrated by bureaucratic inertia and corporate culture issues within the Bank and adversarial relationships between ExIm and its customers and partners.

For over two years, the bank's financial service partners have been trying to work with ExIm on developing a more streamlined application process for small business exporters. It's called "Fast Track" and it is used particularly for medium-term lending (between $10 million and $25 million). This fast-track application has strong support among lenders and businesses but simply has not been finished. That is inexcusable.

Other small business initiatives also have fallen by the wayside. For example, there is a Dealer/Distributor Financing program, which could be a boon to small U.S. manufacturers by helping them set up distribution networks in foreign countries, a vital requirement in getting a foothold in a foreign market. To date, there have been no implementation guidelines for this program, and ExIm's small business customers continue to wait.

In the meantime, while small businesses idle, international competition races forward. During 2002 reauthorization, ExIm emphasized that "the mandate of the Export-Import Bank is to sustain jobs here in the United States by helping to finance U.S. exports that would not take place without us." ExIm also said: "Our motto is jobs through exports; and our mantra, of course, is jobs, jobs, jobs."

We know that China poses an historic challenge to the United States in terms of trade. Recent statistics show that the U.S. is running the largest trade deficit on earth with China. Last year, U.S. imports from China were $196.7 billion (an increase of 29%), and exceeded our exports to China by five times. Solving this trade deficit is of overriding significance.

Today we are going to hear from two witnesses who will describe their difficulties with ExIm in the China trade context. The first witness is Mike Vaden, the CEO of a small North Carolina firm, Rutland Plastic Technologies, Inc., a company from Congresswoman Sue Myrick's district.

The second witness is Victoria Hadfield of the trade association SEMI, which represents many semiconductor equipment manufacturers. As with many export-oriented industries, American semiconductor equipment makers are leading the world in terms of innovation, exports, and additional export potential. But without ExIm financing, many global customers turn to non-U.S. suppliers subsidized by their own governments. For example, the Japanese court foreign buyers openly with attractive loan subsidies, and the Chinese subsidize in a wide variety of ways, directly and indirectly. Then add to this the many other cost advantages of producing in China. It is certain that American equipment makers cannot begin to compete without the leveling provided by ExIm.

One such situation is of particular concern to this Committee. An application to support hundreds of millions of dollars in sales of American semiconductor equipment to a company in China has been indefinitely tabled by the ExIm Board. More than 50 Members of the Senate and House, including the Speaker, and three Governors have written to ExIm with concerns over ExIm's handling of this application and, particularly, ExIm's refusal to give it a vote. Both law and equity entitle the applicant to a vote on its application. Why ExIm refuses to vote is baffling and inexcusable, particularly when so many American jobs are at stake.

ExIm is a critical tool in maintaining American innovation and export-readiness. We think that it is imperative that changes be made – and quickly. We urge ExIm to consider the following key reforms:

- Timely roll out of such programs as Fast Track & Dealer Financing.
- An effective small business advocacy office modeled after the one at the Overseas Private Investment Corporation.
- New initiatives to get more banks to offer export financing.
- Create and manage an organization-wide small business plan.
- Transparent problem-solving, and ExIm processes and procedures that are pragmatic, timely and squarely address challenges faced by American exporters and those who wish to purchase from American companies.
- Board procedures that take applications to a vote and which provide applicants with a transparent and open process.

Thank you.

I now recognize the Ranking Democratic Member from New York, Representative Velazquez for her opening statement.

STATEMENT
of the
Honorable Nydia M. Velázquez, Ranking Member
House Committee on Small Business
The Hearing on "What Has EX-IM Done for Small Business Lately?"
April 6, 2005

Thank you Mr. Chairman.

In today's fast-paced world, it is more important now than ever for small businesses to remain competitive and strong. The global market has grown significantly over the past few years, and small businesses are continuing to increase their presence.

Much of this country's success in the world market depends on the capability of small businesses to participate. Today 97 percent of exporters are small firms, and make up over 50 percent of our nation's GDP. Yet only 28 percent of small firms are responsible for the total value of U.S. exports. Clearly the numbers aren't matching up here and this is why it is so important that small businesses are able to compete with their larger counterparts.

One key mechanism in ensuring that they have this ability is through the Export-Import Bank. This is the agency stamped with the job of providing loan guarantees and insurance to commercial banks to make trade credits available to U.S. exporters.

What we are going to examine today is just how this agency is helping our nation's 23 million small businesses. One of their congressional mandates is to expand the number of U.S. small firms that utilize the bank's programs. However, it is questionable as to just how successful Export-Import Bank has been at assisting small businesses in the global market.

While a significant portion of the bank's funding goes toward larger businesses – very little is going to small firms. Currently, it is required that 20 percent of the total value of Export-Import funds goes to small businesses. But in FY 2004 only 16.9 percent went to small companies – a decline from the 19.8 percent that Export-Import did with small business in FY 2003.

Considering the fact that women-owned businesses have grown at twice the rate of other businesses since 1997, and the number of Hispanic-owned businesses is expected to nearly double in 3 years the bank was directed in the 107th Congress to serve these growing sectors. Sadly, the bank's actions since then have not matched their commitment.

In FY 2003, minority and women-owned businesses accounted for only 6.54 percent of Export–Import Bank's small business support. These low levels of assistance to small business are just not right.
What is especially sad is that Export- Import has still not fully implemented its small business automation process – which would make it easier for small businesses to access the bank. This does not sound like an agency that is truly committed to helping our nation's small businesses. If it was then it would follow through on its promises, and achieve its small business goals.

To be fair, it is hard to expect Export-Import Bank to live up to all of these commitments with a restricted budget. Over the past few years, their budget request under the Bush administration has seen significant cuts. How can we expect this agency to provide opportunities for our small businesses if they do not have adequate resources themselves.

As an agency designed to help small businesses achieve this, Export-Import must remain a viable source of capital, and live up to its small business commitments. What is on the line here is the stability of the U.S. economy. In order for small businesses to be able to successfully compete in the global market and to spur domestic growth – we need to make sure they have the opportunity to successfully compete.

I want to thank Chairman Merrill for coming to testify today. I know that some of the questions may be difficult but I hope you will do your best to answer them so that we can work together to better help our nation's small businesses.

Congressman C.L. "Butch" Otter
Statement: Ex Im Bank
Small Business Committee
April 6, 2005

- I want to publicly thank Chairman Manzullo for allowing me the privilege of attending this hearing today.

- I have made the effort to be here today because as many of you know, the U.S. Export-Import Bank had been considering a loan guarantee for the purpose of selling advanced semiconductor manufacturing equipment to Semiconductor Manufacturing International Corporation, or SMIC. SMIC is a Chinese based contract manufacturer and one of the fasted growing semiconductor companies in the world.

- My primary concern with this transaction is that while it is for LOGIC manufacturing equipment, SMIC can easily convert this equipment to produce DRAM, or Dynamic Random Access Memory. In fact, the company even commented in a recent business prospectus that they would use excess manufacturing capacity to build DRAM for sale in the spot market. This causes me great concern and sets up SMIC as a competitor to the last US based manufacturer of DRAM in the world, Micron Technology.

- Micron is the largest employer in my state of Idaho, and they have manufacturing facilities in Virginia and Utah along with international sites. As an advocate of the free market I am certainly in favor of competition. However, that competition must be fair competition as the only guarantee of a free market is a fair market.

- Simply put, if the Ex-Im Bank guaranteed this loan, I feel that they would be spending our tax dollars to increase exports in the near term, but helping foster the migration of high end manufacturing jobs overseas to help a Chinese Corporation. I am appalled that anyone who has concerns about outsourcing

American jobs could support this loan guarantee. It is clear that the Ex Im Bank is doing the right thing by protecting American jobs.

- The Export-Import Bank Reauthorization Act requires the bank to thoroughly study the impact each bank transaction may have on American jobs. Although the bank has not made their market studies available for review, even to Congress, I have been personally assured by those at the Ex-Im bank that a factor in the decision to withdraw this loan guarantee was the adverse economic impact these loans will have in Idaho.

- In conclusion, it is not in the best interest of the United States Government to set a policy making it financially advantageous to invest in manufacturing outside of the US. Especially, at the expense of American companies and jobs.

Statement for the Record

Hon. Michael K. Simpson and Hon. Butch Otter
OF IDAHO

April 6, 2005

We would like to thank Chairman Manzullo and members of the House Small Business Committee for allowing us the opportunity to go on record in regard to today's hearing. We are interested in today's hearing because as many of you know, the U.S. Export-Import Bank has been considering a loan guarantee to support exporting advanced semiconductor manufacturing equipment to Semiconductor Manufacturing International Corporation, or SMIC. SMIC is a Chinese based contract manufacturer and one of the world's fastest growing semiconductor companies.

Our primary concern with this proposed transaction is that while it is for LOGIC manufacturing equipment, SMIC could easily convert this equipment to produce DRAM, or Dynamic Random Access Memory. In fact, the company even commented in a recent business prospectus that it would use excess manufacturing capacity to build DRAM for sale in the spot market. This causes us great concern because it sets SMIC up as a competitor to the last US-based DRAM manufacturer in the world, Micron Technology, Inc.

Micron is the largest employer in our state of Idaho, and they have manufacturing facilities in Virginia, Utah and around the globe. As advocates of the free market, we are certainly in favor of competition. However, that competition must be fair competition as the only guarantee of a free market is a fair market. We must also examine whether or not it's in the best interest of the United States government to create policy that makes it financially advantageous to invest in manufacturing outside of the U.S.

A proposal like this one that would provide for a financial incentive to build up China's semiconductor manufacturing capacity using a U.S. government resources sounds like bad policy for Congress to support. While we appreciate the goal of fostering small businesses in the U.S. by helping increase exports, such a policy cannot be pursued in a vacuum. We must also consider the effect that such investments may have on competing industries in the United States, which is exactly why the Ex-Im Charter requires an Economic Impact Analysis.

If the private capital markets believe that two or three new semiconductor manufacturing facilities should be built, then SMIC should have no problem putting together financing from the private capital markets. The fact that SMIC is seeking this guarantee tells us

that either the capital markets do not support the idea OR that SMIC is trying to take advantage of better or more competitive terms based on the US guarantee. To us, this appears only to benefit SMIC's shareholders, and it is clearly an unwise use of American taxpayer dollars.

In fact, U.S. semiconductor equipment manufacturers have already been quite successful selling into the Chinese market and even to SMIC. SMIC purchased equipment for its first four manufacturing facilities from Applied Materials and KLA Tencor without an Ex-Im guarantee. It would be short sighted policy to have a one-shot boost in exports to China by providing this loan guarantee.

The semiconductor industry is already prone to oversupply. This situation will continue as long as governments, and not free capital markets, decide where investments should be made. Capital investment decisions are best left to the private capital markets, and not governments.

If the Ex-Im Bank guaranteed this loan, we feel that they would be spending our tax dollars to increase exports in the near term, but helping foster the migration of high end manufacturing jobs overseas to help a Chinese-based corporation. We wonder how anyone who has concerns about outsourcing American jobs could support this loan guarantee.

The Export-Import Bank Reauthorization Act requires the bank to thoroughly study the impact each bank transaction may have on American jobs. While the bank has not made their market studies available for review, even to Congress, we have been personally assured by those at the Ex-Im bank that a factor in the decision making to withdraw this loan guarantee was the adverse economic impact these loans will have on other US based industries and on Idaho.

We believe that the Ex-Im Bank has made the right choice in not pursuing this loan.

Sincerely,

Mike Simpson
Member of Congress

Butch Otter
Member of Congress

STATEMENT OF
PHILIP MERRILL
EXPORT-IMPORT BANK OF THE UNITED STATES
BEFORE THE
COMMITTEE ON SMALL BUSINESS
UNITED STATES HOUSE OF REPRESENTATIVES

April 6, 2005

Chairman Manzullo, Representative Velasquez, and Members of the Committee,

The Export-Import Bank of the United States (Ex-Im Bank or the Bank) is committed to assisting small business exporters. This is a role the Bank assumed years ago, and one I have supported throughout my tenure as Chairman. I want to offer you my assurances that I will continue to guide the Bank in making all efforts to increase its support for small business exporters.

I want to begin by thanking this Committee for its key role in supporting small businesses, and for offering valuable advice to Ex-Im Bank. I have spoken with you, Chairman Manzullo, several times about the Bank and its role in helping small business, and I have always found your advice useful. And I want to take this opportunity to thank you for your support of Ex-Im Bank and its mission.

As stated in your letter of invitation to testify, I would like to take the opportunity to explain how the Bank, directly and indirectly, supports small businesses. By "direct support", we mean transactions in which the exporter of record is a small business. "Indirect support" means those small businesses which benefit by participating as suppliers, sub-suppliers or in similar capacities in larger deals.

I am happy to report that the direct support of the Export-Import Bank for small businesses has increased in each of the last two fiscal years. Specifically, it stood at $1.78 billion in FY 2002, $2.08 billion in FY 2003, and reached $2.26 billion last year, FY 2004. This is a 27% increase over two years. This increased funding has also been matched by an increase in the actual number of small business deals. We closed 2,154 small business transactions in FY 2002, 2,258 in FY 2003 and finally 2,572 in FY 2004. This is a 19% increase over two years.

There are, of course, many reasons for such an increase. Generally speaking, the international market has improved for U.S. exports, and these figures are in part a reflection of this progress. But I am confident that the increase in small business activity

is largely the result of the efforts of our staff to constantly expand our contacts with the small business community and to do our best in assuring that our programs meet their needs. While Ex-Im Bank is primarily demand driven and in the final analysis only has the ability to do those transactions that are brought to us, we are well aware that we cannot just sit back and depend upon market expansion and hope transactions will come to us. We realize that small businesses face special challenges and risks in the international marketplace. We know that we have to be proactive and reach out to the small business community and make it aware of what we have to offer.

I am proud to say that these current figures represent the highest levels of small business exports since I have been at the Bank. And during my tenure, over 80% of the Bank's transactions have *directly* benefitted small businesses. For 2004, of the 3,107 transactions the Bank completed, 2,572, or 82.8 %, directly benefitted small businesses.

Regarding our indirect support for small business, Ex-Im Bank estimates the total value of authorizations that are attributable to small business suppliers for our larger deals. It is calculated at the time of authorization of each long-term transaction, that is, transactions either of $10 million or more in an amount or with a repayment term in excess of seven years. In 2004, Ex-Im Bank provided financing which totaled $7.3 billion for long-term transactions, of which we estimate approximately $800 million supported indirect small business.

Now I want to address another aspect of our small business data which was mentioned in the letter of invitation. Our charter provides that we make available a percentage of our overall authorization for the benefit of small business. In our last reauthorization in 2002, this was raised from 10% to 20%. While the numbers of transactions and dollars authorized for small business exporters have steadily increased during my tenure at Ex-Im Bank, as a share of overall financing the small business percentage has been variable. In FY 2004 the ratio was 16.9%, compared to 19.8% in FY 2003 and 17.6% in FY 2002.

I want to assure the Committee that we take the 20% very seriously and our analysis of the numbers shows that we were on track to exceed 20% for small business but for two large transactions approved by the board late in the fiscal year. While those two transactions pushed our small business percentage below 20%, they helped to support jobs in the United States, many of them as indirect small business suppliers.

We worked hard to maximize our support for small business in FY 2004, but we realize we need to do more in this and future years. I am doing my best to authorize as many small business transactions as possible, and I know I speak for my colleagues at the Bank in saying that we are making every effort to do more. Let me address some of those efforts.

I would like to lay the foundation for a discussion of future efforts by discussing what we do now. The key to serving the small business sector is the ability to identify and educate those exporters that need Ex-Im Bank supported services. In view of the small size of Ex-Im Bank and our limited staff, the Bank actively cultivates and leverages private and government sector sources as multipliers in the agency's business development activities.

Ex-Im Bank's most important partners in reaching small business exporters are financial institutions, brokers, our City/State Partners and the Export Assistance Centers of the Department of Commerce. Ex-Im Bank has, within its Export Finance Group, a team dedicated to training its partners in Ex-Im Bank products, capabilities and processes. This training takes place bi-monthly at our headquarters and repeatedly throughout the U.S. Small business exporters are also among those who regularly avail themselves of this training. Staff from Ex-Im Bank's seven regional locations conducted over 100 refresher training sessions during FY 2004, largely for banking partners, to keep our multipliers up-to-date and to address the high personnel turnover experienced in the financial sector. Our business development personnel also attend selected Trade Promotion Coordinating Committee (TPCC) sponsored trade shows that provide the venue for enhanced exporter awareness, allowing efficient exporter interaction with the opportunity to access hundreds of exporters in a short time. In addition, Ex-Im Bank's business development personnel regularly partner with the Department of Commerce counterparts and the Small Business Administration (SBA), including U.S. Export Assistance Centers (USEACs), to expand the knowledge of U.S. government programs within the small business exporting community.

Other partners who assist Ex-Im Bank in reaching small business exporters are trade associations such as the Small Business Exporters Association, industry associations such as the Packaging Machinery Manufacturers Institute, chambers of commerce, World Trade Centers and minority and women-owned business associations. Ex-Im Bank has a discrete unit within its Domestic Business Development Division that has specific responsibility for outreach to these two sectors of small business. During FY 2004, 24 presentations specific to minority or women-owned businesses were conducted throughout the U.S., up from 13 in FY 2003.

One additional partnership, recently expanded, is with the SBA. Through a Co-Guarantee Program established in FY 2004, SBA's export working capital program, with the assistance of Ex-Im Bank, can now seamlessly serve eligible small business exporters whose needs exceed the SBA's lending ceiling.

We are striving to do better in all aspects of our small business program. I would like to highlight some programs in development, or newly established that are focused on increasing the number of small business exports.

The Bank's Business Automation Project, called "Ex-Im On-Line", is designed to provide on-line application submission and electronic, automated processing and servicing for our short and medium-term insurance and guarantee products. We are well along on this project, which entails the re-engineering of business processes and the design, development and implementation of a new technology system that will provide on-line access to the products most frequently utilized by small business exporters. Our primary focus and first-phase development involves our short-term multibuyer insurance program. More than ninety percent of the customers of this program are small businesses that typically cannot access private market insurance

This project and the substantial human and financial capital investment made by the Bank demonstrate our commitment to small businesses and the lenders that support them. Our second phase deployment, which is expected to follow shortly after the completion of the first, will bring our medium-term insurance and guarantee products on line and further improve service to the many small companies who benefit from these capital goods financing services.

Another important development was the establishment in mid-2004 of Ex-Im Bank's Office of Small Business (OSB). It is the job of this office to advocate for small business exporters within Ex-Im Bank, working in conjunction with internal business units. OSB leadership is expected to continually assess programs and services oriented to small business exporters and make recommendations for improved small business exporter support to Ex-Im Bank's management. This office also reaches outside the Bank to act as a liaison with the small business exporter community to enhance the Bank's visibility with those exporters and to make them aware of the Bank's capabilities. This function is still new within the Bank, but we fully expect it to assume a key role in expanding our small business exporter activities.

There are other options we are investigating, including increased use of local currencies in certain markets and adding national credit unions to our partners group. And Mr. Chairman, we would welcome any suggestions that you or any Members of the Committee may have in this regard. We realize that there is no one magic key that opens all the doors to increased Ex-Im Bank support for small business exporters.

Finally, in your letter of invitation, you asked me to review Ex-Im Bank's budget request for FY 2006. The Administration is requesting $186.5 million in program budget which, when added to carryover funds and cancellations from previous years, would give us $400.5 million to use as a "loss reserve" to support a projected $13.8 billion in authorizations for FY 2006. This is more than sufficient to support our projected demand from small business authorizations.

However, I want to direct your attention to the second line item in our budget -- our administrative budget. For FY 2006 the Administration is requesting $73.2 million, just $600,000 more than this year's appropriation. It is out of this budget that we fund the technological improvements and outreach programs that I discussed above.

Mr. Chairman, we need every dollar of that budget appropriated if we are to continue making progress toward the small business objectives we all share. I know that some do not consider it as interesting as the bigger line-items, but it is very important to us and our small business customers.

Thank you for your support of small business and the Ex-Im Bank. I am ready to answer any questions you may have.

U.S. Export-Import Bank and Semiconductor Manufacturing Equipment

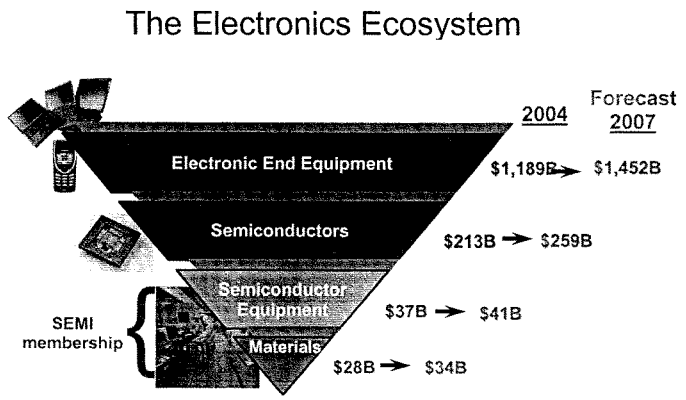
Written Statement of Victoria D. Hadfield
President, SEMI North America
April 6, 2005

Semiconductor Equipment and Materials International (SEMI) represents nearly 1,000 U.S. companies specializing in the manufacture of capital equipment and materials for the production of semiconductors. Our members are located in 41 states. We appreciate the opportunity to highlight the importance of U.S. Export-Import Bank support for U.S. producers of semiconductor capital equipment and materials. This can be an important element in helping American companies compete in the global semiconductor market.

A Diverse Industry Base

In the United States, our industry is composed of an extremely diverse group of companies, both in size and product. The majority of U.S. companies are small, privately held firms, which are technology intensive, specializing in the production of a particular tool or material used in the semiconductor manufacturing process. About 85 percent of our members are companies with annual sales of less than $25 million. On the other hand, as our industry has grown and matured, the U.S. capital equipment industry has also developed a tier of larger, publicly held, semiconductor capital equipment companies who generally supply complex tools ranging in price from $500,000 to several million dollars.

The following demonstrates how our industry fits into the electronics ecosystem:



Source: SEMI, SIA January 2005, Henderson Ventures January 2005

Export Dependence and Global Competition

Like its customer base (the U.S. semiconductor industry), the U.S. semiconductor equipment and materials industry is strongly oriented towards exports. Sales to overseas customers, on average, account for more than 70 percent of annual sales revenues. U.S. equipment and materials companies are competing head-on with Asian and European firms for business around the world. Barring U.S. export assistance would not prevent overseas customers from getting access to this equipment or hinder their competitiveness. It would only ensure the business goes to overseas firms. The end result would be the same for overseas customers, but U.S. suppliers would lose out and there would be no benefit to U.S. semiconductor device manufacturers.

An Essential Technology Infrastructure for U.S. Electronics Leadership

Once an industry that simply created tools according to specifications from our customers, today our companies' research and development generates many of the strategic process advances which increase chip information density, reliability and yields. Technological advances in our industry and the ability to integrate these advances into a high volume manufacturing line are now at the heart of the electronics revolution in the semiconductor industry. In fact, they are also enabling advances in several other strategic electronics industry segments such as flat panel displays and microelectronic mechanical systems (MEMs), which employ similar process technology and will have a profound effect on future U.S. competitiveness in these sectors.

The fast pace of technology in this sector demands that leading equipment companies spend more than 15 percent of annual revenues on research and development. Revenues raised from worldwide semiconductor equipment markets are necessary to conduct this important R&D and to maintain technological leadership.

Asian Markets Crucial to Our Industry

During the 1980s, the U.S. SEM industry faced tremendous competitive pressure from abroad, particularly from suppliers in Japan and Europe. The recovery of U.S. competitiveness would not have been possible without access to sales in important new export markets in South Korea, Singapore and Taiwan.

Asia-Pacific markets account for approximately 70 percent of consumption of semiconductor equipment and they are leading the growth for the industry. According to the Worldwide Semiconductor Equipment Market Statistics, global semiconductor equipment billings in 2004 have increased year-over-year by 168 percent for Taiwan and by 133 percent for China. For the second year in a row, spending was also very strong in Korea and Japan. Asia is the driving force behind most new investments in capital equipment, particularly for 300mm equipment which is the most advanced type equipment currently available.

China is becoming an increasingly important player in the Asian market for semiconductor equipment and materials. SEMI reports that the size of the China new equipment market for 2004 was $2.68 billion. This compares with a total of $1.15 billion

for 2003, an increase of over 130 percent. In addition, there is an active and considerable market in China for used equipment, though this market has been challenging to quantify. Growth estimates for both new and used equipment remain high for China. SEMI estimates that the China market for new equipment will reach $4.21 billion in 2007.

U.S. producers face strong competition in China. In 2003, U.S. producers sold 54 percent of the wafer fab equipment purchased by China. In 2004, U.S. producers sold 51 percent. U.S. producers' share of final manufacturing equipment for test and assembly sales to China was 29 percent in 2003 and 34 percent in 2004.

It is hard to exaggerate the importance of gaining the "tool of record" designation with a customer. Accordingly, early access to the burgeoning China market is needed to provide the next opportunity for market leadership for those companies able to establish a presence as reliable suppliers and build key relationships with leading Chinese customers. U.S. semiconductor equipment and materials firms' inability to compete in China could be a major setback for the U.S. industry, undermining their ability to finance R&D necessary to maintain U.S. technology leadership.

Next Steps: Fulfilling the Mission of the Export Import Bank

The U.S. Export-Import Bank historically has provided beneficial assistance to the semiconductor equipment and materials industry. Transactions supported in the last several years include exports to semiconductor manufacturing facilities in Malaysia, Russia and Singapore.

Exim's assistance is needed now, more than ever. The cost of a single semiconductor fabrication facility is on the order of two to three billion dollars and approximately 80 percent of this cost is for equipment. Export financing is increasingly important and necessary to help private banks make investments in large purchases of capital equipment given the huge costs and the long time horizon needed to pay for the equipment.

Just five months ago, Exim approved a loan guarantee for over $650 million for Chartered Semiconductor Manufacturing, a semiconductor foundry located in Singapore. This guarantee supported exports from at least twelve U.S. suppliers and the Export-Import Bank determined in this case that the transaction would create and sustain high quality jobs in the United States.

This Chartered deal is quite similar to a deal currently pending before Exim for a $770 million loan guarantee to Semiconductor Manufacturing International Corporation (SMIC). SMIC is the leading semiconductor foundry in China. Like the Chartered deal, these exports to SMIC would provide high-quality jobs for the multiple U.S. companies involved as well as their many suppliers.

For the time being, this deal has been put on hold due to an objection from one company claiming potential competition. This objection has already been addressed, with the deal having been scaled back to ensure that the equipment supported by the loan guarantee will not be used for products that directly compete with this company.

We are very concerned that the decision on this loan guarantee application be judged on the merits of the deal and what is determined in the economic impact analysis. We urge the Exim Bank to put the SMIC deal on their agenda. In reviewing this and future applications from the semiconductor equipment and materials industry, the long-term ramifications for the industry should be taken into account. If the U.S. Export-Import Bank denies the current application, SMIC could be forced to go to non-U.S. suppliers whose governments are able to provide a loan guarantee. This could result in long-term changes to the semiconductor supplier base in foreign markets. Thus, the long-term health of the U.S. industry could be at stake if U.S. suppliers are not able to compete with foreign companies in obtaining financing.

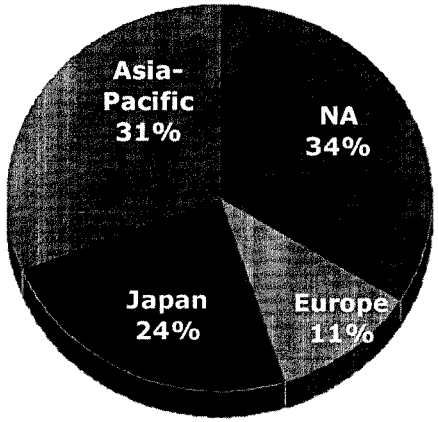
The Export-Import Bank's stated mission is to enable companies to "turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy." The Bank can demonstrably achieve that mission by continuing to offer export assistance to the companies in our industry seeking assistance in overseas markets.

The U.S. semiconductor equipment and materials industry is a technology-intensive, high value-added, net-exporting American success story. Continued support our industry's exports to leading markets is critical to the economic health and technological leadership of U.S. semiconductor equipment and materials suppliers and to the semiconductor infrastructure in the United States.

Thank you.

Semiconductor Manufacturing Shifting to Asia-Pacific

Capital Spending By Region



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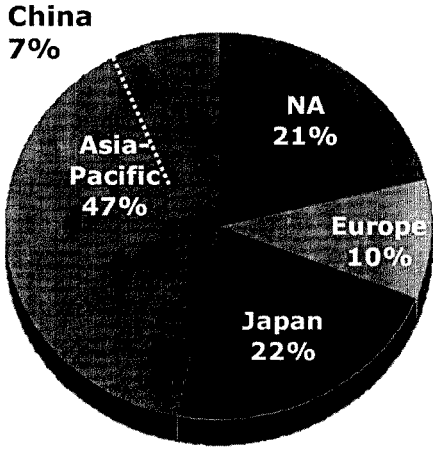
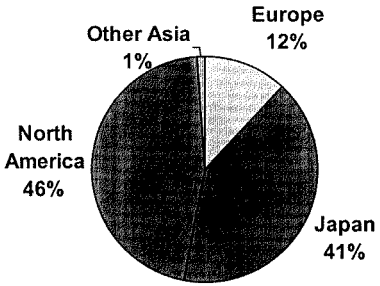


2004: $43.2B

Sources: Company announcements, SMA, Applied Materials estimates

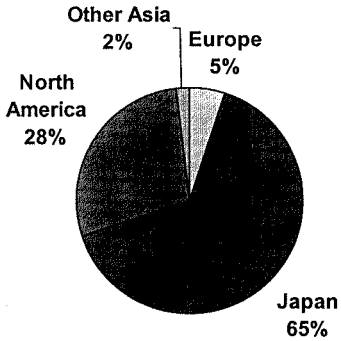
Semiconductor Equipment and Markets by Producer HQ Region

2004 Equipment Market



2004 Market Billings = $37.1B
(Source: SEMI/SEAJ)

2004 Materials Market



2004 Material Revenues = $28.1B
(Source: Techcet estimate)

Top 10 Semiconductor Equipment Companies 2003

1. Applied Materials
2. Tokyo Electron Ltd.
3. ASML
4. Nikon Corporation
5. KLA-Tencor
6. Canon, Inc.
7. Advantest
8. Dainippon Screen Mfg. Co.
9. Novellus Systems
10. Hitachi High-Technologies

Making the Same Chip

	Option 1	Option 2	Option 3, etc
Etch	Lam	TEL	Hitachi
CVD	Novellus	Jusung	ASMI
PVD	Applied	Trikon	TEL
Implant	Varian	Ulvac	SEN
Lithography	ASML	Canon	Nikon
Resist Track	ASML	TEL	Karl Suss
Mask Making	Etec	Micronic	Toshiba
CMP	Applied	Ebara	Peter Wolters

Substantial Foreign Availability of Technology

Statement of Michael T. Vaden
Chief Executive Officer and President
Rutland Plastic Technologies, Inc.
Pineville, North Carolina
Before the House Committee on Small Business
April 6, 2005

Rutland Plastic Technologies is a leading manufacturer of plastisol compounds for commercial applications. Founded in 1962 as a family-owned business, Rutland has grown over the years, and now its 113 employees operate a QS-9000 and ISO 14001 registered 80,000 square-foot manufacturing plant in Pineville, North Carolina, just south of Charlotte.

Rutland has two primary product lines: industrial plastisols and screen print inks. Industrial plastisols are used, for example, in automotive parts and as coatings for hand tools. Screen print inks are exactly that: plastic-based inks used in screen printing of a wide variety of textile items. Each business line makes up roughly half of our annual revenues of approximately $40 million. We are proud of our growth and see a bright future: our exports grew from under 3% of sales in 1998 to over 25% currently. Rutland has been recognized for excellence by the Commerce Department and Congresswomen Sue Myrick when Rutland was presented an Export Achievement Certificate in February 2003.

A key factor in Rutland's ability to grow our business while textile manufacturing has migrated from this country has been our ability to grow our exports. A small privately-held company such as Rutland needs support to grow an export business: we are thankful for the help provided to us in this regard by the Department of Commerce, including its suggestion that Rutland engage Ex-Im's services because of Ex-Im's

mission to help companies like ours. Rutland has used Ex-Im insurance for over five years, insuring almost $27 million worth of transactions with buyers in forty-five countries. Rutland has complied with all of Ex-Im's policies and procedures in insuring these transactions, and has timely paid nearly $160,000 in premiums to Ex-Im.

In 2004, Rutland for the first and only time needed its insurer: Rutland shipped approximately $86,000 worth of screen-print ink to a Chinese buyer called Shanghai Ruilan. Rutland had shipped almost half a million dollars worth of goods from 2002-2003 to or through Shanghai Ruilan. Rutland shipped the goods; Shanghai Ruilan received the goods; Shanghai Ruilan had no complaints with the goods; Shanghai Ruilan is selling the goods. However, Shanghai Ruilan has never paid for the goods.

Rutland made appropriate demands upon Shanghai Ruilan for payment, yet, Shanghai Ruilan continued to leave its legitimate and undisputed debt unpaid. This, obviously, was Rutland's last shipment to Shanghai Ruilan – we cannot be expected to do business with companies that do not pay their bills. Shanghai Ruilan faxed us letters from Chinese lawyers written in Chinese threatening us with action in the Chinese legal system if we did not do business with them even though they had not paid us. But that was not the worst of it: since taking our goods and not paying for them, Shanghai Ruilan has been using Rutland's intellectual property. Shanghai Ruilan is using our trademarks – our company name, our product descriptions, our proprietary color-mixing software. We have credible information that Shanghai Ruilan is saying that it is using our own

formulas to sell against us. This situation has had a negative financial consequence: our Chinese sales are down and our expenses in that region are up. Indeed, because we haven't been able to resolve these issues our sales in China – a *growing* market – have fallen by more than 20%. We sought legal advice on this issue. Our lawyers advised us that any fight we have with Shanghai Ruilan in China over these intellectual property and related issues will be costly, time consuming and wholly unpredictable as to result.

Thus, when Shanghai Ruilan did not pay, Rutland made a claim with Ex-Im. Even though there was no dispute whatsoever between Rutland and Shanghai Ruilan relating to these or any other goods, Ex-Im informed Rutland that Rutland must litigate all disputes with Shanghai Ruilan *in China*, even though the agreement between Rutland and Shanghai Ruilan contain an arbitration clause requiring arbitration in North Carolina. Rutland has been advised by several attorneys that litigation in China is expensive and unpredictable.

Rutland purchased Ex-Im insurance because – just like it says in Ex-Im's mission statement – Rutland wanted a "level playing field" and wanted to eliminate "country risk," especially in the ever-growing Chinese market. Yet, when it came time to pay Rutland's straightforward claim for goods sold – goods that the buyer possesses and is reselling – Ex-Im informed Rutland that Rutland has to deal with "country risk" by litigating all issues with the Chinese company *in China* before Ex-Im will step in and pay the claim.

With respect to Shanghai Ruilan, Rutland has a choice between doing three things: walking away from this money; litigating an insurance coverage issue against Ex-Im; or going to China and litigating against Shanghai Ruilan. This is not why Rutland paid Ex-Im. Rutland paid Ex-Im so that it Rutland would not be exposed to the very shenanigans Shanghai Ruilan is engaged in at present: using the intricacies of a foreign legal system – and the expense associated with Rutland's participation in such a system – to avoid paying legitimate and undisputed debt.

However, with respect to exports in general and the Chinese market in particular, Rutland is faced with an even more drastic choice: if Rutland cannot count on Ex-Im to do what Rutland has paid for it to do, Rutland may have to forego exporting to the fastest growing region in the screen print market: China.

Rutland has been thankful for the existence of Ex-Im: without Ex-Im, Rutland would not have been able to grow as it has these past few years. However, Rutland's shareholders are not likely to continue to support Rutland's paying thousands of dollars of premiums to an insurer who does not pay the most basic of claims. Were that to occur, Ex-Im will have failed in its mission to "to turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy."

Semiconductor Manufacturing International Corporation
中芯国际集成电路制造有限公司
18 Zhang Jiang Rd., Pudong New Area, Shanghai 201203, China
中国上海浦东新区张江路18号　邮编：201203
Tel: 86-21-5080-2000　Fax: 86-21-5080-3070

April 1, 2005

The Honorable Phillip Merrill
Chairman and President
Export-Import Bank of the United States
811 Vermont Avenue N.W.
Washington, DC 20571
Via Fax (202-565-3513) and Overnight Delivery

Dear Chairman Merrill,

I write this letter to urge you to put Semiconductor Manufacturing International Corporation's (SMIC) $770 million loan application (the "Application") for a vote before the board (the "Board") of Export-Import Bank ("EX-IM"), as the Application is consistent with and furthers EX-IM's mission of "assist[ing] in financing the export of U.S. goods and services to international markets" and "turn[ing] export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy." SMIC has been negotiating with EX-IM for approximately six months regarding the Application and made numerous concessions in order to meet EX-IM's requirements, only to learn at the last minute, that the application had not even been placed onto the Board agenda in February. Any additional delays will force SMIC to purchase its manufacturing equipment from non-US vendors. SMIC is willing to re-submit its application in order to place the loan application before the board.

SMIC's commitment to our U.S. equipment manufactures is due to the quality and level of service provided by, along with our familiarity with, our American equipment vendors. Furthermore, the majority of our senior management team is American.

On March 17, 2005, House Speaker Dennis Hastert and Representative Donald Manzullo wrote you, urging you to schedule a vote on our loan application (See Appendix B: Item A). In a response to that letter addressed solely to Congressman Manzullo (See Appendix A) ("Merrill Response"), you indicated that the deal implicates a number of requirements under EX-IM's charter, including among other things, "an economic impact test, an additionality standard, and a reasonable assurance of repayment determination." Furthermore, you stated, "We concluded that the deal as currently structured was unlikely to satisfy our charter requirements and obtain board approval." We are not aware that any members of the EX-IM Board have decided to vote for or against the Application. Until and unless the Application is presented to the Board for a vote, we cannot see how one can conclude that the Application would be unlikely to obtain board approval.

The Application clearly indicates that SMIC has met all the criteria for the three tests that you have cited in the Merrill Response.

> *Economic Impact Test.* The economic impact test analyzes the impact that the proposed transaction will have on the U.S. economy. EX-IM conducted its own internal economic impact analysis and concluded that (i) our equipment purchases would yield a

economic impact analysis and concluded that (i) our equipment purchases would yield a positive impact of approximately $770 million on the U.S. balance of trade, (ii) "leading edge" semiconductors are not now in oversupply and (iii) the chips to be fabricated supported by this financing will not displace similar chips made in the U.S. Furthermore, as numerous members of Congress and governors have stated in their letters to you in support of a vote on the Application, the semiconductor equipment sector is a high-wage paying, high value-added net exporter for the United States. Thousands of high-wage paying jobs across the United States may be lost if the Application is not put before the Board.

It is important to note that the failure to vote on the Application may have broader negative implications to the U.S. equipment vendors. As Representative Barney Frank correctly noted, "As SMIC is the leading semiconductor foundry in China, its choice will likely influence the buying decisions of other companies in that nation." If SMIC were not able to continue its current partnership with U.S. equipment vendors, these other foundries also may direct their equipment purchases to non-U.S. equipment vendors. While one cannot quantify the size of this additional business opportunity which these other Chinese foundries represent, it is important to note that China represents one of the areas of largest growth for many U.S. equipment vendors. "Applied Materials and other U.S. equipment suppliers have worked incredibly hard over the past several years to establish a presence in the Chinese market, which is the semiconductor's fastest growing. [According to public reports, in 2004, Applied Materials generated over $1 billion in revenues, or approximately 13% of its overall revenues, from China, as compared to $436 million in 2003.] These American companies now face the prospect that all this hard work could be swept away by the parochial concerns of a few senators."[1]

Reasonable Assurance of Repayment Determination. EX-IM engaged its own independent consultant, who conducted due diligence on SMIC last November. This consultant concluded in its report, "To date, SMIC's performance in managing its cash needs has been very strong and the company has established very good disciplines in this area." *(IBS report: 1/5/05, 4.10)* In addition the report added, "An analysis of SMIC's financial performance shows that the company is performing effectively in a highly competitive market." *(IBS report: 1/5/05, 4.7)* and that "SMIC's projections are achievable, and the risks considered manageable." *(IBS report: 1/5/05, 1.13)*. At no point has EX-IM raised this "test" as a concern to SMIC.

Additionality Standard. "If this loan is not approved, foreign semiconductor manufacturers will simply buy their equipment from European, Japanese or Korean suppliers. The only ones to suffer will be the American suppliers."[2] If SMIC is not able to procure American equipment supported by EX-IM financing, SMIC will turn to the Japanese and European governments, with whom we have had extensive discussions. As SMIC has previously indicated to EX-IM, SMIC does not have access to long-term finance on reasonable terms for all of its needs and wishes to avoid excess reliance on funds from Chinese banks. The outcome of this Application will significantly impact SMIC's decision regarding its equipment suppliers for the next seven years. The total capital expenditures during this period will reach approximately $9 billion.

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[1] See letter from Texas Governor Rick Perry in a letter dated February 14, 2005 to The White House.
[2] See letter from Representative John R. Carter dated December 22, 2004.

The record indicates that the proposed transaction complies with the "statutory mandates" you have cited in your response to Congressman Manzullo. It is unclear what additional "statutory mandates" you believe SMIC must fulfill in order for our application to satisfy EX-IM's charter requirements and be put before the EX-IM Board.

Although SMIC has fulfilled the statutory mandates of the EX-IM charter, the Application has been withdrawn due to certain concerns raised by Senator Crapo of Idaho, who represents Micron Technology, Inc. ("Micron"). Senator Crapo of Idaho and Micron suggest that the Application would finance DRAM production and displace Micron's competitiveness in the global DRAM market.

SMIC submits that these concerns are without merit. First, SMIC does not compete directly with Micron because SMIC does not have its own products but manufacturers wafers on a contract basis for other semiconductor companies, some of which may compete with Micron in the DRAM market. EX-IM's own independent consultant, IBS, Inc. has stated that "SMIC will not produce large quantities of DRAMs and will not have a major impact on global supply" and concluded that "Micron is exaggerating the role of SMIC in DRAM capacity. The company to monitor in DRAM capacity is Samsung."[3] *(IBS report: 1/5/05 Appendix B, pg 4)*. SMIC's DRAM production for our customers represents, and will represent for the next five years, less than 1% of the global DRAM production.

Secondly, as EX-IM is well aware, SMIC has made significant concessions regarding the Application. In summary, SMIC has amended the Application to not seek financing support for any fabs with any DRAM production. In February, in an attempt to address Micron's concerns, we offered to Micron to limit our overall DRAM production to less than 25% of SMIC's total revenues. Micron has not responded to this offer. Attached is a concise timeline of our cooperation with EX-IM in order to meet charter criteria for EX-IM and address and accommodate Micron's concerns. *(See Attachment A: Chronology of SMIC Transaction)*

By now you are aware that many, including a **bi-partisan** group of senior government officials including House Speaker Dennis Hastert (R-IL), Senators Patrick Leahy (D-VT) and Barbara Boxer (D-CA), and the governors of Massachusetts, California and Texas have written in **support** of a vote on the Application. In fact, so far **forty-five representatives**, including the Speaker of the House, as well as **four senators** and **three governors** from all over the country have publicly written in support of SMIC's EX-IM application. *(See Appendix B)*.

These officials have made clear their overarching concern regarding the impact that your withdrawal of the Application will have on the U.S. economy and the U.S.' competitiveness in the semiconductor industry. "Failure to approve this loan and provide the necessary export financing will have a serious impact on the U.S. economy. American manufacturers would lose a sizeable equipment order to foreign competitors . . . resulting in the loss of global competitiveness."[4] Furthermore, the U.S. "manufacturers would be less able to modernize and develop new products and services, no doubt leading to overall revenue and job losses due to the shift of advanced technology development outside the U.S."[5] In that unfortunate situation, "The only ones to suffer will be the American suppliers."[6] In addition, "even more damaging is the very real possibility that U.S. equipment suppliers will be designed-out of future chip

[3] SMIC currently provides manufacturing services to Samsung but these services solely relate to logic products.
[4] See letter from Senator Kay Bailey Hutchinson dated February 18, 2005.
[5] See letter from Senator John Cornyn dated February 1, 2005.
[6] See letter from Representative Lamar Smith dated December 20, 2004.

manufacturing plants altogether."[7] I believe that the effects cited above will be some of the potential negative of not even putting the Application for a vote before the Board.

I also share the beliefs of some senators that EX-IM should not be at the mercy of one domestic company with whom SMIC does not compete and to whom SMIC has made numerous concessions. For example, in a letter dated March 14, 2005, Governor Mitt Romney of Massachusetts stated that "While it is our understanding that SMIC's application has passed technical review and financial vetting, intercession on behalf of a single domestic competitor has resulted in the Export-Import Bank indefinitely postponing the matter". He adds that EX-IM bank operations "should not impede free trade and the international growth of U.S. based companies." Congressman Randy Neugebaur, one of the signers of a letter written by the Texas Republican delegation on March 11, 2005 echoes Governor Romney's message writing, "In particular, we are concerned that EX-IM acted on the basis of questionable claims of injury offered by a single company rather than by examining the overall benefit to the U.S. economy." I also am concerned that your hope for this matter to be resolved through an "industry wide solution" means that all parties, including Micron must agree with the outcome, giving Micron a de-facto veto over EX-IM's Board agenda. In fact, the chronology of events during the first week of February shows that EX-IM did indeed allow Micron to exercise such veto power over EX-IM's agenda.

I would also note that your colleagues in various governmental agencies recently approved export control licenses for SMIC relating to research and development activities at the 65nm technology node. SMIC's receipt of these licenses is demonstrative proof that we face no export control issues and that we stand ready to purchase more high-tech equipment from the United States should EX-IM support this proposed transaction.

In closing, if it necessary to obtain a vote, SMIC will offer to re-submit a new loan application for a vote by the EX-IM board on a timely basis. I believe any objective look at the SMIC package would come to the conclusion that this proposal is consistent with and furthers the EX-IM mission. If the United States is serious about its commitment to competing around the world, Export-Import Bank should proceed with its consideration of the Application. Again, I strongly urge you to re-examine our application, giving appropriate consideration to the economic benefits it brings to the U.S. and in accordance to EX-IM's own procedures.

"It would be a travesty if a decision by [EX-IM] were responsible for the American semiconductor manufacturing industry losing out to its . . . competitors."[8]

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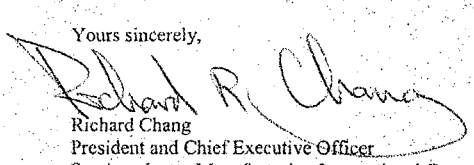
[7] See letter from Representative Anna G. Eshoo dated January 6, 2005.
[8] See letter from Representative Sherwood Boehlert dated March 24, 2005.

We look forward to hearing from you with your response.

Yours sincerely,



Richard Chang
President and Chief Executive Officer
Semiconductor Manufacturing International Corporation

Sworn Statement: *I, Richard Chang, solemnly attest that the information contained in this letter is true and accurate to the best of my knowledge and belief.*

Enclosures

Cc:
United States Export Import Bank Board Members
The Honorable April Foley (First Vice-President and Vice-Chair)
The Honorable Max Cleland (Board Member)
The Honorable Linda Conlin (Board Member)
The Honorable J. Joseph Grandmaison (Board Member)

Members of the House of Representatives
The Honorable J. Dennis Hastert (Illinois, 14th)
The Honorable Donald Manzullo (Illinois, 16th)

ATTACHMENT A

Chronology of SMIC Transaction

September 11, 2004 – Per EX-IM's request, SMIC provided not only documentation regarding our minimal DRAM production, but also a highly confidential detailed list of our company's DRAM shipment locations *(Email: 9/11/04 SMIC to EX-IM).*

September 15, 2004 – As a follow up to the documentation SMIC provided on September 11, 2004, EX-IM, Citigroup and SMIC held a conference call during which SMIC responded to the following questions that EX-IM had raised:

1) Will SMIC's expansion be a threat to any major U.S. DRAM players?
   - *Answer: No*
2) Will SMIC's expansion lead to overcapacity in the global foundry market?
   - *Answer: No*
3) Would expansion benefit U.S. economic interests?
   - *Answer: Yes*

During that call we concluded that SMIC's DRAM production **for our foundry customers** represents, and will represent for the next five years, less than 1% of the global DRAM production.

October 6, 2004 – After meeting with a senior EX-IM official, Citigroup relayed that EX-IM was very keen to support SMIC. Based on the email, the senior official "**feels very comfortable to at least get through the Board with the non-DRAM supported transaction** in a reasonable timeframe". In response, SMIC, on the first of many occasions, clarified its application request to state that it was not seeking a loan for Fab 4 in Beijing, which produced DRAM. Rather, SMIC would be seeking loans to fund equipment purchases for Fab 6 (a fab producing logic IC only) in Beijing and Fab 7 in Tianjin *(Emails: 10/6/04 Citibank to SMIC, 10/6/04 SMIC to Citibank response)*

October 8, 2004 – EX-IM had informed SMIC via Citibank that they were receptive in SMIC's idea of limiting the loan to support Fabs 6 and 7 and proposed that if these fabs were not going to produce more than 1% of the U.S. production of DRAM, then a deal could be done and they would be able to finance an even higher amount than the original $500 million USD. *(Email: 10/8/04 Citibank email to SMIC).*

October 11, 2004 - Citibank informed SMIC that based on their conversations with EX-IM, if SMIC can agree to the EX-IM proposed DRAM covenant (proposed in the above October 8th and 11th emails), EX-IM could favorably complete the Economic Impact Analysis by October 14th with a presentation to the EX-IM board in November. *(Email: 10/11/04: Citibank email to SMIC)*

October 18, 2004 – SMIC includes Fab 5 in Beijing, a fab committed to produce **logic wafers only** to the transaction and sends EX-IM a new equipment list *(Email: 10/18/04 SMIC to EX-IM)*

October 29, 2004 – SMIC already agreed with EX-IM's suggestion that fabs supported by EX-IM would not produce more than 1% of U.S. production of DRAM over the next 5 years and went even further by saying that DRAM would not be produced at Fab 7 in

Tianjin within 18 months after signing the loan agreement with EX-IM. *(Email: 10/29/04 Citibank to SMIC and SMIC financial model).*

November 4, 2004 – EX-IM informed SMIC that SMIC's "DRAM production (of fabs supported by EX-IM) arising from testing and "de minimus" production after testing appeared to be broadly in line with EX-IM's policy guidance". *(Email: 11/4/04EX-IM to SMIC)*

November 19-22, 2004 – Representatives from EX-IM and EX-IM's independent consultant, IBS, Inc. visited SMIC for due diligence in Beijing, Tianjin, and concluded with a visit to SMIC's Shanghai headquarters on the 21st-22nd.

Week of December 6, 2005 -- Both Micron CEO Steve Appleton and SMIC CEO Richard Chang visited EX-IM Bank offices. EX-IM's Staff informed SMIC representatives that Chairman Merrill relayed to Mr. Appleton that he could not consider Mr. Appleton's argument that, because "money is fungible", DRAM impacted from EX-IM Bank's loan should be considered despite the fact that loans went to logic and not DRAM facilities. Chairman Merrill further stated that he couldn't operate the bank if he had to consider Mr. Appleton's argument, because it would lead to an ever-increasing list of the impacts that would need to be considered. Before long, Ex-Im Bank would have to consider everything and eventually EX-IM Bank would have to shut down.

December 11, 2004 – EX-IM informed SMIC that the December 16 board date could not be met and promises only a brief delay in taking SMIC's application to the EX-IM board. *(Email: 12/11/04 EX-IM to SMIC)*

December 15, 2004 – EX-IM informed SMIC that consideration of the case would be delayed until January, to allow time for publishing a revised Federal Register Notice that Micron and its lobbyists have strongly urged EX-IM to post.

December 17, 2004 – Micron continued to insist that SMIC is a DRAM maker and a threat to their business. SMIC sent another email to EX-IM to clarify on this issue that SMIC's long-term business plan is to focus on logic production. In addition, all the tools sourced for the EX-IM financing are for **non-DRAM** production purposes only. *(Email: 12/17/04 SMIC to EX-IM)*

December 22, 2004 – Citigroup emailed SMIC saying that in their conversation with EX-IM Vice-Chair April Foley she **"stated that this transaction meets US EX-IM standards (referring mainly to the Economic Impact Analysis)"** and that she stated "that the transaction has 'pretty good probability' of being approved and that she thinks the Chairman is supportive." She further indicated that she is leaning "in favor" of approving the deal. *(Email: 12/22/04 Citibank to SMIC)*

January 5, 2005 – IBS finished its independent assessment on SMIC. The report concluded that by 2007, the time when SMIC's Fab 5 (financed by EX-IM) will be fully operational with "shortages re-emerging in 2007" *(IBS Report: 1/5/05, 4.2).* The report also concludes that "SMIC's projections are achievable, and the risks considered manageable." *(IBS report: 1/5/05, 1.13)* Concerning Micron's concern about SMIC's production of DRAM, IBS's report states **"SMIC will not produce large quantities of DRAMs and will not have a major impact on global supply"** and **"Micron is**

exaggerating the role of SMIC in DRAM capacity. The company to monitor in DRAM capacity is Samsung" *(IBS report: 1/5/05 Appendix B, pg 4)*

January 11, 2005 – SMIC agreed with EX-IM to an extremely tight covenant on our DRAM production in Fab 7 by promising not to manufacture more than 5,000 wafers per month or 15,000 wafers per quarter in 2005 and **no** DRAM production thereafter. *(Email: 1/11/05 SMIC to EX-IM)*

January 22, 2005 – Despite Fab 7's minimal production of DRAM, which was planned to phase out by the end of 2005, due to Micron's objections, EX-IM BANK Staff informed SMIC that the loan must **once again** be restructured by **taking out** Fab 7 in Tianjin from the loan application, thus creating an EX-IM guaranteed loan that would support no DRAM whatsoever of any kind. As a result, the Fabs being financed would include Fabs 5 and 6 in Beijing only. We were advised by EX-IM that by making this critical change to the loan application, we **removed the last major hurdle** in securing loan approval. *(Email: 1/22/05 SMIC to EX-IM).*

January 24, 2005 – SMIC wrote a letter to EX-IM as requested by EX-IM Vice-Chair April Foley once again addressing SMIC's DRAM production and that its business plan included DRAM production that would not exceed 25% of its revenues for the next five years. SMIC also committed that the financing support for Fabs 5 and 6 would be exclusively devoted to the production of **non-DRAM** products. *(Email: 1/24/05 SMIC to EX-IM, Letter attachment)*

January 26, 2005 – Citibank emailed SMIC regarding Micron's false allegations that SMIC is a "DRAM manufacturer", " 'dumping' DRAM in the spot market" and funds used for EX-IM financing will "free up capital for SMIC to finance their DRAM production". Consistent with statements made to Mr. Appleton of Micron in December 2004, the email stated that per EX-IM staff, Chairman Phillip Merrill is "against the argument of fungability as it is a very slippery slope for EX-IM and would call into question their entire mandate". *(Email: 1/26/05 Citibank to SMIC)*

January 28, 2005 – SMIC CEO Richard Chang met with EX-IM Chairman Phillip Merrill, Peter Saba, and Jeffrey Miller in Shanghai. SMIC believed that they have received the Chairman's support and according to Citibank, Chairman Merrill does not agree with Micron's argument. *(Email: 1/28/05 Citibank to SMIC)*

January 31, 2005 - SMIC COO Marco Mora in Washington D.C. met with EX-IM President Phillip Merrill and Board Members Linda Conlin and April Foley. The purpose of his meetings was to re-emphasize the importance of this transaction to the U.S. economy and to address Micron's allegations about SMIC's DRAM production. We were under the impression that Chairman Merrill, Vice-Chair Foley and Director Conlin were supportive of our application. At Chairman Merrill's urging and in order to support the transaction, Mr. Mora met with Senator Crapo of Idaho to discuss technical and cost barriers of converting Fabs 5 and 6 to DRAM production. *(Email: 2/1/05 Citibank to SMIC)*

Early February – SMIC were advised by EX-IM that Economic Impact Test results were **positive**. Excerpts from this **positive** conclusion included the following:

1) "leading edge" semiconductors are not in oversupply and are not likely to be in oversupply at the time these new semiconductors will first be sold;

2) The chips to be fabricated at Fabs 5 and 6 will not likely displace similar chips made in the U.S. and;

3) this transaction is likely to yield a positive impact of $769,689,000 on the U.S. balance of trade.

February 3, 2005 – Citibank notified SMIC that EX-IM was on track for a board date set for February 10, 2005. *(Email: 2/3/05 Citibank to SMIC)*

February 4, 2005 – In a telephone conference, EX-IM Staff informed SMIC and Citibank that he had been instructed by EX-IM senior management to learn whether another deal could be made with respect to DRAM. EX-IM Staff informed SMIC that Senator Crapo had threatened that, unless SMIC was willing to agree to exit the DRAM business altogether, if the SMIC application was set for Board on February 10, 2005, Senator Crapo would call a hearing. EX-IM Staff informed SMIC and Citibank that EX-IM senior staff preferred to avoid such hearing, and rather preferred to make a deal with SMIC, possibly for lower DRAM production.

SMIC decided not to make another deal, taking into consideration that the deal was already structured and re-structured so many times to first exclude finance for Fab 4, then to limit DRAM production at Fab 7 and then limit Fab 7 DRAM production even further, and finally to exclude finance for Fab 7 altogether. SMIC informs EX-IM Staff that it has no confidence that any deal will be the last deal.

February 7, 2005 – EX-IM staff phoned SMIC that our application would not likely proceed as a result of the voiced objections made by Senator Crapo of Idaho on behalf of Micron. EX-IM Staff informs SMIC that an attempt was made to convince Mr. Appleton of Micron that the SMIC deal as structured was in Micron's interests, but that Micron rejected this argument.

ATTACHMENT B: Appendices

Appendix A: March 21, 2005 Letter from EX-IM Chairman Phillip Merrill to Congressman Donald A. Manzullo (R-IL)

Appendix B: Congressional Letters written on SMIC and Equipment Suppliers behest

Item A: March 17, 2005 Co-signed letter from Speaker J. Dennis Hastert (R-IL) and Representative Donald A Manzullo (R-IL) to Phillip Merrill.

Item B: February 1, 2005 letter from Senator John Cornyn (R-TX) to Phillip Merrill.

Item C: February 14, 2005 letter from Senator Barbara Boxer (D-CA) to Phillip Merrill. *(Faxed copy, however, the original was sent out by her office)*

Item D: February 18, 2005 letter from Senator Kay Bailey Hutchison (D-CA) to Phillip Merrill

Item E: February 1, 2005 letter from Senator Patrick Leahy (D-VT) to Phillip Merrill

Item F: February 14, 2005 letter from Governor Rick Perry (R-TX) to Andrew Card, White House Chief of Staff supporting the SMIC EX-IM transaction.

Item G: March 2, 2005 letter from Governor Arnold Schwarzenegger (R-CA) to Phillip Merrill

Item H: March 14, 2005 letter from Governor Mitt Romney (R-MA) to Phillip Merrill

Item I: March 2, 2005 letter from 23 California members of the U.S. House of Representatives to Phillip Merrill.

Item J: March 11, 2005 letter from 16 Republican Texas members of the U.S. House of Representatives to Phillip Merrill.

Item K: March 8, 2005 co-signed letter from Representatives John Tierney (D-MA) and Barney Frank (D-MA, Ranking Member on the House Financial Services Committee) to Phillip Merrill.

Item L: March 24, 2005 letter from Rep. Sherwood Boehlert (R-NY and Chairman of the House Committee on Science) to Phillip Merrill.

Item M: Undated letter from Rep. Michael M. Honda (D-CA) to Phillip Merrill

Item N: December 20, 2004 letter from Rep. Lamar Smith (R-TX) to Phillip Merrill.

Item O: December 22, 2004 letter from Rep. John R. Carter (R-TX) to Phillip Merrill *(Faxed copy, however, the original was sent out by his office)*

Item P: January 6, 2005 letter from Rep. Anna Eshoo (D-CA) to Phillip Merrill

Item Q: January 28, 2005 letter from Rep. Zoe Lofgren (D-CA) to Phillip Merrill

PHILIP MERRILL
CHAIRMAN AND PRESIDENT

EXPORT-IMPORT BANK
OF THE UNITED STATES

March 21, 2005

The Honorable Donald A. Manzullo
Chairman
Committee on Small Business
United States House of Representatives
2361 Rayburn House Office Building
Washington, DC 20515

Re: Application of SMIC

Dear Mr. Chairman:

Thank you for your letter of Thursday, March 17. I appreciate your interest in the Semiconductor Manufacturing International Corporation (SMIC) application and your concern that SMIC receive a timely response from the Export-Import Bank (Ex-Im).

This application relates to a large, complex transaction that implicates a number of requirements under our charter, including, among other things, an economic impact test, an additionality standard, and a reasonable assurance of repayment determination. While our interest at Ex-Im is always to help U.S. exporters large and small, we must adhere to these statutory mandates.

The borrower, SMIC, indicated that it required a decision from Ex-Im over a month ago in early February or it would proceed with securing alternative financing. We concluded that the deal as structured was unlikely to satisfy our charter requirements and obtain Board approval. Consequently, we timely notified both SMIC and one of the primary exporters that the application would not be put on the Board agenda.

SMIC and the exporter both stated an intention to pursue an industry-wide solution to address any outstanding concerns related to our charter requirements. We remain open to considering such a new proposal if it is presented to Ex-Im.

Sincerely,

Philip Merrill

Philip Merrill

PHONE: (202) 565 3500 FAX: (202) 565-3513 EMAIL: PHILIP.MERRILL@EXIM.GOV
811 VERMONT AVENUE, N.W. WASHINGTON, D.C. 20571

Congress of the United States
Washington, DC 20515

March 17, 2005

The Honorable Philip Merrill
Chairman
Export-Import Bank of the United States
811 Vermont Avenue
Washington, DC 20571

Re Application of SMIC

Dear Chairman Merrill:

We are writing to urge you to place the Semiconductor Manufacturing International Corporation (SMIC) application on the Board of the Export-Import Bank's (Exim) agenda.

The SMIC application has been pending before Exim for many months. This is a long time for any company to wait for a decision from the Bank. It also is at odds with your stated intent to improve the Bank's services to its customers - to "make the culture of the Bank more one of customer service," and to "process[]... most of [the Bank's] transactions in 20 business days or less." *Hon. Philip Merrill, Speech to the Washington Export Council, September 24, 2004.*

We commend your understanding that "[i]n our fast-paced global economy, rapid response is critical for success," *Id.* In this case, however, the Bank has refused to even schedule a vote on the SMIC application.

Accordingly, we are writing to urge that the Exim Bank schedule a vote on the SMIC application as soon as possible.

Sincerely,

J. Dennis Hastert
Speaker

Donald A. Manzullo
Member of Congress

JOHN CORNYN
TEXAS

United States Senate
WASHINGTON, DC 20510-4305

February 1, 2005

Mr. Phillip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571-0002

Dear Mr. Merrill:

I am writing today concerning the financing application for $1.2 billion in U.S. semiconductor manufacturing equipment to dedicated foundries in China. Recognizing the significant economic benefits this deal would provide—not only to our nation's semiconductor equipment manufacturers and their Texas based employees, but also to the U.S. economy as a whole—I support the application's approval.

Our economy benefits greatly from the integrated global supply chain, which enables the production of high quality, low cost technology products. It is imperative that American companies and consumers continue to benefit from the productivity gains realized through the relationship between U.S. intellectual property and technology manufacturing operations in China.

China is the world's fastest growing semiconductor market and represents a substantial business opportunity for America's semiconductor equipment manufacturers. Given that more than 70% of sales by our semiconductor equipment and materials industry are exports, international markets like China are of strategic importance to the growth and competitiveness of the U.S. industry.

The United States—home to four of the world's top ten semiconductor equipment companies—has been able to maintain its leading position in the global semiconductor equipment market by effectively responding to market conditions and by appropriately investing resources in technology development to meet the needs of global customers. However, staying at the leading-edge of the semiconductor industry—and maintaining competitiveness with rivals in Japan, Europe, and Korea—requires continuous investment in research and development at levels that can only be realized through selling in the global marketplace. Therefore, the $1.2 billion financing deal will be essential in providing our semiconductor equipment companies with access to China's growing list of foundries.

The exports will help ensure American competitiveness, while at the same time enabling our nation's economy to upgrade its technological capabilities and build its workforce. Failure to provide the necessary export financing will have serious repercussions for U.S. semiconductor equipment manufacturers and our economy. Not only would American

manufacturers lose sizable equipment orders to foreign competitors, but they would also be branded as unreliable suppliers. The resulting loss in global competitiveness would mean that our equipment manufacturers would be less able to modernize and develop new products and services, no doubt leading to overall revenue and job losses due to the shift of advanced technology development outside the U.S.

Considering that the role of the Export-Import Bank of the United States is to help American companies take advantage of export opportunities that support economic growth and job creation, I recommend that the $1.2 billion financing application be approved in a timely manner. Please do not hesitate to contact me should you like to discuss the matter further.

Sincerely,

JOHN CORNYN
United States Senator

February 14, 2005

Mr. Philip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571-1992

Dear Mr. Merrill:

I write to support an export financing application to the EX-IM Bank that would facilitate the sale of nearly $800 million in American-made semiconductor tools to SMIC, a semiconductor "foundry" customer in China. The Silicon Valley Chamber of Commerce and the Silicon Valley Manufacturing Group each wrote a similar letter to you earlier this week.

As you know, in 2004, the United States reached a record $162 billion trade deficit with China. We should be doing everything we can to change that imbalance and increase our exports to China.

California is home to a substantial part of the semiconductor equipment industry. California-based companies would benefit enormously from this export opportunity. We cannot cede the Chinese markets to competitors from Japan and other countries. Exports account for upwards of 70 percent of sales for American semiconductor equipment companies, and this sector is one of the few to run a trade surplus in terms of U.S.-China trade.

I support EX-IM's mission "to assist in financing the export of U.S. goods and services to international markets" and to turn "export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy." I support this application and look forward to your response.

Sincerely,

Barbara Boxer
United States Senator

FEB. 18. 2005 1:11PM NO. 898 P. 2

KAY BAILEY HUTCHISON
TEXAS

COMMITTEES:
APPROPRIATIONS
COMMERCE, SCIENCE, AND TRANSPORTATION
RULES AND ADMINISTRATION
VETERANS' AFFAIRS

United States Senate

WASHINGTON, DC 20510-4304

February 18, 2005

Mr. Phillip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, D.C. 20571-0002

Dear Mr. Merrill:

I am writing today in support of an Export-Import Bank financing application by Semiconductor Manufacturing International Corporation (SMIC). This $800 million deal would provide significant economic benefits to our nation's semiconductor equipment manufacturers and their Texas based employees.

For many years our domestic industry has faced strong competition from Japanese, Korean and European companies. Export financing plays an important role in ensuring American companies and consumers continue to benefit from the relationship between U.S. intellectual property and technology manufacturing operations in China.

China is the world's fastest growing semiconductor market and is a considerable business opportunity for America's semiconductor equipment manufacturers. More than 70% of sales by the U.S. semiconductor equipment and materials industry are exports, making markets like China important to the expansion and competitiveness of our domestic industry.

Failure to approve this loan and provide the necessary export financing will have a serious impact on the U.S. economy. American manufacturers would lose a sizable equipment order to foreign competitors and risk being considered unreliable suppliers resulting in the loss of global competitiveness.

The role of the Export-Import Bank of the United States is to help American companies "turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy." I ask that the SMIC financing application be processed in a timely manner. Please do not hesitate to contact me should you have any questions or comments.

Sincerely,

Kay Bailey Hutchison

Kay Bailey Hutchison

PATRICK LEAHY
VERMONT

COMMITTEES:
AGRICULTURE, NUTRITION, AND FORESTRY
APPROPRIATIONS
JUDICIARY

United States Senate
WASHINGTON, DC 20510-4502

February 1, 2005

The Honorable Phillip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571

Dear Chairman Merrill:

The Export-Import Bank is currently considering an application to provide a $1.2 billion loan guarantee to Semiconductor Manufacturing International Corporation (SMIC) to facilitate the export of American-made semiconductor manufacturing equipment to a foundry in China. The proposed loan guarantee appears to be a strong fit with Ex-Im Bank's mission to assist in financing the export of U.S. goods and services and turn export opportunities into sales that help maintain and create U.S. jobs.

It is my understanding that in addition to the direct benefit to U.S. semiconductor equipment makers, approval of this $1.2 billion package will have an indirect benefit to U.S. chip manufacturers. Approving the loan guarantee will help U.S. manufacturers sustain jobs and investment in Virginia, North Carolina, Vermont, and California. These high-tech jobs and investment in advanced semiconductor production and research are of great importance to economic development efforts in my state, and I respectfully request that you take these jobs into account in conducting your evaluation of the proposed loan guarantee.

Thank you in advance for your consideration of this request.

Sincerely,

Patrick Leahy

PATRICK LEAHY
United States Senator

PJL/gre

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PRINTED ON RECYCLED PAPER

OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

February 14, 2005

Mr. Andrew Card
Chief of Staff
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Card:

I write you urgently today to address the most important issue for the U.S. semiconductor equipment industry: an Export-Import Bank financing application by SMIC, a Chinese semiconductor "foundry," for nearly $800 million to purchase U.S. semiconductor manufacturing equipment.

This application faces opposition and threats from U.S. Senators representing Idaho and Utah, who are acting at the behest of a single Idaho company (Micron) that alleges SMIC might be a competitor in the memory chip business. This deal represents a substantial export opportunity – $5 billion over the next five years – for the U.S. equipment sector in general and for Texas manufacturer Applied Materials in particular.

This is about jobs in Texas, as well as Colorado, California and other states across the country. SMIC has made clear its preference for buying American equipment. At the same time, it is in a competitive business, and has made it equally clear that the company will accept a financing package offered by Japan and will buy Japanese tools to equip its manufacturing plants. When the competing technology is equivalent, financing makes all the difference. The U.S. equipment sector will be the only loser from this outcome, now and possibly forever, with good-paying U.S. jobs lost in the process.

Failure to support U.S. toolmakers has implications beyond this particular application. Applied Materials and other U.S. equipment suppliers have worked incredibly hard over the past several years to establish a presence in the Chinese market, which is the semiconductor industry's fastest growing. These American companies now face the prospect that all this hard work could be swept away by the parochial concerns of a few senators.

POST OFFICE BOX 12428 AUSTIN, TEXAS 78711 (512) 463-2000 (VOICE)/DIAL 7-1-1 FOR RELAY SERVICES

Mr. Andrew Card
February 14, 2005
Page 2

Applied Materials and other U.S. toolmakers typically export nearly 80 percent of their products. Their markets are global and their sales abroad fund research and development that keep U.S. companies ahead of foreign competition. For example, Applied spent just a shade less than $1 billion on R&D last year.

The Export-Import Bank's mission is to help companies "turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy." I believe any objective look at the SMIC package would come to the conclusion that this proposal matches perfectly the Exim Bank's mission. If the United States is serious about its commitment to competing around the world, Export-Import Bank should be allowed to proceed with its consideration of the SMIC package.

Sincerely,

Rick Perry

Rick Perry
Governor

RP:tgp

cc: The Honorable Kay Bailey Hutchison
The Honorable John Cornyn
The Honorable John Carter
The Honorable Tom DeLay
The Honorable John W. Snow
The Honorable Carlos M. Gutierrez
Export-Import Bank Board of Directors

GOVERNOR ARNOLD SCHWARZENEGGER

March 2, 2005

Mr. Philip Merrill
Chairman
Export-Import Bank of the United States
811 Vermont Avenue, Northwest
Washington, DC 20571

Dear Mr. Merrill,

I am writing to you to express my concern over the possible denial of an Export-Import Bank (Ex-Im) export financing application on the basis of pressure from a small handful of lawmakers on behalf of a single company. The application in question involves the purchase of nearly $800 million worth of American semiconductor manufacturing tools by Shanghai-based SMIC and represents a significant opportunity for the American semiconductor equipment industry. Thousands of jobs in California and other states depend upon this export opportunity.

This application, which could affect future purchases of up to $5 billion in American-made semiconductor tools by SMIC over the next five years, fits squarely with Ex-Im's mission statement "to assist in financing the export of U.S. goods and services to international markets." It is very similar to a $652 million deal with a Singapore-based "foundry" manufacturer that your organization approved last November.

I have learned that JABIC, Japan's equivalent of Ex-Im, has offered SMIC financing to purchase Japanese semiconductor manufacturing tools. SMIC has made it clear that it will grow its foundry business; the only issue in question is whose equipment it will buy. I hope you believe, as I do, that they should be buying equipment made in the United States by American workers. The semiconductor equipment sector – which is highly concentrated in California – is a high-wage and value-added net exporter for the United States.

Accordingly, I strongly urge you to reexamine this export finance application and judge the application on its economic benefits to the United States and on its merits in accordance with Ex-Im's own procedures rather than upon any other considerations.

Sincerely,

Arnold Schwarzenegger

STATE CAPITOL • SACRAMENTO, CALIFORNIA 95814 • (916) 445-2841

OFFICE OF THE GOVERNOR

March 14, 2005

Mr. Philip Merrill
Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, D.C. 20571

Dear Mr. Merrill:

I am writing to you to express my concern on a matter that threatens immediate and long-term prospects for one of Massachusetts' significant industrial manufacturing sectors, the semiconductor equipment industry. As you are aware, Semiconductor Manufacturing International (SMIC), a New York Stock Exchange traded corporation, has applied to the Export-Import Bank for a nearly $800 million loan guarantee to purchase U.S. semiconductor manufacturing equipment. Unfortunately, the Bank has recently withdrawn the application from consideration. I would urge that your board reverse that decision and take timely action on this worthy proposal.

In not approving the application, the Export-Import Bank is acting contrary to its defined mission, "to assist in financing the export of U.S. goods and services to international markets." While it is our understanding that SMIC's application has passed technical review and financial vetting, intercession on behalf of a single domestic competitor has resulted in the Export-Import Bank indefinitely postponing the matter. While I recognize that the ownership of multi-national corporations can complicate the analysis of a loan's impact on American firms, and am dedicated to enhancing the Commonwealth's ability to attract high-skill employers, the Export-Import Bank's operations should not impede free trade and the international growth of U.S.-based companies. My understanding of the SMIC application convinces me that the loan would balance these concerns appropriately and have a net positive impact on the American economy.

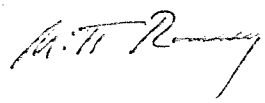
The longer term issue is one of American companies setting industry standards in the global marketplace for semi-conductor manufacturing equipment. If SMIC cannot purchase its manufacturing equipment in the United States, which it has done in the past, then it

Mr. Philip Merrill
March 14, 2005
Page 2

will obtain such equipment from sources in other countries. The Japanese counterpart to the U.S. Export-Import Bank is actively pursuing this business, as are their counterparts in Germany and France. If we lose the business of a large company such as SMIC, other companies in China, and around the world, will inevitably be obliged to accept the technical standards of our competition. The current prevalence of U.S. technical standards is a significant competitive advantage for American companies in the global marketplace. The abdication of this advantage would have negative repercussions as facilities around the world switch to non-U.S. standards and jeopardize the export of American chip manufacturing equipment to all markets. The potential loss in U.S. sales to SMIC alone over the next five years is estimated to be over $5 billion.

In Massachusetts, Varian Semiconductor Equipment Associates has over 1,300 employees in high-skill jobs that depend on global export markets. Varian, which is now selling products worth $25 million per year to SMIC, would lose an estimated $125 million over the next five years. The Export-Import Bank can protect these jobs, along with thousands more across America, by simply fulfilling its statutory mission and applying the appropriate standards to the review of SMIC's application. If the U.S. is serious about its commitment to competing around the world, Export-Import Bank should proceed with its consideration of the SMIC package.

Sincerely,



Mitt Romney
Governor

cc:

The Honorable Richard Shelby, Chairman, Senate Committee on Banking, Housing and Urban Affairs
The Honorable Paul Sarbanes, Ranking Member, Senate Committee on Banking, Housing and Urban Affairs
The Honorable Michael Crapo, Chairman, Senate Banking, Housing and Urban Affairs Subcommittee on International Trade and Finance
The Honorable Evan Bayh, Ranking Member, Senate Banking, Housing and Urban Affairs Subcommittee on International Trade and Finance
The Honorable Michael Oxley, Chairman, House Committee on Financial Services
The Honorable Barney Frank, Ranking Member, House Committee on Financial Services
The Honorable Deborah Pryce, Chairwoman, House Financial Services Subcommittee on Domestic and International Monetary Policy, Trade and Technology
The Honorable Carolyn Maloney, Ranking Member, House Financial Services Subcommittee on Domestic and International Monetary Policy, Trade and Technology
The Honorable Edward Kennedy, United States Senator
The Honorable John Kerry, United States Senator
The Honorable John F. Tierney, United States Congressman

Congress of the United States
House of Representatives
Washington, DC 20515

March 2, 2005

Mr. Philip Merrill
Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571

Dear Chairman Merrill:

We write to express our serious concern about the Export-Import Bank's recent decision to withdraw consideration of an export financing application. It involves the purchase of nearly $800 million worth of American semiconductor manufacturing tools by Shanghai-based SMIC.

We consider the purpose of the Export-Import Bank to be clear: to finance and promote the export of U.S. goods and services. We believe that Ex-Im's failure to consider this application without reference to its overall benefit to our economy and to the thousands of jobs in California (and in other states) that are at stake, is a clear departure from the Ex-Im Bank's core mission.

This application, which could influence future purchases of up to $5 billion in American-made semiconductor tools by SMIC over the next five years, seems precisely the type of deal for which Ex-Im was created. We have learned that JABIC, Japan's equivalent of Ex-Im, has offered SMIC financing to purchase Japanese semiconductor manufacturing tools. SMIC has made clear that it will grow its foundry business; the only issue in question is whose equipment they will buy. We believe they should be buying equipment made in the United States by American workers, not equipment made by workers in Japan, Korea or Europe. The semiconductor equipment sector – which is highly concentrated in California – is a high-wage paying, high value-added, net exporter for the United States. And we want to ensure that it can remain globally competitive and maintain the leading market position in China that American suppliers have worked so hard to attain.

We expect you to take seriously Ex-Im's mission statement: "Ex-Im Bank's mission is to assist in financing the export of U.S. goods and services to international markets. Ex-Im Bank enables U.S. companies — large and small — to turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy."

Accordingly, we strongly urge you to re-examine this application, giving appropriate consideration to the economic benefits it brings to the U.S. and in accordance with Ex-Im's own procedures.

Sincerely,

cc: Chairman Mike Oxley, House Financial Services Committee
Chairwoman Deborah Pryce, House Financial Services Subcommittee on Domestic and International Monetary Policy, Trade and Technology

David Dreier
Jerry Lewis
George Miller
Tom Lantos
Ken Calvert
Richard Pombo
Joe Baca
Ellen Tauscher
Barbara Lee
Grace F. Napolitano
Sam Farr
Juan A. Lozano
Pete Stark

Congress of the United States
Washington, DC 20515

March 11, 2005

Mr. Philip Merrill
Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571

Dear Chairman Merrill,

Your recent decision to shelve consideration of an export financing application for approximately $770 million worth of American-made semiconductor manufacturing tools is of great concern to us.

This deal, involving a loan guarantee application from Semiconductor Manufacturing International Corporation ("SMIC"), represents an enormous opportunity for thousands of high-tech workers in Texas. Conversely, rejection of this deal could lead to the unnecessary loss of several hundred high-paying jobs in Texas and threatens the entire U.S. semiconductor equipment industry. Moreover, the Export-Import Bank's ("Ex-Im") actions affect not only this proposed transaction, but also jeopardize up to $5 billion in additional export sales to SMIC over the next five years.

We remind you that Ex-Im's purpose is to facilitate the export of American goods and services. SMIC's application appears to fit precisely the criteria set out by Ex-Im. Accordingly, we are hard-pressed to understand how Ex-Im could approve an almost identical $652 million package in November 2004, yet sidetrack this proposal barely three months later. In particular, we are concerned that Ex-Im acted on the basis of questionable claims of injury offered by a single company rather than by examining the overall benefit to the U.S. economy.

SMIC has stated clearly that it will go forward with its growth plans and they have indicated their preference for buying American-made tools to equip their factories. Ex-Im's actions throw this into doubt and could very well lead to the loss of this sale and future market share to competitors in Japan, Korea or Europe. American semiconductor equipment companies have achieved market-leading positions in China and elsewhere around the world because of the hard work and dedication of workers in Texas and elsewhere. Ex-Im should be supporting, not thwarting, U.S. exports and the jobs that go with them.

Accordingly, we strongly urge you to place this application back on the Export Import Bank's agenda as soon as possible and to allow expeditious consideration of this application on its merits and in accordance with Ex-Im's own standard procedures.

Sincerely,

cc: Chairman Mike Oxley, House Financial Services Committee
Chairwoman Deborah Pryce, House Financial Services Subcommittee on Domestic and International Monetary Policy, Trade and Technology
The White House
U.S. Department of Commerce
Office of the U.S. Trade Representative

Congress of the United States
Washington, DC 20515

March 8, 2005

Mr. Philip Merrill
Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571

Dear Chairman Merrill:

We are writing to express our concern about the Export-Import Bank's recent decision to withdraw consideration of an export financing application involving the purchase of nearly $800 million worth of American semiconductor manufacturing tools by Shanghai Manufacturing International Corporation (SMIC).

We believe that this loan is consistent with the stated mission of the Export-Import bank, to finance and promote the export of U.S. goods and services to international markets. In Massachusetts and in other states across the country where semiconductor equipment is manufactured, the approval of this loan could truly "turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy."

We have learned that JABIC, Japan's equivalent of Ex-Im, has offered SMIC financing to purchase Japanese semiconductor manufacturing tools. SMIC has made clear that it will grow its foundry business; the only issue in question is whose equipment they will buy.

We believe that SMIC should be buying equipment made in the United States by American workers. The semiconductor equipment sector is a high-wage paying, high value-added, net exporter for the United States, and we want to ensure that it can remain globally competitive. As SMIC is the leading semiconductor foundry in China, its choice will likely influence the buying decisions of other companies in that nation. Additionally, since future fabrication systems are keyed to the specific type of equipment initially selected, it is likely that whomever gets the initial sale will obtain the follow-on sales, which SMIC alone anticipates could be $9 billion between 2005 and 2011.

Accordingly, we strongly urge you to re-examine this application, giving appropriate consideration to the economic benefits it brings to the U.S. and in accordance with Ex-Im's own procedures.

We appreciate your consideration, as well as your prompt reply on this important issue.

Sincerely,

John F. Tierney
Member of Congress

Barney Frank
Member of Congress

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SCIENCE
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http://www.house.gov/science/welcome.htm

March 24, 2005

Mr. Philip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571-0002

Dear Mr. Merrill:

I am writing to express my concern about the Export-Import Bank's recent decision to withdraw consideration of an export financing application involving the purchase of American semiconductor manufacturing tools by the Semiconductor Manufacturing International Corporation (SMIC).

The job of the Export-Import Bank is to strengthen U.S. competitiveness and to create and retain jobs in the U.S. That is especially important in the high technology sector, which provides good jobs and which must constantly work to maintain its competitive edge. The Congress, often led by the Science Committee, has passed numerous bills in recent years to enable high technology industry to thrive and advance in the U.S. Indeed, the federal government has invested in the semiconductor manufacturing industry over the past two decades precisely to ensure that it would be able to win contracts with firms like SMIC. This work should not be undercut by another arm of the government giving in to parochial concerns.

I understand that your Japanese counterpart has offered SMIC financing to purchase Japanese semiconductor manufacturing tools. It would be a travesty if a decision by your bank were responsible for the American semiconductor manufacturing industry losing out to its Japanese competition.

I hope you will reexamine this application and take appropriate action.

Sincerely,

SHERWOOD BOEHLERT
Chairman

SB:djg

WASHINGTON OFFICE

DISTRICT OFFICE:
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Fax: (408) 558-8065
(408) 865-4715

Congress of the United States
House of Representatives

Mr. Philip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571-0002

Dear Mr. Merrill:

As the Ex-Im Bank considers the application by Semiconductor Manufacturing International Corporation (SMIC) to finance the export of $1.2 billion of American-made semiconductor manufacturing tools, I write to call your attention to the importance of this deal to the semiconductor equipment industry. This deal, which will facilitate the purchase of U.S.-made tools by SMIC, means hundreds of jobs for equipment suppliers in the Silicon Valley area. While modest, this package also represents a much-needed step in reducing our massive trade deficit with China. The SMIC application is, I believe, an excellent example of the type of undertaking for which the Ex-Im Bank was created.

For the semiconductor equipment toolmakers in my district, there are implications well beyond this deal itself. Approval of this package will give American suppliers a leg up in future sales of equipment to SMIC, as these U.S.-supplied tools become the "tools of record." Conversely, failure to support U.S. exporters and allowing suppliers from Japan, Europe, Korea or elsewhere to capture this market could likely lead to U.S. suppliers being viewed as unreliable and very possibly designed-out of future manufacturing plants altogether.

More than 70 percent of the world's semiconductor equipment market is outside the United States; it is these export sales that enable U.S. firms to make the research and development investments that keep us technologically competitive in this high value-added and knowledge-intensive industry. You noted this yourself in your recent comment regarding Ex-Im's November 15 approval of Singapore-based Chartered Semiconductor's $652 million loan guarantee, "It is important for Ex-Im Bank to help U.S. manufacturers of high-technology equipment to remain competitive in key markets." I agree completely with you on this.

The application before you conforms well with Ex-Im's stated mission "to assist in financing the export of U.S. goods and services to international markets" and turn "export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy." I respectfully request that you give this application your full and timely consideration.

Sincerely,

MICHAEL M. HONDA
Member of Congress

LAMAR SMITH
21ST DISTRICT, TEXAS

JOHN W. LAMPMANN
CHIEF OF STAFF

2231 RAYBURN HOUSE OFFICE BUILDING
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http://lamarsmith.house.gov

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY
CHAIRMAN, SUBCOMMITTEE ON COURTS, THE INTERNET AND INTELLECTUAL PROPERTY
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS

COMMITTEE ON SCIENCE
SUBCOMMITTEE ON SPACE AND AERONAUTICS
SUBCOMMITTEE ON RESEARCH

SELECT COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON CYBERSECURITY, SCIENCE AND RESEARCH & DEVELOPMENT
SUBCOMMITTEE ON INFRASTRUCTURE AND BORDER SECURITY
SUBCOMMITTEE ON INTELLIGENCE AND COUNTERTERRORISM

December 20, 2004

Mr. Philip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571-0002

Dear Mr. Merrill,

I am writing about the Export-Import Bank ("Ex-Im") financing application by Semiconductor Manufacturing International Corporation (SMIC). This $1.2 billion deal represents a substantial export opportunity for America's semiconductor equipment sector and for the many Austin-area employees that work in this industry.

For years our domestic industry has faced strong competition from Japanese, European and now Korean companies. Export financing will play an increasingly important role in helping U.S. suppliers in the years ahead as the global chip manufacturing industry expands.

Alternatively, failure to approve this loan would in no way benefit domestic semiconductor manufacturers. If this loan is not approved, foreign semiconductor manufacturers will simply buy their equipment from European, Japanese, or Korean suppliers. The only ones to suffer will be American suppliers.

The Ex-Im Bank's mission is to help companies "turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy." I believe any objective look at the SMIC package would come to the conclusion that this deal matches the Bank's mission.

Thank you for your consideration of this matter.

Sincerely,

Lamar Smith

Lamar Smith
Member of Congress

PLEASE REPLY TO:

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FAX: (512) 402-9867

☐ 1009 JUNCTION HIGHWAY
KERRVILLE, TX 78028
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FAX: (830) 895

December 22, 2004

Mr. Philip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, DC 20571-0002

Dear Mr. Merrill:

I am writing regarding the Export-Import Bank (Ex-Im) financing application by Semiconductor Manufacturing International Corporation (SMIC). This $1.2 billion deal represents a substantial export opportunity for America's semiconductor equipment sector and for the many Austin-area employees that work in this industry.

For years our domestic industry has faced strong competition from Japanese, European and now Korean companies. Export financing will play an increasingly important role in helping U.S. suppliers in the years ahead as the global chip manufacturing industry expands.

Alternatively, failure to approve this loan would in no way benefit domestic semiconductor manufacturers. If this loan is not approved, foreign semiconductor manufacturers will simply buy their equipment from European, Japanese, or Korean suppliers. The only ones to suffer will be American suppliers.

The Ex-Im Bank's mission is to help companies "turn export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy." I believe that the SMIC package matches the Bank's mission.

Thank you for your consideration of this matter.

Sincerely,

X

John R. Carter

Congress of the United States
House of Representatives
Washington, D.C. 20515

Anna G. Eshoo
Fourteenth District
California

January 6, 2005

Mr. Philip Merrill, President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, D.C. 20571

Dear Mr. Merrill,

As the Export-Import Bank considers the application to finance the export of $1.2 billion of American-made semiconductor manufacturing tools to China, I write to call the Bank's attention to the importance of this to the domestic semiconductor equipment industry. This financing will facilitate the purchase of U.S.-made tools by the Semiconductor Manufacturing International Cooperation (SMIC), which in turn means hundreds of jobs for equipment suppliers in Silicon Valley and elsewhere. While modest, this package could represent a much-needed step in reducing our massive trade deficit with China.

For the semiconductor equipment toolmakers in my district, this transaction has implications well beyond this particular deal. Approval of this package will give American suppliers a leg up in future sales of equipment to SMIC, as these U.S.-supplied tools become the "tools of record." Conversely, failure to support U.S. exporters and allowing suppliers from Japan, Europe, Korea or elsewhere to capture this market could likely lead to American suppliers being viewed as unreliable. Even more damaging is the very real possibility that U.S. equipment suppliers will be designed-out of future chip manufacturing plants altogether. Such an outcome would be devastating to overall U.S. competitiveness.

More than 70 percent of the world's semiconductor equipment market is outside the United States. It is these export sales that enable U.S. firms to make the research and development investments that keep us technologically competitive in this high value-added and knowledge-intensive industry. You noted this in your recent comment regarding the Bank's November 15th approval of Singapore-based Chartered Semiconductor's $652 million loan guarantee: "It is important for Ex-Im Bank to help U.S. manufacturers of high-technology equipment to remain competitive in key markets."

I agree wholeheartedly with you on this.

In weighing the SMIC application, I urge the Bank to heed its own mission statement "to assist in financing the export of U.S. goods and services to international markets" and to turn "export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy."

Thank you for your attention to this critical issue and I look forward to your timely response.

Sincerely,

Anna G. Eshoo
Member of Congress

ZOE LOFGREN

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY
SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

COMMITTEE ON SCIENCE
SUBCOMMITTEE ON ENVIRONMENT, TECHNOLOGY, AND STANDARDS
SUBCOMMITTEE ON RESEARCH

SELECT COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON CYBERSECURITY, SCIENCE AND RESEARCH & DEVELOPMENT, RANKING MEMBER
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Congress of the United States
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January 28, 2005

Mr. Philip Merrill
President and Chairman
Export-Import Bank of the United States
811 Vermont Avenue, NW
Washington, D.C. 20571-0002

Dear Mr. Merrill:

I am writing to express my support for the loan guarantee application submitted by Semiconducter Manufacturing International Corporation (SMIC). As you know, approval allows the export of $1.2 billion of American-made semiconductor manufacturing tools and the creation of hundreds of jobs in my home of Silicon Valley. It will also help American equipment suppliers compete for future sales, as their tools become the "tools of record" for SMIC.

More than 70 percent of the world's semiconducto. equipment market is currently located outside the United States. This means that American manufacturers must remain globally competitive. Failure to support our manufacturers will allow suppliers from Japan, Europe, Korea and elsewhere to gain a foothold in emerging markets like China.

I support SMIC's application because I believe that it would support the Ex-Im Bank's stated mission "to assist in financing the export of U.S. goods and services to international markets" and turn "export opportunities into real sales that help to maintain and create U.S. jobs and contribute to a stronger national economy."

Thank you for your time and your thoughtful consideration.

Very truly yours,

ZOE LOFGREN
Member of Congress