



Leo W. Gerard
International President

March 29, 2006

Honorable Richard C. Shelby, Chairman
Honorable Paul S. Sarbanes, Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510

VIA FAX

Dear Senators:

I am writing to urge that the Committee on Banking, Housing, and Urban Affairs engage in a comprehensive rewrite of the underlying statutory authority regarding transactions that are subject to review by the Committee on Foreign Investment in the United States (CFIUS). The statutory review must not be limited to simply who chairs and who sits on CFIUS, but also must address the questions of what transactions are subject to review by the Committee and the need for adequate oversight of these transactions.

Clearly, the recent proposed sale of port and terminal facilities to Dubai Ports Worldwide, an United Arab Emirates state-owned company, has increased public attention and scrutiny of the important role that CFIUS plays. The overwhelming opposition of Congress reflects the concerns raised by millions of Americans that their safety and security are being auctioned off to support free trade ideology and foreign policy interests.

Just this past week we learned that the State Department has contracted for more than 15,000 computers to be deployed in its offices all across the globe to Lenovo, a Chinese company that has significant ownership held by government entities. Security concerns triggered last year during Lenovo's purchase of IBM's PC division resulted in a full-scale investigation and amendments to the transaction. Yet, just a year later, the State Department appears ready to ignore these concerns and open up their operations and our nation's secrets to potential espionage activities of the Chinese.

Investigating a transaction is not synonymous to opposing the transaction. The skyrocketing trade deficit that the Bush Administration has presided over has resulted in ever increasing dollars flowing to other countries. Ultimately, we must deal with this deficit hemorrhage: but we must do so by expanding U.S. exports and strengthening our own economy, not in bidding away our future and our security.

National and homeland security interests must never be treated as secondary issues.

CFIUS is only a Committee of Executive Branch appointees. At the end of the day, it is the President who defines the direction and scope of the CFIUS review. Because the President has admitted that he has not been aware of these transactions or exercising the proper authority and oversight of our security interests, it is vital that Congress amend the statute and define the standards by which controlling interests in our nation's assets will be reviewed.

Unfortunately, these are not the only cases where U.S. security interests were ignored by CFIUS. Magnequench, the maker of neodymium-iron-boron (NdFeB) – magnets used in the guidance system of "smart bombs" was approved for sale by CFIUS to a Chinese company which operated under the control of the State Council, one of the major organs of the Chinese government. These smart bombs are one of the principal tools in our nation's arsenal that have been used in Iraq, Bosnia and Afghanistan. Their effectiveness, and their vital place in our arsenal, are unquestioned.

This sale transferred the technology and the production equipment to this Chinese company. Despite original promises approved by CFIUS as part of the transaction that the production equipment and jobs were not to be moved out of the U.S., those transfers did, in fact happen. The underlying transaction should never have been approved in light of the critical security interests that were at stake. But, the eventual transfer of jobs, production equipment and technology show that any promises made to CFIUS are empty promises and that CFIUS either does not have the will, intent or the capacity to enforce any conditions imposed on the sales they approve.

In its review of the Exon-Florio legislation that provides the basic statutory authority for CFIUS, I believe that the Committee should consider the following changes:

- Economic security should specifically be added as a criteria in CFIUS' examination of transactions. National economic, military and homeland security are inextricably intertwined.
- Foreign control of our critical infrastructure must be denied.

- Congress should be given additional oversight authority and CFIUS should inform Congress of the transactions that are subject to its review and what the scope of its review is for each transaction.
- Chairmanship of the CFIUS should be jointly administered by the Secretaries of Defense and Commerce.
- CFIUS should conduct post-transaction reviews of the transactions that have come under its review and the results of these reviews should be provided to Congress.

Strengthening the statute and amending the standard-of-review can help ensure that there is a clear, consistent application of our nation's laws to protect our comprehensive security interests.

Sincerely,

Leo W. Gerard
International President

LWG/pak