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Union Calendar No. 9

110TH CONGRESS
1ST SESSION

H. R. 556

[Report No. 110–24, Part I]

To ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 2007

Mrs. MALONEY of New York (for herself, Ms. PRYCE of Ohio, Mr. CROWLEY, Mr. BLUNT, Mr. FRANK of Massachusetts, Mr. BACHUS, Mr. GUTIERREZ, Mr. PAUL, Mr. ACKERMAN, Mr. BAKER, Ms. BEAN, Mrs. BIGGERT, Mr. CLEAVER, Mr. CUMMINGS, Mr. FOSSELLA, Mr. GARRETT of New Jersey, Mr. GILLMOR, Mr. AL GREEN of Texas, Mr. HINOJOSA, Ms. HOOLEY, Mr. KING of New York, Mr. KLEIN of Florida, Mr. LANGEVIN, Mr. LYNCH, Mr. MANZULLO, Mr. MCCOTTER, Mr. MEEKS of New York, Mr. GARY G. MILLER of California, Mr. MOORE of Kansas, Ms. MOORE of Wisconsin, Mrs. MYRICK, Mr. REYNOLDS, Ms. ROS-LEHTINEN, Mr. SCOTT of Georgia, Mr. SMITH of Texas, Mr. REICHERT, and Ms. WATSON) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Energy and Commerce and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

FEBRUARY 23, 2007

Additional sponsors: Mr. HOEKSTRA, Mrs. MCCARTHY of New York, Mr. MATHESON, Mr. THOMPSON of Mississippi, Mr. CLAY, Mr. ISRAEL, Mr. BARTON of Texas, Mr. WATT, Ms. HARMAN, Mr. SHAYS, Ms. GINNY BROWN-WAITE of Florida, Mr. LATOURETTE, Mr. BUCHANAN, Mr. MILLER of North Carolina, Mr. HASTINGS of Washington, Mr. DICKS, Mr. ENGLISH of Pennsylvania, Mr. SMITH of Washington, Mrs. CAPITO, Mr. COURTNEY, Mr. PASCRELL, and Mrs. MCMORRIS RODGERS

FEBRUARY 23, 2007
Reported from the Committee on Financial Services with an amendment
[Strike out all after the enacting clause and insert the part printed in italic]

FEBRUARY 23, 2007
Committees on Energy and Commerce and Foreign Affairs discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed
[For text of introduced bill, see copy of bill as introduced on January 18, 2007]

A BILL

To ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Security Foreign Investment Reform and Strengthened Transparency Act of 2007".

SEC. 2. UNITED STATES SECURITY IMPROVEMENT AMENDMENTS; CLARIFICATION OF REVIEW AND INVESTIGATION PROCESS.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) COMMITTEE.—The term 'Committee' means the Committee on Foreign Investment in the United States.

"(2) CONTROL.—The term 'control' has the meaning given to such term in regulations which the Committee shall prescribe.

"(3) COVERED TRANSACTION.—The term 'covered transaction' means any merger, acquisition, or takeover by or with any foreign person which could result in foreign control of any person engaged in interstate commerce in the United States.

"(4) FOREIGN GOVERNMENT-CONTROLLED TRANSACTION.—The term 'foreign government-controlled transaction' means any covered transaction that could result in the control of any person engaged in interstate commerce in the United States by a foreign government or an entity controlled by or acting on behalf of a foreign government.

"(5) CLARIFICATION.—The term 'national security' shall be construed so as to include those issues relating to 'homeland security', including its application to critical infrastructure.

"(b) NATIONAL SECURITY REVIEWS AND INVESTIGATIONS.—

"(1) NATIONAL SECURITY REVIEWS.—

"(A) IN GENERAL.—Upon receiving written notification under subparagraph (C) of any covered transaction, or on a motion made under subparagraph (D) with respect to any covered transaction, the President, acting through the Committee, shall review the covered transaction to determine the effects of the transaction on the national security of the United States.

"(B) CONTROL BY FOREIGN GOVERNMENT.—If the Committee determines that the covered transaction is a foreign government-controlled transaction, the Committee shall conduct an investigation of the transaction under paragraph (2).

"(C) WRITTEN NOTICE.—

"(i) IN GENERAL.—Any party to any covered transaction may initiate a review of the transaction under this paragraph by submitting a written notice of the transaction to the Chairperson of the Committee.

"(ii) WITHDRAWAL OF NOTICE.—No covered transaction for which a notice was

submitted under clause (i) may be withdrawn from review unless—

"(I) a written request for such withdrawal is submitted by any party to the transaction; and

"(II) the request is approved in writing by the Chairperson, in consultation with the Vice Chairpersons, of the Committee.

"(iii) CONTINUING DISCUSSIONS.—The approval of a withdrawal request under clause (ii) shall not be construed as precluding any party to the covered transaction from continuing informal discussions with the Committee or any Committee member regarding possible resubmission for review pursuant to this paragraph.

"(D) UNILATERAL INITIATION OF REVIEW.—Subject to subparagraph (F), the President, the Committee, or any member acting on behalf of the Committee may move to initiate a review under subparagraph (A) of—

"(i) any covered transaction;

"(ii) any covered transaction that has previously been reviewed or investigated

under this section, if any party to the transaction submitted false or misleading material information to the Committee in connection with the review or investigation or omitted material information, including material documents, from information submitted to the Committee; or

"(iii) any covered transaction that has previously been reviewed or investigated under this section, if any party to the transaction or the entity resulting from consummation of the transaction intentionally materially breaches a mitigation agreement or condition described in subsection (l)(1)(A), and—

"(I) such breach is certified by the lead department or agency monitoring and enforcing such agreement or condition as an intentional material breach; and

"(II) such department or agency certifies that there is no other remedy or enforcement tool available to address such breach.

"(E) TIMING.—Any review under this paragraph shall be completed before the end of the 30-day period beginning on the date of the receipt of written notice under subparagraph (C) by the Chairperson of the Committee, or the date of the initiation of the review in accordance with a motion under subparagraph (D).

"(F) LIMIT ON DELEGATION OF CERTAIN AUTHORITY.—The authority of the Committee or any member of the Committee to initiate a review under subparagraph (D) may not be delegated to any person other than the Deputy Secretary or an appropriate Under Secretary of the department or agency represented on the committee or by such member (or by a person holding an equivalent position to a Deputy Secretary or Under Secretary).

"(2) NATIONAL SECURITY INVESTIGATIONS.—

"(A) IN GENERAL.—In each case in which—

"(i) a review of a covered transaction under paragraph (1) results in a determination that—

"(I) the transaction threatens to impair the national security of the

United States and that threat has not been mitigated during or prior to the review of a covered transaction under paragraph (1); or

"(II) the transaction is a foreign government-controlled transaction;

"(ii) a roll call vote pursuant to paragraph (3)(A) in connection with a review under paragraph (1) of any covered transaction results in at least 1 vote by a Committee member against approving the transaction; or

"(iii) the Director of National Intelligence identifies particularly complex intelligence concerns that could threaten to impair the national security of the United States and Committee members were not able to develop and agree upon measures to mitigate satisfactorily those threats during the initial review period under paragraph (1),

the President, acting through the Committee, shall immediately conduct an investigation of the effects of the transaction on the national security of the United States and take any nec-

essary actions in connection with the transaction to protect the national security of the United States.

"(B) TIMING.—

"(i) IN GENERAL.—Any investigation under subparagraph (A) shall be completed before the end of the 45-day period beginning on the date of the investigation commenced.

"(ii) EXTENSIONS OF TIME.—The period established under subparagraph (B) for any investigation of a covered transaction may be extended with respect to any particular investigation by the President or by a rollcall vote of at least 2/3 of the members of the Committee involved in the investigation by the amount of time specified by the President or the Committee at the time of the extension, not to exceed 45 days, as necessary to collect and fully evaluate information relating to—

"(I) the covered transaction or parties to the transaction; and

"(II) any effect of the transaction that could threaten to impair the national security of the United States.

"(C) EXCEPTION.—Notwithstanding subparagraph (A)(i)(II), an investigation of a foreign government-controlled transaction shall not be required under this paragraph if the Secretary of the Treasury, the Secretary of Homeland Security, and the Secretary of Commerce determine, on the basis of the review of the transaction under paragraph (1), that the transaction will not affect the national security of the United States and no agreement or condition is required, with respect to the transaction, to mitigate any threat to the national security (and such authority of each such Secretary may not be delegated to any person other than the Deputy Secretary of the Treasury, of Homeland Security, or of Commerce, respectively).

"(3) APPROVAL OF CHAIRPERSON AND VICE CHAIRPERSONS REQUIRED.—

"(A) IN GENERAL.—A review or investigation under this subsection of a covered transaction shall not be treated as final or complete until the results of such review or investigation

are approved by a majority of the members of the Committee in a roll call vote and signed by the Secretary of the Treasury, the Secretary of Homeland Security, and the Secretary of Commerce (and such authority of each such Secretary may not be delegated to any person other than the Deputy Secretary or an appropriate Under Secretary of the Treasury, of Homeland Security, or of Commerce, respectively).

"(B) ADDITIONAL ACTION REQUIRED IN CERTAIN CASES.—In the case of any roll call vote pursuant to subparagraph (A) in connection with an investigation under paragraph (2) of any foreign government-controlled transaction in which there is at least 1 vote by a Committee member against approving the transaction, the investigation shall not be treated as final or complete until the findings and report resulting from such investigation are signed by the President (in addition to the Chairperson and the Vice Chairpersons of the Committee under subparagraph (A)).

"(C) PRESIDENTIAL ACTION REQUIRED IN CERTAIN CASES.—In the case of any covered

transaction in which any party to the transaction is—

"(i) a person of a country the government of which the Secretary of State has determined, for purposes of section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or other provision of law, is a government that has repeatedly provided support for acts of international terrorism;

"(ii) a government described in clause (i); or

"(iii) person controlled, directly or indirectly, by any such government,

a review or investigation under this subsection of such covered transaction shall not be treated as final or complete until the results of such review or investigation are approved and signed by the President.

"(4) ANALYSIS BY DIRECTOR OF NATIONAL INTELLIGENCE.—

"(A) IN GENERAL.—The Director of National Intelligence shall expeditiously carry out a thorough analysis of any threat to the national security of the United States of any covered transaction, including making requests for information to the Director of the Office of Foreign Assets Control within the Department of the Treasury and the Director of the Financial Crimes Enforcement Network. The Director of National Intelligence also shall seek and incorporate the views of all affected or appropriate intelligence agencies.

"(B) TIMING.—The Director of National Intelligence shall be provided adequate time to complete the analysis required under subparagraph (A), including any instance described in paragraph (2)(A)(iii).

"(C) INDEPENDENT ROLE OF DIRECTOR.—The Director of National Intelligence shall not be a member of the Committee and shall serve no policy role with the Committee other than to provide analysis under subparagraph (A) in connection with a covered transaction.

"(5) SUBMISSION OF ADDITIONAL INFORMATION.—No provision of this subsection shall be con-

strued as prohibiting any party to a covered transaction from submitting additional information concerning the transaction, including any proposed restructuring of the transaction or any modifications to any agreements in connection with the transaction, while any review or investigation of the transaction is on-going.

"(6) REGULATIONS.—Regulations prescribed under this section shall include standard procedures for—

"(A) submitting any notice of a proposed or pending covered transaction to the Committee;

"(B) submitting a request to withdraw a proposed or pending covered transaction from review; and

"(C) resubmitting a notice of proposed or pending covered transaction that was previously withdrawn from review.".

SEC. 3. STATUTORY ESTABLISHMENT OF THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by striking subsection (k) and inserting the following new subsection:

"(k) COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—

"(1) ESTABLISHMENT.—The Committee on Foreign Investment in the United States established pursuant to Executive Order No. 11858 shall be a multi-agency committee to carry out this section and such other assignments as the President may designate.

"(2) MEMBERSHIP.—The Committee shall be comprised of the following members or the designee of any such member:

"(A) The Secretary of the Treasury.

"(B) The Secretary of Homeland Security.

"(C) The Secretary of Commerce.

"(D) The Secretary of Defense.

"(E) The Secretary of State.

"(F) The Attorney General.

"(G) The Secretary of Energy.

"(H) The Chairman of the Council of Economic Advisors.

"(I) The United States Trade Representative.

"(J) The Director of the Office of Management and Budget.

"(K) The Director of the National Economic Council.

"(L) The Director of the Office of Science and Technology Policy.

"(M) The President's Assistant for National Security Affairs.

"(N) Any other designee of the President from the Executive Office of the President.

"(3) CHAIRPERSON; VICE CHAIRPERSONS.—The Secretary of the Treasury shall be the Chairperson of the Committee. The Secretary of Homeland Security and the Secretary of Commerce shall be the Vice Chairpersons of the Committee.

"(4) OTHER MEMBERS.—Subject to subsection (b)(4)(B), the Chairperson of the Committee shall involve the heads of such other Federal departments, agencies, and independent establishments in any review or investigation under subsection (b) as the Chairperson, after consulting with the Vice Chairpersons, determines to be appropriate on the basis of the facts and circumstances of the transaction under investigation (or the designee of any such department or agency head).

"(5) MEETINGS.—The Committee shall meet upon the direction of the President or upon the call of the Chairperson of the Committee without regard

to section 552b of title 5, United States Code (if otherwise applicable).

"(6) COLLECTION OF EVIDENCE.—Subject to subsection (c), the Committee may, for the purpose of carrying out this section—

"(A) sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

"(B) require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Chairperson of the Committee may determine advisable.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury for each of fiscal years 2008, 2009, 2010, and 2011 expressly and solely for the operations of the Committee that are conducted by the Secretary, the sum of $10,000,000.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The first sentence of section 721(c) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(c)) is amended—

(1) by striking "material filed with" and inserting "material, including proprietary business information, filed with, or testimony presented to,"; and

(2) by striking "or documentary material" the second place such term appears and inserting ", documentary material, or testimony".

SEC. 4. ADDITIONAL FACTORS REQUIRED TO BE CONSIDERED.

Section 721(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "among other factors";

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(6) whether the covered transaction has a security-related impact on critical infrastructure in the United States;

"(7) whether the covered transaction is a foreign government-controlled transaction; and

"(8) such other factors as the President or the President's designee may determine to be appropriate,

generally or in connection with a specific review or investigation.".

SEC. 5. NONWAIVER OF SOVEREIGN IMMUNITY.

Section 721(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(d)) is amended by adding at the end the following new sentence: "The United States shall not be held liable for any losses or other expenses incurred by any party to a covered transaction as a result of actions taken under this section after a covered transaction has been consummated if the party did not submit a written notice of the transaction to the Chairperson of the Committee under subsection (b)(1)(C) or did not wait until the completion of any review or investigation under subsection (b), or the end of the 15-day period referred to in this subsection, before consummating the transaction.".

SEC. 6. MITIGATION, TRACKING, AND POST-CONSUMMATION MONITORING AND ENFORCEMENT.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by inserting after subsection (k) (as amended by section 3 of this Act) the following new subsection:

"(l) MITIGATION, TRACKING, AND POSTCONSUMMATION MONITORING AND ENFORCEMENT.—

"(1) MITIGATION.—

"(A) IN GENERAL.—The Committee or any agency designated by the Chairperson and Vice Chairpersons may, on behalf of the Committee, negotiate, enter into or impose, and enforce any agreement or condition with any party to a covered transaction in order to mitigate any threat to the national security of the United States that arises as a result of the transaction.

"(B) RISK-BASED ANALYSIS REQUIRED.—Any agreement entered into or condition imposed under subparagraph (A) shall be based on a risk-based analysis of the threat to national security of the covered transaction.

"(2) TRACKING AUTHORITY FOR WITHDRAWN NOTICES.—

"(A) IN GENERAL.—If any written notice of a covered transaction that was submitted to the Committee under this section is withdrawn before any review or investigation by the Committee under subsection (b) is completed, the Committee shall establish, as appropriate—

"(i) interim protections to address specific concerns with such transaction that have been raised in connection with any such review or investigation pending any

resubmission of any written notice under this section with respect to such transaction and further action by the President under this section;

"(ii) specific timeframes for resubmitting any such written notice; and

"(iii) a process for tracking any actions that may be taken by any party to the transaction, in connection with the transaction, before the notice referred to in clause (ii) is resubmitted.

"(B) DESIGNATION OF AGENCY.—The Committee may designate 1 or more appropriate Federal departments or agencies, other than any entity of the intelligence community (as defined in the National Security Act of 1947), as a lead agency to carry out, on behalf of the Committee, the requirements of subparagraph (A) with respect to any covered transaction that is subject to such subparagraph.

"(3) NEGOTIATION, MODIFICATION, MONITORING, AND ENFORCEMENT.—

"(A) DESIGNATION OF AGENCY.—The Committee shall designate 1 or more Federal departments or agencies as the lead agency to nego-

tiate, modify, monitor, and enforce, on behalf of the Committee, any agreement entered into or condition imposed under paragraph (1) with respect to a covered transaction based on the expertise with and knowledge of the issues related to such transaction on the part of the designated department or agency.

"(B) REPORTING BY DESIGNATED AGENCY.—

"(i) IMPLEMENTATION REPORTS.—Each Federal department or agency designated by the Committee as a lead agency under subparagraph (A) in connection with any agreement entered into or condition imposed under paragraph (1) with respect to a covered transaction shall—

"(I) provide periodic reports to the Chairperson and Vice Chairpersons of the Committee on the implementation of such agreement or condition; and

"(II) require, as appropriate, any party to the covered transaction to report to the head of such department or agency (or the designee of such depart-

ment or agency head) on the implementation or any material change in circumstances.

"(ii) MODIFICATION REPORTS.—Any Federal department or agency designated by the Committee as a lead agency under subparagraph (A) in connection with any agreement entered into or condition imposed with respect to a covered transaction shall—

"(I) provide periodic reports to the Chairperson and Vice Chairpersons of the Committee on any modification to any such agreement or condition imposed with respect to the transaction; and

"(II) ensure that any significant modification to any such agreement or condition is reported to the Director of National Intelligence and to any other Federal department or agency that may have a material interest in such modification.".

SEC. 7. INCREASED OVERSIGHT BY THE CONGRESS.

(a) REPORT ON ACTIONS.—Section 721(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended to read as follows:

"(g) REPORTS TO THE CONGRESS.—

"(1) REPORTS ON COMPLETED COMMITTEE INVESTIGATIONS.—

"(A) IN GENERAL.—Not later than 5 days after the completion of a Committee investigation of a covered transaction under subsection (b)(2), or, if the President indicates an intent to take any action authorized under subsection (d) with respect to the transaction, after the end of 15-day period referred to in subsection (d), the Chairperson or a Vice Chairperson of the Committee shall submit a written report on the findings or actions of the Committee with respect to such investigation, the determination of whether or not to take action under subsection (d), an explanation of the findings under subsection (e), and the factors considered under subsection (f), with respect to such transaction, to—

"(i) the Majority Leader and the Minority Leader of the Senate;

"(ii) the Speaker and the Minority Leader of the House of Representatives; and

"(iii) the chairman and ranking member of each committee of the House of Representatives and the Senate with jurisdiction over any aspect of the covered transaction and its possible effects on national security, including the Committee on Foreign Affairs, the Committee on Financial Services, and the Committee on Energy and Commerce of the House of Representatives.

"(B) NOTICE AND BRIEFING REQUIREMENT.—If a written request for a briefing on a covered transaction is submitted to the Committee by any Senator or Member of Congress who receives a report on the transaction under subparagraph (A), the Chairperson or a Vice Chairperson (or such other person as the Chairperson or a Vice Chairperson may designate) shall provide 1 classified briefing to each House of the Congress from which any such briefing request originates in a secure facility of appropriate size and location that shall be open only to the Majority Leader and the Minority Leader of the Senate, the Speaker and the Minority Leader of the House of Representatives, (as the case may be) the chairman and ranking member

of each committee of the House of Representatives or the Senate (as the case may be) with jurisdiction over any aspect of the covered transaction and its possible effects on national security, including the Committee on International Relations, the Committee on Financial Services, and the Committee on Energy and Commerce of the House of Representatives, and appropriate staff members who have security clearance.

"(2) APPLICATION OF OTHER PROVISION.—

"(A) IN GENERAL.—The disclosure of information under this subsection shall be consistent with the requirements of subsection (c). Members of Congress and staff of either House or any committee of the Congress shall be subject to the same limitations on disclosure of information as are applicable under such subsection.

"(B) PROPRIETARY INFORMATION.—Proprietary information which can be associated with a particular party to a covered transaction shall be furnished in accordance with subparagraph (A) only to a committee of the Congress and only when the committee provides assurances of confidentiality, unless such party otherwise consents in writing to such disclosure.".

(b) ANNUAL REPORT.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by inserting after subsection (l) (as added by section 6 of this Act) the following new subsection:

"(m) ANNUAL REPORT TO THE CONGRESS.—

"(1) IN GENERAL.—The Chairperson of the Committee shall transmit a report to the chairman and ranking member of each committee of the House of Representatives and the Senate with jurisdiction over any aspect of the report, including the Committee on International Relations, the Committee on Financial Services, and the Committee on Energy and Commerce of the House of Representatives, before July 31 of each year on all the reviews and investigations of covered transactions completed under subsection (b) during the 12-month period covered by the report.

"(2) CONTENTS OF REPORT RELATING TO COVERED TRANSACTIONS.—The report under paragraph (1) shall contain the following information with respect to each covered transaction:

"(A) A list of all notices filed and all reviews or investigations completed during the period with basic information on each party to the transaction, the nature of the business activities or products of all pertinent persons, along with

information about the status of the review or investigation, information on any withdrawal from the process, any rollcall votes by the Committee under this section, any extension of time for any investigation, and any presidential decision or action under this section.

"(B) Specific, cumulative, and, as appropriate, trend information on the numbers of filings, investigations, withdrawals, and presidential decisions or actions under this section.

"(C) Cumulative and, as appropriate, trend information on the business sectors involved in the filings which have been made, and the countries from which the investments have originated.

"(D) Information on whether companies that withdrew notices to the Committee in accordance with subsection (b)(1)(C)(ii) have later re-filed such notices, or, alternatively, abandoned the transaction.

"(E) The types of security arrangements and conditions the Committee has used to mitigate national security concerns about a transaction.

"(F) A detailed discussion of all perceived adverse effects of covered transactions on the na-

tional security or critical infrastructure of the United States that the Committee will take into account in its deliberations during the period before delivery of the next such report, to the extent possible.

"(3) CONTENTS OF REPORT RELATING TO CRITICAL TECHNOLOGIES.—

"(A) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall include in the annual report submitted under paragraph (1) the following:

"(i) An evaluation of whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer.

"(ii) An evaluation of whether there are industrial espionage activities directed or directly assisted by foreign governments against private United States companies

aimed at obtaining commercial secrets related to critical technologies.

"(B) CRITICAL TECHNOLOGIES DEFINED.—For purposes of this paragraph, the term 'critical technologies' means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical technology, critical components, or critical technology items essential to national defense or national security identified pursuant to this section.

"(C) RELEASE OF UNCLASSIFIED STUDY.—That portion of the annual report under paragraph (1) that is required by this paragraph may be classified. An unclassified version of that portion of the report shall be made available to the public.".

(c) STUDY AND REPORT.—

(1) STUDY REQUIRED.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Commerce, shall conduct a study on investments in the United States, especially investments in

critical infrastructure and industries affecting national security, by—

(A) foreign governments, entities controlled by or acting on behalf of a foreign government, or persons of foreign countries which comply with any boycott of Israel; or

(B) foreign governments, entities controlled by or acting on behalf of a foreign government, or persons of foreign countries which do not ban organizations designated by the Secretary of State as foreign terrorist organizations.

(2) REPORT.—Before the end of the 30-day period beginning upon completion of the study under paragraph (1) or in the next annual report under section 721(m) of the Defense Production Act of 1950 (as added by subsection (b)), the Secretary of the Treasury shall submit a report to the Congress, for transmittal to all appropriate committees of the Senate and the House of Representatives, containing the findings and conclusions of the Secretary with respect to the study, together with an analysis of the effects of such investment on the national security of the United States and on any efforts to address those effects.

SEC. 8. CERTIFICATION OF NOTICES AND ASSURANCES.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by inserting after subsection (m) (as added by section 7(b) of this Act) the following new subsection:

"(n) CERTIFICATION OF NOTICES AND ASSURANCES.—Each notice required to be submitted, by a party to a covered transaction, to the President or the President's designee under this section and regulations prescribed under such section, and any information submitted by any such party in connection with any action for which a report is required pursuant to paragraph (3)(B)(ii) of subsection (l) with respect to the implementation of any mitigation agreement or condition described in paragraph (1)(A) of such subsection, or any material change in circumstances, shall be accompanied by a written statement by the chief executive officer or the designee of the person required to submit such notice or information certifying that, to the best of the person's knowledge and belief—

"(1) the notice or information submitted fully complies with the requirements of this section or such regulation, agreement, or condition; and

"(2) the notice or information is accurate and complete in all material respects.".

SEC. 9. REGULATIONS.

Section 721(h) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(h)) is amended to read as follows:

"(h) REGULATIONS.—The President shall direct the issuance of regulations to carry out this section. Such regulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.".

SEC. 10. EFFECT ON OTHER LAW.

Section 721(i) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(i)) is amended to read as follows:

"(i) EFFECT ON OTHER LAW.—No provision of this section shall be construed as altering or affecting any other authority, process, regulation, investigation, enforcement measure, or review provided by or established under any other provision of Federal law, including the International Emergency Economic Powers Act, or any other authority of the President or the Congress under the Constitution of the United States.".

SEC. 11. EFFECTIVE DATE.

The amendments made by this Act shall apply after the end of the 90-day period beginning on the date of the enactment of this Act.

Union Calendar No. 9

110TH CONGRESS
1ST SESSION

H. R. 556

[Report No. 110–24, Part I]

A BILL

To ensure national security while promoting foreign investment and the creation and maintenance of jobs, to reform the process by which such investments are examined for any effect they may have on national security, to establish the Committee on Foreign Investment in the United States, and for other purposes.

FEBRUARY 23, 2007

Committees on Energy and Commerce and Foreign Affairs discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed