

Congress of the United States
Washington, DC 20515

September 15, 2016

The Honorable Gene L. Dodaro
Comptroller General
U.S. Government Accountability Office
Washington, D.C.

Dear Comptroller General Dodaro:

We write to request a Government Accountability Office (GAO) report reviewing the Committee on Foreign Investment in the United States (CFIUS) to determine whether its statutory and administrative authorities have effectively kept pace with the growing scope of foreign acquisitions in strategically important sectors in the U.S. As we prepare for the upcoming presidential transition, now is an opportune time for GAO to review what has worked well, and where CFIUS authorities may need to be expanded, especially given the rise in state-owned enterprises and state-controlled enterprises from China and Russia, among other designated countries.

As you know, the CFIUS process originally began as an Executive Order and was only codified by Congress in 1988 and 2007, both times in response to concerns about foreign ownership of the defense industry and ports. However, there have not been substantial structural updates to CFIUS composition or authority since its inception, despite a rapidly changing foreign investment climate, the rise of technology and information warfare, and new state-owned or – controlled companies that are structured as independent entities but are largely directed by foreign governments. This evolving nature of possible national security threats requires that both the Executive Branch and the Congress revisit the CFIUS process to determine whether it is fully empowered to address these concerns.

Several recent examples of concerns involve the telecommunications, media and agriculture sector, which raise questions of the degree to which foreign ownership -- especially from Chinese companies designated as “state champions” that often benefit from illegal subsidies designed to gain strategic access to markets like the U.S. -- may pose a strategic rather than overt national security threat. For example, Congress has raised concern about ChemChina’s \$43 billion acquisition of agricultural seed and chemical provider Syngenta due to the food security and safety implications. Concerns have also been raised about Dalian Wanda’s acquisition of major American movie studios, including Legendary Entertainment and Paramount Studios, and the AMC and Carmike theatre chains due to growing concerns about China’s efforts to censor topics and exert propaganda controls on American media. Both of these examples raise serious security questions about what authority CFIUS currently has, or may need to be added, to address these concerns.

In its 2012 annual report, the U.S.-China Economic and Security Review Commission called for a comprehensive review of the authorities of CFIUS to determine whether its mandate should be broadened to “(1) require a mandatory review of all controlling transactions by Chinese state-owned and state-controlled companies investing in the United States; (2) add a net economic

benefit test to the existing national security test that CFIUS administers; and (3) prohibit investment in a U.S. industry by a foreign company whose government prohibits foreign investment in that same industry.” We urge GAO to review these recommendations as well as the following questions:

- Are our existing processes (including CFIUS, export controls, cybersecurity, and counterintelligence) sufficient to safeguard the national security interests threatened by massive Chinese commercial and economic activity in the U.S.?
- Does the scope of CFIUS review capture Chinese angel/venture capital funds being established in the U.S. or Chinese investment in tech accelerators and incubators? Is there reason to believe it should?
- Should the Director of the Federal Bureau of Investigations (FBI), the Chairman of the Federal Communications Commission (FCC), the Secretary of Agriculture and the Food and Drug Administration be added to the CFIUS membership?
- Should the Secretary of Labor and/or Director of National Intelligence serve as a voting, rather than ex officio, members?
- Should there be special consideration given to companies that may be under state control from designated countries, especially China and Russia?
- Should foreign acquisitions from designated countries be subject to mandatory, rather than voluntary, notification to CFIUS?
- Should the definition of national security be broadened to address concerns about propaganda and control of the media and “soft power” institutions?
- Should the degree to which a foreign company receives subsidies to gain access to the U.S. market as part of a country’s strategic plan for expanding influence be considered as part of the CFIUS review?
- What is the appropriate level of staffing to support the significant growth in foreign acquisitions that may be of concern to CFIUS?

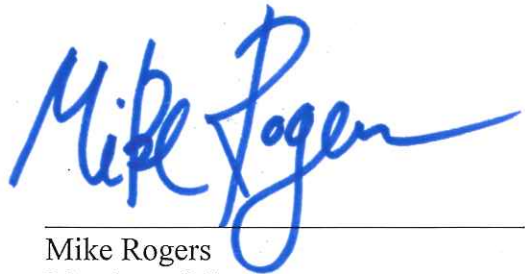
This report will be very helpful as we continue our oversight of these issues and consider updates to CFIUS authorities to address these growing concerns.

We look forward to working with you and your staff as you conduct this review. Please coordinate this request with Clark Fonda (clark.fonda@mail.house.gov) in Representative Pittenger's office.

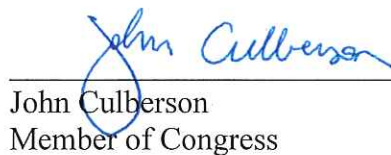
Sincerely,



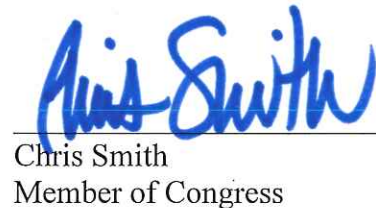
Robert Pittenger
Member of Congress



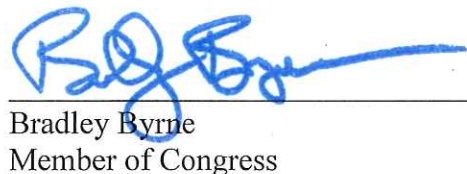
Mike Rogers
Member of Congress



John Culberson
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Chris Smith
Member of Congress



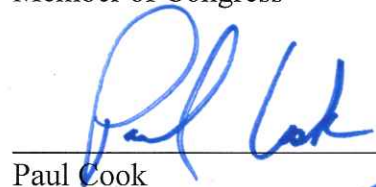
Bradley Byrne
Member of Congress



Walter B. Jones
Member of Congress



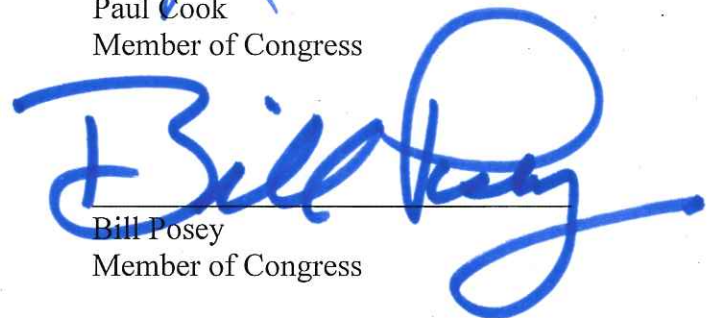
Mo Brooks
Member of Congress



Paul Cook
Member of Congress



Duncan Hunter
Member of Congress



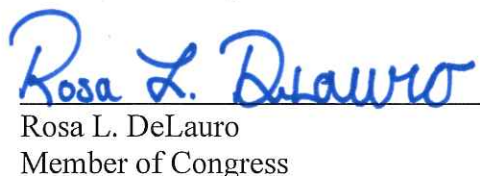
Bill Posey
Member of Congress



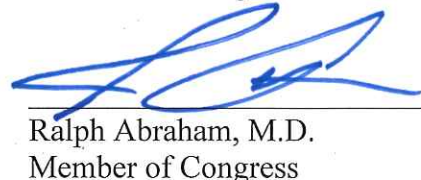
Dana Rohrabacher
Member of Congress



Robert Aderholt
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Rosa L. DeLauro
Member of Congress



Ralph Abraham, M.D.
Member of Congress



Peter DeFazio
Member of Congress



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