

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “National Security For-*
5 *eign Investment Reform and Strengthened Transparency*
6 *Act of 2007”.*

7 **SEC. 2. UNITED STATES SECURITY IMPROVEMENT AMEND-**
8 **MENTS; CLARIFICATION OF REVIEW AND IN-**
9 **VESTIGATION PROCESS.**

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

1 “(a) *DEFINITIONS.*—For purposes of this section, the
2 following definitions shall apply:

3 “(1) *COMMITTEE.*—The term ‘Committee’ means
4 the Committee on Foreign Investment in the United
5 States.

6 “(2) *CONTROL.*—The term ‘control’ has the
7 meaning given to such term in regulations which the
8 Committee shall prescribe.

9 “(3) *COVERED TRANSACTION.*—The term ‘covered
10 transaction’ means any merger, acquisition, or take-
11 over by or with any foreign person which could result
12 in foreign control of any person engaged in interstate
13 commerce in the United States.

14 “(4) *FOREIGN GOVERNMENT-CONTROLLED*
15 *TRANSACTION.*—The term ‘foreign government-con-
16 trolled transaction’ means any covered transaction
17 that could result in the control of any person engaged
18 in interstate commerce in the United States by a for-
19 eign government or an entity controlled by or acting
20 on behalf of a foreign government.

21 “(5) *CLARIFICATION.*—The term ‘national secu-
22 rity’ shall be construed so as to include those issues
23 relating to ‘homeland security’, including its applica-
24 tion to critical infrastructure.

1 “(b) NATIONAL SECURITY REVIEWS AND INVESTIGA-
2 TIONS.—

3 “(1) NATIONAL SECURITY REVIEWS.—

4 “(A) IN GENERAL.—Upon receiving written
5 notification under subparagraph (C) of any cov-
6 ered transaction, or on a motion made under
7 subparagraph (D) with respect to any covered
8 transaction, the President, acting through the
9 Committee, shall review the covered transaction
10 to determine the effects of the transaction on the
11 national security of the United States.

12 “(B) CONTROL BY FOREIGN GOVERN-
13 MENT.—If the Committee determines that the
14 covered transaction is a foreign government-con-
15 trolled transaction, the Committee shall conduct
16 an investigation of the transaction under para-
17 graph (2).

18 “(C) WRITTEN NOTICE.—

19 “(i) IN GENERAL.—Any party to any
20 covered transaction may initiate a review of
21 the transaction under this paragraph by
22 submitting a written notice of the trans-
23 action to the Chairperson of the Committee.

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

1 *submitted under clause (i) may be with-*
2 *drawn from review unless—*

3 “(I) a written request for such
4 *withdrawal is submitted by any party*
5 *to the transaction; and*

6 “(II) the request is approved in
7 *writing by the Chairperson, in con-*
8 *sultation with the Vice Chairpersons,*
9 *of the Committee.*

10 “(iii) CONTINUING DISCUSSIONS.—*The*
11 *approval of a withdrawal request under*
12 *clause (ii) shall not be construed as pre-*
13 *cluding any party to the covered trans-*
14 *action from continuing informal discussions*
15 *with the Committee or any Committee*
16 *member regarding possible resubmission for*
17 *review pursuant to this paragraph.*

18 “(D) UNILATERAL INITIATION OF RE-
19 *VIEW.—Subject to subparagraph (F), the Presi-*
20 *dent, the Committee, or any member acting on*
21 *behalf of the Committee may move to initiate a*
22 *review under subparagraph (A) of—*

23 “(i) any covered transaction;

24 “(ii) any covered transaction that has
25 *previously been reviewed or investigated*

1 *under this section, if any party to the*
2 *transaction submitted false or misleading*
3 *material information to the Committee in*
4 *connection with the review or investigation*
5 *or omitted material information, including*
6 *material documents, from information sub-*
7 *mitted to the Committee; or*

8 *“(iii) any covered transaction that has*
9 *previously been reviewed or investigated*
10 *under this section, if any party to the*
11 *transaction or the entity resulting from con-*
12 *summation of the transaction intentionally*
13 *materially breaches a mitigation agreement*
14 *or condition described in subsection*
15 *(l)(1)(A), and—*

16 *“(I) such breach is certified by the*
17 *lead department or agency monitoring*
18 *and enforcing such agreement or condi-*
19 *tion as an intentional material breach;*
20 *and*

21 *“(II) such department or agency*
22 *certifies that there is no other remedy*
23 *or enforcement tool available to address*
24 *such breach.*

1 “(E) *TIMING.*—Any review under this para-
2 graph shall be completed before the end of the 30-
3 day period beginning on the date of the receipt
4 of written notice under subparagraph (C) by the
5 Chairperson of the Committee, or the date of the
6 initiation of the review in accordance with a
7 motion under subparagraph (D).

8 “(F) *LIMIT ON DELEGATION OF CERTAIN*
9 *AUTHORITY.*—The authority of the Committee or
10 any member of the Committee to initiate a re-
11 view under subparagraph (D) may not be dele-
12 gated to any person other than the Deputy Sec-
13 retary or an appropriate Under Secretary of the
14 department or agency represented on the com-
15 mittee or by such member (or by a person hold-
16 ing an equivalent position to a Deputy Secretary
17 or Under Secretary).

18 “(2) *NATIONAL SECURITY INVESTIGATIONS.*—

19 “(A) *IN GENERAL.*—In each case in
20 which—

21 “(i) a review of a covered transaction
22 under paragraph (1) results in a deter-
23 mination that—

24 “(I) the transaction threatens to
25 impair the national security of the

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

5 *“(II) the transaction is a foreign*
6 *government-controlled transaction;*

7 *“(ii) a roll call vote pursuant to para-*
8 *graph (3)(A) in connection with a review*
9 *under paragraph (1) of any covered trans-*
10 *action results in at least 1 vote by a Com-*
11 *mittee member against approving the trans-*
12 *action; or*

13 *“(iii) the Director of National Intel-*
14 *ligence identifies particularly complex intel-*
15 *ligence concerns that could threaten to im-*
16 *pair the national security of the United*
17 *States and Committee members were not*
18 *able to develop and agree upon measures to*
19 *mitigate satisfactorily those threats during*
20 *the initial review period under paragraph*
21 *(1),*

22 *the President, acting through the Committee,*
23 *shall immediately conduct an investigation of*
24 *the effects of the transaction on the national se-*
25 *curity of the United States and take any nec-*

1 *essary actions in connection with the transaction*
2 *to protect the national security of the United*
3 *States.*

4 “(B) *TIMING.*—

5 “(i) *IN GENERAL.*—*Any investigation*
6 *under subparagraph (A) shall be completed*
7 *before the end of the 45-day period begin-*
8 *ning on the date of the investigation com-*
9 *menced.*

10 “(ii) *EXTENSIONS OF TIME.*—*The pe-*
11 *riod established under subparagraph (B) for*
12 *any investigation of a covered transaction*
13 *may be extended with respect to any par-*
14 *ticular investigation by the President or by*
15 *a rollcall vote of at least 2/3 of the members*
16 *of the Committee involved in the investiga-*
17 *tion by the amount of time specified by the*
18 *President or the Committee at the time of*
19 *the extension, not to exceed 45 days, as nec-*
20 *essary to collect and fully evaluate informa-*
21 *tion relating to—*

22 “(I) *the covered transaction or*
23 *parties to the transaction; and*

1 “(II) any effect of the transaction
2 that could threaten to impair the na-
3 tional security of the United States.

4 “(C) *EXCEPTION.*—Notwithstanding sub-
5 paragraph (A)(i)(II), an investigation of a for-
6 eign government-controlled transaction shall not
7 be required under this paragraph if the Sec-
8 retary of the Treasury, the Secretary of Home-
9 land Security, and the Secretary of Commerce
10 determine, on the basis of the review of the trans-
11 action under paragraph (1), that the transaction
12 will not affect the national security of the United
13 States and no agreement or condition is re-
14 quired, with respect to the transaction, to miti-
15 gate any threat to the national security (and
16 such authority of each such Secretary may not be
17 delegated to any person other than the Deputy
18 Secretary of the Treasury, of Homeland Secu-
19 rity, or of Commerce, respectively).

20 “(3) *APPROVAL OF CHAIRPERSON AND VICE*
21 *CHAIRPERSONS REQUIRED.*—

22 “(A) *IN GENERAL.*—A review or investiga-
23 tion under this subsection of a covered trans-
24 action shall not be treated as final or complete
25 until the results of such review or investigation

1 are approved by a majority of the members of
2 the Committee in a roll call vote and signed by
3 the Secretary of the Treasury, the Secretary of
4 Homeland Security, and the Secretary of Com-
5 merce (and such authority of each such Secretary
6 may not be delegated to any person other than
7 the Deputy Secretary or an appropriate Under
8 Secretary of the Treasury, of Homeland Secu-
9 rity, or of Commerce, respectively).

10 “(B) *ADDITIONAL ACTION REQUIRED IN*
11 *CERTAIN CASES.—In the case of any roll call*
12 *vote pursuant to subparagraph (A) in connection*
13 *with an investigation under paragraph (2) of*
14 *any foreign government-controlled transaction in*
15 *which there is at least 1 vote by a Committee*
16 *member against approving the transaction, the*
17 *investigation shall not be treated as final or*
18 *complete until the findings and report resulting*
19 *from such investigation are signed by the Presi-*
20 *dent (in addition to the Chairperson and the*
21 *Vice Chairpersons of the Committee under sub-*
22 *paragraph (A)).*

23 “(C) *PRESIDENTIAL ACTION REQUIRED IN*
24 *CERTAIN CASES.—In the case of any covered*

1 *transaction in which any party to the trans-*
2 *action is—*

3 “(i) a person of a country the govern-
4 ment of which the Secretary of State has de-
5 termined, for purposes of section 6(j) of the
6 Export Administration Act of 1979 (as con-
7 tinued in effect pursuant to the Inter-
8 national Emergency Economic Powers Act),
9 section 40 of the Arms Export Control Act,
10 section 620A of the Foreign Assistance Act
11 of 1961, or other provision of law, is a gov-
12 ernment that has repeatedly provided sup-
13 port for acts of international terrorism;

14 “(ii) a government described in clause
15 (i); or

16 “(iii) person controlled, directly or in-
17 directly, by any such government,

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

23 “(4) ANALYSIS BY DIRECTOR OF NATIONAL IN-
24 TELLIGENCE.—

1 “(A) *IN GENERAL.*—*The Director of Na-*
2 *tional Intelligence shall expeditiously carry out a*
3 *thorough analysis of any threat to the national*
4 *security of the United States of any covered*
5 *transaction, including making requests for infor-*
6 *mation to the Director of the Office of Foreign*
7 *Assets Control within the Department of the*
8 *Treasury and the Director of the Financial*
9 *Crimes Enforcement Network. The Director of*
10 *National Intelligence also shall seek and incor-*
11 *porate the views of all affected or appropriate in-*
12 *telligence agencies.*

13 “(B) *TIMING.*—*The Director of National In-*
14 *telligence shall be provided adequate time to*
15 *complete the analysis required under subpara-*
16 *graph (A), including any instance described in*
17 *paragraph (2)(A)(iii).*

18 “(C) *INDEPENDENT ROLE OF DIRECTOR.*—
19 *The Director of National Intelligence shall not be*
20 *a member of the Committee and shall serve no*
21 *policy role with the Committee other than to pro-*
22 *vide analysis under subparagraph (A) in connec-*
23 *tion with a covered transaction.*

24 “(5) *SUBMISSION OF ADDITIONAL INFORMA-*
25 *TION.*—*No provision of this subsection shall be con-*

1 *strued as prohibiting any party to a covered trans-*
2 *action from submitting additional information con-*
3 *cerning the transaction, including any proposed re-*
4 *structuring of the transaction or any modifications to*
5 *any agreements in connection with the transaction,*
6 *while any review or investigation of the transaction*
7 *is on-going.*

8 “(6) *REGULATIONS.—Regulations prescribed*
9 *under this section shall include standard procedures*
10 *for—*

11 “(A) *submitting any notice of a proposed or*
12 *pending covered transaction to the Committee;*

13 “(B) *submitting a request to withdraw a*
14 *proposed or pending covered transaction from re-*
15 *view; and*

16 “(C) *resubmitting a notice of proposed or*
17 *pending covered transaction that was previously*
18 *withdrawn from review.”.*

19 **SEC. 3. STATUTORY ESTABLISHMENT OF THE COMMITTEE**
20 **ON FOREIGN INVESTMENT IN THE UNITED**
21 **STATES.**

22 (a) *IN GENERAL.—Section 721 of the Defense Produc-*
23 *tion Act of 1950 (50 U.S.C. App. 2170) is amended by strik-*
24 *ing subsection (k) and inserting the following new sub-*
25 *section:*

1 “(k) *COMMITTEE ON FOREIGN INVESTMENT IN THE*
2 *UNITED STATES.*—

3 “(1) *ESTABLISHMENT.*—*The Committee on For-*
4 *oreign Investment in the United States established pur-*
5 *suant to Executive Order No. 11858 shall be a multi-*
6 *agency committee to carry out this section and such*
7 *other assignments as the President may designate.*

8 “(2) *MEMBERSHIP.*—*The Committee shall be*
9 *comprised of the following members or the designee of*
10 *any such member:*

11 “(A) *The Secretary of the Treasury.*

12 “(B) *The Secretary of Homeland Security.*

13 “(C) *The Secretary of Commerce.*

14 “(D) *The Secretary of Defense.*

15 “(E) *The Secretary of State.*

16 “(F) *The Attorney General.*

17 “(G) *The Secretary of Energy.*

18 “(H) *The Chairman of the Council of Eco-*
19 *nomics Advisors.*

20 “(I) *The United States Trade Representa-*
21 *tive.*

22 “(J) *The Director of the Office of Manage-*
23 *ment and Budget.*

24 “(K) *The Director of the National Economic*
25 *Council.*

1 “(L) *The Director of the Office of Science*
2 *and Technology Policy.*

3 “(M) *The President’s Assistant for National*
4 *Security Affairs.*

5 “(N) *Any other designee of the President*
6 *from the Executive Office of the President.*

7 “(3) *CHAIRPERSON; VICE CHAIRPERSONS.—The*
8 *Secretary of the Treasury shall be the Chairperson of*
9 *the Committee. The Secretary of Homeland Security*
10 *and the Secretary of Commerce shall be the Vice*
11 *Chairpersons of the Committee.*

12 “(4) *OTHER MEMBERS.—Subject to subsection*
13 *(b)(4)(B), the Chairperson of the Committee shall in-*
14 *volve the heads of such other Federal departments,*
15 *agencies, and independent establishments in any re-*
16 *view or investigation under subsection (b) as the*
17 *Chairperson, after consulting with the Vice Chair-*
18 *persons, determines to be appropriate on the basis of*
19 *the facts and circumstances of the transaction under*
20 *investigation (or the designee of any such department*
21 *or agency head).*

22 “(5) *MEETINGS.—The Committee shall meet*
23 *upon the direction of the President or upon the call*
24 *of the Chairperson of the Committee without regard*

1 *to section 552b of title 5, United States Code (if other-*
2 *wise applicable).*

3 “(6) *COLLECTION OF EVIDENCE.*—*Subject to sub-*
4 *section (c), the Committee may, for the purpose of*
5 *carrying out this section—*

6 “(A) *sit and act at such times and places,*
7 *take such testimony, receive such evidence, ad-*
8 *minister such oaths; and*

9 “(B) *require the attendance and testimony*
10 *of such witnesses and the production of such*
11 *books, records, correspondence, memoranda, pa-*
12 *pers, and documents as the Chairperson of the*
13 *Committee may determine advisable.*

14 “(7) *AUTHORIZATION OF APPROPRIATIONS.*—
15 *There are authorized to be appropriated to the Sec-*
16 *retary of the Treasury for each of fiscal years 2008,*
17 *2009, 2010, and 2011 expressly and solely for the op-*
18 *erations of the Committee that are conducted by the*
19 *Secretary, the sum of \$10,000,000.”.*

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

23 (1) *by striking “material filed with” and insert-*
24 *ing “material, including proprietary business infor-*
25 *mation, filed with, or testimony presented to,”; and*

1 (2) *by striking “or documentary material” the*
2 *second place such term appears and inserting “, docu-*
3 *mentary material, or testimony”.*

4 **SEC. 4. ADDITIONAL FACTORS REQUIRED TO BE CONSID-**
5 **ERED.**

6 *Section 721(f) of the Defense Production Act of 1950*
7 *(50 U.S.C. App. 2170(f)) is amended—*

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

9 (A) *by striking “may” and inserting*
10 *“shall”; and*

11 (B) *by striking “among other factors”;*

12 (2) *by striking “and” at the end of paragraph*
13 (4);

14 (3) *by striking the period at the end of para-*
15 *graph (5) and inserting a semicolon; and*

16 (4) *by adding at the end the following new para-*
17 *graphs:*

18 “(6) *whether the covered transaction has a secu-*
19 *rity-related impact on critical infrastructure in the*
20 *United States;*

21 “(7) *whether the covered transaction is a foreign*
22 *government-controlled transaction; and*

23 “(8) *such other factors as the President or the*
24 *President’s designee may determine to be appropriate,*

1 *generally or in connection with a specific review or*
2 *investigation.”.*

3 **SEC. 5. NONWAIVER OF SOVEREIGN IMMUNITY.**

4 *Section 721(d) of the Defense Production Act of 1950*
5 *(50 U.S.C. App. 2170(d)) is amended by adding at the end*
6 *the following new sentence: “The United States shall not*
7 *be held liable for any losses or other expenses incurred by*
8 *any party to a covered transaction as a result of actions*
9 *taken under this section after a covered transaction has been*
10 *consummated if the party did not submit a written notice*
11 *of the transaction to the Chairperson of the Committee*
12 *under subsection (b)(1)(C) or did not wait until the comple-*
13 *tion of any review or investigation under subsection (b),*
14 *or the end of the 15-day period referred to in this subsection,*
15 *before consummating the transaction.”.*

16 **SEC. 6. MITIGATION, TRACKING, AND POST-CONSUMMA-**
17 **TION MONITORING AND ENFORCEMENT.**

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

22 “(l) **MITIGATION, TRACKING, AND POSTCONSUMMATION**
23 **MONITORING AND ENFORCEMENT.—**

24 “(1) **MITIGATION.—**

1 “(A) *IN GENERAL.*—*The Committee or any*
2 *agency designated by the Chairperson and Vice*
3 *Chairpersons may, on behalf of the Committee,*
4 *negotiate, enter into or impose, and enforce any*
5 *agreement or condition with any party to a cov-*
6 *ered transaction in order to mitigate any threat*
7 *to the national security of the United States that*
8 *arises as a result of the transaction.*

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

14 “(2) *TRACKING AUTHORITY FOR WITHDRAWN NO-*
15 *TICES.*—

16 “(A) *IN GENERAL.*—*If any written notice of*
17 *a covered transaction that was submitted to the*
18 *Committee under this section is withdrawn be-*
19 *fore any review or investigation by the Com-*
20 *mittee under subsection (b) is completed, the*
21 *Committee shall establish, as appropriate—*

22 “(i) *interim protections to address spe-*
23 *cific concerns with such transaction that*
24 *have been raised in connection with any*
25 *such review or investigation pending any*

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

5 *“(ii) specific timeframes for resubmit-*
6 *ting any such written notice; and*

7 *“(iii) a process for tracking any ac-*
8 *tions that may be taken by any party to the*
9 *transaction, in connection with the trans-*
10 *action, before the notice referred to in clause*
11 *(ii) is resubmitted.*

12 *“(B) DESIGNATION OF AGENCY.—The Com-*
13 *mittee may designate 1 or more appropriate*
14 *Federal departments or agencies, other than any*
15 *entity of the intelligence community (as defined*
16 *in the National Security Act of 1947), as a lead*
17 *agency to carry out, on behalf of the Committee,*
18 *the requirements of subparagraph (A) with re-*
19 *spect to any covered transaction that is subject*
20 *to such subparagraph.*

21 *“(3) NEGOTIATION, MODIFICATION, MONITORING,*
22 *AND ENFORCEMENT.—*

23 *“(A) DESIGNATION OF AGENCY.—The Com-*
24 *mittee shall designate 1 or more Federal depart-*
25 *ments or agencies as the lead agency to nego-*

1 *tiate, modify, monitor, and enforce, on behalf of*
2 *the Committee, any agreement entered into or*
3 *condition imposed under paragraph (1) with re-*
4 *spect to a covered transaction based on the exper-*
5 *tise with and knowledge of the issues related to*
6 *such transaction on the part of the designated*
7 *department or agency.*

8 “(B) *REPORTING BY DESIGNATED AGEN-*
9 *CY.—*

10 “(i) *IMPLEMENTATION REPORTS.—*
11 *Each Federal department or agency des-*
12 *ignated by the Committee as a lead agency*
13 *under subparagraph (A) in connection with*
14 *any agreement entered into or condition*
15 *imposed under paragraph (1) with respect*
16 *to a covered transaction shall—*

17 “(I) *provide periodic reports to*
18 *the Chairperson and Vice Chairpersons*
19 *of the Committee on the implementa-*
20 *tion of such agreement or condition;*
21 *and*

22 “(II) *require, as appropriate, any*
23 *party to the covered transaction to re-*
24 *port to the head of such department or*
25 *agency (or the designee of such depart-*

1 *ment or agency head) on the imple-*
2 *mentation or any material change in*
3 *circumstances.*

4 “(ii) *MODIFICATION REPORTS.—Any*
5 *Federal department or agency designated by*
6 *the Committee as a lead agency under sub-*
7 *paragraph (A) in connection with any*
8 *agreement entered into or condition im-*
9 *posed with respect to a covered transaction*
10 *shall—*

11 “(I) *provide periodic reports to*
12 *the Chairperson and Vice Chairpersons*
13 *of the Committee on any modification*
14 *to any such agreement or condition*
15 *imposed with respect to the trans-*
16 *action; and*

17 “(II) *ensure that any significant*
18 *modification to any such agreement or*
19 *condition is reported to the Director of*
20 *National Intelligence and to any other*
21 *Federal department or agency that*
22 *may have a material interest in such*
23 *modification.”.*

1 **SEC. 7. INCREASED OVERSIGHT BY THE CONGRESS.**

2 (a) *REPORT ON ACTIONS.*—Section 721(g) of the De-
3 *fense Production Act of 1950 (50 U.S.C. App. 2170)* is
4 *amended to read as follows:*

5 “(g) *REPORTS TO THE CONGRESS.*—

6 “(1) *REPORTS ON COMPLETED COMMITTEE IN-*
7 *VESTIGATIONS.*—

8 “(A) *IN GENERAL.*—Not later than 5 days
9 *after the completion of a Committee investiga-*
10 *tion of a covered transaction under subsection*
11 *(b)(2), or, if the President indicates an intent to*
12 *take any action authorized under subsection (d)*
13 *with respect to the transaction, after the end of*
14 *15-day period referred to in subsection (d), the*
15 *Chairperson or a Vice Chairperson of the Com-*
16 *mittee shall submit a written report on the find-*
17 *ings or actions of the Committee with respect to*
18 *such investigation, the determination of whether*
19 *or not to take action under subsection (d), an ex-*
20 *planation of the findings under subsection (e),*
21 *and the factors considered under subsection (f),*
22 *with respect to such transaction, to—*

23 “(i) *the Majority Leader and the Mi-*
24 *nority Leader of the Senate;*

25 “(ii) *the Speaker and the Minority*
26 *Leader of the House of Representatives; and*

1 “(iii) the chairman and ranking mem-
2 ber of each committee of the House of Rep-
3 resentatives and the Senate with jurisdic-
4 tion over any aspect of the covered trans-
5 action and its possible effects on national
6 security, including the Committee on For-
7 eign Affairs, the Committee on Financial
8 Services, and the Committee on Energy and
9 Commerce of the House of Representatives.

10 “(B) NOTICE AND BRIEFING REQUIRE-
11 MENT.—If a written request for a briefing on a
12 covered transaction is submitted to the Com-
13 mittee by any Senator or Member of Congress
14 who receives a report on the transaction under
15 subparagraph (A), the Chairperson or a Vice
16 Chairperson (or such other person as the Chair-
17 person or a Vice Chairperson may designate)
18 shall provide 1 classified briefing to each House
19 of the Congress from which any such briefing re-
20 quest originates in a secure facility of appro-
21 priate size and location that shall be open only
22 to the Majority Leader and the Minority Leader
23 of the Senate, the Speaker and the Minority
24 Leader of the House of Representatives, (as the
25 case may be) the chairman and ranking member

1 of each committee of the House of Representa-
2 tives or the Senate (as the case may be) with ju-
3 risdiction over any aspect of the covered trans-
4 action and its possible effects on national secu-
5 rity, including the Committee on International
6 Relations, the Committee on Financial Services,
7 and the Committee on Energy and Commerce of
8 the House of Representatives, and appropriate
9 staff members who have security clearance.

10 “(2) APPLICATION OF OTHER PROVISION.—

11 “(A) IN GENERAL.—The disclosure of infor-
12 mation under this subsection shall be consistent
13 with the requirements of subsection (c). Members
14 of Congress and staff of either House or any
15 committee of the Congress shall be subject to the
16 same limitations on disclosure of information as
17 are applicable under such subsection.

18 “(B) PROPRIETARY INFORMATION.—Propri-
19 etary information which can be associated with
20 a particular party to a covered transaction shall
21 be furnished in accordance with subparagraph
22 (A) only to a committee of the Congress and only
23 when the committee provides assurances of con-
24 fidentiality, unless such party otherwise consents
25 in writing to such disclosure.”.

1 (b) *ANNUAL REPORT.*—Section 721 of the Defense Pro-
2 duction Act of 1950 (50 U.S.C. App. 2170) is amended by
3 inserting after subsection (l) (as added by section 6 of this
4 Act) the following new subsection:

5 “(m) *ANNUAL REPORT TO THE CONGRESS.*—

6 “(1) *IN GENERAL.*—The Chairperson of the Com-
7 mittee shall transmit a report to the chairman and
8 ranking member of each committee of the House of
9 Representatives and the Senate with jurisdiction over
10 any aspect of the report, including the Committee on
11 International Relations, the Committee on Financial
12 Services, and the Committee on Energy and Com-
13 merce of the House of Representatives, before July 31
14 of each year on all the reviews and investigations of
15 covered transactions completed under subsection (b)
16 during the 12-month period covered by the report.

17 “(2) *CONTENTS OF REPORT RELATING TO COV-*
18 *ERED TRANSACTIONS.*—The report under paragraph
19 (1) shall contain the following information with re-
20 spect to each covered transaction:

21 “(A) A list of all notices filed and all re-
22 views or investigations completed during the pe-
23 riod with basic information on each party to the
24 transaction, the nature of the business activities
25 or products of all pertinent persons, along with

1 *information about the status of the review or in-*
2 *vestigation, information on any withdrawal*
3 *from the process, any rollcall votes by the Com-*
4 *mittee under this section, any extension of time*
5 *for any investigation, and any presidential deci-*
6 *sion or action under this section.*

7 “(B) *Specific, cumulative, and, as appro-*
8 *priate, trend information on the numbers of fil-*
9 *ings, investigations, withdrawals, and presi-*
10 *dential decisions or actions under this section.*

11 “(C) *Cumulative and, as appropriate, trend*
12 *information on the business sectors involved in*
13 *the filings which have been made, and the coun-*
14 *tries from which the investments have originated.*

15 “(D) *Information on whether companies*
16 *that withdrew notices to the Committee in ac-*
17 *cordance with subsection (b)(1)(C)(ii) have later*
18 *re-filed such notices, or, alternatively, abandoned*
19 *the transaction.*

20 “(E) *The types of security arrangements*
21 *and conditions the Committee has used to miti-*
22 *gate national security concerns about a trans-*
23 *action.*

24 “(F) *A detailed discussion of all perceived*
25 *adverse effects of covered transactions on the na-*

1 *tional security or critical infrastructure of the*
2 *United States that the Committee will take into*
3 *account in its deliberations during the period be-*
4 *fore delivery of the next such report, to the extent*
5 *possible.*

6 “(3) *CONTENTS OF REPORT RELATING TO CRIT-*
7 *ICAL TECHNOLOGIES.—*

8 “(A) *IN GENERAL.—In order to assist the*
9 *Congress in its oversight responsibilities with re-*
10 *spect to this section, the President and such*
11 *agencies as the President shall designate shall in-*
12 *clude in the annual report submitted under*
13 *paragraph (1) the following:*

14 “(i) *An evaluation of whether there is*
15 *credible evidence of a coordinated strategy*
16 *by 1 or more countries or companies to ac-*
17 *quire United States companies involved in*
18 *research, development, or production of crit-*
19 *ical technologies for which the United States*
20 *is a leading producer.*

21 “(ii) *An evaluation of whether there*
22 *are industrial espionage activities directed*
23 *or directly assisted by foreign governments*
24 *against private United States companies*

1 *aimed at obtaining commercial secrets re-*
2 *lated to critical technologies.*

3 “(B) *CRITICAL TECHNOLOGIES DEFINED.*—
4 *For purposes of this paragraph, the term ‘crit-*
5 *ical technologies’ means technologies identified*
6 *under title VI of the National Science and Tech-*
7 *nology Policy, Organization, and Priorities Act*
8 *of 1976 or other critical technology, critical com-*
9 *ponents, or critical technology items essential to*
10 *national defense or national security identified*
11 *pursuant to this section.*

12 “(C) *RELEASE OF UNCLASSIFIED STUDY.*—
13 *That portion of the annual report under para-*
14 *graph (1) that is required by this paragraph*
15 *may be classified. An unclassified version of that*
16 *portion of the report shall be made available to*
17 *the public.”.*

18 (c) *STUDY AND REPORT.*—

19 (1) *STUDY REQUIRED.*—*Before the end of the*
20 *120-day period beginning on the date of the enact-*
21 *ment of this Act, the Secretary of the Treasury, in*
22 *consultation with the Secretary of State and the Sec-*
23 *retary of Commerce, shall conduct a study on invest-*
24 *ments in the United States, especially investments in*

1 *critical infrastructure and industries affecting na-*
2 *tional security, by—*

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

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

12 *(2) REPORT.—Before the end of the 30-day pe-*
13 *riod beginning upon completion of the study under*
14 *paragraph (1) or in the next annual report under sec-*
15 *tion 721(m) of the Defense Production Act of 1950 (as*
16 *added by subsection (b)), the Secretary of the Treas-*
17 *ury shall submit a report to the Congress, for trans-*
18 *mittal to all appropriate committees of the Senate*
19 *and the House of Representatives, containing the*
20 *findings and conclusions of the Secretary with respect*
21 *to the study, together with an analysis of the effects*
22 *of such investment on the national security of the*
23 *United States and on any efforts to address those ef-*
24 *fects.*

1 **SEC. 8. CERTIFICATION OF NOTICES AND ASSURANCES.**

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

6 *“(n) CERTIFICATION OF NOTICES AND ASSURANCES.—*
7 *Each notice required to be submitted, by a party to a cov-*
8 *ered transaction, to the President or the President’s designee*
9 *under this section and regulations prescribed under such*
10 *section, and any information submitted by any such party*
11 *in connection with any action for which a report is required*
12 *pursuant to paragraph (3)(B)(ii) of subsection (l) with re-*
13 *spect to the implementation of any mitigation agreement*
14 *or condition described in paragraph (1)(A) of such sub-*
15 *section, or any material change in circumstances, shall be*
16 *accompanied by a written statement by the chief executive*
17 *officer or the designee of the person required to submit such*
18 *notice or information certifying that, to the best of the per-*
19 *son’s knowledge and belief—*

20 *“(1) the notice or information submitted fully*
21 *complies with the requirements of this section or such*
22 *regulation, agreement, or condition; and*

23 *“(2) the notice or information is accurate and*
24 *complete in all material respects.”.*

1 **SEC. 9. REGULATIONS.**

2 *Section 721(h) of the Defense Production Act of 1950*
3 *(50 U.S.C. App. 2170(h)) is amended to read as follows:*

4 *“(h) REGULATIONS.—The President shall direct the*
5 *issuance of regulations to carry out this section. Such regu-*
6 *lations shall, to the extent possible, minimize paperwork*
7 *burdens and shall to the extent possible coordinate reporting*
8 *requirements under this section with reporting require-*
9 *ments under any other provision of Federal law.”.*

10 **SEC. 10. EFFECT ON OTHER LAW.**

11 *Section 721(i) of the Defense Production Act of 1950*
12 *(50 U.S.C. App. 2170(i)) is amended to read as follows:*

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

21 **SEC. 11. EFFECTIVE DATE.**

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

Union Calendar No. 9

110TH CONGRESS
1ST Session

H. R. 556

[Report No. 110-24, Part 1]

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