

**Senator Sherrod Brown**  
**CFIUS Reform: Examining the Essential Elements**  
**January 18, 2017**

Thank you, Chairman Crapo.

And thanks to our witnesses for joining us today to share their insights on this important topic. I commend Senators Cornyn and Feinstein for their work on this issue.

A dozen years ago, I was serving in the House of Representatives when we learned that the Bush Administration had signed off on the sale of the operations at more than 20 U.S. ports -- including major ones from New York and New Jersey to New Orleans -- to Dubai Ports World.

Congress responded the next year by adopting FINSA, the Foreign Investment and National Security Act, to give our government a greater ability to respond to foreign investment that could pose a threat to national security and to protect critical infrastructure.

In the intervening years, the interagency group that implements the law, the Committee on Foreign Investment in the United States, or CFIUS, has quietly worked to try to ensure that foreign purchases of assets in the United States do not undermine our national security.

This is not an easy task. As our witnesses will describe, our adversaries are constantly working to narrow the gaps between our capabilities and theirs, through legitimate and illegitimate means.

Over the past decade we have seen China become more aggressive -- the evidence stretches from the OPM servers to the South China Sea. We know that CFIUS has a limited mandate. And we know that the distinction between economic security and national security is not an easy one to make.

Foreign direct investment can be a real positive for our country. It was a French company, for example, that built the first rolling mill in Youngstown, Ohio in decades.

But today we will hear testimony that some foreign investors are not interested in capturing market share in autos, or oil country tubular goods, or any other industry. Instead, they seek to capture the intellectual property of leading edge technology companies in our country for their home country's military uses.

Today, we attempt to prevent this type of technology transfer through a system of multilateral and unilateral export controls. This system, a product of the Cold War, identifies dual-use products, technology, and software that may not be exported.

Is this approach sufficient? Or do we need to intervene at an earlier stage of product or technology development to prevent the building blocks of the next generation of advances from being expropriated by foreign investors?

I mentioned at the beginning of my remarks the failure of the Bush Administration to block the sale of our port operations to a company from the UAE. But this is not a partisan issue.

The Clinton Administration agreed to China's ascension to the WTO, and the Obama Administration refused to take action in the face of China's manipulation of its currency.

Some of our witnesses today will speak to the benefits of trade liberalization. But it is hard to maintain a bilateral trading relationship when one party is abiding by the rules and the other is not.

When China joined the WTO in 2001, it agreed to remove market barriers for foreign companies and to comply with international trade standards that are intended to create a worldwide level playing field. Unfortunately, China has not lived up to many of these commitments.

China continues to use non-tariff barriers to block foreign producers from entering its market. And Chinese state-owned enterprises, such as those in the steel sector, receive extensive subsidies that allow them to compete with no consideration of market forces. As a result, they can flood the global market with steel products and make it much harder for U.S. companies and workers to compete.

I don't think CFIUS can or should bear the burden of trying to bring about a fair trading relationship with China. It has its hands full trying to police the national security threats we face from that country and others.

But neither should we stand idle. The vast majority of foreign investment in the U.S. falls outside of the scope of CFIUS. But we don't have a way to review that investment to make sure it's in our economic interests.

I have introduced legislation with Senator Grassley – called the Foreign Investment Review Act – that would require the Secretary of Commerce to review certain foreign investments, particularly those made by state-owned-enterprises, to make sure they are in the long-term, strategic interests of the U.S.

I agree we should update CFIUS to respond to the challenges we face, but it's equally important that we recognize that the same practices that undermine our national security pose a threat to our economic security as well.

Thank you, Mr. Chairman.