

SECRETARY

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AMERICAN BAR ASSOCIATION

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April 27, 2007

The Honorable John D. Dingell
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

RE: Foreign Investment in the U.S.

Dear Mr. Chairman:

At the meeting of the House of Delegates of the American Bar Association held February 12, 2007, the enclosed resolution was adopted upon recommendation of the Section of International Law, Section of Business Law and the Standing Committee on Law and National Security. Thus, this resolution now states the official policy of the Association.

We are transmitting it for your information and whatever action you think appropriate. Please advise if you need any further information, have any questions or if we can be of any assistance. Such inquiries should be directed to the Chicago office.

Sincerely yours,



Armando Lasas-Ferrer

ALF/nmr
enclosure

cc: Deborah Enix-Rose
Alison Nelson
Leanne Pfautz
Denise A. Cardman

Report 109 was also sent to the following:

The Honorable John D. Dingell
Chair
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Christopher J. Dodd
Chair
Committee on Banking, Housing and Urban Affairs
U.S. Senate
Washington, D.C. 20510

The Honorable Joe Barton
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard C. Shelby
Committee on Banking, Housing and Urban Affairs
U.S. Senate
Washington, D.C. 20510

The Honorable Bobby L. Rush
Chair
Subcommittee on Commerce, Trade, and Consumer
Protection
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Henry M. Paulson, Jr.
Secretary of the Treasury
Department of the Treasury
Main Treasury, Room 3314
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

The Honorable Clifford Stearns
Subcommittee on Commerce, Trade, and Consumer
Protection
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Barney Frank
Chair
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Spencer Bachus
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Tom Lantos
Chair
Committee on International Relations
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Illean Ros-Lehtinen
Committee on International Relations
U.S. House of Representatives
Washington, D.C. 20515

AMERICAN BAR ASSOCIATION**ADOPTED BY THE HOUSE OF DELEGATES****February 12, 2007****RECOMMENDATION**

RESOLVED, That the American Bar Association urges that any legislative or executive branch actions addressed to federal review of foreign investments in the U.S. to protect legitimate national security concerns should:

1. Seek to enact new legislation only where existing statutory authority does not adequately allow for the protection of a legitimate national security concern.
2. Respect the discretionary authority of the Committee on Foreign Investment in the United States ("CFIUS") and avoid rigid definitions that cannot be adjusted to meet changing circumstances.
3. Ensure that the CFIUS process for determining whether a proposed acquisition poses a threat to the security of the United States is expeditious, confidential, and final.
4. Ensure that the CFIUS process focuses on assessments of potential threats to national security and does not become a vehicle for economic protectionism.
5. Respect settled constitutional principles on the separation of powers doctrine and avoid direct Congressional involvement in deciding individual cases.