

**The original documents are located in Box 211, folder “FG 412: Committee on Foreign Investment in the United States” of the White House Central Files Subject Files at the Gerald R. Ford Presidential Library.**

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MEMORANDUM

NATIONAL SECURITY COUNCIL *FIB*

INFORMATION

May 7, 1975

MEMORANDUM FOR: ANDRE BUCKLES  
FROM: JEANNE W. DAVIA *JWD*  
SUBJECT: Foreign Acquisition of Washington Gas  
Company Bonds and Stock

The President today signed an Executive Order on Foreign Investment in the United States, which established a senior level committee to review major issues related to foreign investment in this country, including specific major acquisitions of equity or debt by foreign sources. It will also be announced that it is this country's expectation that foreign governments will consult informally with us before making large official investments in the United States.

It is our understanding that this investment would be made by a foreign government entity, and would be in the sum of \$40 million. This certainly meets the criteria for review by the recently established committee. We further understand that Mr. Stratton has been informed of this new procedure, and will provide additional and more specific information when it is available. The foreign governments concerned have been informally notified of our expectation.

Although it is of course impossible to make any firm statement before the individual case is discussed in the new committee, we do not anticipate that there would be opposition on national security or foreign policy grounds to this investment. It remains the policy of the United States to encourage the free flow of investment capital into this country.

EXECUTIVE

*FO 4-3*

*FG 412*

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*13*

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MAY 20 1975

CENTRAL FILES





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EXECUTIVE

FO4-3

FG412

FG106

FG12

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UT3

May 9, 1975

Dear Mr. Stratton:

Jim Cannon has asked me to respond to your letter of April 29, 1975, regarding the proposed sale of securities of the<sup>x</sup> Washington Gas Company to a foreign nation. I understand that you discussed this matter with the Treasury Department and have been advised of the newly constituted committee to review foreign investments in this country. Representatives of this committee may be in touch with you in the near future.

Thank you for bringing this matter to our attention. I have enclosed a copy of Executive Order 11858 for your files.

Sincerely,

Andre M. Buckles  
Staff Assistant  
Domestic Council

Mr. William R.<sup>x</sup> Stratton  
Commissioner  
Public Service Commission  
of the District of Columbia  
1625 I Street, N.W.  
Washington, D.C. 20006

bcc: Jim Cannon



RECEIVED

MAY 15 1975

CENTRAL FAX

BB

May 9, 1975

Dear Mr. Secretary:

The enclosed copy of an Executive Order by the President, entitled "Foreign Investment in the United States," is transmitted for the files of the Department of State.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable Henry A. Kissinger  
Secretary of State  
Washington, D. C. 20520

Enclosure

jrh

EXECUTIVE

FG412

FE6

FO4-3

FG6-20

FG6-11-1/Seidman/  
L. Wm.

FG13

FG21

FG11

FG12

#11838



E.O. Dated: 5/7/75

May 9, 1975

Dear Mr. Secretary:

The enclosed copy of an Executive Order by the President, entitled "Foreign Investment in the United States," is transmitted for the files of the Department of the Treasury.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable William E. Simon  
Secretary of the Treasury  
Washington, D. C. 20220

Enclosure

jrh



May 9, 1975

Dear Mr. Secretary:

The enclosed copy of an Executive Order by the President, entitled "Foreign Investment in the United States," is transmitted for the files of the Department of Defense.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James R. Schlesinger  
Secretary of Defense  
Washington, D. C. 20301

Enclosure

jrh





May 9, 1975

Dear Mr. Secretary:

The enclosed copy of an Executive Order by the President, entitled "Foreign Investment in the United States," is transmitted for the files of the Department of Commerce.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable Rogers C.B. Morton  
Secretary of Commerce  
Washington, D. C. 20230

Enclosure

jrh





THE WHITE HOUSE  
WASHINGTON

ACTION

May 6, 1975

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON *JAC*  
SUBJECT: Executive Order

Attached for your consideration is a proposed Executive Order which was prepared by the Department of the Treasury entitled "Foreign Investment in the United States."

The proposed order would establish a Committee on Foreign Investment in the United States, to consist of representatives designated by the Secretaries of State, Treasury, Defense, and Commerce, the Assistant to the President for Economic Affairs and the Executive Director of the Council on International Economic Policy.

The Committee would have responsibility for monitoring the impact of foreign investment in the United States and for coordinating the implementation of United States policy on such investment.

Justice, OMB, CIEP, NSC, Bill Seidman, Max Friedersdorf Phil Buchen (Lazarus) and I recommend approval of the Executive Order which has been cleared by Paul Theis.

RECOMMENDATION

That you sign the Executive Order at Tab A.

*Executive Order announced 5/7/75  
E.O. dated 5/7/75*



RECEIVED  
MAY 10 1975  
CENTRAL FILES

*(Stencilled)*

*Signed*

5-7-75





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

GENERAL COUNSEL

MAY 6 1975

MEMORANDUM FOR ROBERT D. LINDER

Subject: Recommended Press Release to Accompany Proposed Executive order entitled "Foreign Investment in the United States"

The cited proposed Order was forwarded to Justice on Thursday, May 1, 1975, by this office, with a copy thereof to you.

As written, the enclosed press release is consistent with the proposed Order and provides significant information relating to the Administration's policy concerning foreign investments.

Treasury strongly urges that this press release accompany the issuance of the proposed Order. It has been coordinated with representatives of the Departments of State and Commerce, and CIEP. It has the clearance of the Director of the Office of Management and Budget.

Calvin J. Collier  
General Counsel

Enclosure



Copy given to Press Office  
5.6.75





PRESS RELEASE

Earlier this year, the Executive Branch conducted an extensive review of our policy toward foreign investment in this country. We concluded that, under existing law, we had adequate safeguards to protect essential national interests, and that new restrictions on foreign investment are unnecessary. At the same time, it was determined that, in addition to the continued vigorous enforcement of our current laws and regulations on foreign investment, the Administration should supplement present arrangements with additional administrative procedures which will strengthen our information on foreign investment and ensure that such investments in this country are consistent with our national interests. The Executive Order I have signed today puts these procedures into effect.

The Order establishes a new Committee on Foreign Investment in the United States to be chaired by a senior official of the Department of the Treasury and to include representatives of the Secretaries of State, Defense, and Commerce and of the Assistant to the President for Economic Affairs, and the Executive Director of the Council for International Economic Policy. The major tasks of this Committee will be to assess general trends and significant developments in foreign investment and to review investments in the United States by foreign governments which, in the judgment of the Committee, might have major implications for U.S. national interests. The Committee will also be responsible for considering proposals for such new legislation or additional administrative action as may be appropriate.

In order to perform his responsibilities under this Order, the Secretary of Commerce intends to establish a new Office of Foreign Investment in the United States. This Office will be responsible for obtaining, consolidating, and analyzing information on foreign investment in the United States. This information will be submitted to the Committee and will assist it in the performance of its functions under this Order.

In addition, we expect that foreign governments will consult with us in advance on major governmental investments in this country. As previously announced, we are presently discussing with foreign governments the procedures for advance consultations. Such consultations have been mutually beneficial in the past, and I am confident that such exchanges on governmental investments will be in the best interests of all concerned.





I want to reaffirm that this Administration is committed to a continuation of America's traditional open door policy toward foreign investment. This policy is consistent with our overall dedication to the freest possible economic relations among nations.





Office of the Attorney General

Washington, D. C. 20530

MAY 6 1975

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive order entitled "Foreign Investment in the United States."

This proposed order was presented by the Department of the Treasury and has been forwarded for the consideration of this Department as to form and legality by the Office of Management and Budget with the approval of the Director, after revision in that agency. Further minor changes in the order have been made in this Department.

The proposed Executive order is approved as to form and legality.

Respectfully,

Antonin Scalia  
Assistant Attorney General  
Office of Legal Counsel



MAY 6 1975

MEMORANDUM

Re: Proposed Executive order entitled  
"Foreign Investment in the United States"

The attached proposed Executive order was presented by the Department of the Treasury and has been forwarded for the consideration of this Department as to form and legality by the Office of Management and Budget with the approval of the Director, after revision in that agency. Further minor changes in the order have been made in this Department.

The proposed order would establish a Committee on Foreign Investment in the United States, to consist of representatives designated by the Secretaries of State, Treasury, Defense, and Commerce, the Assistant to the President for Economic Affairs and the Executive Director of the Council on International Economic Policy. The representative designated by the Secretary of the Treasury would be the chairman. The membership of CIEP was added to the order in this Department at the request of OMB. The Committee would have responsibility for monitoring the impact of foreign investment in the United States and for coordinating the implementation of United States policy on such investment.

Section 2 of the order directs the Secretary of Commerce to perform certain functions with respect to the collection and use of data on foreign investment in the United States. The organic act of the Department of Commerce is cited as partial authority for the order. 15 U.S.C. 1501 et seq. See especially sections 1501, 1512, 1513, 1516 and 1517.

Section 3 of the order authorizes the Secretary of the Treasury, without further approval of the President, to make reasonable use of the resources of the Exchange



Stabilization Fund to pay any of the expenses incurred by the Secretary of Commerce in performing functions and activities under the order. Section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. §22a), provides for the stabilization fund, and places it under the control of the Secretary of the Treasury, with the approval of the President. The OMB transmittal letter, page 3, states that a representative from the Department of the Treasury has advised that such use of the funds is legal. Section 3 of the order expressly provides that the Fund shall be used in accordance with section 10 of the Act. The authority to use the Fund would be for one year, unless earlier revoked. The OMB transmittal letter indicates that Commerce plans to seek appropriations for expenses incurred in carrying out the functions and activities prescribed by the order.

We independently asked Treasury to explain its legal rationale for reliance on Section 10 because that section provides for authority to make expenditures from the Fund only when such expenditures are for purposes of stabilizing the exchange value of the dollar. Treasury's explanation is as follows:

The establishment of the Committee and the directive to the Secretary of Commerce to perform certain functions are clearly related to the stabilization of the exchange value of the dollar. The need for the activities to be performed arises in great part from the recent accumulation of Petrodollars. It is highly important to international stability and to the strength of the dollar to have an accurate picture of how such funds are being used and to be able to insure they are being invested responsibly.

Treasury has further advised us that in the past that Department has never taken the view that the Exchange Stabilization Fund may be used only for direct exchange stabilization activities. For example, the expenses of the Office of the Assistant Secretary for International Affairs at Treasury are paid from the Fund. In addition, the Cost of Living Council was temporarily financed by





BB  
MEMORANDUM

NATIONAL SECURITY COUNCIL

EXECUTIVE

FG 412

FO 4-3

FE6

3039

ACTION

May 6, 1975

MEMORANDUM FOR: BRENT SCOWCROFT  
FROM: MALCOLM BUTLER *gmb*  
SUBJECT: Executive Order on Foreign Investment  
in the United States

The Executive Order is to go to the President tonight, and the White House Staff Secretary has requested our comments and recommendations on an urgent basis.

The Executive Order establishes a Committee on Foreign Investment in the United States. The Committee will be chaired by Treasury, with State participation, and will report through the NSC and the EPB. Foreign policy and national security considerations are adequately protected by this arrangement. Given the strong interests of the domestic agencies in foreign investment in this country, we could not realistically expect to keep this issue in the State/NSC channel exclusively. The other substantive provisions are also acceptable.

Attached at Tab A is a memorandum from Secretary Ingersoll to Secretary Kissinger in his NSC role. Since State has already cleared the Executive Order, and in fact was actively involved with us in negotiating the reporting arrangement, this is an unusual procedure. I understand from State that they are not certain that the reporting procedure was specifically cleared by the Secretary; given the fact that Ingersoll recommends that the Secretary approve the Executive Order, the purpose of the memorandum is not substantive. State is, in short, protecting its procedural flank. There is no disagreement on the adequacy of the arrangements established by the Executive Order.

Should you desire to bring this matter to the attention of the Secretary, however, a memorandum for this purpose is attached at Tab B.

RECOMMENDATION

That you inform the Staff Secretary (Judy Johnston, ext. 2219) that we approve signature of the Executive Order.

*Done by phone  
5/6/75  
per Gen S.*



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MAY 14 1975  
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THE DEPUTY SECRETARY OF STATE  
WASHINGTON

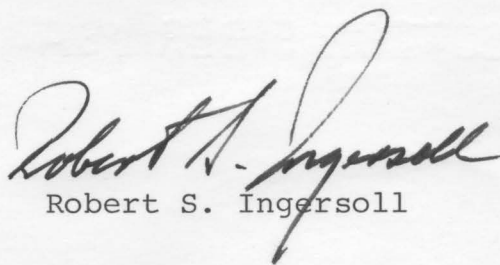
May 6, 1975

UNCLASSIFIED

MEMORANDUM TO THE ASSISTANT TO THE PRESIDENT  
FOR NATIONAL SECURITY AFFAIRS

Subject: Executive Order on Foreign Investment  
in the United States

I have examined the attached Executive Order and recommend that you approve it. The joint EPB/NSC arrangement with regard to the interagency committee represents a compromise between State and Treasury, and I believe it will adequately assure that National Security and other foreign policy considerations are given appropriate attention. Therefore, the Department of State concurs in the publication of the proposed Executive Order.

  
Robert S. Ingersoll

UNCLASSIFIED



EXECUTIVE ORDER

Foreign Investment in the United States

By virtue of the authority vested in me by the Constitution and laws of the United States, it is hereby ordered as follows:

Section 1.

(a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of one representative each of the Secretaries of State, Treasury, Defense, and Commerce, and of the Assistant to the President for Economic Affairs, designated by those officials and not below the status of an Assistant Secretary. The representative of the Secretary of the Treasury shall be the Chairman of the Committee. The Chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of U.S. policy on such investment. In fulfillment of this responsibility the Committee shall

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States,

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States,

(3) review investments in the United States which in the Committee's view might have major implications for U.S. national interests, and



(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

Section 2.

(a) The Secretary of Commerce is hereby directed to establish within the Department of Commerce an Office of Foreign Investment in the United States. The Office shall:

(1) obtain, consolidate, and analyze information on foreign investment in the United States,

(2) seek to improve the gathering and dissemination of information on such foreign investment and, in particular, make recommendations to the Committee on means whereby information on foreign investment can be kept current,

(3) assist the Committee and other parts of the Government by closely observing foreign investment in the United States and producing reports and analyses of trends and significant developments in various categories of investment, and

(4) at the direction of the Committee, assist the Committee in the performance of its functions by providing data and evaluations of significant investment transactions.

(b) Until such time as the Congress shall have had adequate opportunity to consider appropriations for the use of the Office, the Secretary of the Treasury may make reasonable use of the resources of the Exchange Stabilization Fund to pay the expenses of the Office.




Section 3.

All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee and Office in carrying out their functions under this Order. The Committee and the Office shall give confidential treatment to any information submitted to them which would be regarded as confidential for the purposes of Section 1905 of Title 18 of the United States Code and shall be used only to carry out the functions under this Order.

Section 4.

Nothing in this Order shall affect the data-gathering or regulatory authority of any existing department or agency over foreign investment, and the review of individual investments provided by this Order shall not in any way supersede or prejudice any other process of review or approval provided by law.

THE WHITE HOUSE



# NSC CORRESPONDENCE PROFILE

DOC		RECD		LOG NBR		INITIAL ACTION O
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SOURCE/CLASS/DESCRIPTION	INGERSOLL		REFERENCE:	CIRCLE AS APPROPRIATE
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	KISSINGER <u>xXXX</u>	COLBY, W	OTHER	LOU NO FORN NODIS
	SCOWCROFT	SCHLESINGER, J		C EYES ONLY EXDIS
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				TS SENSITIVE
SUBJECT: PROPOSED EXECUTIVE ORDER ON FOREIGN ANVESTMENT IN THE UNITED STATES.				

DISTRIBUTION/INITIAL ACTION ASGMT	INTERNAL ROUTING AND DISTRIBUTION			REC CY FOR	ACTION REQUIRED
	ADVANCE CYS TO HAK/SCOWCROFT	ACTION	INFO		
	STAFF SECRETARY		XX		MEMO FOR HAK ( )
	FAR EAST				MEMO FOR PRES ( XX )
	SUB-SAHARAN AFRICA				REPLY FOR ( )
	MID EAST / NO. AFRICA / SO. ASIA				APPROPRIATE ACTION ( )
	EUROPE / CANADA				MEMO TO ( )
	LATIN AMERICA				RECOMMENDATIONS ( )
	UNITED NATIONS				JOINT MEMO ( )
	ECONOMIC	XX			REFER TO FOR: ( )
	SCIENTIFIC			*	ANY ACTION NECESSARY? ( )
	PROGRAM ANALYSIS				CONCURRENCE ( )
	NSC PLANNING				DUE DATE: 5/12
					COMMENTS: (INCLUDING SPECIAL INSTRUCTIONS) For Butler: There is a lot of undone homework here, including OMB, Att Gen, CIEP, et alx in- put, plus formatting, & Theis office o.k. JHM

SUBSEQUENT ROUTING/ACTIONS	DATE	FROM	TO	S	SUBSEQUENT ACTION REQUIRED (OR TAKEN):	CY TO
	5/7	Harold Holt	XXXX		Approval E.O.	
	5/7		NSC/SC		Concurrence passed by phone per BS	

NSC/S DISP INSTR	DISPATCH	
	CY RQMTS: SEE ABOVE PLUS:	
	NOTIFY & DATE BY	
	SPECIAL DISPOSITION:	
	CROSS REF W/	
	SUSPENSE CY ATTACHED:	FOLDER:
		MICROFILM & FILE RQMTS:
		M/F'D BY
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THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

*EF*

*Alumham ③*  
EXECUTIVE  
FG 412  
PR 14-8  
FO 4-3  
FE 6

Date: May 12, 1975

Time: 4:00 p.m.

FOR ACTION: Phil Buchen  
Jim Cannon  
Alan Greenspan  
Jack Marsh

xxxxxxxxxxxxxxxxxxxx  
Max Friedersdorf  
Jim Lynn  
Brent Scowcroft  
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, May 13, 1975

Time: 11:00 a.m.

SUBJECT:

Attached statement re: Executive Order -  
entitled "Foreign Investment in the United  
States"

*filed same 5-9-76*

ACTION REQUESTED:

☐ For Necessary Action

☒ For Your Recommendations

☐ Prepare Agenda and Brief

☐ Draft Reply

☒ For Your Comments

☐ Draft Remarks

REMARKS:

The Press Office is interested in releasing  
this on Tuesday, May 13. It has been cleared  
by Paul Theis

*No objection  
called 3/13/76  
1/11/76*



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a  
delay in submitting the required material, please  
telephone the Staff Secretary immediately.

Jerry H. Jones  
Staff Secretary

RECEIVED  
JUN 3 1976  
CENTRAL FILES

Presidential Statement

Earlier this year, the Executive Branch conducted an extensive review of our policy toward foreign investment in this country. We concluded that, under existing law, we had adequate safeguards to protect essential national interests and that new restrictions on foreign investment were unnecessary. At the same time, it was determined that, in addition to the continued vigorous enforcement of our current laws and regulations on foreign investment, the Administration should establish administrative procedures to ensure that such investments in this country are consistent with our national interests. The Executive Order I have signed puts these procedures into effect.

The Order establishes a Committee on Foreign Investment in the United States to be chaired by a senior official of the Department of the Treasury. Included on this committee are representatives of the Secretaries of State, Defense, and Commerce, of the Assistant to the President for Economic Affairs and of the Executive Director of the Council for International Economic Policy. The major tasks of this Committee are to assess general trends and significant developments in foreign investment and to review investments in the United States by foreign governments which, in the judgment of the Committee, might have major implications for U.S. national interests. The Committee is also responsible for considering proposals for such new legislation or additional administrative action as may be appropriate.

In order to perform his responsibilities under this Order, the Secretary of Commerce intends to establish an Office of Foreign Investment in the United States. This Office will be responsible for obtaining, consolidating and analyzing information on foreign investment in this country. This information will be submitted to the Committee and will assist it in the performance of its duties under this Order.

In addition, we expect that foreign governments will consult with us in advance on major governmental investments in this country. As previously announced, we are presently discussing with foreign governments the procedures for advance consultations. Such consultations have been mutually beneficial in the past, and I am confident that such exchanges on governmental investments will be in the best interests of all concerned.

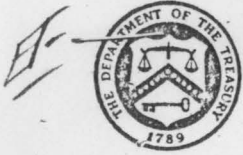
(MORE)



I want to reaffirm that this Administration is committed to a continuation of America's traditional open door policy toward foreign investment. This policy is consistent with our overall dedication to the freest possible economic relations among nations.







ASSISTANT SECRETARY

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

September 13, 1976

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EXECUTIVE

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MEMORANDUM FOR: MEMBERS OF THE COMMITTEE ON FOREIGN  
INVESTMENT IN THE UNITED STATES

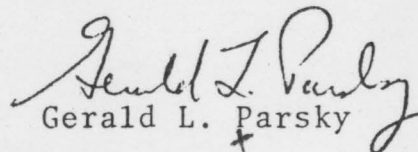
HONORABLE JAMES M. CANNON  
HONORABLE BRENT SCOWCROFT  
HONORABLE ALAN GREENSPAN  
HONORABLE FRANK G. ZARB

Subject: Working-level Meeting on OPEC Investments  
in Energy Sector

The FEA has requested that the Committee on Foreign Investment in the United States (CFIUS) review current U.S. policy and procedures on foreign investment in the United States in regard to direct investments by OPEC governments in the energy sector. Accordingly, I have asked Deputy Assistant Secretary John M. Niehuss to hold a working level meeting of the CFIUS to give FEA an opportunity to explain why current U.S. policy and procedures should be changed in this regard. (Attached is a FEA memorandum on this subject.) The report of this working group will be transmitted to the Committee with a recommendation for any further action by the CFIUS.

Pursuant to Section 1(a) of the Executive Order creating the CFIUS, representatives of FEA, CEA, NSC and the Domestic Council are also invited to participate in the working group.

The working group meeting will be held on Thursday, September 16 at 2:30 p.m. in Room 4125, Main Treasury. Please notify Mr. Niehuss' office (964-5881) as to who will attend for your agency.

  
Gerald L. Parsky

Attachment





EXECUTIVE

F04-3

UT

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FG106

FG412

May 16, 1975

Dear Mr. Stratton:

Now that the Committee on Foreign Investment in the United States is in being, we are looking to its Chairman, Treasury Under Secretary for Monetary Affairs Jack Bennett, as the prime contact for foreign investment issues.

Jack will be making a formal response to your April 29 letter to Jim Cannon regarding the long term debt and stock issue of the Washington Gas Company.

Sincerely,

/s/

L. William Seidman  
Assistant to the President  
for Economic Affairs

Attachment

Mr. William R. Stratton  
Commissioner  
Public Service Commission  
of the District of Columbia  
1625 I Street, N. W.  
Washington, D. C. 20006

LWS:DWM:fme

CHRON, WH, EXSEC #2094

RECEIVED  
MAY 20 1975  
CENTRAL FILES

EXECUTIVE

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FG 21-23

FG 412

FO 4-3

FG 38

THE WHITE HOUSE  
WASHINGTON

JUL 9 - 1975

The President

of the Senate

Sir:

I ask the Congress to consider a proposed budget amendment for an increase in the fiscal year 1976 appropriations in the amount of \$410,000 for the Department of Commerce.

The details of this proposal are set forth in the enclosed letter from the Director of the Office of Management and Budget, with whose comments and observations I concur.

Respectfully,

*Donald R. Znd*

Enclosure

*Foreign Investment, Office of*

*Sgd 7/8/75 Dated (per OMB) 7/9*

*Original to OMB 7/9*

*Copy to Press Office (Smith) 7/9/75*

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 3239

Date: May 12, 1975

Time: 4:00 p.m.

EXECUTIVE

FOR ACTION: Phil Buchen  
Jim Cannon  
Alan Greenspan  
Jack Marsh

XXXXXXXXXXXXXXXXXXXX  
Max Friedersdorf  
Jim Lynn  
Brent Scowcroft  
Bill Seidman

FG 412  
FE 6  
FO 4-3

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, May 13, 1975

Time: 11:00 a.m.

SUBJECT:

Attached statement re: Executive Order  
entitled "Foreign Investment in the United  
States"

ACTION REQUESTED:

\_\_\_ For Necessary Action

X For Your Recommendations

\_\_\_ Prepare Agenda and Brief

Draft Reply

X For Your Comments

\_\_\_ Draft Remarks

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The Press Office is interested in releasing  
this on Tuesday, May 13. It has been cleared  
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delay in submitting the required material, please  
telephone the Staff Secretary immediately.

Jerry H. Jones  
Staff Secretary

RECEIVED

MAY 16 1975

CENTRAL FILES



## Presidential Statement

Earlier this year, the Executive Branch conducted an extensive review of our policy toward foreign investment in this country. We concluded that, under existing law, we had adequate safeguards to protect essential national interests and that new restrictions on foreign investment were unnecessary. At the same time, it was determined that, in addition to the continued vigorous enforcement of our current laws and regulations on foreign investment, the Administration should establish administrative procedures to ensure that such investments in this country are consistent with our national interests. The Executive Order I have signed puts these procedures into effect.

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- In order to perform his responsibilities under this Order, the Secretary of Commerce intends to establish an Office of Foreign Investment in the United States. This Office will be responsible for obtaining, consolidating and analyzing information on foreign investment in this country. This information will be submitted to the Committee and will assist it in the performance of its duties under this Order.

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(MORE)





I want to reaffirm that this Administration is committed to a continuation of America's traditional open door policy toward foreign investment. This policy is consistent with our overall dedication to the freest possible economic relations among nations.



## NSC CORRESPONDENCE PROFILE

DOC		RECD		LOG NBR		INITIAL ACTION O
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SUBJECT: <i>NSC Comments Request for ref Executive Order entitled to be involved in the U.S.</i>									

DISTRIBUTION/INITIAL ACTION ASGMT	INTERNAL ROUTING AND DISTRIBUTION			REC CY FOR	ACTION REQUIRED
		ACTION	INFO		
ADVANCE CYS TO HAK/SCOWCROFT					MEMO FOR HAK .....
STAFF SECRETARY					MEMO FOR PRES .....
FAR EAST					REPLY FOR .....
SUB-SAHARAN AFRICA					APPROPRIATE ACTION .....
MID EAST / NO. AFRICA / SO. ASIA					MEMO _____ TO _____ .....
EUROPE / CANADA					RECOMMENDATIONS .....
LATIN AMERICA					JOINT MEMO .....
UNITED NATIONS					REFER TO _____ FOR: _____ .....
ECONOMIC	<i>+</i>				ANY ACTION NECESSARY? .....
SCIENTIFIC					CONCURRENCE .....
PROGRAM ANALYSIS					DUE DATE: <i>Today 11:00</i>
NSC PLANNING					COMMENTS: (INCLUDING SPECIAL INSTRUCTIONS)
CONGRESSIONAL					<i>By phone</i>
OCEANS POLICY					
INTELLIGENCE					

SUBSEQUENT ROUTING/ACTIONS	DATE	FROM	TO	S	SUBSEQUENT ACTION REQUIRED (OR TAKEN):	CY TO
	<i>5/13</i>					<i>Cleared PH Formats consumed by phone</i>

NSC/S	DISP	INSTR	DISPATCH		CY RQMTS: SEE ABOVE PLUS:		NOTIFY		SPECIAL DISPOSITION:		CROSS REF W/		SUSPENSE CY ATTACHED:		FOLDER:	
MICROFILM & FILE RQMTS:																
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the Fund and the Congress has been aware of these uses of the Fund. The use of the Fund under the proposed order would appear to be more directly related to the stabilization of the exchange value of the dollar than some prior uses. In view of the foregoing, we see no legal objection to section 3 of the order.

The Department of Commerce asked the Office of Management and Budget to revise the language of section 5 of the order, relating to confidentiality of information, after the order was transmitted to this Department. This change has been made.

A reference to section 301 of title 3, United States Code, has been added in this Department as partial authority for the order. That section authorizes the President to designate and empower any official in the executive branch appointed with the advice and consent of the Senate to perform without approval of the President, any function vested by law in the President or any function which such official is authorized to perform subject to the approval of the President.

Background information concerning the proposed order is detailed in the OMB transmittal letter. The proposed Executive order is acceptable as to form and legality.

Antonin Scalia  
Assistant Attorney General  
Office of Legal Counsel





EXECUTIVE ORDER  
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FOREIGN INVESTMENT IN THE UNITED STATES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. (a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of a representative, whose status is not below that of an Assistant Secretary, designated by each of the following:

- (1) The Secretary of State.
- (2) The Secretary of the Treasury.
- (3) The Secretary of Defense.
- (4) The Secretary of Commerce.
- (5) The Assistant to the President for Economic Affairs.
- (6) The Executive Director of the Council on International Economic Policy.

The representative of the Secretary of the Treasury shall be the chairman of the Committee. The chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating



the implementation of United States policy on such investment. In fulfillment of this responsibility, the Committee shall:

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States;

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States;

(3) review investments in the United States which, in the judgment of the Committee, might have major implications for United States national interests; and

(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

Sec. 2. The Secretary of Commerce, with respect to the collection and use of data on foreign investment in the United States, shall provide, in particular, for the performance of the following activities:

(a) The obtainment, consolidation, and analysis of information on foreign investment in the United States;

(b) the improvement of procedures for the collection and dissemination of information on such foreign investment;

(c) the close observation of foreign investment in the United States;

(d) the preparation of reports and analyses of trends and of significant developments in appropriate categories of such investment;

(e) the compilation of data and preparation of evaluations of significant investment transactions; and

(f) the submission to the Committee of appropriate reports, analyses, data and recommendations relating to foreign investment in the United States, including recommendations as to how information on foreign investment can be kept current.

Sec. 3. The Secretary of the Treasury is authorized, without further approval of the President, to make reasonable use of the resources of the Exchange Stabilization Fund, in accordance with section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), to pay any of the expenses directly incurred by the Secretary of Commerce in the performance of the functions and activities provided by this Order. This authority shall be in effect for one year, unless revoked prior thereto.

Sec. 4. All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee or the Secretary of Commerce in carrying out their functions and activities under this Order.

Sec. 5. Information which has been submitted or received in confidence shall not be publicly disclosed, except to the extent required by law; and such information shall be used by the Committee only for the purpose of carrying out the functions and activities prescribed by this Order.

Sec. 6. Nothing in this Order shall affect the data-gathering, regulatory, or enforcement authority of any existing department or agency over foreign investment, and the review of individual investments provided by this Order shall not in any way supersede or prejudice any other process provided by law.

THE WHITE HOUSE

, 1975





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

GENERAL COUNSEL

MAY 5 1975

MEMORANDUM FOR MR. ROBERT D. LINDER

Subject: Proposed Executive Order entitled "Foreign  
Investment in the United States."

The cited proposed Order was forwarded to Justice on Thursday,  
May 1, 1975, by this office, with a copy thereof to you.

In Section 1(a) of the proposed Order, would you kindly add  
"(6) The Executive Director of the Council on International  
Economic Policy."

This addition has the concurrence of the Assistant to the  
President for Economic Affairs and the Secretary of the  
Treasury. It has the approval of the Director of the  
Office of Management and Budget.

Calvin J. Collier  
General Counsel







EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

GENERAL COUNSEL

MAY 1 1975

Honorable Edward H. Levi  
Attorney General  
Washington, D. C. 20530

Dear Mr. Attorney General:

Herewith, in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "Foreign Investment in the United States."

The proposed Order was submitted by the Department of the Treasury. It would have established an inter-agency Committee to monitor the impact on the United States economy of foreign investments; and, would have directed the Secretary of Commerce to create an "Office of Foreign Investment in the United States" for the purposes of obtaining, consolidating, and analyzing information on such investments. The proposed Order was subsequently modified by the Department of the Treasury (letter of April 22, 1975) to incorporate some of the views of other agencies. After consulting representatives of that Department and the Department of Commerce, the proposed Order has been further revised in this office as to style and substance.

As authority for issuing this proposed Executive order, in addition to the assertion of the President's general constitutional authority, we have cited the organic act of the Department of Commerce (having in mind particularly the following: 15 U.S.C. 1501, 1512, 1513, 1516, and 1517), Section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and other unspecified statutory authority under which the Secretary of Commerce may be empowered to collect or obtain information on foreign investment. We were cognizant of the Foreign Investment Study Act of 1974 (Public Law 93-479, 88 Stat. 1450), but did not cite that statute since it is of limited duration.


COPY FOR MR. ROBERT D. LINDER



The composition of the Committee is as recommended by the Department of the Treasury. The Department of Defense recommended that a representative of the National Security Council and the Council on International Economic Policy be placed on the Committee. The NSC did not request representation and it has not been added. The CIEP did request representation, but it has not been added. NSC and CIEP were not left off of the Committee so much out of objection to their membership, but out of a recognition of the manner in which the Committee is formed. The heads of the entities on the Committee are to appoint representatives, not to sit on the Committee themselves. For instance, the Chairman of CIEP is the Secretary of the Treasury and would thus appoint two representatives. At the same time, there is a working relationship between the Executive Director of CIEP and the Assistant to the President for Economic Policy, who is to appoint a representative, and who might appoint the Executive Director of CIEP as his representative.

It is our understanding that CIEP informally requested through the Department of the Treasury that the phrase "in the judgment of the Committee" be inserted in Section 1(b)(3) of the proposed Order, after the word "which." This modification has been made. Other recommendations for changes in the first Section have generally been accommodated by the revised Treasury draft and that substance has not been changed.

As to Section 2 of the proposed Order, after consulting representatives of the Departments of Commerce and the Treasury, we have not found any clear authority in the Secretary of Commerce to create within that Department a constituent Office or Agency in the constitutional sense. We have concluded that it would be improper to direct the creation of such an Office or Agency. We also considered the desirability of placing the full responsibility in the Secretary of Commerce, rather than in some element within the Department, with the Secretary having only supervisory authority. This has been a major objective of reorganization plans. We have not been concerned with any inherent authority of the Secretary to group his employees into organizational units and to denominate one of such units as an office of foreign investment. That authority and responsibility is clearly reposed in the discretion of the Secretary. It is our understanding that the Secretary intends to exercise such authority.



The responsibilities directed to the Secretary have been changed for reasons of style, but the substance has not been altered from the Treasury revised draft; except that, we have made it the Secretary's responsibility to submit appropriate reports and recommendations to the Committee (Section 2(f) of the proposed Order). In deleting references to the performance of those functions "at the direction of the Committee" we considered the inappropriateness of the Committee directing the Secretary of Commerce, and the otherwise possible conflict with Section 608 of the Treasury Appropriations Act (Public Law 93-381), to the extent that employees of Commerce might be construed as being de facto detailed as employees of the Committee.

Section 3 of the proposed Executive order provides that the President approves the use of resources of the Exchange Stabilization Fund by the Secretary of the Treasury for expenses incurred by Commerce. Mr. Dennis O'Connell (184-8416) of Treasury has advised that it is Treasury's opinion that such use of those funds is legal. We have provided that the Secretary of the Treasury must use those funds in accordance with the law. With Treasury's concurrence, we have limited the use of such funds for one year. It is our understanding that, to the extent necessary, Commerce will seek appropriations for the expenses incurred in performing the functions and activities prescribed by the Order.

The use of the phrase "expenses directly incurred" is not intended to prohibit payment for overhead or other expenses properly allocated. It is intended to limit expenses to those incurred by reason of the proposed Order and to prevent the shifting of present or other expenses of obtaining data which would have been incurred in any event, but which could have been indirectly attributed to the performance of functions and activities specified in the proposed Executive order.

Section 5 of the proposed Executive order relates to the confidentiality of certain information. This provision was inserted at the request of the Department of Commerce and, after consultation with representatives of that Department, has been modified in this office. Reference to 18 U.S.C. 1905 has been deleted, since it gave the





misleading impression that the President had authority to determine the categories of information to which the criminal sanctions of that statute would apply.

At the request of the Department of Justice the last Section of the proposed Order has been modified to make it clear that there is no intent to limit the anti-trust or other law enforcement process of the Department of Justice or any other agency.

It is the desire of interested agencies to have this proposed Order submitted for the President's consideration so that it could be signed prior to May 7, 1975. Your urgent consideration of this proposed Order is requested, with the hope that it may be delivered to the White House by close of business this Friday.

This proposed Executive order has the approval of the Director of the Office of Management and Budget.

Sincerely,

(Signed) Calvin J. Collier

Calvin J. Collier  
General Counsel

Enclosures





EXECUTIVE ORDER  
-----

FOREIGN INVESTMENT IN THE UNITED STATES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), and Section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and as President of the United States of America, it is hereby ordered as follows:

Section 1. (a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of a representative, whose status is not below that of an Assistant Secretary, designated by each of the following:

- (1) The Secretary of State.
- (2) The Secretary of the Treasury.
- (3) The Secretary of Defense.
- (4) The Secretary of Commerce.
- (5) The Assistant to the President for Economic Affairs.

The representative of the Secretary of the Treasury shall be the Chairman of the Committee. The Chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating

the implementation of United States policy on such investment. In fulfillment of this responsibility, the Committee shall:

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States;

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States;

(3) review investments in the United States which, in the judgment of the Committee, might have major implications for United States national interests; and

(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

Sec. 2. The Secretary of Commerce, with respect to the collection and use of data on foreign investment in the United States, shall provide, in particular, for the performance of the following activities:

(a) The obtainment, consolidation, and analysis of information on foreign investment in the United States;

(b) the improvement of procedures for the collection and dissemination of information on such foreign investment;

(c) the close observation of foreign investment in the United States;

(d) the preparation of reports and analyses of trends and of significant developments in appropriate categories of such investment;

(e) the compilation of data and preparation of evaluations of significant investment transactions, and

(f) the submission to the Committee of appropriate reports, analyses, data and recommendations relating to foreign investment in the United States, including recommendations as to how information on foreign investment can be kept current.

Sec. 3. The Secretary of the Treasury is authorized, without further approval of the President, to make reasonable use of the resources of the Exchange Stabilization Fund, in accordance with Section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), to pay any of the expenses directly incurred by the Secretary of Commerce in the performance of the functions and activities provided by this Order; this approval shall be in effect for one year, or until Congress shall have had adequate opportunity to consider appropriations for such functions and activities, whichever is earlier.

Sec. 4. All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee or the Secretary of Commerce in carrying out their functions and activities under this Order.



Sec. 5. Information submitted or received in confidence solely for the purposes of this Order shall not, except to the extent required by law, be disclosed in any manner except as necessary to carry out the functions and activities prescribed by this Order.

Sec. 6. Nothing in this Order shall affect the data-gathering, regulatory, or enforcement authority of any existing department or agency over foreign investment, and the review of individual investments provided by this Order shall not in any way supersede or prejudice any other process provided by law.

THE WHITE HOUSE

, 1975







11/4 Kienler  
WMM

**THE SECRETARY OF COMMERCE**  
Washington, D.C. 20230

APR 11 1975

Honorable William M. Nichols  
Acting General Counsel  
Office of Management and  
Budget  
Washington, D. C. 20503

Dear Mr. Nichols:

This is in reply to your request for the views of this Department concerning the draft Executive Order regarding Foreign Investment in the United States.

The draft Order would establish a Committee on Foreign Investment in the United States and an Office of Foreign Investment in the United States.

The Committee would have primary continuing responsibility within the Executive Branch for monitoring the impact on the U.S. economy of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of United States policy on such investment.

The functions of the new Office to be established in this Department will be two-fold:

- 1) Consolidate data currently obtained by other agencies for purposes of ". . . producing analyses of trends and significant developments in various categories of investment" and ". . . to seek to improve the gathering and dissemination of information on . . . foreign investment." (Sections 2(a)(1) and (2)); and
- 2) ". . . [P]rovide data and evaluations of significant individual investment proposals." (Section 2(a)(3))

We believe that the two principal functions assigned to the new office can be substantially accomplished by this Department.

The draft Order is predicated on the premise that no new statutory authority will be sought at this time for this purpose and that the proposed Committee and Office will principally base their studies on data collected (or to be collected) by various federal agencies under existing statutory authorities.



2.

With respect to the first function, we understand that this would mainly involve analyzing in aggregate form information collected by other agencies. On this basis, such analysis would not require access to individual data and existing statutory authority would appear adequate to achieve this purpose.

The second function, however, contemplates access to data on individual transactions at the "proposal" stage, in advance of their consummation. If we are contemplating an early warning system that would enable the government to learn of a major contemplated foreign investment prior to offer and acceptance, there is currently no federal agency collecting such data and the SEC does not have the authority to require its submission.

SEC requires reports designed to warn of substantial changes in ownership and control of certain publicly held corporations. Any person who acquires ownership of a registered equity security of 5 percent or more of the amount outstanding must report detailed information on the transaction and the purchaser within 10 days to the SEC. After such acquisition, such person is required to file further reports whenever his acquisition exceeds 2 percent in any 12-month period. The same requirements apply to tender offers which would result in ownership of 5 percent or more. The filing must be made at the time the announcement is made public. Also, every person who is owner of 10 percent or more of a registered equity security must report any changes in ownership over the 10 percent level ten days after the close of each month. Based on the foregoing, it is clear that SEC-collected information cannot guarantee our learning of every proposed significant investment before it is consummated.

In order to obtain as much data as possible in a timely fashion, we do not propose to rely solely on data collected by government agencies. We propose to use all available information sources, including our commercial intelligence sources within the business community. Thus, we plan to seek advance information on a voluntary basis, at least for an initial period, to determine whether this informal approach is adequate to carry out this second function. Since only major transactions are involved, we believe that this proposed course of action is feasible.

However, it should be recognized that obtaining data in any manner other than on a mandatory basis with penalties for failure to disclose, does not assure full and timely coverage. Moreover, individuals may be reluctant to provide advance information on proposed significant investment, since we could only provide them with limited assurances of confidential treatment. The Executive Order contemplates that data

3.

on those proposed significant investments would be made available to the several agencies represented on the Committee. We recommend that the Order be amended to provide that recipient agencies should give this data confidential treatment. This could be achieved by adding the following sentences at the end of section 3:

"To the extent permitted by law, the Committee and the Office shall give confidential treatment to any information submitted or received in confidence. Such information shall be considered confidential for the purpose of Section 1905 of Title 18 of the United States Code and shall be used only to carry out the functions under this Order."

This amendment would not preclude our having to honor requests by Congress for such data. We would have to be candid with those individuals requested to submit data and inform them that the exemptions for nondisclosure of data under the Freedom of Information Act are not applicable to the Congress and that this information would have to be provided to Congressional Committees when requested by the Committee Chairman for Committee purposes.

If the voluntary approach to obtaining information required to properly study and evaluate significant investment proposals should prove to be inadequate as a means of obtaining the necessary data, then consideration would have to be given either to using the provisions of the Trading with the Enemy Act or to requesting enactment of specific legislation. This would assure reporting of the data, but would not necessarily protect the business community from disclosure of individual transactions, unless safeguards were specifically provided for in new legislation. The Trading with the Enemy Act does not contain such safeguards.

Turning to the drafting of the proposed Order, we are concerned that the Department might be criticized for failure to carry out the mandate in section 2(a)(3) if our voluntary approach should prove inadequate to produce the necessary data. As presently drafted, section 2(a)(3) contemplates that the Office of Foreign Investment in the United States shall:

"at the direction of the Committee provide data and evaluations of significant individual investment proposals."





4.

It is possible, although we trust this will not be the case, that we will not be able to be fully responsive to the Committee's requests because of lack of sufficient data. We are aware that section 3 of the Order states that information to be provided by the agencies is to be provided only "to the extent permitted by law." However, the problem would not be a legal prohibition, but rather a lack of availability. Accordingly, we believe it desirable to also have a caveat in the mandate imposed on the Department in section 2(a). We believe this can be accomplished by adding the words "to the extent feasible" immediately after the words "the Office shall" in the introductory paragraph of section 2(a).

We support issuance of the proposed Executive Order with the two amendments discussed above.

We are in the process of developing our estimates and justifications concerning administrative and personnel requirements for the new responsibilities assigned to this Department by the proposed Order. These will be transmitted as soon as completed.

Sincerely,

*Karl E. Batke*

ACTING Secretary of Commerce







DEPARTMENT OF STATE

Washington, D.C. 20520

Mr. Kienlen  
wma

APR 15 1975

Honorable James T. Lynn  
Director, Office of  
Management and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

The Secretary has asked that I reply to your letter of April 8 requesting the comments of the Department of State concerning a proposed Executive Order entitled "Foreign Investment in the United States."

The Department of State supports the proposed Executive Order with several wording changes:

- (1) The words "on the U.S. economy" in lines 2-3 of Section 1(b) should be deleted, so as to avoid any suggestion that the non-economic effects (e.g., national security) of foreign investment are not to be considered by the Committee on Foreign Investment in the United States.
- (2) The word "individual" in Sections 1(b)(3) and 4 (line 3) should be deleted so as to deemphasize the implication that the Committee is to act as a screening authority for inward investments. In Section 4, the word "any" should be inserted in its place, and the letter "s" should be dropped from the word "investments" immediately following it.
- (3) Section 2(a)(3) should be revised to read "at the direction of the Committee shall assist the Committee in the performance of its functions by providing data and evaluations of significant investment transactions." This new language, similar to that contained in Section 2(a)(2), emphasizes the role of the office in support of the Committee.
- (4) In Section 1(b)(3), line 2 should be revised to read "have major implications for U.S. national interests," since this wording is somewhat broader, and in this context more appropriate than "major significance".



In addition, in order to avoid the possibility that the work of the Committee would be delayed due to the temporary unavailability of one or more of its members, we recommend that Section 1(a) be amended to allow the representative of each Department member of the Committee to designate an alternate to substitute for him in the activities of the Committee.

Sincerely,

*Robert + Jane McCloskey*

Robert G. McCloskey  
Assistant Secretary  
for Congressional Relations



April 9, 1975

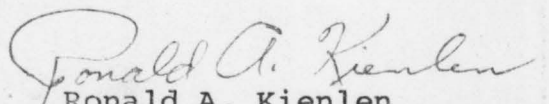
MEMORANDUM FOR THE RECORD

Subject: Proposed Executive order entitled "Foreign  
Investment in the United States"

Mr. Dick Smith (Office of Investment Affairs), Department of State, <sup>(RK)</sup>  
(101-21128) recommended the following change:

Sec. 1(b) Delete "on the U.S. economy".

That office recommends language allowing alternate  
members for particular meeting.

  
Ronald A. Kienlen  
Assistant General Counsel





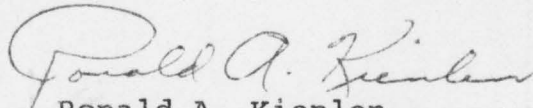
April 11, 1975

MEMORANDUM FOR THE RECORD

Subject: Proposed Executive order entitled "Foreign  
Investment in the United States"

Mr. Leon Ulman (187-2051) Justice, advised that the  
Antitrust Division strongly recommended rewording  
Section 4 to read:

"Nothing in this Order shall affect the data-  
gathering, regulatory, or enforcement authority  
of any existing department or agency over  
foreign investment, and the review of individ-  
ual investments provided by this Order shall  
not in any way supersede or prejudice any other  
process provided by law."

  
Ronald A. Kienlen  
Assistant General Counsel

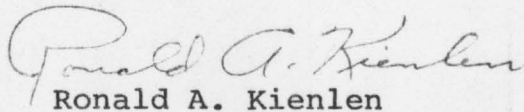


April 24, 1975

MEMORANDUM FOR THE RECORD

Subject: Proposed Executive order entitled "Foreign  
Investment in the United States"

Ms. Mary Ellen Brown (Federal Reserve System, 452-3608)  
advised that that agency had no objection to the issuance  
of this proposed Executive order.

  
Ronald A. Kienlen  
Assistant General Counsel

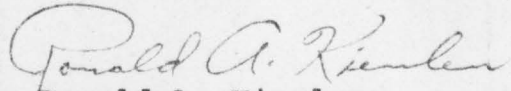


April 10, 1975

MEMORANDUM FOR THE RECORD

Subject: Proposed Executive Order entitled "Foreign Investment in the United States"

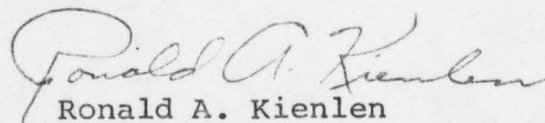
Mr. Charles Luedde (SEC, General Counsel) (755-1229) requested extension until April 14, 1975, approximately 10 AM, for their comments on the subject Order. Probably no objection.

  
Ronald A. Kienlen  
Assistant General Counsel

April 14, 1975

Mr. Charles Luedde (SEC, General Counsel, 755-1229) advised the following change was recommended by that agency:

- 2(b) Recommend use of the Fund to reimburse other agencies which supply assistance.

  
Ronald A. Kienlen  
Assistant General Counsel





Mr. Kien  
WMN

COUNCIL ON INTERNATIONAL ECONOMIC POLICY  
WASHINGTON, D.C. 20500

April 11, 1975

MEMORANDUM FOR

William M. Nichols  
Acting General Counsel  
Office of Management and Budget

FROM: David A. Hartquist *CH*  
General Counsel


SUBJECT: CIEP Comments on Proposed Executive  
Order Entitled "Foreign Investment  
in the United States"

CIEP has the following comments on the proposed Executive Order on foreign investment in the U.S.:

- (1) We suggest that the NSC and CIEP be added as permanent members of the Committee on Foreign Investment in the United States. For over a year and a half CIEP coordinated the development of Administration policy with respect to foreign investment in the U.S. and the experience gained during this time should be a valuable addition to the permanent committee. If CIEP is not a permanent committee member, we would not approve the Executive Order.
- (2) The Executive Order as now drafted designates the representative of the Department of Treasury as the Chairman of the Committee. We feel it would be preferable to have the Executive Order read as follows:

"The President shall designate the  
Chairman of the Committee."

This would avoid freezing the Chairmanship in Treasury should a decision be made at a later date to change the head of the Committee.



- (3) Change the word "shall" to the word "may" in the fifth line of Section 1(b). The word "shall" implies that the Committee must review all individual investments in the U.S. which might be of significance to our national interests. CIEP believes that this authority should be discretionary rather than mandatory and therefore suggests the above change.

- (4) We suggest that Section 1(b) (2) be revised to read as follows:

"Provide guidance on the nature of the arrangements to be established with foreign governments...." (change underscored)

- (5) We suggest the addition of a new item 3 in Section 1(b) to read as follows:

"Consider, as necessary, individual investment proposals arising out of consultation processes."

- (6) Renumber items 3 and 4 in Section 1(b) and change present Section 3 to read as follows:

"Review other individual investments...." (change underscored)

- (7) The Committee should have the power to request reports but should not have the obligation to prepare them itself. Therefore, the last sentence of Section 1(c) should be changed to read as follows:

"It may request the office to prepare periodic reports which it may publish."

- (8) Section 2(a) (1) should be split into two sections reading as follows:

- (1) Obtain, consolidate and analyze information on foreign investment in the U.S.;
- (2) Seek to improve the gathering and dissemination of information on such foreign investment and, in particular, make recommendations to the Committee on means whereby information on foreign

investment can be kept current".  
(change underscored).

- (9) Renumber present items 2 and 3 of Section 2(1)(a) and revise the third line of present Section 2(a)(2) to read:

"Producing reports and analyses of trends...."  
(addition underscored).





## MEMORANDUM

## NATIONAL SECURITY COUNCIL

INFORMATION

April 11, 1975

MEMORANDUM FOR: RONALD KIENLEN  
Assistant General Counsel

FROM: MALCOLM BUTLER *MB*

SUBJECT: Proposed Executive Order on Foreign  
Investment in the United States

This is to confirm my telephone clearance of the Executive Order on Foreign Investment in the United States.

As I mentioned, I have discussed certain changes of wording with the Department of State, and support their suggestions. These are, specifically:

- Section 1 (b) -- strike "on the U.S. economy"
- Section 1 (b)(3) -- strike "individual"; instead of "be of major significance", insert "have major implications"
- Section 2 (a)(3) -- strike "individual" and "proposals", insert "investments" for "investment"

The purpose of these changes is to eliminate the possibility that the Executive Order could be interpreted as permitting the institution of a screening process for foreign investment in the U.S.



April 11, 1975

MEMORANDUM FOR THE RECORD

Subject: Proposed Executive Order entitled "Foreign  
Investment in the United States"

Mr. Robert Rabben (DOD - OX7-1305) advised that DOD supports the issuance of this proposed Executive order but CIEP and NSC staff should be added as members in Section 1(a).

*for* *Mary J. Rice*  
Ronald A. Kienlen  
Assistant General Counsel





GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
WASHINGTON, D. C. 20301

15 April 1975

Mr. William M. Nichols  
Acting General Counsel  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Nichols:

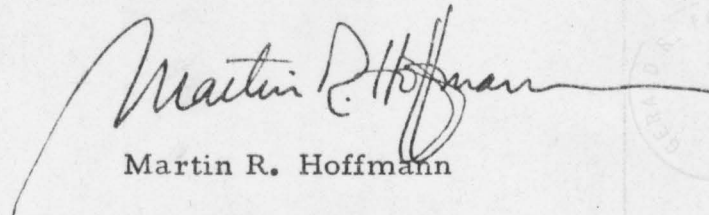
Reference is made to your request for the views of the Department of Defense on a proposed Executive order entitled "Foreign Investment in the United States."

The Department of Defense supports the Executive order. However, we recommend that Section 1(a) be amended to add both the Council on International Economic Policy (CIEP) and the National Security Council (NSC) as regular representatives as follows:

The new "Committee on Foreign Investment in the United States" being established by the Executive order "shall be composed of one representative from each of the Departments of State, Treasury, Defense, Commerce, the Council on International Economic Policy, and the National Security Council. The representatives designated by the respective Secretaries...."

CIEP initiated the current intragovernmental studies on foreign investment in the summer of 1973, and has as its principal function the coordination and development of overall United States Government policy in the foreign economic field.

Sincerely,

  
Martin R. Hoffmann





THE GENERAL COUNSEL OF THE TREASURY  
WASHINGTON, D.C. 20220

APR 22 1975

RECEIVED  
APR 23 11 14 AM '75  
OFFICE OF  
MANAGEMENT & BUDGET

Director, Office of Management and Budget  
Executive Office of the President  
Washington, D.C. 20503

Attention: Acting General Counsel

Sir:

On April 2, 1975, this Department transmitted to you a proposed Executive order which would establish a Committee on Foreign Investment in the United States and an Office of Foreign Investment in the United States. In response to your request of April 8, a number of agencies suggested changes in the proposed order. We have obtained the comments of these agencies from Mr. Kienlen of your office and have attempted to work out a number of revisions in the order that would satisfy the relevant agencies and permit the order to be expeditiously forwarded to the White House.

Based on our discussions with other departments and agencies, we believe that we have reconciled all the differences over the proposed Executive order, with the exception that the question whether the CIEP Executive Director should be a member of the new Committee on Foreign Investment remains unresolved. You will note that there has been general agreement to add the Assistant to the President for Economic Affairs to the Committee.

Attached to this letter is a clean copy of the order as revised. We are also including for your convenience a copy prepared in legislative drafting style indicating the changes in the original. The order is being forwarded to you with the Department's request that it be cleared for transmittal to the President. We are forwarding copies of the revised draft to the agencies to whom you circulated our original transmittal.

Sincerely yours,

Richard R. Albrecht

Enclosures



EXECUTIVE ORDER

Foreign Investment in the United States

By virtue of the authority vested in me by the Constitution and laws of the United States, it is hereby ordered as follows:

Section 1.

(a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of one representative each of the Secretaries of State, Treasury, Defense, and Commerce, and of the Assistant to the President for Economic Affairs, designated by those officials and not below the status of an Assistant Secretary. The representative of the Secretary of the Treasury shall be the Chairman of the Committee. The Chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of U.S. policy on such investment. In fulfillment of this responsibility the Committee shall

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States,

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States,

(3) review investments in the United States which might have major implications for U.S. national interests, and

(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

Section 2.

(a) The Secretary of Commerce is hereby directed to establish within the Department of Commerce an Office of Foreign Investment in the United States. The Office shall:

(1) obtain, consolidate, and analyze information on foreign investment in the United States,

(2) seek to improve the gathering and dissemination of information on such foreign investment and, in particular, make recommendations to the Committee on means whereby information on foreign investment can be kept current,

(3) assist the Committee and other parts of the Government by closely observing foreign investment in the United States and producing reports and analyses of trends and significant developments in various categories of investment, and

(4) at the direction of the Committee, assist the Committee in the performance of its functions by providing data and evaluations of significant investment transactions.

(b) Until such time as the Congress shall have had adequate opportunity to consider appropriations for the use of the Office, the Secretary of the Treasury may make reasonable use of the resources of the Exchange Stabilization Fund to pay the expenses of the Office.





Section 3.

All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee and Office in carrying out their functions under this Order. Subject to applicable provisions of law, the Committee and the Office shall give confidential treatment to any information submitted or received in confidence. Such information shall be considered confidential for the purpose of Section 1905 of Title 18 of the United States Code and shall be used only to carry out the functions under this Order.

Section 4.

Nothing in this Order shall affect the data-gathering or regulatory authority of any existing department or agency over foreign investment, and the review of individual investments provided by this Order shall not in any way supersede or prejudice any other process of review or approval provided by law.

THE WHITE HOUSE

EXECUTIVE ORDER

Foreign Investment in the United States

By virtue of the authority vested in me by the Constitution and laws of the United States, it is hereby ordered as follows:

Section 1.

(a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of one representative each of the Secretaries of State, Treasury, Defense, and Commerce, and of the Assistant to the President for Economic Affairs, designated by those officials and not below the status of an Assistant Secretary together with the Executive Director of the CIEP. The representative of the Secretary of the Treasury shall be the Chairman of the Committee. The Chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact [on the U.S. economy] of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of U.S. policy on such investment. In fulfillment of this responsibility the Committee shall

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States,

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States,

(3) review [individual] investments in the United States which might [be of major significance to] have major implications for U.S. national interests, and

(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.



(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of [prepare and publish] periodic reports.

Section 2.

(a) The Secretary of Commerce is hereby directed to establish within the Department of Commerce an Office of Foreign Investment in the United States. The Office shall:

(1) obtain, consolidate, and analyze information on foreign investment in the United States [,] . [and seek to improve the gathering and dissemination of information on such foreign investment.]

(2) seek to improve the gathering and dissemination of information on such foreign investment and, in particular, make recommendations to the Committee on means whereby information on foreign investment can be kept current.

(3) shall assist the Committee and other parts of the Government by closely observing foreign investment in the United States and producing reports and analyses of trends and significant developments in various categories of investment, and

(4) at the direction of the Committee shall assist the Committee in the performance of its functions by providing [provide] data and evaluations of significant [individual] investment transactions. [proposals]

(b) Until such time as the Congress shall have had adequate opportunity to consider appropriations for the use of the Office, the Secretary of the Treasury may make reasonable use of the resources of the Exchange Stabilization Fund to pay the expenses of the Office.

Section 3.

All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee and Office in carrying out their functions under this Order. Subject to applicable provisions of law, the Committee and the Office shall give confidential treatment to any information submitted or received in confidence. Such information shall be considered confidential for the purpose of Section 1905 of Title 18 of the United States Code and shall



be used only to carry out the functions under this Order.

Section 4.

Nothing in this Order shall affect the data-gathering or regulatory authority of any existing department or agency over foreign investment, and the review of individual investments provided by this Order shall not in any way supersede or prejudice any other process of review or approval provided by law.

THE WHITE HOUSE





THE GENERAL COUNSEL OF THE TREASURY  
WASHINGTON, D.C. 20220

Mr Kienlen

APR 2 1975

Director, Office of Management and Budget  
Executive Office of the President  
Washington, D.C. 20503

Attention: Acting General Counsel

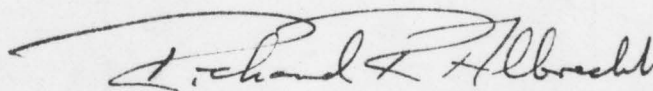
Sir:

Enclosed for your consideration is a draft Executive order which would establish a Committee on Foreign Investment in the United States and an Office of Foreign Investment in the United States.

The Committee would have primary continuing responsibility within the Executive Branch for monitoring the impact on the U.S. economy of foreign investment in the United States, both direct and portfolio, and for coordinating the implementation of United States policy on such investment. The Office, among other functions, would obtain, consolidate, and analyze information on foreign investment in the United States and, at the direction of the Committee, would provide data and evaluations of significant individual investment proposals.

The order is being proposed pursuant to Under Secretary Jack F. Bennett's announcement of the Administration's plans for the new Committee and Office during his March 4, 1975 testimony on S. 425, a copy of which is enclosed for your information. The draft Executive order is being forwarded to you with the Department's request that it be circulated to other agencies for their comments.

Sincerely yours,

  
Richard R. Albrecht

Enclosures



## EXECUTIVE ORDER

### Foreign Investment in the United States

By virtue of the authority vested in me by the Constitution and laws of the United States, it is hereby ordered as follows:

#### Section 1.

(a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of one representative each of the Departments of State, Treasury, Defense, and Commerce, designated by the respective Secretaries from among the officers of those Departments not below the status of an Assistant Secretary. The representative of the Department of the Treasury shall be the Chairman of the Committee. The Chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact on the U.S. economy of foreign investment in the U.S., both direct and portfolio, and for coordinating the implementation of U.S. policy on such investment. In fulfillment of this responsibility the Committee shall:

(1) arrange for the preparation of analyses on trends and significant developments in foreign investments in the United States,

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States,

(3) review individual investments in the United States which might be of major significance to U.S. national interests, and

(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.



(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also prepare and publish periodic reports.

Section 2.

(a) The Secretary of Commerce is hereby directed to establish within the Department of Commerce an Office of Foreign Investment in the United States. The Office shall:

(1) obtain, consolidate, and analyze information on foreign investment in the United States, and seek to improve the gathering and dissemination of information on such foreign investment.

(2) shall assist the Committee and other parts of the Government by closely observing foreign investment in the United States and producing analyses of trends and significant developments in various categories of investment, and

(3) at the direction of the Committee provide data and evaluations of significant individual investment proposals.

(b) Until such time as the Congress shall have had adequate opportunity to consider appropriations for the use of the Office, the Secretary of the Treasury may make reasonable use of the resources of the Exchange Stabilization Fund to pay the expenses of the Office.

Section 3.

All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee and Office in carrying out their functions under this Order.

Section 4.

Nothing in this Order shall affect the data-gathering or regulatory authority of any existing department or agency over foreign investment, and the review of individual investments provided by this Order shall not in any way supersede or prejudice any other process of review or approval provided by law.

THE WHITE HOUSE

THE WHITE HOUSE

Earlier this year the Executive Branch conducted an extensive interagency review of our policy toward foreign investment in this country. This review reached the basic conclusions that we already have sufficient safeguards against undesirable foreign investment and to protect essential interests, and that new restrictions on foreign investment are unnecessary. However, because responsibility for foreign investment is divided among a number of Federal departments and agencies, it was concluded that, in addition to enforcing vigorously our current laws and regulations on foreign investment, the Administration should supplement our present arrangements by additional administrative action to ensure that foreign investment in this country is consistent with our national interest.

The Executive Order I have signed today puts into effect the Administration's new procedures on matters relating to policy toward foreign investment. The Committee on Foreign Investment in the United States will serve to focus the




attention of high-level officials on both the general trends in foreign investment and the implications of major, specific foreign investment proposals. The new Office will assist the Committee by consolidating and analyzing information on foreign investment and providing evaluations and recommendations in specific cases under consideration. These new bodies will be responsible for making proposals for such legislation or administrative action as appear warranted by the facts.

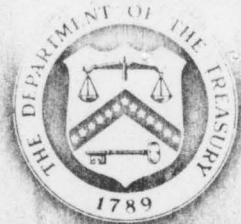
The Administration expects foreign governments to consult in advance with us on major prospective investments, and the new Committee and Office will be responsible for the activities relating to these consultations. We have already arrived at agreement on advance consultations with Saudi Arabia and will make suitable arrangements with other governments.

I want to reaffirm that this Administration is committed to the belief that the operation of free market forces will direct worldwide investment flows in the most productive way. Our policy on investment in this country is consistent with our overall dedication to the freest possible economic relations amongst countries.

Foreign investors will continue to find mutually beneficial opportunities here as long as they abide by our laws and respect our social and cultural traditions.







FOR RELEASE ON DELIVERY

Statement of  
The Honorable Jack F. Bennett  
Under Secretary of the Treasury for Monetary Affairs  
Before the  
Subcommittee on Securities  
Senate Committee on Banking, Housing and Urban Affairs  
March 4, 1975

Foreign Investment in the United States

Mr. Chairman, I appreciate this opportunity to present to your committee the Administration's views on foreign investment in the United States.

Within the Executive Branch we have been engaged in an extensive inter-agency review of Governmental policy toward such investment. We felt that such a review was appropriate in the light of the pace of change in international economic affairs, including in particular the rapid growth in the hands of a few governments of funds available for investment abroad.

In summary the basic conclusion of our review was to re-affirm the traditional policy of our Government as stated, for example, by the President in October when he signed the Foreign Investment Study Act of 1974. He said, "We continue to believe that the operation of free market forces will direct worldwide investment flows in the most productive way. Therefore my Administration will oppose any new restriction on



foreign investment in the United States except where absolutely necessary on national security grounds or to protect an essential national interest." An important underlying reason for the reaffirmation of that policy was our recognition that we shall need all the investment we can appropriately attract to assist in restoring the productivity growth of our economy.

Our review confirmed that existing laws, regulations, and practices provide extensive information with respect to foreign investments as well as safeguards to deal with particular investments. We concluded, however, that, in addition to enforcing rigorously the existing laws and regulations which control the activities of foreign investors, we should take administrative action to supplement present arrangements:

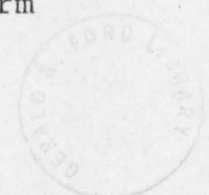
- by establishing a new continuing high-level, inter-agency committee to report to the President's Economic Policy Board and to serve as the focal point within the Executive Branch for insuring that foreign investments in the United States are consistent with our national interest;
- by creating a new office to serve that committee and all other parts of our Government by monitoring foreign investment and producing analyses both of developing trends in various categories of investment and of the prospective impact of significant individual investment proposals;

- by using the new office to centralize and improve the gathering of information on foreign investment and its dissemination to appropriate parts of the Government; and
- by negotiating procedures with the principal foreign governmental investors for advance consultation with the U.S. Government on prospective major direct investments in the United States.

It is our belief that the policy and arrangements we are proposing will simultaneously safeguard our national interest and, by clarifying the situation, actually enhance the attractiveness of the United States for foreign investors.

We do not believe that there is at this time a need for any new legislation, apart from the possible desirability of legislation now being studied by the SEC to impose more effective requirements, on both domestic and foreign investors, to reveal the beneficial owners standing behind investments held in nominee names.


At the outset of the Administration review just completed we took a look at trends in foreign investment over the last several years. Although the term "investment" sometimes covers all types of financial claims, in this particular study we concentrated on investments in relatively long-term assets, such as stocks and bonds, rather than short-term





assets such as bank deposits and Treasury bills. We distinguished between direct investment and portfolio investment. Until recently, foreign equity holdings of 25 percent or more were classified in our statistics as direct investment. Starting in January we now include any holdings of 10 percent or more in the direct investment category.

These data are available since under existing law the U.S. Government collects a substantial amount of data on foreign investment in this country. The Treasury Department requires monthly reports from brokers, banks, and other firms in the U.S. participating in long-term securities transactions with foreigners. The Commerce Department collects and publishes data, on a quarterly basis, on foreign direct investment in U.S. firms where the foreign participation has a book value of over \$2 million in the equity and debt accounts. In addition to these on-going reporting programs the Commerce and Treasury Departments are, pursuant to the Foreign Investment Study Act of 1974, undertaking a one-time detailed benchmark survey of foreign investment in the U.S. outstanding as of end-1974. The data from this survey will show foreign investment in every U.S. company of significant size broken down by type of investment, kind of investor and by country of residence. A preliminary report on this benchmark survey will be sent to the Congress in the fall of this year.

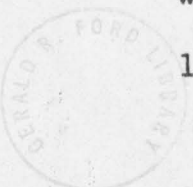


The data we now have show that foreign long-term investment in the U.S. private sector at the end of 1973 had a book value totaling \$55 billion, consisting of \$18 billion in direct investment plus \$37 billion in portfolio investment. These numbers are not large relative to our U.S. private sector's long-term investment abroad, which had a reported book value at the end of 1973 totaling \$132 billion, consisting of \$107 billion in direct investment and \$25 billion in portfolio.

In 1973 the inflows reported in our balance of payments from all foreign investors were \$6.6 billion. In the first three quarters of 1974 the rate of flow fell. It was only \$4.2 billion. Of this amount in 1974 \$2.9 billion was direct investment and \$1.3 billion was portfolio.


We do not yet have an estimate of foreign direct investment in the U.S. during the fourth quarter, but we do know that foreign portfolio flows into U.S. private securities declined quarter-by-quarter last year and actually turned into a net outflow in the fourth quarter. Foreign investors apparently did not take advantage to any substantial extent of the bargains which were available in our securities markets last year.

During the year 1974 governmental and private investors from the OPEC countries did appear in our market in larger volume than before, but their aggregate long-term investment was quite small. Out of the approximately \$60 billion in short-and long-term investment abroad which they accumulated during the year,



less than \$1 billion was placed in long-term private investments in the United States, and the bulk of that investment was made in portfolios of securities chosen and managed for the investors by U.S. financial institutions. One billion dollars of investment represents less than one-tenth of one per cent of the current market value of outstanding U.S. securities even when leaving out of account the value of the real estate and housing area, in which the OPEC investors are placing some of their investments. During the year there was only one large direct investment by an OPEC country in a U.S. corporation, and that investment was in a U.S. company whose productive assets were largely in the country from which the investment came.

It is, of course, not easy to predict precisely what will be the course of foreign investment in our economy in 1975 and beyond. We hope that investors from many areas will come here, and specifically we hope that investors from the OPEC countries will make substantial investments here. In view of the build-up in their liquid assets last year we particularly hope they will be making a larger proportion of longer-term investments. Yet we must take into account that their total funds available for investment this year will probably be significantly less than last year's \$60 billion. And the next year's total will be smaller again. In fact it is quite possible that the OPEC countries will become net disinvestors in total well before the end of this decade, and





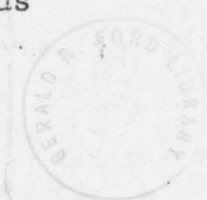
that some important investors last year, for example, Iran, will become disinvestors much sooner. At its peak the foreign investment accumulation of the OPEC nations may not exceed \$200 or \$250 billion. Of this amount much will continue to be held in short-term form; some has already been committed in loans to foreign governments and agencies, including the International Monetary Fund and the World Bank. Moreover the OPEC investors are following conservative investment policies which rely heavily on geographic diversification in their investments. Taking these factors into account I would be extremely surprised if we were able to attract as much as \$5 billion of OPEC funds into long-term investment in the United States' private sector in 1975.

It is clear that major OPEC investors now realize that we do not wish foreign investors -- from any area abroad -- to gain control of industry sectors or corporations in our economy vital to our security, to our national interest or to public communication. A number of major potential investors have indicated a willingness to discuss with us in advance their plans to invest in U. S productive ventures. The consultations with the Iranian Government on a loan to Pan American World Airways provide one illustration. The recently established joint economic commissions between the U.S. and a number of other countries, including some of the countries with the largest volume of funds available for investment, provide a convenient framework for such consultations. Informal



consultations can be flexible and tailored to the circumstances of each proposed investment. Because there will be continuing informal contact, we shall obtain information on proposed major investments at an early stage. You will have noticed that the Communique issued last week at the conclusion of the meeting of the U.S.-Saudi Commission specifically notes that the two governments recognize that participation in productive ventures in each other's economies requires close consultation to assure consistency with their national policies and objectives. It was agreed that each government will consult with the other regarding significant undertakings of this type.

Our interest in fuller information on foreign investment in this country represents in no sense a departure from our conviction that free market forces are the best means for directing worldwide investment flows into the most efficient uses. It is a basic U.S. policy objective to achieve an environment for international investment in which capital flows are responsive to market forces and Government policies neither encourage nor discourage investment flows. We offer foreign investors in this country no special incentives to attract them to the United States and with a few internationally recognized exceptions, impose no special barriers to their entry. This policy is consistent with our over-all dedication to the freest possible economic relations amongst countries and is also consistent with our various international obligations.



The President, in a statement last week, made clear that foreign businessmen and investors are welcome in the U.S. when they are willing to conform to the principles of our society. We feel strongly that foreign firms which come to this country should not attempt to use economic pressure to force U.S. firms to take actions on matters unrelated to their business relationships. We are not aware of any occasions in which a U.S. firm has succumbed to such pressure. We do not believe any responsible U.S. firm will do so. As the President said, "discrimination is totally contrary to American tradition and repugnant to American principles."

Apart from the new consultation procedures we shall make full use of the existing laws and regulations giving us information and powers to protect the national interest.

In addition to the information collected by the Treasury and the Commerce Departments for statistical purposes, we have available a vast amount of information collected for regulatory purposes. As the Committee is aware, the Securities and Exchange Commission and other Federal regulatory commissions require reports on ownership in connection with various applications and thereafter; these reports are also open for public inspection. In many cases, these agencies also require reports on the indebtedness of U.S. companies including the identity of individual creditors. The Department of Defense requires each contractor to submit a Certificate Pertaining to Foreign Affiliation to meet its Industrial Security Regulations. If the total foreign ownership is above 6 percent, the firm must



identify the individual owners. The Council on International Economic Policy and the Office of Management and Budget have already completed a comprehensive review of these data collecting programs and Mr. Niehuss will submit their report to the Committee tomorrow.

We shall also act in full awareness that existing law provides a formidable array of safeguard against unwanted foreign investment or undesirable activity by foreign investors. Federal restrictions which limit the amount of foreign investment apply in the fields of atomic energy, radio and telegraph communications, domestic air transport, acquisition or exploitation of Federal mineral lands and hydro-electric power, and shipping. These restrictions are generally accepted internationally and are incorporated into most of our bilateral treaties. Additionally, the Department of Defense Industrial Security Regulations make it a practical impossibility for a foreign controlled firm to obtain the security clearance necessary to perform classified work. Restrictions applicable to foreign investment, particularly in banking, insurance, and land ownership are also imposed by many states.

Finally, and perhaps most importantly, there are two other significant sources of protection. First, the actions of foreign investors are fully subject to all of our business regulation laws -- for example, the antitrust and securities laws -- as well as to our export controls. Moreover, under the Trading with Enemy Act, in time of war or national



emergency, the President has broad authority to regulate or prohibit undesirable activities of foreign owned enterprises in the United States.

We recognize that the responsibilities for gathering of statistics on foreign investment in the U.S. and for surveillance of particular types of investment activity are widely dispersed within the Administration to agencies with various kinds of specialized knowledge. To insure that the information available in the various parts of the Government is brought together in a coordinated fashion both for the review of over-all trends and for the consideration of specific important investments, we have decided to establish the new centralized office within the Executive Branch and the new high-level inter-agency committee. These organizations are not intended to replace the existing specialized authorities but to insure that a comprehensive view can be taken. The new organizations will be asked to publish periodic reports on foreign investment activity. They will be charged with reporting any need which may develop for new legislation to enhance our powers in the foreign investment area.

In our recent inter-agency review we did consider carefully the legislative proposals which have been made to the Congress including your bill, S.425, Mr. Chairman. Our conclusion was that, as compared to the approach we have adopted of more active administrative monitoring of foreign

investment here, new legislation directed to foreign investment reporting and control would not provide any significant additional safeguards but would in practice be likely to deter a substantial amount of beneficial investment in the United States.

Insofar as S.425 addresses itself to the objective of more thorough disclosure of the beneficial ownership behind nominee shareholdings in U.S. corporations we have -- as I indicated earlier -- considerable sympathy for the objective. We feel, however, that this subject should not be addressed in a bill primarily related to foreign investment. As you recognize the U.S. investing public should be equally entitled to this knowledge whether the beneficiary is an American or foreign investor. We do not feel that any change in our law in this respect should be undertaken in a context discriminating against the foreign investor. In our negotiations with foreign governments we rightly ask that U.S. firms operating in their countries be accorded equal treatment with their investors. If the U.S. should now introduce general discriminatory provisions we could expect that we would encourage the growth of retaliatory and discriminatory restrictions on U.S. investment operating in foreign countries. Moreover the provisions of S.425 which would require foreigners to provide advance notice of proposed acquisitions of equity in U.S. companies and would authorize the President to prohibit any such acquisitions would, if broadly implemented, violate a number of existing



Treaties of Friendship, Commerce, and Navigation and other international agreements.

I can assure you that, without this legislation, the Administration will carefully monitor foreign investment in the U.S. and will take prompt action, in consultation with the Congress, when necessary to protect the U.S. national interest. Meanwhile, we feel it is crucial that we recognize that foreign investment in the U.S. is contributing to the dynamism of the American economy by stimulating competition in seeking out new investment opportunities. It is bringing much needed new resources to our economy.

In conclusion I urge that we observe foreign investment in our economy carefully, but let us not make the surveillance so oppressive as to drive it away. We need it.

oo 00 oo



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 6, 1975

Time: 5:00pm

FOR ACTION: Bill Seidman

cc (for information): Jim Cavanaugh  
Jack Marsh

CIEP

CEAC

Ken Lazarus

NSC

Paul Theis

Max Friedersdorf

Lynn May

FROM THE STAFF SECRETARY

*OK/OUT*

DUE: Date: May 6

Time: 6:00pm

SUBJECT:

Executive Order-establishing the Committee  
on Foreign Investment in the United States

ACTION REQUESTED:

☐ For Necessary Action

☒

☐ For Your Recommendations

☐ Prepare Agenda and Brief

☐ Draft Reply

☒ For Your Comments

☐ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

1975 MAY 6 PM 2 52



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a  
delay in submitting the required material, please  
telephone the Staff Secretary immediately.

Jim Cavanaugh  
For the President

telephone the staff secretary immediately.  
copy to appropriate the relevant material please  
If you have any questions or if you anticipate a

For the President  
JIM CALDWELL

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED

1975 MAY 6 PM 5 25

Please return to Andy Johnston, closing book with

REMARKS:

☒ For Your Comments

☐ Draft Remarks

☐ Draft Agenda and Brief

☐ Draft Reply

☐ For Necessary Action

☐ For Your Recommendations

X

ACTION REQUESTED:

on foreign investment in the United States  
Executive Order-empowering the Committee

SUBJECT:

DUE: Date: May 6

Time: 9:00am

FROM THE STAFF SECRETARY

Alan May

Max Friedlander

NSC

Paul J. Pate

CEV

Ken Frazier

CIEB

FOR ACTION: Bill Graham

cc (for information):

Jack Warner

JIM CALDWELL

Date: May 6, 1975

Time: 2:00pm

ACTION MEMORANDUM

ADMINISTRATIVE

FOR NO:

THE WHITE HOUSE



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 6, 1975

Time: 5:00pm

FOR ACTION: Bill Seidman

cc (for information): Jim Cavanaugh  
Jack Marsh

CIEP

CEA

Ken Lazarus

NSC

Paul Theis

Max Friedersdorf

Lynn May

FROM THE STAFF SECRETARY

DUE: Date: May 6

Time: 6:00pm

SUBJECT:

Executive Order-establishing the Committee  
on Foreign Investment in the United States

ACTION REQUESTED:

\_\_\_\_ For Necessary Action

X

\_\_\_\_ For Your Recommendations

\_\_\_\_ Prepare Agenda and Brief

\_\_\_\_ Draft Reply

\_\_\_\_ X For Your Comments

\_\_\_\_ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

5/6/75 6:01 p.m.

No objection

Ken Lazarus

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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delay in submitting the required material, please  
telephone the Staff Secretary immediately.

Jim Cavanaugh  
For the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 6, 1975

Time: 5:00pm

FOR ACTION: Bill Seidman

cc (for information): Jim Cavanaugh  
Jack Marsh

CIEP

CEAC

Ken Lazarus

NSC

Paul Theis

Max Friedersdorf

Lynn May

FROM THE STAFF SECRETARY

DUE: Date: May 6

Time: 6:00pm

SUBJECT:

Executive Order-establishing the Committee  
on Foreign Investment in the United States

ACTION REQUESTED:

☐ For Necessary Action

☒ For Your Recommendations

☐ Prepare Agenda and Brief

☐ Draft Reply

☒ For Your Comments

☐ Draft Remarks

REMARKS:

*No objection. RA*

Please return to Judy Johnston, Ground Floor West Wing

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If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Cavanaugh  
For the President



EXECUTIVE ORDER  
-----

FOREIGN INVESTMENT IN THE UNITED STATES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. (a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of a representative, whose status is not below that of an Assistant Secretary, designated by each of the following:

- (1) The Secretary of State.
- (2) The Secretary of the Treasury.
- (3) The Secretary of Defense.
- (4) The Secretary of Commerce.
- (5) The Assistant to the President for Economic Affairs.
- (6) The Executive Director of the Council on International Economic Policy.

The representative of the Secretary of the Treasury shall be the chairman of the Committee. The chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating



the implementation of United States policy on such investment. In fulfillment of this responsibility, the Committee shall:

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States;

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States;

(3) review investments in the United States which, in the judgment of the Committee, might have major implications for United States national interests; and

(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

Sec. 2. The Secretary of Commerce, with respect to the collection and use of data on foreign investment in the United States, shall provide, in particular, for the performance of the following activities:

(a) The obtainment, consolidation, and analysis of information on foreign investment in the United States;

(b) the improvement of procedures for the collection and dissemination of information on such foreign investment;

(c) the close observation of foreign investment in the United States;

(d) the preparation of reports and analyses of trends and of significant developments in appropriate categories of such investment;

(e) the compilation of data and preparation of evaluations of significant investment transactions; and

(f) the submission to the Committee of appropriate reports, analyses, data and recommendations relating to foreign investment in the United States, including recommendations as to how information on foreign investment can be kept current.

Sec. 3. The Secretary of the Treasury is authorized, without further approval of the President, to make reasonable use of the resources of the Exchange Stabilization Fund, in accordance with section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), to pay any of the expenses directly incurred by the Secretary of Commerce in the performance of the functions and activities provided by this Order. This authority shall be in effect for one year, unless revoked prior thereto.


Sec. 4. All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee or the Secretary of Commerce in carrying out their functions and activities under this Order.

Sec. 5. Information which has been submitted or received in confidence shall not be publicly disclosed, except to the extent required by law; and such information shall be used by the Committee only for the purpose of carrying out the functions and activities prescribed by this Order.

Sec. 6. Nothing in this Order shall affect the data-gathering, regulatory, or enforcement authority of any existing department or agency over foreign investment, and the review of individual investments provided by this Order shall not in any way supersede or prejudice any other process provided by law.

THE WHITE HOUSE

, 1975





## ACTION MEMORANDUM

THE WHITE HOUSE

WASHINGTON

LOG NO.:

Date: May 6, 1975

Time: 5:00pm

FOR ACTION: Richard Aidman

cc (for information): Jim Cavanaugh  
Jack MarshCIEP *ah*~~Sean~~ ~~SECA~~ Ken Lazarus *ah*NSC Paul Theis *ah*Max Friedersdorf *ah*Lynn May *ah*

FROM THE STAFF SECRETARY

DUE: Date: May 6

Time: 6:00pm

SUBJECT:

Executive Order-establishing the Committee  
on Foreign Investment in the United States

## ACTION REQUESTED:

☐ For Necessary Action☒☐ For Your Recommendations☐ Prepare Agenda and Brief☐ Draft Reply☒ For Your Comments☐ Draft Remarks

## REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.If you have any questions or if you anticipate a  
delay in submitting the required material, please  
telephone the Staff Secretary immediately.K. R. COLE, JR.  
For the President

THE WHITE HOUSE  
WASHINGTON

MEMORANDUM FOR: WARREN HENDRIKS  
FROM: MAX L. FRIEDERSDORF *mf*  
SUBJECT: Action Memorandum - Log No.  
Executive Order-establishing the Committee  
on Foreign Investment in the United States

The Office of Legislative Affairs concurs with the Agencies  
that the subject executive order be signed.

Attachments



THE WHITE HOUSE

*or*





ACTION MEMORANDUM

THE WHITE HOUSE

WASHINGTON

LOG NO.:

5-6

Date: May 6, 1975

Time: 5:00pm

FOR ACTION: Bill Seidman

cc (for information): Jim Cavanaugh  
Jack Marsh

CIEP

CEA

Ken Lazarus

NSC

Paul Theis

Max Friedersdorf

Lynn May

FROM THE STAFF SECRETARY

DUE: Date:

May 6

Time:

6:00pm

SUBJECT:

Executive Order-establishing the Committee  
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ACTION REQUESTED:

\_\_\_ For Necessary Action

X

\_\_\_ For Your Recommendations

\_\_\_ Prepare Agenda and Brief

\_\_\_ Draft Reply

☒ For Your Comments

\_\_\_ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

as  
jws



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telephone the Staff Secretary immediately.

Jim Cavanaugh  
For the President

EXECUTIVE ORDER  
-----

FOREIGN INVESTMENT IN THE UNITED STATES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. (a) There is hereby established the Committee on Foreign Investment in the United States (hereinafter referred to as the Committee). The Committee shall be composed of a representative, whose status is not below that of an Assistant Secretary, designated by each of the following:

- (1) The Secretary of State.
- (2) The Secretary of the Treasury.
- (3) The Secretary of Defense.
- (4) The Secretary of Commerce.
- (5) The Assistant to the President for Economic Affairs.
- (6) The Executive Director of the Council on International Economic Policy.

The representative of the Secretary of the Treasury shall be the chairman of the Committee. The chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating

the implementation of United States policy on such investment. In fulfillment of this responsibility, the Committee shall:

(1) arrange for the preparation of analyses of trends and significant developments in foreign investments in the United States;

(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States;

(3) review investments in the United States which, in the judgment of the Committee, might have major implications for United States national interests; and

(4) consider proposals for new legislation or regulations relating to foreign investment as may appear necessary.

(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

Sec. 2. The Secretary of Commerce, with respect to the collection and use of data on foreign investment in the United States, shall provide, in particular, for the performance of the following activities:

(a) The obtainment, consolidation, and analysis of information on foreign investment in the United States;

(b) the improvement of procedures for the collection and dissemination of information on such foreign investment;



(c) the close observation of foreign investment in the United States;

(d) the preparation of reports and analyses of trends and of significant developments in appropriate categories of such investment;

(e) the compilation of data and preparation of evaluations of significant investment transactions; and

(f) the submission to the Committee of appropriate reports, analyses, data and recommendations relating to foreign investment in the United States, including recommendations as to how information on foreign investment can be kept current.

Sec. 3. The Secretary of the Treasury is authorized, without further approval of the President, to make reasonable use of the resources of the Exchange Stabilization Fund, in accordance with section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), to pay any of the expenses directly incurred by the Secretary of Commerce in the performance of the functions and activities provided by this Order. This authority shall be in effect for one year, unless revoked prior thereto.

Sec. 4. All departments and agencies are directed to provide, to the extent permitted by law, such information and assistance as may be requested by the Committee or the Secretary of Commerce in carrying out their functions and activities under this Order.

Sec. 5. Information which has been submitted or received in confidence shall not be publicly disclosed, except to the extent required by law; and such information shall be used by the Committee only for the purpose of carrying out the functions and activities prescribed by this Order.

Sec. 6. Nothing in this Order shall affect the data-gathering, regulatory, or enforcement authority of any existing department or agency over foreign investment, and the review of individual investments provided by this Order shall not in any way supersede or prejudice any other process provided by law.



THE WHITE HOUSE

, 1975

EXECUTIVE ORDER

#11858  
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FOREIGN INVESTMENT IN THE UNITED STATES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

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- (3) The Secretary of Defense.
- (4) The Secretary of Commerce.
- (5) The Assistant to the President for Economic Affairs.
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The representative of the Secretary of the Treasury shall be the chairman of the Committee. The chairman, as he deems appropriate, may invite representatives of other departments and agencies to participate from time to time in activities of the Committee.

(b) The Committee shall have primary continuing responsibility within the Executive Branch for monitoring the impact of foreign investment in the United States, both direct and portfolio, and for coordinating the

*Extra Good Copy*



implementation of United States policy on such investment. In fulfillment of this responsibility, the Committee shall:

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(2) provide guidance on arrangements with foreign governments for advance consultations on prospective major foreign governmental investments in the United States;

(3) review investments in the United States which, in the judgment of the Committee, might have major implications for United States national interests; and

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(c) As the need arises, the Committee shall submit recommendations and analyses to the National Security Council and to the Economic Policy Board. It shall also arrange for the preparation and publication of periodic reports.

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and the review of individual investments provided by  
this order shall not in any way supersede or prejudice  
any other process provided by law.

*Gerald R. Ford*

THE WHITE HOUSE,

MAY 7 - 1975





MAY 7, 1975

Office of the White House Press Secretary

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THE WHITE HOUSE

## EXECUTIVE ORDER

#11858 - -

## FOREIGN INVESTMENT IN THE UNITED STATES

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the Act of February 14, 1903, as amended (15 U.S.C. 1501 et seq.), section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 822a), and section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

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more

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more

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GERALD R. FORD

THE WHITE HOUSE,  
MAY 7, 1975

# # # #

