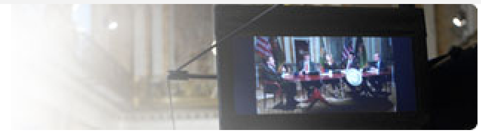
U.S. DEPARTMENT OF THE TREASURY

Press Center



Remarks of Assistant Secretary Lago at the Seminar on the U.S. Regulatory and Institutional Environment for Chinese Foreign Direct Investment

9/25/2013

As prepared for delivery

WASHINGTON - I would like to thank Covington and the China General Chamber of Commerce for inviting me here to speak to you today. I am very interested in hearing from you and taking your questions, but let me start with a few remarks on the U.S. open investment policy, the CFIUS process, and our economic relationship with China.

The President and the Treasury Department place great importance on the U.S.-China economic relationship, and recognize that investment is an increasingly important part of that relationship.

Discussion of policies and practices that affect investment in the United States and China and ways to promote a healthy investment relationship between our two countries have played an important role in high-level meetings, such as the Strategic and Economic Dialogue (S&ED) and the U.S.-China Investment Forum.

Robust two-way investment is a source of tremendous benefits to the people of both of our countries. Our cooperation and support for an open investment policy is central to creating jobs and to bringing about strong, sustainable, and balanced global growth.

I hope that my remarks today, and my answers to your questions, convey the U.S. Government’s strong commitment to open investment and explain CFIUS’s role in protecting national security in a manner fully consistent with an open investment environment.

I want to talk for a moment about the longstanding U.S. open investment policy. Our policy has been the same for decades: we encourage foreign investment no matter where it originates. We recognize that it is vital to economic growth, job creation, and productivity. This includes investment from China.

The United States is one of the world’s most attractive destinations for foreign investment because of the fundamental strength of our economy and our commitment to open investment. Surveys of global investors consistently demonstrate their view of the United States as a highly favorable place to invest and do business.

From 2007 through 2012, the United States received more foreign direct investment (FDI) than any other country. The FDI flow into the United States in 2012 – $160.6 billion – was higher than the flow into any other country, followed by China, which had inflows of $121 billion.

Like overall investment into the United States, Chinese investment in the United States continues to expand significantly.

Total Chinese FDI stock in the United States increased 15-fold from 2005 to 2012, from $700 million to $10.5 billion.

Chinese firms completed U.S. deals worth $6.5 billion in 2012, a 12 percent increase from the previous record of $5.8 billion in 2010.

This investment spans a broad array of economic sectors, including financial services, oil and gas, clean energy, industrial manufacturing, telecommunications, healthcare, and media.

Chinese firms are making important contributions to U.S. output and employment, and are valued members of the communities in which they invest, while at the same time growing their businesses to the benefit of their shareholders.

And so our policy and record are clear: the United States welcomes foreign investment from all countries, including China.

Despite the data on rising Chinese investment in the United States – and the fact that numerous Chinese investments have passed successfully through the CFIUS process – there still seem to be some misconceptions about the United States’ commitment to open investment, and about the role of the Committee on Foreign Investment in the United States, or CFIUS, in supporting that commitment. Let me try to clear up some of those misconceptions.

Like all countries, the United States has an obligation to protect national security, and CFIUS is the mechanism through which we protect against national security risks that might arise from foreign acquisitions of U.S. businesses.

As many of you may know, CFIUS is the interagency committee tasked with reviewing certain foreign investments for potential national security concerns, and is chaired by the Treasury Department.

The review process conducted by CFIUS is defined by four core characteristics that are complimentary to, and supportive of, the United States' open investment policy: its limited scope, efficiency, non-discriminatory rules, and clearly and publicly articulated process.

First, CFIUS reviews focus exclusively on genuine national security concerns. CFIUS's transaction-by-transaction approach allows for a precise evaluation of potential national security threats and vulnerabilities that may be posed by the specific transaction under review.

Second, CFIUS is committed to being as efficient as possible, and to imposing as little burden as possible on prospective investors. We do not impede transactions that pose no national security risk – and the vast majority of foreign investments from all countries, including China, do not pose national security risks.

CFIUS operates essentially on a voluntary basis – there is no mandatory filing requirement. Nonetheless, CFIUS does have the authority to review transactions that the parties have not voluntarily notified to CFIUS, so parties to transactions would be well-advised to carefully consider filing a notice if they have reason to believe that their transaction may raise national security considerations.

Third, CFIUS does not discriminate among the countries of companies seeking to invest in the United States, nor among the sectors in which they'd like to invest. Specifically, CFIUS applies the same rules to each transaction that it reviews, without regard to the investor's country of origin, including China, or the sector of the investment. This extends to CFIUS's review of foreign government-controlled transactions, for which CFIUS considers only the facts and circumstances relevant to national security – the same as in any other case. All but a very few of these foreign government-controlled transactions – as with all CFIUS transactions – complete the process successfully.

Finally, while by law CFIUS cannot publicly disclose information about transactions that it reviews – which businesses want and expect to be kept confidential – the rules of the process are fully transparent and CFIUS's determinations are subject to high-level accountability. The statute, regulations, and guidance setting forth the CFIUS process are available on the CFIUS website, as is an annual report providing information on the numbers and kinds of cases CFIUS reviews every year.

And, in order to help prospective investors to understand the process, we encourage investors to consult with us in advance about a transaction they may be considering. While we do not provide advisory opinions on whether the transaction might raise concerns or be covered, we can provide guidance on the type of information that may facilitate our review of a transaction, provide feedback on the sufficiency of draft notices, explain how the process works in detail, and answer other questions that parties may have. All information CFIUS receives from parties during such consultations is protected from disclosure by the CFIUS statute's confidentiality requirements – just as a filing itself is protected. In our experience, companies usually find such consultations very helpful to navigate the CFIUS process.

In short, CFIUS is an efficient, non-discriminatory, precisely circumscribed, and clearly and publicly articulated process, designed to remain true to the United States' commitment to open investment.

In the same way that we believe an open investment environment in the United States benefits both our economies, we believe that China's openness to foreign investment would do the same.

China's leaders have shown commitment to a more open economy through committing at this year's Strategic and Economic Dialogue (S&ED) to negotiate a high-standard BIT that covers all phases of investment, including market access and all sectors of the Chinese economy (apart from negotiated exceptions).

This commitment marks a substantial shift in policy, and not only would help create a wide range of opportunities for U.S. firms to participate in the Chinese market, but also signals China's commitment to its larger reform agenda.

Accordingly, China's Ministry of Commerce noted that this approach is in line with the reform of China's administrative approval system, and will help to create a fairer market for all companies and promote economic growth.

We were also encouraged by China's announcement that it would establish a Shanghai Free Trade Zone, which is expected to have a more open foreign investment regime, and several other commitments at the recent Strategic & Economic Dialogue in which China committed to open further to foreign investment in services and decrease and decentralize foreign investment reviews and approvals.

Despite these positive indications, we remain concerned about the country's significant restrictions on foreign investment and continue to urge our Chinese counterparts to continue to reduce investment barriers.

It is important to understand how Chinese restrictions on foreign investment adversely affect the investment climate here in the United States.

As I stated, our strong legal and policy commitment to open investment is clear.

And while our open investment policy is implemented and applied without political considerations, still some transactions have attracted political attention.

Some politicians have reasonable concerns that U.S. firms face substantial trade and investment barriers in China, and U.S. public and Congressional sentiment towards China and Chinese companies seeking to invest in the United States reflects the view that this is unfair.

It is difficult to explain to Americans why Chinese companies should be allowed to wholly acquire a U.S. company when U.S. companies are prohibited from wholly acquiring Chinese companies in many sectors.

We will continue to press China to implement measures that show a greater openness to foreign investment, which will not only improve the relationship between our two countries, but also stimulate growth by helping to promote a better environment for all companies operating in China.

I hope that these remarks have been helpful in increasing your understanding of the United States' commitment to open investment from all countries. I would be interested in hearing from you about your experiences, and also am happy to answer any questions you might have.

###