

Union Calendar No. 108

118TH CONGRESS
1ST SESSION

H. R. 813

[Report No. 118–137]

To direct the Secretary of Commerce, in coordination with the heads of other relevant Federal departments and agencies, to conduct an inter-agency review of and report to Congress on ways to increase the global competitiveness of the United States in attracting foreign direct investment.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2023

Mr. PENCE introduced the following bill; which was referred to the Committee on Energy and Commerce

JULY 11, 2023

Additional sponsors: Mr. ALLEN, Ms. STRICKLAND, Ms. ESHOO, Ms. BLUNT
ROCHESTER, and Mr. CRENSHAW

JULY 11, 2023

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on February 2, 2023]

A BILL

To direct the Secretary of Commerce, in coordination with the heads of other relevant Federal departments and agencies, to conduct an interagency review of and report to Congress on ways to increase the global competitiveness of the United States in attracting foreign direct investment.

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

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Global Investment in*
5 *American Jobs Act of 2023”.*

6 **SEC. 2. SENSE OF CONGRESS.**

7 *It is the sense of Congress that—*

8 *(1) the ability of the United States to attract for-*
9 *ign direct investment from responsible private-sector*
10 *entities based in trusted countries is directly linked to*
11 *the long-term economic prosperity, global competitive-*
12 *ness, and security of the United States;*

13 *(2) it is a top national priority to enhance the*
14 *global competitiveness, economic prosperity, and secu-*
15 *urity of the United States by—*

16 *(A) removing unnecessary barriers to for-*
17 *ign direct investment from responsible private-*
18 *sector entities based in trusted countries and the*
19 *jobs that such investment creates throughout the*
20 *United States;*

21 *(B) promoting policies to ensure the United*
22 *States remains the premier global destination to*
23 *invest, hire, innovate, provide services, and man-*
24 *ufacture products;*

1 (C) promoting policies to ensure the United
2 States remains the global leader in developing
3 and deploying cutting-edge technologies, such as
4 self-driving vehicle technology, artificial intel-
5 ligence, Internet of Things, quantum computing,
6 blockchain; and

7 (D) promoting policies that maintain and
8 expand resilient supply chains and reduce the
9 dependence of the United States on supply
10 chains from China and other foreign adversaries;

11 (3) maintaining the United States commitment
12 to an open investment policy with private-sector enti-
13 ties based in trusted countries encourages other coun-
14 tries to reciprocate and enable the United States to
15 open new markets abroad for United States compa-
16 nies and their products;

17 (4) while foreign direct investment by responsible
18 private-sector entities based in trusted countries can
19 enhance the United States economic strength, policies
20 regarding foreign direct investment should reflect se-
21 curity interests and should not disadvantage domestic
22 investors, companies, or the workforce;

23 (5) United States efforts to attract foreign direct
24 investment from responsible private-sector entities
25 based in trusted countries should be consistent with

1 *efforts to maintain and improve the domestic stand-*
2 *ard-of-living, including for the workforce;*

3 *(6) as digital information becomes increasingly*
4 *important to the United States economy and the de-*
5 *velopment of new technologies and services that will*
6 *be crucial to the country's competitiveness in the 21st*
7 *century global economy, barriers including data local-*
8 *ization and infringement of intellectual property*
9 *rights must be further addressed;*

10 *(7) foreign direct investment by companies or*
11 *other entities owned, directed, supported, or influ-*
12 *enced by the Chinese Communist Party is a threat to*
13 *United States security and merits an aggressive pol-*
14 *icy framework to protect United States interests, jobs,*
15 *intellectual property, and security;*

16 *(8) foreign direct investment from any source*
17 *should not result in the net loss of United States eco-*
18 *nomics activity, productive capabilities, and supply*
19 *chain resilience; and*

20 *(9) foreign direct investment from any source*
21 *should strengthen United States security and support*
22 *United States workforce, health and safety, consumer,*
23 *and financial standards.*

1 **SEC. 3. FOREIGN DIRECT INVESTMENT REVIEW.**

2 (a) *REVIEW.*—*The Secretary and the Comptroller Gen-*
3 *eral of the United States, in consultation with the Federal*
4 *Interagency Investment Working Group established pursu-*
5 *ant to Executive Order 13577 (76 Fed Reg. 35715; relating*
6 *to establishment of the SelectUSA Initiative) and in con-*
7 *sultation with the heads of other relevant agencies, shall*
8 *conduct an interagency review of the global competitiveness*
9 *of the United States in attracting foreign direct investment*
10 *from responsible private-sector entities based in trusted*
11 *countries and addressing key foreign trade barriers that*
12 *firms in advanced technology sectors face in the global dig-*
13 *ital economy.*

14 (b) *SPECIFIC MATTERS TO BE INCLUDED.*—*The re-*
15 *view conducted pursuant to subsection (a) shall include a*
16 *review of the following:*

17 (1) *The economic impact of foreign direct invest-*
18 *ment in the United States, with particular focus on*
19 *manufacturing, services, trade (with an emphasis on*
20 *digital trade), and United States jobs.*

21 (2) *Trends in global cross-border investment and*
22 *data flows and the underlying factors for such trends.*

23 (3) *Federal Government policies, that facilitate*
24 *foreign direct investment attraction and retention*
25 *from responsible private-sector entities based in trust-*
26 *ed countries.*

1 (4) *Foreign direct investment as compared to di-*
2 *rect investment by domestic entities.*

3 (5) *Foreign direct investment that takes the form*
4 *of greenfield investment as compared to foreign direct*
5 *investment relating to merger and acquisition activ-*
6 *ity.*

7 (6) *The unique challenges posed by foreign direct*
8 *investment, particularly acquisitions, in the United*
9 *States by State-owned or State-backed enterprises, es-*
10 *pecially from State-directed economies, including*
11 *companies or other entities owned, directed, sup-*
12 *ported, or influenced by the Chinese Communist*
13 *Party.*

14 (7) *Specific information on the prevalence of in-*
15 *vestments made by State-owned or State-backed enter-*
16 *prises, especially from State-directed economies, in-*
17 *cluding companies or other entities owned, directed,*
18 *supported, or influenced by the Chinese Communist*
19 *Party, with a particular focus on investments relat-*
20 *ing to manufacturing, services, trade (with an em-*
21 *phasis on digital trade), and jobs.*

22 (8) *How other trusted countries are dealing with*
23 *the challenge, including screening for and preventing*
24 *market distorting investments, of State-directed and*
25 *State-supported investment and whether there are op-*

1 *portunities to work with like-minded nations to ad-*
2 *dress such challenge.*

3 *(9) Ongoing Federal Government efforts to im-*
4 *prove the investment climate and facilitate greater*
5 *levels of foreign direct investment in the United*
6 *States from responsible private-sector entities based in*
7 *trusted countries.*

8 *(10) Innovative and noteworthy initiatives by*
9 *State and local government to attract foreign invest-*
10 *ment from responsible private-sector entities based in*
11 *trusted countries.*

12 *(11) Initiatives by other countries to identify*
13 *best practices for increasing global competitiveness in*
14 *attracting foreign direct investment from responsible*
15 *private-sector entities based in trusted countries.*

16 *(12) The impact that protectionist policies by*
17 *other countries, including forced data localization*
18 *rules, forced localization of production, industrial*
19 *subsidies, and the infringement of intellectual prop-*
20 *erty rights, have on the advanced technology economy*
21 *of the United States and the ability for United States*
22 *located firms to develop innovative technologies.*

23 *(13) Other barriers to the ability of the United*
24 *States to compete globally in an increasingly con-*
25 *nected and digital global economy, including the use*

1 of technical barriers to trade (such as country-specific
2 standards for technology products and digital serv-
3 ices).

4 (14) *The adequacy of efforts by the Federal Gov-*
5 *ernment to encourage and facilitate foreign direct in-*
6 *vestment in the United States.*

7 (15) *Efforts by the Chinese Communist Party to*
8 *circumvent existing laws to gain access to United*
9 *States markets, foreign direct investment responsible*
10 *private-sector entities based in trusted countries, or*
11 *intellectual property.*

12 (16) *The extent to which foreign direct invest-*
13 *ment from any source, including the Chinese Com-*
14 *munist Party, results in displacement, offshoring, or*
15 *outsourcing, including the impact of such investment*
16 *on supply chains.*

17 (c) *LIMITATION.—The review conducted pursuant to*
18 *subsection (a) may not address laws or policies relating to*
19 *the Committee on Foreign Investment in the United States.*

20 (d) *PUBLIC COMMENT.—*

21 (1) *REVIEW.—Not sooner than 60 days before the*
22 *date on which the review is commenced pursuant to*
23 *subsection (a), the Secretary shall publish notice of*
24 *the review in the Federal Register and shall provide*

1 *an opportunity for public comment on the matters to*
2 *be covered by the review.*

3 (2) *REPORT.*—*Not sooner than 60 days before*
4 *the date on which the report is submitted pursuant to*
5 *subsection (e), the Secretary shall publish the pro-*
6 *posed findings and recommendations in the Federal*
7 *Register and shall provide an opportunity for public*
8 *comment.*

9 (e) *REPORT TO CONGRESS.*—*Not later than one year*
10 *after the date of the enactment of this Act, the Secretary,*
11 *in coordination with the Federal Interagency Investment*
12 *Working Group and the heads of other relevant agencies,*
13 *shall submit to Congress a report on the findings of the re-*
14 *view required pursuant to subsection (a) and include rec-*
15 *ommendations for increasing the global competitiveness of*
16 *the United States in attracting foreign direct investment*
17 *from responsible private-sector entities based in trusted*
18 *countries in a manner that strengthens or maintains the*
19 *security, workforce, consumer, or financial protections of*
20 *the United States.*

21 (f) *DEFINITIONS.*—*In this Act:*

22 (1) *AGENCY.*—*The term “agency” has the mean-*
23 *ing given that term in section 551 of title 5, United*
24 *States Code.*

1 (2) *FOREIGN ADVERSARY.*—*The term “foreign*
2 *adversary” has the meaning given that term in part*
3 *7.4 of title 15, Code of Federal Regulations.*

4 (3) *RESPONSIBLE PRIVATE-SECTOR ENTITY.*—
5 *The term “responsible private-sector entity” means an*
6 *entity that the Secretary determines is—*

7 (A) *not organized under the laws of a for-*
8 *ign adversary; and*

9 (B) *not owned, controlled, or otherwise sub-*
10 *ject to the influence of, a foreign adversary.*

11 (4) *SECRETARY.*—*The term “Secretary” means*
12 *the Secretary of Commerce.*

13 (5) *STATE.*—*The term “State” means each State*
14 *of the United States, the District of Columbia, each*
15 *commonwealth, territory, or possession of the United*
16 *States, and each federally recognized Indian Tribe.*

17 (6) *TRUSTED COUNTRY.*—*The term “trusted*
18 *country” means a country or economy that is not de-*
19 *termined by the Secretary to be a foreign adversary*
20 *of the United States.*

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