

ROBERT MENENDEZ
NEW JERSEY

COMMITTEES:
BANKING, HOUSING, AND URBAN
AFFAIRS
FINANCE
FOREIGN RELATIONS

United States Senate

WASHINGTON, DC 20510-3005

528 SENATE HART OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-4744

ONE GATEWAY CENTER
11TH FLOOR
NEWARK, NJ 07102
(973) 645-3030

208 WHITE HORSE PIKE
SUITE 18-19
BARRINGTON, NJ 08007
(856) 757-5353

December 11, 2018

The Honorable Steven Mnuchin
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Wilbur Ross
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Secretary Mnuchin and Secretary Ross,

I write to bring to your attention to reports that a Chinese state-owned firm may have used a complex financial deal to evade U.S. export controls and review by the Committee on Foreign Investment in the United States (CFIUS). As a result, the Chinese state-owned firm may ultimately become the beneficial owner of critical U.S. technology, potentially exposing that technology to China's government or military.

A December 4 article by The Wall Street Journal states that China Orient Asset Management Co. (China Orient), a firm owned by China's Ministry of Finance, sought a stake in Global IP, a U.S. startup that was seeking to acquire a satellite to improve web access in Africa.¹ After realizing that U.S. laws prohibited China Orient from taking a direct, sizeable stake in Global IP, China Orient reportedly used subsidiaries in Hong Kong and the British Virgin Islands to lend money to another British Virgin Islands company, Bronzelink Holdings Ltd. (Bronzelink), which in turn acquired a 75 percent stake in Global IP.

This investment allegedly gave China Orient, through its subsidiary, the ability to influence Global IP's decision-making and to access information that may be restricted under U.S. export controls. The article notes how the Chinese investors urged Global IP to pursue Boeing specifically to manufacture the satellite. Another instance describes how Global IP's board members, appointed by China Orient, then sought to review a manufacturing contract with Boeing that contained exhibits detailing Boeing's technology and may have been restricted by export control laws. The article further states that when one of Global IP's founders ordered the company's general counsel to determine whether the company, following the Chinese investment, was still eligible to own a U.S.-made satellite, the counsel determined that Global IP could not prove it was independent of the Chinese government. Global IP's board reportedly refused to discuss the general counsel's findings.

¹ <https://www.wsj.com/articles/china-maneuvers-to-snap-top-secret-boeing-satellite-technology-1543943490>

To ensure that CFIUS reviews such cases, I wrote an amendment to the Foreign Investment Risk Review Modernization Act of 2018, unanimously adopted by the Senate Committee on Banking, Housing, and Urban Affairs and signed into law, to give CFIUS the authority to mandate declarations for transactions where opaque corporate structures or financing arrangements could be used by state-owned or state-controlled entities to evade CFIUS review and gain access to critical U.S. technology.² Failure to review this and other similarly-situated transactions, in which Chinese state-owned entities may gain footholds in sensitive technologies, poses a significant threat to U.S. national security.

In light of the concerns raised by this article, I request you answer the following questions:

1. Does CFIUS, or your Departments individually, consider the Global IP transaction to be a covered transaction as defined under 50 USC 4565(a)(4)?³
2. Although the provision was not in force at the time of this specific transaction, would CFIUS, or your Departments individually, consider the Global IP transaction to be a foreign government-controlled transaction as defined under 50 USC 4565(a)(7)?⁴
3. Did Global IP, China Orient, China Orient's subsidiaries, or Bronzelink at any point submit to CFIUS a written notice of the proposed transaction between Global IP and China Orient, China Orient's subsidiaries, and Bronzelink? If so, when?
4. When did your Departments first become aware of Global IP and the financing structure employed by Global IP, China Orient, China Orient's subsidiaries, and Bronzelink?
5. When was CFIUS first alerted to the investment by China Orient, China Orient's subsidiaries, and Bronzelink in Global IP?
6. Did CFIUS conduct a review of the proposed investment by China Orient, China Orient's subsidiaries, and Bronzelink in Global IP? If so, when?
7. Did CFIUS consider a unilateral initiation of review under 50 USC 4565(b)(1)(D)?⁵ If so, when did CFIUS complete the review and what did CFIUS find? If not, why did CFIUS choose not to conduct such a review?
8. Will you commit to brief my staff within 30 days on the status of any pending CFIUS review of this transaction?
9. Has CFIUS or any of its member agencies ever found Global IP, China Orient, China Orient's subsidiaries, or Bronzelink to have breached a mitigation agreement or submitted false or misleading material information to CFIUS?
10. Has CFIUS reviewed any other transactions by Global IP, China Orient, China Orient's subsidiaries, or Bronzelink? If so, please provide a list of those transactions.
11. Did the Commerce Department grant Boeing an export license for sale of the satellite to Global IP? If so, when?
12. Do any CFIUS members, or staff of CFIUS member agencies tasked with CFIUS work, hold any financial interest in Global IP, China Orient, China Orient's subsidiaries, Bronzelink, Boeing, or any other satellite manufacturer, owner, or operator?
13. Will you commit to brief my staff within 30 days on your planned implementation of 50 USC 4565 (b)(1)(C)(v)(IV)(bb)(BB)?

² [50 USC § 4565 \(b\)\(1\)\(C\)\(v\)\(IV\)\(bb\)\(BB\)](#)

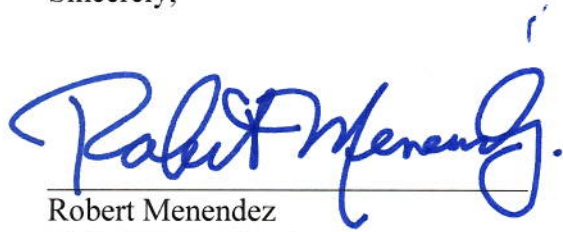
³ [50 USC § 4565\(a\)\(4\)](#)

⁴ [50 USC § 4565\(a\)\(7\)](#)

⁵ [50 USC § 4565\(b\)\(1\)\(D\)](#)

I request that you respond in writing by December 21. Thank you for your attention to this issue.

Sincerely,

A handwritten signature in blue ink that reads "Robert Menendez". The signature is fluid and cursive, with a prominent "R" and "M".

Robert Menendez
United States Senator