The Committee on Energy and Commerce

Memorandum

April 16, 2013

To: Members of the Subcommittee on Commerce, Manufacturing, and Trade

From: Majority Committee Staff

Re: Hearing on "H.R. __, the Global Investment in American Jobs Act of 2013"

On April 18, 2013, the Subcommittee on Commerce, Manufacturing, and Trade will convene a hearing at 9:30a.m. in room 2322 of the Rayburn House Office Building entitled "H.R.___, the 'Global Investment in American Jobs Act of 2013'." Witnesses are by invitation only.

I. Witnesses

Panel 1

Francisco J. Sanchez
Undersecretary of Commerce for International Trade
U.S. Department of Commerce

Panel 2

Nancy L. McLernon
President & CEO
Organization for International Investment

Matthew J. Slaughter
Associate Dean for Faculty
Tuck School of Business
Dartmouth University

Martin Baily, Ph.D
Senior Fellow, Economic Studies
Bernard L. Schwartz Chair in Economic Policy Development
Brookings Institution

Linda Dempsey
Vice President
International Economic Affairs
National Association of Manufacturers

Celeste Drake
Trade and Globalization Policy Specialist
AFL-CIO

II. Summary

The legislative hearing will provide Members of the Commerce, Manufacturing, and Trade Subcommittee an opportunity to examine H.R. __, the "Global Investment in American Jobs Act of

2013" and seek input from the Administration and private-sector experts in advance of processing the legislation through the Committee.

III. Background

Foreign direct investment (FDI) is generally defined as capital invested in the local country by business or persons domiciled outside the country. The U.S. is the largest investor (by way of U.S. companies) in foreign countries and, until 2012, had been the largest recipient of foreign investment. In 2012, according to the Organization for Economic Co-operation and Development (OECD), China surpassed the U.S. in attracting foreign investment through the first three quarters of 2012 ($170 billion to $104 billion, respectively).[1] More importantly, the U.S. share of inward global investment has been declining in recent years, raising concern about our continued ability to attract FDI as we compete with other nations.

The reason for concern regarding the diminishing attractiveness of the U.S. is that foreign investment benefits our economy in a number of essential ways including job creation, growth, and trade. We need look no further than this Subcommittee's recent auto manufacturing hearing for an example of the direct positive effect on employment and our economy derived from U.S. subsidiaries of foreign-headquartered auto manufacturers and suppliers. One of the witnesses, Robert Bosch LLC, was recently highlighted on Tradeology, the International Trade Administration's trade blog, as an example of the growing importance of FDI in this sector, citing the 80 percent increase from 2009-2012 in U.S. motor vehicles and parts exports.[2]

Other industries have likewise benefited from similar foreign investments in the U.S. that bring more than manufacturing with their investment. Canadian company Bombardier Aerospace broke ground in 2012 on its $600 million investment to expand its Learjet production, expecting to create 1,000 jobs in Wichita, Kansas within a decade. The investment also includes research facilities and the Bombardier Center for Excellence in Engineering and Information Technology.[3]

Across the economy, U.S. subsidiaries of foreign-based companies directly employ over 5 million Americans, with over 40 percent of those jobs in manufacturing.[4] Additionally, U.S. subsidiaries of companies with headquarters outside the U.S. paid their workers 34 percent more than the U.S. private sector average. Finally, those companies are responsible for 21 percent of U.S. exports.[5]

In furtherance of its goal to achieve "the highest sustainable economic growth and employment," the OECD created an FDI Restrictiveness Index (FDI Index) that can be used to evaluate and compare the receptivity of different nations to foreign investment. The index score is an average of the 22 sectors analyzed and is based on four measures: (1) foreign equity restrictions;

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[1] "FDI in Figures: January 2013", http://www.oecd.org/daf/inv/FDI%20in%20figures.pdf, accessed April 3, 2013.
[2] Masserman, Michael, April 2, 2013, "Firing on All Cylinders: FDI Fuels Jobs in South Carolina, U.S." http://blog.trade.gov/2013/04/02/firing-on-all-cylinders-fdi-fuels-jobs-in-south-carolina-u-s/ accessed April 12, 2013.
[3] Bombardier: SelectUSA, http://selectusa.commerce.gov/testimonials/bombardier, accessed April 12, 2013.
[4] Fact Sheet: International Investment, http://www.ustr.gov/sites/default/files/The%20Facts%20on%20International%20Investment.pdf accessed April 8, 2013.
[5] Id. at p.2.

(2) screening and prior approval requirements; (3) restrictions on key personnel; and (4) other restrictions on the operation of foreign-controlled entities. The FDI Index can be used to measure relative restrictiveness of countries, changes in restrictiveness over time, and the effect of FDI liberalization on FDI inflows. Notably, in its most recent review in 2012 (inclusive of 2006-2010), the U.S. index score was more restrictive than the average OECD country score, including such notable countries as France, United Kingdom, and Germany. In other words, according to the OECD, it is easier for foreign companies to invest in these European countries than it is to invest in the U.S. Additionally, although the index calculation methodology was tweaked since the previous review, the U.S. score remained virtually unchanged from the previous review in 2006, while other nations have substantially lowered barriers to foreign direct investment during the same period.[6]

Federal Efforts to Improve Inbound FDI

The Administration recognizes the importance of FDI to the U.S. economy. To that end, the President issued an Executive Order in 2011 to create the "SelectUSA" initiative,[7] which is housed within the International Trade Administration of the Department of Commerce. According to the SelectUSA website, the Administration recognized "that the competitiveness and job-generating ability of a nation is determined by its desirability as a place for business to operate," and created the SelectUSA initiative to focus attention on the benefits of investing in the U.S. and to promote the U.S. as the premier destination for global investment.[8]

In the 112th Congress, bipartisan legislation was introduced in both the House (H.R. 5910) and Senate (S. 3274) similar in purpose to the draft before the Subcommittee. The House passed H.R. 5910 by voice vote under suspension of the rules. The Senate failed to act on either bill.

IV. Summary of H.R. ___, the "Global Investment in American Jobs Act of 2013"

Sec 1. – Short Title - Provides the Act may be cited as the Global Investment in American Jobs Act of 2013.

Sec. 2 – Findings – Provides relevant statistical data regarding the importance of FDI in the U.S.

Sec. 3 - Sense *of Congress* – Recognizes the importance to the economy of attracting inbound FDI, and establishes that it is a top national priority to enhance the competitiveness, prosperity, and security of the U.S. Additionally, this section stipulates that policies regarding FDI should reflect national security interests.

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[6] Blanka Kalinova, Angel Palerm and Stephen Thomsen (2010), "OECD's FDI Restrictiveness Index: 2010 Update", *OECD Working Papers on International Investment, No. 2010/3*, OECD Investment Division, www.oecd.org/daf/investment/workingpapers.

[7] http://www.whitehouse.gov/the-press-office/2011/06/15/executive-order-selectusa-initiative.

[8] http://selectusa.commerce.gov/about-selectusa.

Sec. 4 – Foreign Direct Investment Review

Subsection (a) requires the Secretary of Commerce to conduct an interagency review, in coordination with the Federal Interagency Investment Working Group and the heads of the other relevant Federal departments and agencies, of the global competitiveness of the United States in attracting foreign direct investment. The deadline for conducting the review is left open for discussion.

Subsection (b) establishes six specific matters to be reviewed, including the current economic impact of FDI in the U.S.; trends in global cross-border flows; U.S. policies that are closely linked to the ability of the U.S. to attract and retain FDI; Federal government efforts to reduce barriers and improve the investment climate; initiatives by State, regional, and local governments to attract FDI; and initiatives by other countries in order to identify best practices.

Subsection (c) excludes laws or policies relating to the Committee on Foreign Investment in the United States (CFIUS) from the interagency review.

Subsection (d) requires the Secretary to allow input from the public on matters that should be covered by the review.

Subsection (e) requires a report to Congress on the findings of the review, together with recommendations for making the U.S. more competitive in attracting global investment without undermining fundamental labor, consumer, or environmental protections.

V. Questions for Consideration

- What is the appropriate length of time needed for the review required by section 4?
- Should additional criteria be included in the legislation?

Please contact Brian McCullough, Gib Mullan, or Shannon Taylor of the Committee staff at (202) 225-2927 with questions.