International Business Transactions

Professor Mike Ramsey

Fall 2024

Supplemental material for Problem 7.2A

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**50 U.S. Code § 4565 - Authority to review certain mergers, acquisitions, and takeovers**

…

(b) National security reviews and investigations

(1) National security reviews

…

(C) Written notice

(i) In general

(I) In general

Any [party](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-106437350-2125946550&term_occur=999&term_src=) or parties to any [covered transaction](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-1304978348-347063074&term_occur=999&term_src=) may initiate a review of the transaction under this paragraph by submitting a written notice of the transaction to the[Chairperson](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-285570470-347063076&term_occur=999&term_src=title:50:chapter:55:subchapter:III:section:4565)of the[Committee.](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=)

…

(v) Declarations for certain covered transactions

(I) In general

A [party](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-106437350-2125946550&term_occur=999&term_src=) to any [covered transaction](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-1304978348-347063074&term_occur=999&term_src=) may submit to the[Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=)a declaration with basic information regarding the transaction instead of a written notice under clause (i).

(II) Regulations

The [Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=) shall prescribe regulations establishing requirements for declarations submitted under this clause. In prescribing such regulations, the [Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=) shall ensure that such declarations are submitted as abbreviated notifications that would not generally exceed 5 pages in length.

(III) Committee response to declaration

(aa) In general

Upon receiving a declaration under this clause with respect to a [covered transaction](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-1304978348-347063074&term_occur=999&term_src=), the[Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=)may, at the discretion of the[Committee—](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=)

(AA)

request that the parties to the transaction file a written notice under clause (i);

(BB)

inform the parties to the transaction that the [Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=) is not able to complete action under this section with respect to the transaction on the basis of the declaration and that the parties may file a written notice under clause (i) to seek written notification from the [Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=) that the [Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=) has completed all action under this section with respect to the transaction;

(CC)

initiate a unilateral review of the transaction under subparagraph (D); or

(DD)

notify the parties in writing that the [Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=) has completed all action under this section with respect to the transaction.

 (IV) Mandatory declarations

(aa) Regulations

The [Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=) shall prescribe regulations specifying the types of [covered transactions](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-1304978348-347063074&term_occur=999&term_src=) for which the[Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=)requires a declaration under this subclause.

(bb) Certain covered transactions with foreign government interests

 (AA) In general

Except as provided in subitem (BB), the parties to a [covered transaction](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-1304978348-347063074&term_occur=999&term_src=) shall submit a declaration described in subclause (I) with respect to the transaction if the transaction involves an[investment](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-1928999635-347063069&term_occur=999&term_src=)that results in the acquisition, directly or indirectly, of a [substantial interest](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-934179868-347062116&term_occur=999&term_src=title:50:chapter:55:subchapter:III:section:4565) in a [United States business](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-1626569951-2125946552&term_occur=999&term_src=) described in subsection (a)(4)(B)(iii) by a foreign[person](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-991716523-1397683293&term_occur=999&term_src=)in which a foreign government has, directly or indirectly, a[substantial interest.](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-934179868-347062116&term_occur=999&term_src=title:50:chapter:55:subchapter:III:section:4565)

 (BB) Substantial interest defined

In this item, the term “[substantial interest](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-934179868-347062116&term_occur=999&term_src=title:50:chapter:55:subchapter:III:section:4565)” has the meaning given that term in regulations which the[Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=)shall prescribe. In developing those regulations, the[Committee](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-512825181-347063076&term_occur=999&term_src=)shall consider the means by which a foreign government could influence the actions of a foreign[person,](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-991716523-1397683293&term_occur=999&term_src=) including through board membership, ownership interest, or shareholder rights. An interest that is excluded under subparagraph (D) of subsection (a)(4) from the term [“other investment”](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-568131101-347063074&term_occur=999&term_src=title:50:chapter:55:subchapter:III:section:4565) as used in subparagraph (B)(iii) of that subsection or that is less than a 10 percent voting interest shall not be considered a [substantial interest](https://www.law.cornell.edu/definitions/uscode.php?width=840&height=800&iframe=true&def_id=50-USC-934179868-347062116&term_occur=999&term_src=title:50:chapter:55:subchapter:III:section:4565).