



February 11, 2016

## Champion Free Markets, But Don't Risk National Security

When it comes to foreign investment in the U.S., 2016 is already off to a roaring start, with China leading the charge for the second year in a row. Last year saw Chinese firms investing \$15.7 billion in the U.S. – a new record. These investments spanned real estate, entertainment, hospitality, healthcare and other industries. Chinese investment in 2016 has already eclipsed last year's total, which can be attributed to Haier's acquisition of GE's appliance business and Dalian Wanda Group's planned buyout of Hollywood studio Legendary Entertainment.

In today's world, foreign investment is a key driver of global economic growth. At any given time, U.S. companies are buying or investing around the world and foreign companies are doing the same here. As a general rule, it's fine to let free markets, not national boundaries, be the arbiter of what makes good business sense to drive innovation and growth. And in the case of Haier and Dalian Wanda Group, the free market is the logical place to weigh the merits of a sale.

However, when foreign investment places national security at risk, it's an entirely different story.

Two newly proposed transactions put a spotlight on the riskier side of foreign direct investment – China National Chemical Corporation's (known as ChemChina) plan to buy agribusiness giant Syngenta AG, (Syngenta is Swiss, but its seed business is primarily based in the U.S.) and China-based Zoomlion's unsolicited proposal to acquire the Terex Corporation, a Connecticut-based lifting and material handling solutions company.

The ChemChina transaction raises important questions about the role agriculture and the food industry play as critical American infrastructure, particularly as it relates to food safety and quality control concerns. Zoomlion's takeover bid directly impacts both U.S. national security and critical infrastructure, and must be thoroughly examined.

ChemChina's bid is the latest in a series of actions by distressed Chinese state-owned enterprises to acquire healthy businesses and buttress what may be questionable balance sheets with quality assets. Because of these initiatives, the potential ChemChina-Syngenta merger may result in the nationalization of Syngenta, provoking "significant potential risks that EU, U.S. and other regulators would have to consider."<sup>1</sup>

U.S. regulators, business leaders, and all Americans must make smart, tough decisions when it comes to evaluating whether a foreign investment will put the country at long-term risk. Should the U.S. food supply be in the hands of a potentially adversarial foreign government? Will a cornerstone of U.S. agriculture continue to flourish and meet safety standards if its new owners have a precarious balance sheet? Is providing a Communist government with access to highly-sensitive intellectual property, customer information, and proprietary technology in the country's best interests?

With regard to Terex, the argument is even clearer. The heavy lifting equipment manufacturer is a longtime contractor for the U.S. Departments of Defense, Homeland Security, Energy, Justice, State and Veterans Affairs. In its service to the U.S. Air Force, Army, Coast Guard, NASA and Defense Logistics Agency, Terex personnel are routinely provided access to sensitive U.S. facilities and ports around the country and military bases abroad. Many of these contracts also involve the manufacture and upkeep of specialized military equipment, including providing the Marine Corps with maintenance logistics support for all-terrain cranes in Afghanistan and Iraq.

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<sup>1</sup> Citi, "M&A possibilities and Synergy potential," January 29, 2016, via ThomsonReuters.

We've been here before. The 2006 acquisition of U.S. port operators by the United Arab Emirates' Dubai Ports World (DPW) cleared review by the Committee on Foreign Investment in the U.S. (CFIUS), but was later overturned by the executive branch due to port security concerns.

Terex's proposed buyer has long been a partner of and contractor to China's People's Liberation Army (PLA). Zoomlion provides the PLA with the transport and supply of ammunition and defense materials; makes products for China's BeiDou global positioning satellite system and warships; and hosts the PLA's research center for civil-military integration of transportation. Additionally, Zoomlion cranes are directly engaged in the development of China's nuclear program.

According to U.S. China Economic and Security Review member Michael Wessel, the Terex-Zoomlion merger "pales in comparison" to the DPW controversy.<sup>2</sup>

Like ChemChina, Zoomlion is a state-owned enterprise and has received billions of dollars in funding from the Chinese government. By far its largest shareholder is the Hunan provincial government, and other major shareholders include the State-owned Assets Supervision and Administration Commission and a state-backed private equity fund.

The lack of clear boundaries between state and business interests is likely to increase, since Zoomlion has warned that its 2015 net profits will be down 80 to 90 percent year-over-year – the second consecutive year of an 80%+ profit decline. This would be further exacerbated if a deal were approved, as investment analysts predict that Zoomlion's net debt/equity ratio would increase dramatically.<sup>3</sup> Simply put: the numbers do not add up, and it is unfathomable that Zoomlion would be able to finance an all-cash offer of this magnitude without direct financing from the Chinese government.

Before Zoomlion made its bid, Terex's board of directors unanimously agreed to a 'merger of equals' with Konecranes, a Finnish crane manufacturing company with a long history of U.S. operations. While the financial markets will determine the merits of that merger, one thing is clear – neither Konecranes nor Finland pose a national security threat to the United States.

Trade helps to grow our economy, and Chinese and other foreign investments in the U.S. will continue to be welcomed. However, it is naïve and dangerous to view all foreign direct investment with only economic gain in mind, potentially to the detriment of our national security interests.

U.S. regulators, CFIUS, and the American people should follow the money on Zoomlion, ChemChina and similar acquisitions – and rightly decide whether any potential short-term economic benefits outweigh the long-term risks. An anti-China rationale isn't at play here. Common sense is.



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<sup>2</sup> Michael Wessel, Twitter post, January 27, 2016., <https://twitter.com/MWesselDC/status/692418918925864960>.

<sup>3</sup> Citi, "A Generous Officer for TEX would Stretch Zoomlion's BS," January 27, 2016, via ThomsonReuters.