

# BUREAU OF INDUSTRY AND SECURITY

## UPDATE CONFERENCE ON EXPORT CONTROLS AND POLICY

MARCH 18-20, 2025



# DPA Updates: Empowering America's Industries

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Within BIS, SIES executes most of the Commerce delegated Defense Production Act (DPA) authorities.





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# Defense Priorities and Allocations System (DPAS)

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# Overview

- The Bureau of Industry and Security (BIS) implements the Defense Production Act Title I authorities delegated to the Secretary of Commerce with respect to industrial resources through the Defense Priorities and Allocations System (DPAS) regulation.
- The DPAS establishes procedures for the preferential acceptance and performance of priority rated contracts and orders for industrial resources (“rated orders”).
- The DPAS also establishes procedures for the allocation of materials, services, and facilities.



# Overview

- The DPAS may only be used in support of approved national defense programs.
- All companies located in the United States must comply with the provisions of the DPAS regulation.
- The DPAS is not limited to emergency, crisis, or armed conflict.

# DPAS Delegate Agencies

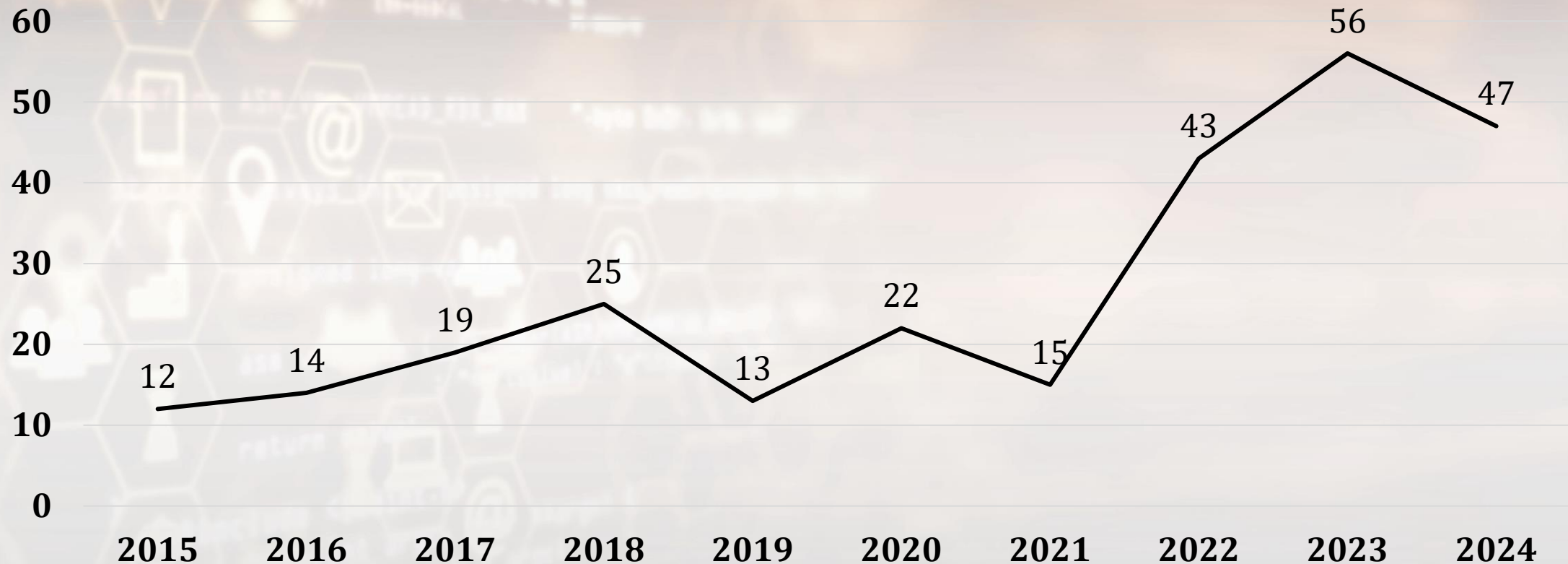
- BIS has delegated specific DPAS priority rating authority to the Departments of Defense (DoD), Energy (DOE), Health and Human Services (HHS), and Homeland Security (DHS), as well as the General Services Administration (GSA) to support approved national defense programs.
- GSA's delegation is limited to procurements supporting DoD, DOE, and DHS approved national defense programs.
- DOE's delegation is also leveraged to support approved DoD national defense programs.

# Special Priorities Assistance

- BIS may provide Special Priorities Assistance (SPA) under the DPAS regulation to assist in the timely delivery of industrial resources or resolve production or delivery conflicts.
- SPA may be requested by federal, state, and local government agencies; foreign governments; owners and operators of critical infrastructure; and U.S. or foreign companies.
- Requests for SPA must first be determined to be “necessary or appropriate to promote the national defense” by either DoD, DOE, or DHS in accordance with Executive Order 13603.



# Individual DPAS Official Actions Since 2015



Note: Numbers only include individual Rating Authorizations or Directives issued.



# DPAS Support for U.S. National Defense

- The DPAS regulation is critically important to ensuring the U.S. industrial base meets the national defense needs of the United States, including military and homeland security requirements.
- BIS works closely with DoD to support the U.S. Armed Forces and military allies and partners through the DPAS regulation, ensuring critical operational requirements and U.S. national security goals are met.
- BIS works closely with DHS and DOE to support other U.S. national defense programs, including National Air Space operations, critical infrastructure, law enforcement, and border security.

# DPAS Program Contact Information

Office of Strategic Industries and Economic Security

Bureau of Industry and Security

Department of Commerce

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[DPAS@bis.doc.gov](mailto:DPAS@bis.doc.gov)



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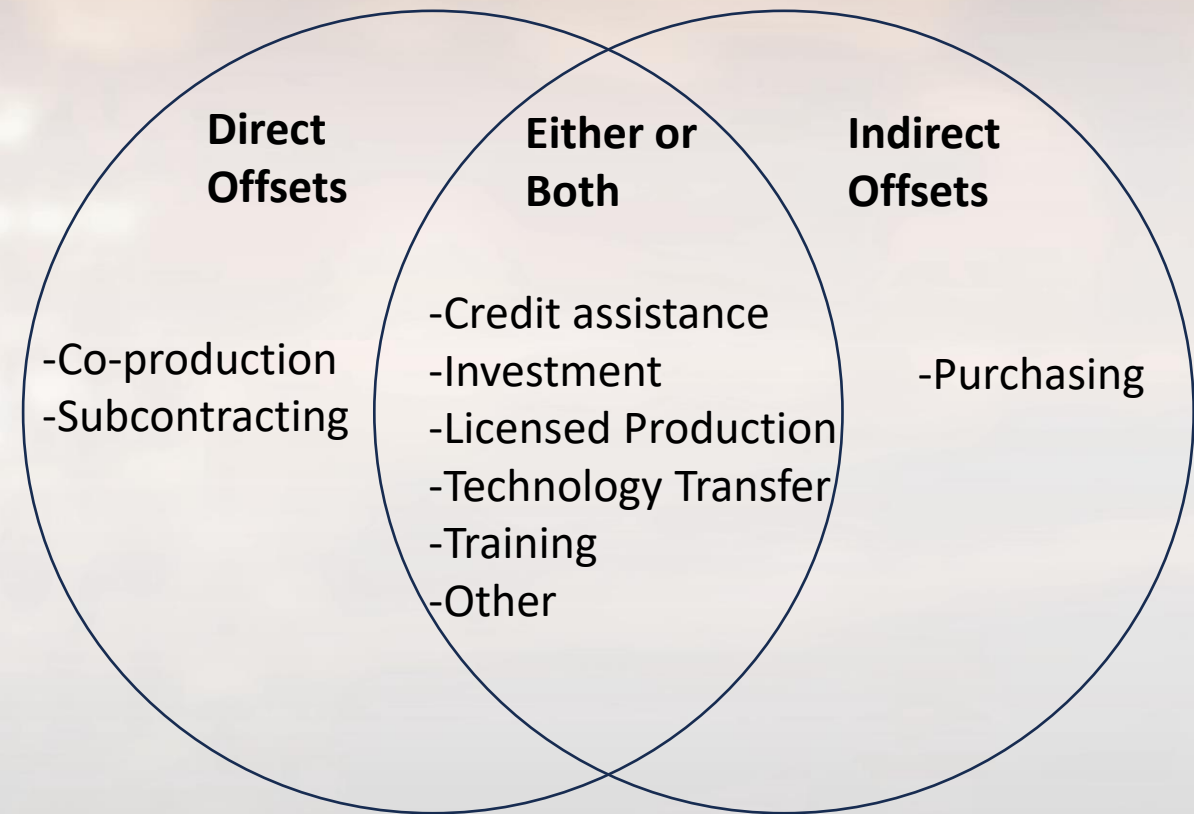


# Offsets in Defense Trade

Marina Youssef  
Offset Program Manager  
Office of Strategic Industries & Economic Security

# What are Offsets in Defense Trade?

- Compensation practices required as a condition of purchase to enter into either government-to-government or commercial military export sales.





# U.S. Government Policy on Offsets in Defense Trade

- No agency of the U.S. Government (USG) shall encourage, enter directly into, or commit U.S. firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;
- USG funds shall not be used to finance offsets in security assistance transactions, except in accordance with policies and procedures that were in existence on March 1, 1992; and
- The decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, reside with the companies involved.

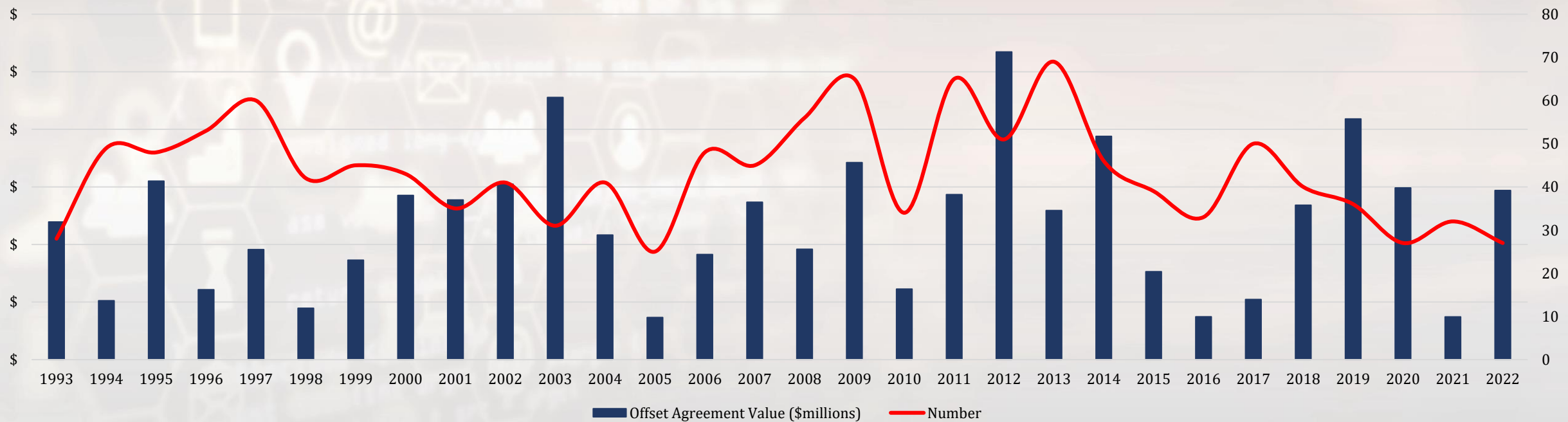
# Offset Report to Congress

- BIS collects data annually from U.S. firms involved in defense exports with associated offset agreements to assess the impact of offsets in defense trade.
- Authority:
  - Section 723 of the DPA of 1950, as amended, authorizes the Secretary of Commerce to develop and administer the regulations necessary to collect offset data from U.S. firms.



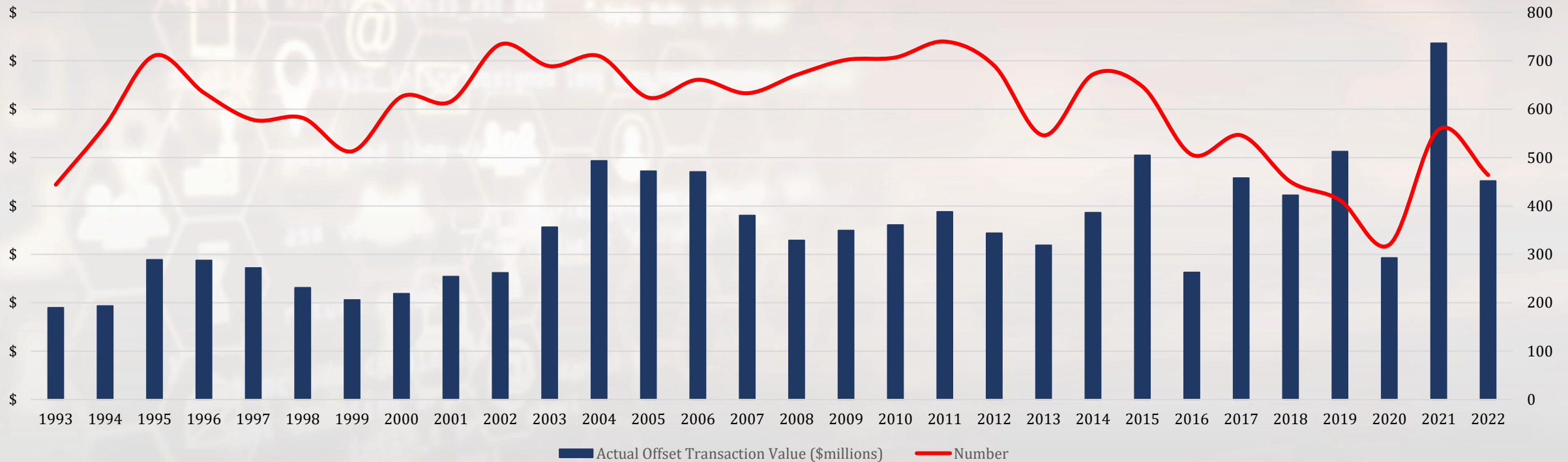
- In 2022, 10 U.S. firms reported 27 new offset agreements with 13 countries valued at \$5.88 billion.

**Offset Agreements Number and Value**



- In 2022, 14 U.S. firms reported 464 offset transactions with 24 countries valued with an offset credit value of \$5.1 billion.

**Offset Transactions Number and Value**





# Interagency Offset Working Group (IOWG)

- The IOWG is tasked with coordinating USG actions to minimize the adverse effects of offsets in defense trade while ensuring the U.S. defense industrial base has flexibility to compete in the global defense market. To achieve this goal, the IOWG acts as:
  - The USG “hub” for offset policy-related issues;
  - The liaison between the USG and U.S. industry on offset issues; and
  - The liaison between the USG and foreign governments and organizations on offset issues.

# Export Control & Offset Considerations

- Products and technologies sought by foreign countries and offered by U.S. industry in fulfilling offset obligations may be export controlled.
- Constraints on USG involvement in offset negotiations do not apply to providing guidance on export control-related issues that may be associated with a proposed offset.



# Offset Program Contact Information

Office of Strategic Industries and Economic Security

Bureau of Industry and Security

Department of Commerce

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# Section 232 Investigations

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Office of Strategic Industries & Economic Security



# Section 232 Investigations

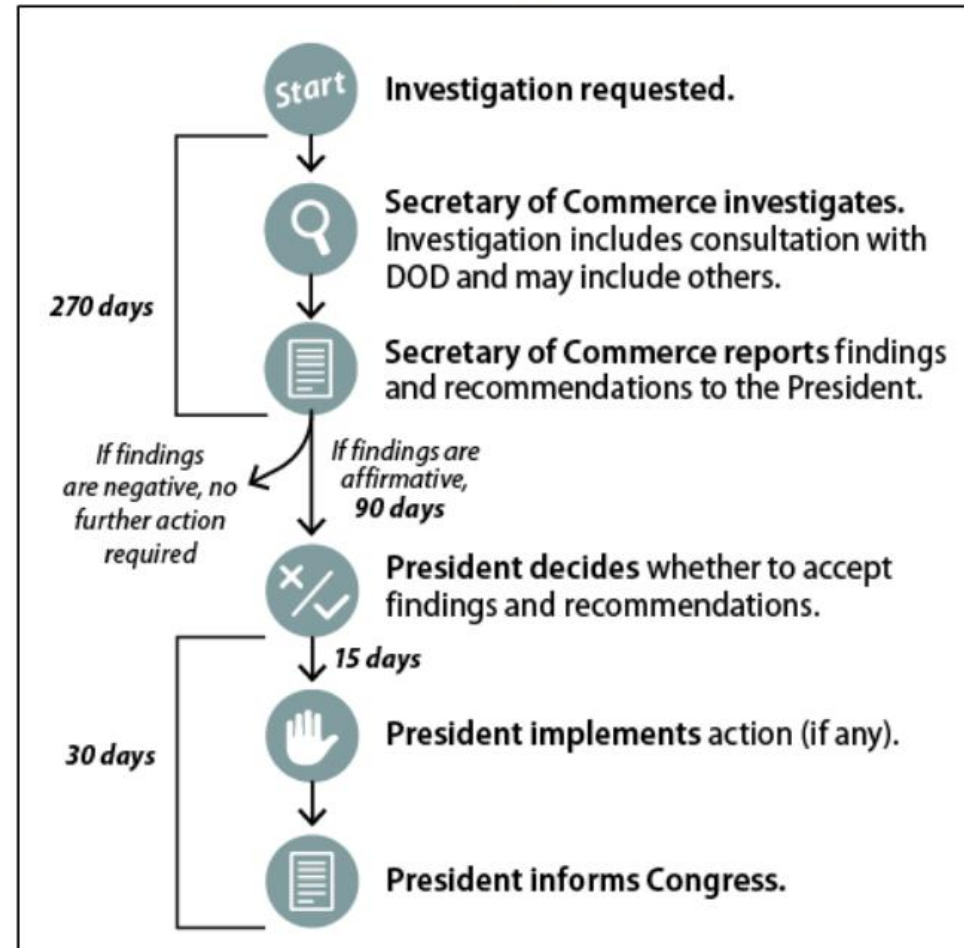
- **Authority:** Trade Expansion Act of 1962, as amended (19 U.S.C. 1862)
- **Objectives:** Determine the effect of imports on the national security, and whether the importation of the article in question is in such quantities or under such circumstances as to threaten to impair the national security.
- **Initiation:** May be initiated based on:
  - an application from an interested party
  - a request from the head of any department or agency
  - self-initiated by the Secretary of Commerce

## Section 232 - Timeline

- The Secretary has **270 days** to present the Department's findings and recommendations to the President.
- The President has **90 days** to determine whether he agrees with the Secretary's findings, and to determine whether to "adjust imports."
- If pursued, the President has **15 days** to implement any adjustment to imports.
- No later than **30 days** after the President's 90-day determination period, the President shall submit to Congress a written statement of the reasons why he has decided to take/refused to take action.



**Figure 1. Section 232 Investigation Process**



**Source:** CRS graphic based on 19 U.S.C. §1862.

# Criteria Studied

Section 232 recognizes the close relation of the economic welfare of the nation and our national security. The most relevant criteria studied are:

- Production needed to meet defense/critical infrastructure requirements
- Industry's capacity/growth to meet projected demands
- Requisite quantity, quality, and availability of imports
- Displacement of domestic products causing:
  - Substantial unemployment
  - Decrease in revenues
  - Loss of investment, specialized skills, and/or productive capacity
- Other factors relevant to unique circumstances



# Potential Presidential Actions Based on Report Findings

- Within 90 days after receiving the report from the Secretary, if the Secretary finds that imports threaten to impair U.S. national security, the President shall:
  - 1) determine whether he concurs with the Secretary's finding; and
  - 2) if the President concurs, determine the nature and duration of the action that must be taken to “adjust” the imports of the article and its derivatives so that such imports will not threaten to impair the national security.
- If pursued, the President has 15 days to implement any adjustment to imports.
- Even if the President concurs with the Secretary’s finding, he may choose not to use his authority under Section 232 to “adjust” imports.

# Potential Presidential Actions Based on Report Findings (continued)

- The President has broad latitude to recommend alternative measures to support the industry, including:
  - Interagency Working Groups
  - Multilateral Engagements and/or Negotiations
  - Expansion of the National Defense Stockpile
  - Promotion of Recycling Policies
  - Other actions



# Section 232 Investigation – Copper Imports

- Executive Order 14220 “Addressing the Threat to National Security from Imports of Copper” directed the Secretary of Commerce to initiate an investigation under to Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. § 1862) on imports of copper.
- On February 25, 2025, the Secretary of Commerce initiated the Section 232 investigation on copper.

# Section 232 Investigation – Timber & Lumber Imports

- Executive Order 14223 “Addressing The Threat To National Security from Imports of Timber, Lumber” directed the Secretary of Commerce to initiate an investigation under to Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. § 1862) on imports of timber and lumber.
- On March 1, 2025, the Secretary of Commerce initiated the Section 232 investigation on timber and lumber.



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## BIS Role in the Committee on Foreign Investment in the United States (CFIUS)

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# CFIUS

- CFIUS relies primarily on voluntary filings from parties. However, CFIUS filings are mandatory for certain transactions involving foreign governments or **critical technologies**.
- CFIUS can bring in non-notified transactions.
- CFIUS is focused on national security issues, but the Committee can only act if there are no other applicable authorities.



# Covered Transaction- Control

- CFIUS has authority to review “any merger acquisition, or takeover... by or with any foreign person that could result in **foreign control** of any **United States business**, including ... carried out through a joint venture.”
- **Control** – Power, direct or indirect, whether exercised or not exercised, to determine, direct, or decide important matters affecting an entity.
- **United States Business** – Person engaged in interstate commerce in the United States.

# FIRRMA Foreign Investment Risk Review Modernization Act

- FIRRMA gives CFIUS authority to review new kinds of activities that do not result in control of a U.S. business.
- These include certain non-controlling investments in U.S. companies involved in critical technologies, critical infrastructure, and sensitive personal data; as well as certain real estate transactions near sensitive government facilities.

# Other Investments

- Foreign investments in unaffiliated U.S. business involved in Critical technologies fall into the BIS purview (produce/design/test/manufacture/fabricate/develop).
- The investment must afford the foreign person:
  - Access to material non-public technical information or Membership or observer rights on board of directors; or
  - Involvement in substantive decision making of the U.S. business (regarding critical technology, critical infrastructure, or sensitive personal data).



# Mandatory Declarations

- Parties are required to file with CFIUS if:
  - A foreign government has a substantial interest (49%+) in a foreign entity with a substantial interest (25%+) in a U.S. business involved in critical technology, critical infrastructure, or sensitive personal data, or
  - Transaction involves U.S. businesses with critical technology and if the critical technology would need an export license to the country of origin of the investor.

# Bureau of Industry & Security Role

- Provides analysis of export control (product classification, licensing and compliance history), critical technology, and defense industrial base issues.
- Clears on all CFIUS cases, but what does that mean?
- ISD works with other offices within BIS to review the cases with respect to our authorities.

# Export Control Review

- Within each CFIUS filing and declaration, the U.S. company must describe all the items that they produce or trade in that are subject to the EAR and how they are classified.
- SIES CFIUS case analyst refers a CFIUS case to the appropriate licensing officer for review in the following areas:
  - classification,
  - license requirements,
  - potential national security concerns, and
  - emerging technology reviews.
- If a U.S. company has misclassified an item in a regular CFIUS filing or CFIUS Declaration, SIES will send a follow up letter signed by the Deputy Assistant Secretary notifying the company of the issue and/or phone call is likely.



# Other Investments

- There is a slight difference between BIS's responsibility/review of filings vs. declarations related to "other investments" in critical technology companies.
- In a declaration related to an "other investment" in critical technology, one of the regulatory requirements for CFIUS to have jurisdiction is that the U.S. company is involved with "critical technology."
- Therefore, if that "critical technology" is one described in the EAR, then BIS must make a definitive classification to determine CFIUS jurisdiction. That level of precision is generally not required in a regular CFIUS filing.

# Non-Notified Transactions

- Treasury and the CFIUS agencies review transactions that have occurred but have not been submitted to CFIUS as a filing or a declaration.
- SIES reviews the submission sent by Treasury and sends the list of entities to OEE for vetting.
- SIES also refers the submission to the appropriate licensing officer for review of U.S. company's items and technology.

# Outbound Investment Security Program

The Outbound Investment Security Program began operations on January 2, 2025. The program will prohibit or require notification from U.S. persons involved in transactions with persons of a country of concern (entities from China, Hong Kong, and Macau) that engage in a covered activity. Covered technology sectors include:

- 1. Semiconductors and Microelectronics**—A notification requirement for investments in legacy chips and a prohibition on investments in advanced chips.
- 2. Quantum Information Technology**—A prohibition on investments in quantum computers including any critical components, sensors, networks, and communications systems.
- 3. Artificial Intelligence**—A notification requirement for AI systems designed for certain end uses or trained at a computing threshold greater than  $10^{23}$  computational operations, and a prohibition on systems designed to be exclusively used for military/government intelligence uses, or trained at a level of  $10^{25}$  or greater, or  $10^{24}$  for models trained on biological data.



Questions?