

FOREIGN INVESTMENT WATCH

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U.S. Senator and China both want to review Ford-CATL battery deal

Last week, Ford announced it would build a \$3.5 billion battery factory using technology licensed from China's CATL. Senator Marco Rubio (R-Fla.), one of the most outspoken Congressional leaders on matters of national security, immediately asked the Biden administration to review the deal.

Shortly thereafter, news reports emerged that the Chinese government was also giving the deal closer scrutiny.

Here are all the details in outline form:

WHAT HAPPENED

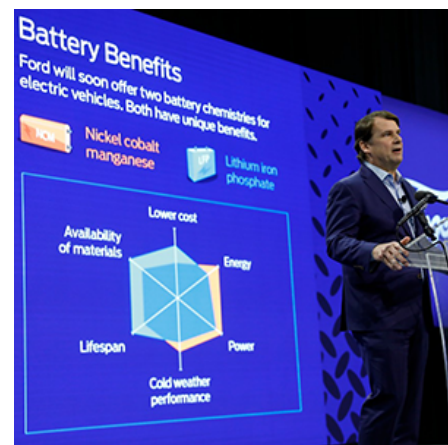
On February 13, 2023, the Ford Motor Company [announced](#) that it would invest \$3.5 billion to build the country's first lithium-iron-phosphate battery plant backed by a U.S. automaker. Production at the plant, which will be called BlueOval Battery Park Michigan, would be slated for 2026.

To make the plan a reality, Ford also announced that it had reached a new agreement with Chinese battery maker Contemporary Amperex Technology Co., known as CATL. Under the arrangement, BlueOval would manufacture the battery cells using CATL battery IP, as well as services provided by CATL.

BELTWAY REACTION

Twenty-four hours after the Ford announcement, U.S. Senator Marco Rubio (R-Fla.) sent a letter to three members of the Biden administration – Treasury Secretary Janet Yellen, Transportation Secretary Pete Buttigieg, and Energy Secretary Jennifer Granholm – calling for an immediate CFIUS review of the licensing agreement.

According to Rubio, the deal will not only deepen U.S. reliance on the Chinese Communist Party for battery technology, but it would indirectly benefit the CCP through U.S. tax credits. "I write to request a Committee on Foreign Investment in the United States (CFIUS) review of the licensing agreement," wrote Sen. Rubio, "as well as demand that no federal funds – especially monies or tax credits granted via the Inflation Reduction Act (P.L. 117-



Ford president and CEO Jim Farley announcing the plant of a new battery facility in Michigan. Under the arrangement, a wholly owned subsidiary of Ford would manufacture the battery cells using lithium-iron-phosphate "battery cell knowledge and services" provided by China's Contemporary Amperex Technology Co.

169) – go to enrich PRC national champion CATL, or any other Beijing-supported company, directly or indirectly.”

BEIJING REACTION

Shortly after Sen. Rubio submitted his letter, the Chinese government apparently decided to review the deal as well.

According to a Bloomberg [report](#), which only cited “people familiar with the matter,” senior Chinese leaders asked to review the deal over concerns “that competitive assets of CATL’s technology could be given to or accessed by the American automaker.”

According to Bloomberg, the deal had been examined by lower-level officials in China, but is getting an “extra layer of national-level scrutiny.”

Foreign Investment Watch was unable to verify the additional scrutiny by press time, but experts were not surprised by the move. “The ratcheting up of economic discord [between the U.S. and China] has been progressive, and seems likely to increase after the incidents with the spy balloons,” said one former Commerce Department official who asked to speak off the record. “Bit of brinkmanship going on here, but not at all surprised that officials in both countries want to communicate that they’re looking at the deal.”

Lowenstein Sandler senior counsel Laura Fraedrich agrees. “I am not surprised that China is reviewing the deal.”



Senator Marco Rubio (R-Fla.) wrote a letter to three officials in the Biden administration, saying he was “alarmed at Ford’s plan to establish a large, Michigan-based factory, structured as a wholly owned subsidiary that licenses its technology from [China’s] CATL.”

MORE COMING?

Harry Broadman, chair of the CFIUS practice at Berkeley Research Group, notes that Chinese foreign investment reviews are not new. “It may be a surprise to the uninitiated as to how policymaking with respect to Beijing’s ‘leading sector’ entities’ cross-border transactions, especially in G7 countries, is being carried out,” he says, adding, “indeed has been carried out for years.”

But Broadman says that it would be a mistake to equate what is sometimes an “opaque, tacit process” overseen by the Chinese leadership with the explicit regime administered by CFIUS or other Western countries. “That’s not to say there isn’t now greater visibility into China’s outbound (and inbound) investment review process, including by greater portions of the Chinese population and foreign investors,” he says, “but such an approach is still somewhat of a novelty for the CCP, arguably deliberately so.”

A former member of CFIUS, Broadman expects Chinese reviews to become more common. “Will such a review process undertaken by Beijing become more frequent and cast a wider net across business sectors in China? Absolutely,” he says. “Washington and other G7

capitals would do well to become more educated about these dynamics underway in China and devote more time and resources better understanding them,” he adds.

Fraedrich at Lowenstein Sandler agrees. “They are learning to apply some of the same types of national security measures that the United States applies,” she says. “We see this in the sanctions arena also, like the recent sanctions on Northrop and Raytheon for selling to Taiwan.”

MORE DEMANDING LETTERS?

It’s worth noting that — as we covered back in [May 2022](#), and as reflected in Sen. Rubio’s latest correspondence — letters from U.S. Congressional leaders to the Treasury Secretary have become more demanding, with detailed lists of specific questions and deliverables.

“Most of the letters from elected officials typically urge the Treasury Secretary to review a particular transaction,” one former Treasury official who asked to remain anonymous told us last year. “As you can imagine, those are often crafted after conversations with constituents, or they result from [Congressional] committee work that highlight a particular matter,” the official added.

Now, however, we’re seeing letters that go father, requesting information that is “typically kept confidential, and is not regularly disclosed outside of CFIUS and the investigating agencies and coleads.”

Sen. Rubio’s latest letter regarding Ford, for example, includes a detailed list of questions, such as:

- *The Deal* — To what degree will CATL have equity in, ownership over, or other forms of control over Ford’s planned subsidiary and the factory?
- *Other Transactions* — Has CATL acquired any assets through a transaction that is reviewable by CFIUS?
- *Intellectual Property* — To what degree has CATL relied on U.S. research and development in its own battery production?
- *Customers* — Does CATL provide equipment, technology, or other services to the Chinese government, “or other services to the People’s Liberation Army, the People’s Armed Police, or any other security body controlled by the CCP?”

Inquiries to the Treasury Department regarding Sen. Rubio’s letter were not answered by press time.

CONTEXT

As most Foreign Investment Watch readers know, this is not the first time that Sen. Rubio has spoke out on matters of national security and foreign investment. According to our calculations, he’s been one of the most active U.S. Congressman when it comes to legislative proposals and letters to government officials regarding China, foreign investment and national security.

Some of his more recent actions include:

- In July 2022, he coauthored a [letter](#) to Treasury Secretary Janet Yellen and Defense Secretary Lloyd Austin, requesting them to have CFIUS determine whether the Fufung project in North Dakota had national security implications.
- In June 2022, he coauthored another [letter](#) to Treasury Secretary Yellen seeking answers regarding the Biden administration's "delayed response" to the national security and privacy risks posed by TikTok.
- In April 2022, he sent a [letter](#) to Treasury Secretary Janet Yellen over the acquisition of Silicon Valley-based semiconductor firm OpenFive by Chinese-backed Alphawave IP Group.
- In Dec., 2021, he proposed [bill](#) that would prevent NASA and the U.S. Department of Commerce from purchasing or leasing any telecommunications or aerospace products or services from any firm with links to the Chinese Communist Party.
- In August, 2021, he sent a letter to Treasury Secretary Janet Yellen, renewing a request to have CFIUS review the transactions of [Brazilian meatpacking conglomerate JBS](#) (he wrote a similar letter in [2019](#))
- In September, 2020, of last year he asked CFIUS to look into the Chinese acquisition of health and [nutrition retailer GNC](#);
- In Feb. 2020, he sent a letter to CFIUS asking the Committee to look into the national security implications of a sale of [AT&T assets to a Czech-owned conglomerate](#).
- [Co-authored a bill](#) that would give the U.S. Secretary of the Treasury broader control in determining what technologies could be reviewed by CFIUS.
- Introduced a bill in June 2020 that would have [CFIUS study](#) "overreliance on foreign countries and the impact of foreign direct investment" on the U.S. pharmaceutical industry.

MORE INFORMATION

The [complete letter](#) from Sen. Rubio to Secretaries Yellen, Granholm and Buttigieg is available, as is the original [announcement](#) of the Ford-CATL deal.

As usual, if you have thoughts or insights on this matter, we're all ears at editor@foreigninvestmentwatch.com.
