

# [***MAZZELLA: Blocking The US Steel Deal On 'National Security Grounds' Undermines National Security***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BMX-JC81-DXXD-7001-00000-00&context=1516831)

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[*Author Image*](http://dailycaller.com/wp-content/uploads/2017/03/mazzella.jpg)

**Body**

[*Link to Image*](https://cdn01.dailycaller.com/wp-content/uploads/2024/02/GettyImages-930202864-scaled-e1707690653949.jpg)

In today's hyper partisan environment - both at home and abroad - the temptation to abandon good judgment and fidelity to constitutional norms becomes particularly acute.

John Adams famously observed that the Founding Fathers created, “a government of laws and not of men.” As government obtains more and more power over nearly every aspect of our lives and economy, however, that critical respect for ordered constitutional liberty comes under increasing threat.

The recent needless debate over Japanese company Nippon Steel Corporation's proposed acquisition of U.S. Steel offers the latest example, with [*some urging*](https://www.bloomberg.com/news/articles/2023-12-20/allies-urge-biden-to-kill-us-steel-deal-as-calls-grow-for-review?sref=0qIeASWn) the executive branch to overstep its proper authority and risk placing our economy - and global security - at greater risk.

Opponents of the deal, on both the political left and right, suggest that the Committee on Foreign Investment in the United States (CFIUS), an interagency panel with jurisdiction to review foreign investments in U.S.-based assets, should advise President Biden to block the deal on “national security grounds.”

That would constitute a breach of CFIUS's proper role. CFIUS serves a vital but narrow national security purpose, and should not be exploited in pursuit of economic advantage or to elevate ***politics*** over the merits of the acquisition in a way that exceeds the boundaries of its legal authority.

For background, the last major congressional review of CFIUS legal authority occurred in 2018, when Congress passed the [*Foreign Investment Risk Review Modernization Act*](https://home.treasury.gov/system/files/206/Summary-of-FIRRMA.pdf) (FIRRMA). That law broadened CFIUS power to address the potential transfer of sensitive national security technologies from U.S. to foreign companies, particularly those with links to the Chinese Communist Party.

At the time, many legislators - [*led*](https://www.wsj.com/articles/lawmakers-push-for-tighter-scrutiny-of-chinese-investment-in-u-s-1487678403?mod=article_inline) chiefly by Democratic New York Sen. Chuck Schumer - hoped to expand CFIUS power even further: to also consider broader economic competitiveness factors when assessing foreign investment deals.

In other words, they hoped to include debatable economic assertions, as opposed to actual national security threats, as a basis for blocking proposed deals, whatever the implications for national security.

Congress wisely rejected that grossly expansive proposal and settled on the much narrower reform focused on tech-transfer.

Accordingly, even under its modified mandate, CFIUS must prove that acquisitions of American companies by a foreign entity threaten our “critical infrastructure,” which the law [*defines*](https://www.wiley.law/alert-CFIUS-to-Review-More-Investments-in-Technology-Infrastructure-and-Data-Companies-Under-Sweeping-New-Regulations) as “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.”

Here's why that's important for the proposed Nippon Steel/U.S. Steel agreement.

By any stretch, Nippon's acquisition certainly does not meet that criteria or pose even the most remote national security threat. Accordingly, from a strictly legal point of view according to the underlying law, CFIUS should permit the deal.

In addition, however, permitting the deal will likely enhance U.S. national security - not threaten it. Combined, U.S. Steel and Nippon would become the second-largest global steel producer, allowing the U.S. and Japan to better compete jointly with China's Baowu Group, the world leader.

Japan obviously remains one of America's most loyal and longstanding treaty allies, with whom we have a mutual defense agreement under the U.S.-Japan Security Treaty of 1960. Additionally, more U.S. forces are stationed in Japan than any other country on the globe, and the country remains the cornerstone of U.S. security cooperation within the Indo-Pacific region.

Perhaps most critically, Japan and the United States also share deep, well-founded concerns about China's unprecedented military buildup and increasingly belligerent behavior.

It's therefore untenable to portray this cooperative proposal between private companies within our two countries, especially in this capital-intensive industry in which the U.S. has struggled to excel, as anything other than a positive development.

The U.S.-Japan relationship central to the proposed deal should serve as the model for intelligent competition with China, and we should not only permit, but actively encourage commercial ties that better allow us to keep pace with “the world's factory.”

The sudden effort to overstep CFIUS authority thus risks chilling useful foreign investment in favor of capture by domestic special interests. Far from undermining U.S. security interests, the Nippon-U.S. Steel agreement will bolster our geopolitical security, and we cannot allow those who seek to abuse CFIUS authority to jeopardize it.

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*The views and opinions expressed in this commentary are those of the author and do not reflect the official position of the Daily Caller.*

**Graphic**

BRADDOCK, PA - MARCH 10: A worker leaves U.S. Steel Edgar Thomson Steel Works, March 10, 2018 in Braddock, Pennsylvania. On Thursday, President Donald Trump signed an order to impose new tariffs on imported steel and aluminum. Trump is visiting the state on Saturday evening for a rally with Republican Congressional candidate Rick Saccone. (Photo by Drew Angerer/Getty Images)

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