United States Senate
WASHINGTON, DC 20510

June 3, 2008

The Honorable Henry M. Paulson, Jr.
Secretary
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Paulson:

We are writing to request the initiation of a review by the Committee on Foreign Investment in the United States (CFIUS) of the recent acquisition of what we believe is a dominant minority of CSX shares by a group of foreign investors. It is our understanding that these investors are lead by an aggressive hedge fund from the Cayman Islands called The Children's Investment Fund (TCI) and an associated fund from Brazil known as the 3G Fund LP. Their investment, through share ownership and derivative securities, concerns us because the investment devices being used lack transparency, leaving the ownership and control of critical U.S. infrastructure in the hands of unknown investors.

CSX serves more than two-thirds of the U.S. population with a network stretching across 23 states. CSX is the exclusive rail provider to 13 major military bases and ocean terminals and shipped more carloads of military equipment and supplies than any other railroad last year. The railroad is also the exclusive provider of rail service to the Department of Energy's Savannah River Site and shipped over 300 carloads of nuclear material in 2007. As a major link in the nation's critical infrastructure for goods and services, energy, and military support, CSX is vital to our national security interests.

Very little is known about the investors in the TCI Group or those investors' agenda. They are anonymous and invisible to government regulators and the nation. They could be charities and university endowments, but they could also be foreign governments' sovereign wealth funds. TCI claims 40 percent of its investors are from foreign sources including sovereign wealth funds but has failed to reveal any specifics or details about those investors. We know nothing of some of the other investors.

The TCI Group has proposed actions with respect to the operation and management of CSX which makes the need for transparency even greater. This investment group is making numerous demands for substantial changes to CSX's management and operations, including a freeze on capital expenditures for growth. This could impact CSX's ability to continue the maintenance and expansion of its rail system and the continued reliability of CSX's service to the public, government and industry.

Congress created and recently strengthened CFIUS to investigate foreign entities that seek to acquire control of U.S. critical infrastructure and to determine whether this transaction is in the national interest. The requirements for a CFIUS review appear to be present in this case: a group of foreign investors are seeking to take over and control CSX, a vital asset whose incapacity would have a debilitating impact on national security. Therefore, an immediate CFIUS review is needed to determine who these investors are, what do they intend to do with this critical infrastructure and whether this threatens national security.

The Japanese Government recently did a similar review and rejected TCI's attempt to increase its stake in a Japanese utility company from 9.9 to 20 percent, citing national security concerns. We should at least analyze this acquisition to determine the national security implications before any changes are made at CSX that would be difficult to untangle. We ask that a CFIUS review be immediately undertaken.

Sincerely,

Evan Bayh
U.S. Senator

Mel Martinez
U.S. Senator

Thomas R. Carper
U.S. Senator

Jim Bunning
U.S. Senator

Sherrod Brown
U.S. Senator

Robert Menendez
U.S. Senator