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**HAZARDS TO NATIONAL
SECURITY FROM
FOREIGN DIRECT
INVESTMENT IN THE
PEOPLE'S REPUBLIC OF
CHINA**

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INTRODUCTION

The People's Republic of China (PRC) (Zhōnghuá Rénmín Gònghéguó 中华人民共和国) is one of the fastest growing countries in the world. Over the past 70 years, it has transformed from a backward country into one of the most advanced countries in the world. According to official data from the site Macrotrends, the cite which provides up-to-date statistics data, China's GDP has doubled in the past few years, and in 2021, China's GDP rose by 20 percent, amounting to \$17,820.46 trillion US dollars, making China's economy one of the largest in the world¹. The PRC economy is currently experiencing its growth and rise, making China an important participant in international economic and trade processes. And with such indicators, it can compete with the world's superpowers. The Chinese market is the fastest growing market in the world and continues to grow every year, which confirms that more and more investors are interested in opening their business in China or invest in an existing one.

In order to develop its economy, China is actively seeking to attract Foreign Direct Investment (Wàiguó zhíjiē tóuzī 外国直接投资) to the region and is trying to optimize government processes for this. By the end of August 2023, a total of 1,150,000 foreign companies were registered in Mainland China, according to the official data provided by the Ministry of Commerce (MOFCOM) (Zhōnghuá rénmin gònghéguó shāngwù bù 中华人民共和国商务部) together with investment from the special administrative regions Hong Kong (Xiānggǎng 香港) and Macao (Àomén 澳门) and from Taiwan (Táiwān 台湾)². All this confirms that China is actively trying to attract more investors, in order to do that the Communist Party of China (CPC) (Zhōngguó gòngchǎndǎng 中国共产党) is making its economic

¹ China GDP (Gross Domestic Product), “Macrotrends”, 2024, <https://www.macrotrends.net/global-metrics/countries/chn/china/gdp-gross-domestic-product#:~:text=China%20gdp%20for%202022%20was,a%202.86%25%20increase%20from%202019,18%20November%202024.>

² China's Economy: The Numbers Behind The Growth, “China Help”, 2019, <https://chinahelp.me/archives/946>, 5 October 2024.

situation and legislative framework comfortable and understandable for foreign investors.

On the other hand, as foreign investment bring wellness to the economic and social situation in a country; it can also pose a threat to national security of China, its internal and external stability and position on the world map. That's why updating China's legal system in the field of foreign investment is also aimed at protecting China's economy. "In China's national security legal system, the foreign investment security review plays an important role in protecting national economic security"³. Thus, control over foreign investments is carried out to protect the national security of the country in all areas.

It means that national security is the core component for providing FDI in order to protect the state's economy, political and cultural stability and unity of country's population. That is why in order to attract more foreign investors into China, government needs also to strengthen its national security legislation, so foreign influence cannot be the hazards to its stability and development.

The object of the study is the legislation in the field of foreign investment, as well as laws regulating national security. The subject of this study is the Foreign Investment Law (Wàishāng tóuzī fǎ 外商投资法) of 2020, the National Security Law (Guójiā ānquán fǎ 国家安全法) of 2015 and National Security Review Measures (Wài shāng tóuzī ānquán shěrchá bànfǎ 外商投资安全审查办法) of 2020.

The purpose of this work: To study the hazards of the relationship between foreign investment and national security and how China protects itself in the legislative acts on foreign activities in the country.

The objectives for achieving this goal are as follows:

- Identify Holistic National Security Concept

³ Zài zhōngguó guójiā ānquán fǎlǜ tǐxì zhōng, wàishāng tóuzī ānquán shěrchá duìyú bǎohù guójiā jīngjì ānquán fǎ huī zhuó zhòngyào zuòyòng 中国外商投资国家安全审查制度 (China's foreign investment national security review system), King & Wood Mallesons, 2024, <https://www.kwm.com/cn/zh/insights/latest-thinking/china-s-national-security-review-system-for-foreign-investment.html>, 22 November 2024.

- Determine the historical chronology of the development of legislative acts of National Security and Foreign Direct Investment of the PRC
- Identify the problems in reforming the legislative regulation of the activities of foreign enterprises in the territory of the PRC
- Research the laws providing National Security in Foreign Direct Investment in the territory of the PRC
- Analyze the activities of state organs of the PRC in the field of national security related to foreign investment
- Study the main provisions for establishing procedure for foreign enterprises in China and legal regulation of security of foreign investment
- Define main hazards to Chinese economy from FDI
- Identify future trends in the development of the legal framework of foreign investment in national security.

The following methods were used in writing this thesis:

historical and comparative analysis, formal legal method for analyzing the laws and regulations of the People's Republic of China. The analytical method was used to find the links between national security and foreign investment.

The chronological framework of the work covers the period from October 1, 1949, from the founding of the People's Republic of China to mid-2026, with an emphasis on the future development of national security in the legislation of the PRC.

The sources are: the Foreign Investment Law of the People's Republic of China of 2020, the National Security Law of the People's Republic of China of 2015, Measures for security review of foreign investments, China's Negative List for Foreign Investment Access (New Edition) and so on.

When writing the work, articles by Chinese researchers were analyzed: Chen Yixin 陈一新, Wang Chanyuan 王婵媛, Yang Jijun 杨继军, Ye Weiping 叶卫平 and so on. Research in Russian and English: Theodore H. Moran, Lindsay Oldenski, Foreign direct investment in the United States: benefits, suspicions, and risks with special attention to FDI from China, Skitsko Volodymyr I., Huzenko

Oksana Yu. Risks of mergers and acquisitions processes, Nicolas F. Runnels, Securing liberalization: China's new foreign investment law. As well as other regulatory legal acts of China, scientific manuals and articles, electronic sources and resources taken from official government websites of China, as well as in official libraries.

Structure. This study consists of an introduction, three chapters, each of which is divided into three paragraphs, a conclusion and a list of used literature and sources.

The first chapter examines the basic definitions, history and process of formation of Chinese legislation related to foreign investment and national security in the PRC.

The second chapter is the practical part of legislation in the field of foreign investment security.

The third chapter provides the main hazards and ways of developing security in foreign investment and future development of Chinese legislation on foreign investment.

CONTENT

Introduction.....	2
Chapter 1. Introduction into national security and foreign direct investment in the People's Republic of China	8
1.1. Holistic national security in the People's Republic of China.....	8
1.2. Foreign direct investment impact on national security and Chinese economic stability.....	14
1.3. The connection between national security and foreign direct investment.....	22
Chapter 2. Legislation of foreign direct investment and national security in the People's Republic of China.....	27
2.1. National security in the foreign investment legislation in the People's Republic of China	27
2.2. Recent provisions on national security in foreign investment legislation in the People's Republic of China	34
2.3. How foreign investments are checked by Foreign Investment Security Review.....	41
Chapter 3. Hazards to national security from foreign direct investment in the People's Republic of China	47
3.1 Hazards to China's national security from foreign	

investment	47
3.2 Mergers and Acquisitions' threat to national security in China	55
3.3 Future development of national security in foreign investment in the People's Republic of China.....	60
Conclusion.....	68
List of references and sources	72

CHAPTER 1. INTRODUCTION INTO NATIONAL SECURITY AND FOREIGN DIRECT INVESTMENT IN THE PEOPLE'S REPUBLIC OF CHINA

1.1. HOLISTIC NATIONAL SECURITY IN THE PEOPLE'S REPUBLIC OF CHINA

National security is an important component of the system of any country that protects the population, economy and governmental system from various types of threats. National security includes protecting the state from political, social, economic and cultural dangers, both within the country and from the outside.

One of the biggest dangers are the dangers to economic security. In the Monograph “Dangers Facing the Chinese Economy - On National Economic Security” it was especially emphasized “From the perspective of philosophy and economics, the economy is the foundation of everything. Without economic security, there is no military strength”⁴. It will not be possible to develop all other spheres of life of the state and society without maintaining economics and therefore security. Therefore, maintaining it is critically important for the state.

The Chinese leadership is not characterized by the development of a national security strategy in the classical (Western) sense. Security is viewed primarily as the formulation and solution of problems within the country, rather than foreign policy problems⁵. Economic security has its own characteristics associated with the development of the country, the political regime, and other important aspects that distinguish China from Western countries, including new problems and challenges that appear in the world and including within the country.

⁴ Zhao Ying, Xu Heping, and Xing Guoren, Dangers Facing the Chinese Economy: On National Economic Security, “Researchgate”, 1994, https://www.researchgate.net/publication/226040062_Chinese_considerations_of_economic_security, 20 September 2024.

⁵ О. Степанова, Т. Голуенко О. Степанова, Т. Гокуленко, Основные направления концепции национальной безопасности Китая (Main directions of the concept of national security of china), “Cyberleninka”, 2018, <https://cyberleninka.ru/article/n/osnovnye-napravleniya-kontseptsii-natsionalnoy-bezopasnosti-kitaya/viewer>, 22 August 2024.

This is confirmed by the words of Xi Jinping (习近平), Secretary of People's Republic of China. In his speech, he emphasized: “Adhering to the overall national security concept is an important aspect of upholding and improving the socialist system with Chinese characteristics and promoting the modernization of the national governance system and governance capabilities”⁶. While emphasizing the desire and aspiration of the Chinese government to develop a new round of national security with Chinese characteristics. Including for the sake of maintaining domestic peace and development of the country, sustainable socio-economic development, as well as its sustainable growth in the international arena, adapting global trends to domestic realities.

In 2014, Xi Jinping, General Secretary of the People's Republic of China, put forward the idea of the Overall Concept of National Security (Zǒngtǐ guójiā ānquán guān 总体国家安全观), which became the basis for the new law of 2015. In his speech, Xi Jinping emphasized that national security includes traditional and non-traditional security, including economic security, information security, financial security, resource security, and others, comprising a total of 16 security sectors⁷. It is important to highlight that the law also takes a broader view of the sectors that are under the control and protection of the National Security Law, as opposed to the old version of the law, which includes the protection of politics, culture, the defense sector, the Internet, and so on, especially important for examining the protection of the country's economic and financial sector from threats that may arise from foreign investment. Thanks to this concept, various laws in the field of national security have been written and amended over the past ten years.

⁶ Li mo 李沫 (ed.), Shēnkè lǐjiě hé bǎwò zǒngtǐ guójiā ānquán guān 深刻理解和把握总体国家安全观 (Deeply Understand and Grasp the Overall National Security Concept), guówùyuàn xīnwén bàngōngshì wǎngzhàn 过 无 缘 新 文 帮 工 王 战 , 15 April 2020, https://baike.baidu.com/reference/13777610/533aYdO6cr3_z3kATPzfy__2ZHmSNIv-6-HUUbBzzqIP0XOpX5nyFJsx6dhx-fhxWgjF_8szN4FG2bv7DUxB8fQRduo8XeF9zjOiBm2G1r_g-N4zmdJbooxEX68UhO-p8hk, 24 October 2022.

⁷ Xi Jinping, “China's National Security Strategy and the Environment”, Xinhua Net, 15 April 2014, www.xinhuanet.com/2014-04/15/c_1110112374.htm, 18 November 2024.

National security is the state of protection of national interests from internal and external threats, ensuring the progressive development of individuals, society, and the state⁸. It is the protection of state foundations and stability through the development of military power and other essential elements that make up the state's life support system.

The concept of national security encompasses military and non-military security, which in turn includes cybersecurity, environmental security, the protection of natural resources, and, most importantly, economic security. As has already been described, economic security is the foundation for all others, as economic and financial security enables the development of other areas of state's life.

However, until the end of the 20th century, military security was considered the guarantor of a stable world order. For most of the 20th century, national security focused on military security⁹. Thus, it is the central point in the development of the global concept of national security for states, particularly those like the United States and Russia.

Thus, the global security system protects against external threats and problems that other states or foreign citizens can cause to the country. Protection from foreign policy threats through collective defense and collective security. Collective defense is an official arrangement among nation-states to offer some defense support to other member states if they are attacked¹⁰. This is why military organizations like NATO were emerged.

⁸ Stremuhov A.A, Lungu A.C, Стремоухов А. А, Лунгу А. С. «Национальная безопасность»: содержание понятия («National Security»: the meaning of the concept), "Cyberleninka", 2011, <https://cyberleninka.ru/article/n/natsionalnaya-bezopasnost-soderzhanie-ponyatiya/viewer>, 22 August 2024.

⁹ Kim R. Holmes, "What Is National Security?", The heritage foundation, 2015, https://www.heritage.org/sites/default/files/2019-10/2015_IndexOfUSMilitaryStrength_What%20Is%20National%20Security.pdf, 27 September 2025.

¹⁰ Ibidem

The primary goal of national security policy, in the generally accepted sense, is declared to be the preservation of peace in the interests of China's further economic development. It also entails the ability to protect a nation's wealth and economic freedom from external threats and coercion. Thus, it encompasses economic policy and some law enforcement agencies, as well as international agreements on commerce, finance, and trade¹¹.

In China, as already discussed, the concept of national security is based on internal security. First, it ensures political, social, and economic stability within the country. That is, it establishes a legislative system for the complete protection of domestic systems. Unlike other global concepts, the Chinese concept places sovereignty and political stability at the center, which in some ways aligns with the political views of the Communist Party of China, hence the origin of Xi Jinping's concept.

As it is said by Chinese academic: "...foreign investments that affect or may affect national security are required for clearance from a national security review before the investment can be made"¹². Foreign investment in China in any form that can affect national security must be checked in accordance with the laws and security measures in China, to control and observe foreign investors and their impact on economic situation.

The Chinese approach to national security, based on the unique characteristics of the political regime and development of the country, is reflected in the legislation.

So, it is worth looking at the political international and domestic situation in China at that time. In 1949, the People's Republic of China was formed and, accordingly, the PRC, being still a young state, tried to protect the government and people from negative foreign interference and internal strife, among other things.

¹¹ Kim R. Holmes, "What Is National Security?", The heritage foundation, 2015, https://www.heritage.org/sites/default/files/2019-10/2015_IndexOfUSMilitaryStrength_What%20Is%20National%20Security.pdf, 27 September 2025.

¹² Cheng Bian, National Security Review of Foreign Investment in China, *Erasmus Law Review*, Issue 4, 2022, <https://www.elevenjournals.com/tijdschrift/ELR/2022/4/>, 31 October 2024.

“At that stage, the safety of its territory, the consolidation of the new regime and the nation's ideological unification were the main concerns in the Chinese security”¹³. The most important goal for national security was to preserve the political system, strengthen communist power and prevent internal conflicts and threats to national security.

Moreover, events that occurred later, such as the events in Tiananmen Square in 1989¹⁴, economic problems within the country, as well as the collapse of the USSR (Union of Soviet Socialist Republics) and, accordingly, the beginning of the establishment of a multipolar world led to changes and the emergence of new global threats to national security. “Chinese leaders faced structural transformation on the international level, with the rise of its national power globally and the acceleration of globalization”¹⁵. Thus, the main objective of this national security in China can be called the preservation of political stability and the maintenance of the socialist system in the country and the dissemination of its unique development model.

After 1978, China began the “reform and opening-up policy” (Gǎigé kāifàng 改革开放). The reforms carried out have opened China to the wider world, trade and development, including in the economic and financial fields. The influx of foreign direct investment (Wàiguó zhíjiē tóuzī 外国直接投资) (FDI) into the country has opened up many new opportunities in the country: new jobs, the opening of new companies and the growth of the Chinese economy.

At the same time, foreign investment also brought new problems to China's economic security. By opening China to new capital and financial inflows, threats to national security also emerged in the country. In addition to internal changes in

¹³ Wu Baiyi, “The Chinese Security Concept and Its Historical Evolution”, *Journal of Contemporary China*, 10, 2001, 275-276.

¹⁴ Tiananmen Square incident, series of protests and demonstrations in China in the spring of 1989 that culminated on the night of June 3–4 with a government crackdown on the demonstrators in Tiananmen Square in Beijing. “Tiananmen Square Incident”, *Encyclopaedia Britannica*, 2023, <https://www.britannica.com/event/Tiananmen-Square-incident>, 12 December 2024.

¹⁵ Chen Ou, *The Characteristics of China's National Security*, 4 *J Pol & L* 84, 2011, p. 89.

China's economy and politics, global events have also affected China's National Security Legislation.

2001 was also an important year for the development of national security in China. 2001 is also an important year for the economy and attracting foreign investment in China, as China joined the World Trade Organization (Shìjiè màoùyì zǔzhī 世界贸易组织) (WTO), which opened up a huge number of new economic and business opportunities for the country in attracting foreign investment. “Joining the World Trade Organization means participating in the process of reintegration of the country's economic rights and interests throughout the world and the redistribution of resources”¹⁶. In other words, it proves that by joining WTO China strengthen Chinese economic security.

White Papers have played an important role in the development of China's national security. Since 1998, the Chinese government has also published several White Papers in the field of national defense and security. Including the White Papers of 1998, 2000, 2002 years, and so on repeating every two years. With each new White Paper, one can see the gradual expansion of China's national security concept. Table 1, in the article “An Operational Code Analysis of China's National Defense White Papers: 1998-2015” about analysis of Chinese White Papers, presents the evolution and development process of China's White Papers with explanations of the main contents and also lists the names of the PRC presidents during these periods and their ideas that influenced China's national security¹⁷. That's all shows that White Papers put significant impact on Chinese national security and plays important role in Chinese legislation.

¹⁶ Zhifeng Zhang 张之峰, Jiārù WTO duì zhōngguó guójiā ānquán tàishì jí jīngjì fāzhǎn de yǐngxiǎng 加入 WTO 对中国国家安全态势及经济发展的影响 (The Situation of Chinese Security after its Entry into WTO and Its Influence upon the Development of Chinese Economy), Qingdao University, China Qingdao, <https://cyberleninka.ru/article/n/the-development-of-old-age-human-resource-under-the-background-of-population-ageing-in-china/pdf>, 18 November 2024.

¹⁷ Yang, Yi Edward, Jonathan W. Keller, and Joseph Molnar, “An Operational Code Analysis of China's National Defense White Papers: 1998-2015.” *Journal of Chinese Political Science* 22, no. 4: 455–474, 2017, https://www.researchgate.net/publication/321135969_An_Operational_Code_Analysis_of_China's_National_Defense_White_Papers_1998-2015, 18 October 2024.

The historical development of national security can be very clearly correlated with historical changes in China's internal life and with events in the world. As time goes by, national security is increasingly gaining its significance and importance for the development of China, mainly its financial and economic sector. These sectors have a greater impact on all other spheres of China's life. The next section will examine the current state of China's national security legislation, especially considering its impact on foreign investment.

1.2 FOREIGN DIRECT INVESTMENT IMPACT ON NATIONAL SECURITY AND CHINESE ECONOMIC STABILITY

Foreign Direct Investment is an important tool of the economy of any country. Foreign investment is investment from investors-citizens of one country in companies, production, technologies and so on of another-the host country.

FDI is a form of investment that involves the transfer of financial flows between countries and international companies. "Foreign direct investment, investment in an enterprise that is resident in a country other than that of the foreign direct investor. A long-term relationship is taken to be the crucial feature of FDI"¹⁸. Foreign investment is a key factor in the development of globalization and the transfer of data, finance, technology and knowledge between countries.

FDI into a host country can take many forms, including Greenfield investment (Lǜdì tóuzī 绿地投资), Brownfield investment (hèdì tóuzī 褐地投资) and extending domestic capital (Wholly Foreign Owned Enterprises (Wàishāng dúzīqǐyè 外商独资企业), Joint Ventures (Hézī qǐyè 合资企业) and Mergers and Acquisitions (hébìng yǔ shōugòu 合并与收购) (M&A))¹⁹. Extending domestic capital involves the expansion of an existing business within the country that is

¹⁸ Foreign direct investment, "Encyclopaedia Britannica", 2023, <https://www.britannica.com/event/Tiananmen-Square-incident>, 12 December 2024.

¹⁹ ResearchFDI, What are Mergers and Acquisitions?, "ResearchFDI", 2022, <https://researchfdi.com/what-are-mergers-and-acquisitions-fdi/>, 15 October 2024.

hosting the investment (including joint venture, wholly owned enterprise and so on).

It is worth examining each type of foreign investment separately. By definition, “in the Greenfield economy investment – investing in the construction of new facilities, new structures; greenfield project a new project or a new construction project created “from scratch”, etc.”²⁰. This type of investment is based on the creation of a new enterprise in another country, that is the company opens a new company and re-develops it from the very beginning.

The next type is Brownfield investment. "In economics: Brownfield investment - investing in existing objects or structures; brownfield project is a project implemented on a developed territory or on the basis of some existing objects, etc.”²¹. Unlike Greenfield investment Brownfield investment is investing in already developed objects to activate and develop a business.

Mergers and Acquisitions are a general term that describes the consolidation of companies or assets through various types of financial transactions, including mergers, acquisitions, and consolidations, tender offers, purchase of assets, and management acquisitions²². One term encompasses several business processes that are consolidated in one term, in which a foreign investor gains full control over a company as a result of a merger or an acquisition.

Next to consider is Wholly Foreign Owned Enterprises (WFOE). WFOE is fully owned by a foreign investor with 100% foreign capital. The registered capital of a WFOE should be subscribed and contributed solely by foreign investor(s)²³. Thus, companies with 100% capital are completely controlled by a foreign investor without interference from local businessmen and entrepreneurs.

²⁰ Peshina Evelina Vyacheslavovna Пешина Эвелина Вячеславовна, Разумный рост городов: greenfield (гринфилд), brownfield (браунфилд), greyfield (грейфилд) (Smart Urban Growth: Greenfield, Brownfield, Greyfield), cyberleninka, (<https://cyberleninka.ru/article/n/razumnyy-rost-gorodov-greenfield-grinfild-brownfield-braunfild-greyfield-greyfild/viewer>), 12 October 2025.

²¹ Ibidem

²² Alam S.M. Ikhtiar, Mergers and Acquisitions (M&A), “ResearchGate”, 2022, https://www.researchgate.net/publication/359069362_Mergers_and_Acquisitions_MA, 18 October 2024.

²³ WFOE Organization: Wholly Foreign Owned Enterprise (WFOE), “WFOE Organization”, 2019, <https://www.wfoe.org/index.html>, 19 October 2024.

Usually Wholly Foreign Owned Enterprises are contrasted with another type of foreign investment - Joint venture. In difference from WFOE Joint Ventures allow two or more companies to work together on a new project, sharing the financial and operational risks in the process²⁴. In fact, unlike a company with 100% capital, this type of business, when all resources and capital are managed by several parties or companies at once, which forms a Joint Venture. On the one hand, this limits the actions of a foreign investor, since with Joint Venture control is exercised by all parties. Companies can unite for a specific project, but can also create a Joint Venture company in China.

As Joint Venture has its own special advantages that distinguish it from other types. Firstly, when one of the investors is a Chinese partner, this definitely gives an advantage, since the Chinese side, unlike the foreign partner, has a deeper understanding of Chinese laws, knows more about the Chinese market, partners and suppliers.

Secondly, the main obvious obstacle for foreign investors in China is language, but a Chinese partner can help with this: translate, help with communication with partners and suppliers, and so on. All this is easier when you do business with a native speaker.

Foreign investment helps to establish positive relations with countries and to establish important economic and trade channels. Foreign investment helps to develop competition within the country, which contributes to the growth of the market economy in the host country and, accordingly, to the growth of new companies, a decrease in unemployment and an increase in the general standard of living of the population and the growth of globalization. “Globalization allows for a sharp increase in production efficiency, a weakening of the environmental consequences of economic growth, a more even distribution of factor resources

²⁴ “Joint Venture”, Encyclopaedia Britannica, 2023, <https://www.britannica.com/event/Tiananmen-Square-incident>, 12 December 2024.

between rich and poor countries”²⁵. Thus, the main factors of globalization can be called the development of economic growth and the attraction of finance to the regions.

Pros from foreign investments include: First, international flows of capital reduce the risk faced by owners of capital by allowing them to diversify their lending and investment²⁶. Diversification allows you to reduce risks by distributing your capital and dividing financial flows into several zones, including international capital flows into the country. This helps countries more easily recover from unfavorable financial, economic, political or international situations.

Second, the global integration of capital markets can contribute to the spread of best practices in corporate governance, accounting rules, and legal traditions²⁷. The exchange of knowledge, technologies, rules, and experience between countries and investors allows for the introduction of new interesting knowledge and solutions into production processes, the exchange of technologies, and the addition of new legislative solutions to the country's legal system.

Third, the global mobility of capital limits the ability of governments to pursue bad policies²⁸. In order to attract foreign investment, states strive to improve the investment environment in order to make the economic and political situation in the country more attractive, so that investors would seek to invest in the companies of this country.

Other positive aspects of foreign investment for the social sphere of human life are: optimization of the economic structure, growth of economic development rates, modernization of production, release of competitive products, introduction of modern technologies, creation of new jobs, increase in labor productivity,

²⁵ Saprykina V.Yu, “Peculiarities of the impact of globalization on countries with different levels of development”, Senior Lecturer, Southern Institute of Management (Krasnodar) Economics and Management “Young Scientist”, Volume I, № 1–2 (13), 2010, p. 10-16.

²⁶ Loungani, Prakash and Razin, Assaf, How Beneficial Is Foreign Direct Investment for Developing Countries?, “Finance and Development, IMF”, 2001, https://www.researchgate.net/publication/246388452_How_Beneficial_Is_Foreign_Direct_Investment_for_Developing_Countries, 13 December 2024.

²⁷ Ibidem

²⁸ Ibidem

improvement of labor skills, removal of social tension²⁹. Thus, in the socio-political sphere, foreign investment also brings important benefits for people. Thanks to the development of foreign investment, new jobs appear, work becomes more efficient and productive due to optimization and introduction of new technologies that appear in the country due to the international exchange of information and technologies between countries.

There are many more positive aspects of foreign investment, here are listed only the most important and significant ones that affect government processes. However, with all the positive aspects, foreign investment also has negative aspects for the host country. Almost all positive aspects have a dark side.

The problem of foreign investment consists of two main aspects. The first problem is globalization, as described above it has a lot of positiveness, but globalization also carries great threats to countries. “In the conditions of polarization of the world economy, the rich are getting richer and the poor are getting poorer. The process of globalization is the most painful for developing and less developed countries”³⁰. Such countries only suffer from increasing globalization and foreign investment. Their economic well-being cannot cope with the increasing competition from companies from other countries, so they only lose from globalization and growing foreign companies. This happens because countries do not have a strong economic and financial base.

The second problem is the risks to national security. As discussed above, foreign investment is also a major financial, informational, economic and technological danger. Theft of intellectual property, technology, etc., espionage, deliberate sabotage inside important economic facilities, etc. is possible.

Thus, the development of large-scale economic cooperation between countries can lead to both an increase in living standards and development, but

²⁹Grzegorz Górniewicz, Adrianna Czarnecka, foreign direct investments in the world with special consideration of consequences, “Cyberleninka”, 2021, <https://cyberleninka.ru/article/n/foreign-investments-in-the-world-economy-advantages-andproblems/viewer>, 25 October 2024.

³⁰Saprykina V.Yu., “Peculiarities of the impact of globalization on countries with different levels of development”, Senior Lecturer, Southern Institute of Management (Krasnodar) Economics and Management “Young Scientist”, Volume I, № 1–2 (13), 2010, p. 10-16.

only in suitable conditions within the country; in the opposite situation, it can also lead to huge risks and losses in the host country.

Foreign investors are obliged to obey the national law of the country in which they invest, since, when entering the territory of a foreign state as a foreign citizen, a person is obliged to respect the sovereignty of the state in which he invests.

However, it is the national interest of each state to allow foreign investors into the country or not. “Theoretically, the state also has no obligation to allow foreigners to invest in its territory. However, if they do so, it should be borne in mind that foreign investors are generally subject to national law”³¹. It follows that domestic legislation on foreign investment is not subject to international standards and is limited only by the national sovereignty of the country.

As discussed above, foreign investment has both positive and negative aspects for the host country. It also poses threats to national security, so states, in order to protect themselves, have the right to either prohibit investment in their state or use domestic legislation to protect themselves from threats of foreign investment. As an example, China did the same: at first, the country was closed to foreign interference, then after the openness policy, the government let in foreign investors, but limited their ability to operate within the state.

However, at the same time, states, on the other hand, must also protect their investors who invest in other countries. After all, their reliability also affects the economic and political situations of the state.

Firstly, the reliable actions of foreign investors in other countries affect good trade, economic and political relations between countries, moreover, the exchange of data and technology between countries is growing. Secondly, companies, through investments in another country and opening branches in other countries, begin to develop, grow and, as a result, develop the economic state of their country through new inflows of finance. Therefore, protecting foreign investors in your

³¹ Vig, Zoltan, “The Importance of Foreign Direct Investments and Instruments for their Protection”, Hungarian Journal of Legal Studies, №59, p. 443-452, 25 October 2024.

country is as important as protecting your domestic system from threats from foreign investors. Accordingly, it can be logically concluded that foreign investors act as a kind of bridge between two or more countries to build friendly relations (or, conversely, to worsen relations through espionage, illegal actions by investors, etc.). This is done through bilateral treaties between countries or through countries joining international organizations, including the signing of free trade agreements between them (NAFTA, RCEP or CETA and so on).

“However, it can be said that the most important legal instruments for the protection of foreign investments are still bilateral investment treaties. At the same time, there is a clear tendency towards their replacement by new generation multilateral free trade agreements”³². Thus, foreign investment contributes to improving relations between countries and increasing international trade and globalization.

Foreign investment is a threat to international relations due to trust issues between states. For example, the US-China scandal over the TikTok social network (抖音, D ŏ u y ī n). “A parallel trail in media (in the USA) is that TikTok is a vehicle for CCP propaganda. Lawmakers fear that the app is exposing millions of young Americans to the Chinese government's malign influence”³³. This quote indicates that social net TikTok, which belongs to Chinese companies Bytedance (字节跳动), by statements American Media and American governments, spies for American citizens and steals personal data from them accounts.

For example, by The Guardian's statements: “Both the FBI and the Federal Communications Commission have warned that ByteDance could share TikTok user data – such as browsing history, location and biometric identifiers – with

³² Vig, Zoltan, “The Importance of Foreign Direct Investments and Instruments for their Protection”, Hungarian Journal of Legal Studies, №59, p. 443-452, 25 October 2024.

³³ Wanning Sun, Marina Yue Zhang, TikTok tensions are a new front in US–China tech wars, “uts.edu”, 2024, <https://www.uts.edu.au/news/2024/06/tiktok-tensions-are-new-front-us-china-tech-wars>, 18 October 2024.

China's authoritarian government”³⁴. The Chinese company that owns the TikTok app, which is a Chinese foreign investor in the US, does not inspire confidence in the US government due to the possible threat this app poses to US national security. Despite the fact that TikTok is very popular in the US among ordinary citizens. Although there is no specific information about Chinese investors spying and stealing personal data.

As stated in the article “TikTok tensions are a new front in US–China tech wars”: “... point to China’s National Security Laws, which give the Chinese government the power to demand data from private companies and individual users for intelligence gathering purposes”³⁵. Second of all, “these security and ideological concerns obscure the fact that TikTok has become both a catalyst for and a metaphor for the technological rivalry between the U.S. and China”³⁶. It can be concluded that TikTok, as a foreign investor in the U.S., is a national security threat according to the U.S. government, but this is also a larger consequence of two global problems in the U.S. and China: National Security Regulation in China (particularly with respect to U.S. companies) and the confrontation between U.S. and Chinese technological advances.

And foreign investments play a major role in the establishment or, on the contrary, the deterioration of relations between countries and, moreover, contribute to the advancement of globalization and world progress.

That is, from all this we can conclude that foreign investment is one of the most important elements not only of the domestic economy of the state, but also of the international economy and trade. Thanks to this, the development of international trade and globalization is developed, which bring development and economic growth to developed and developing countries. Foreign investment has several types, under what form foreign investors can enter the country (Joint

³⁴ The TikTok wars – why the US and China are feuding over the app, “The Guardian”, 2023, <https://www.theguardian.com/technology/2023/mar/16/the-tiktok-wars-why-the-us-and-china-are-feuding-over-the-app>, 18 October 2024.

³⁵ Wanning Sun, Marina Yue Zhang, TikTok tensions are a new front in US–China tech wars, “uts.edu”, 2024, <https://www.uts.edu.au/news/2024/06/tiktok-tensions-are-new-front-us-china-tech-wars>, 18 October 2024.

³⁶ Ibidem

Venture, WFOE, Greenfield Investment, Brownfield Investment, Mergers and Acquisition and so on).

At the same time, foreign investment has its negative sides, such as the fact that profit and development from growing foreign investment and globalization are mainly received by developed and developing countries. But backward and some developing countries, on the contrary, suffer from the rapidly developing world rhythm. The second problem of investment is national security. Investors can steal data, technology, worsen the company's image, and so on.

All this leads to the fact that countries can simultaneously encourage foreign investors and attract them to their country, and also try to protect themselves from unwanted problems with foreign investors through laws, mechanisms and bodies for checking foreign investors.

1.3. THE CONNECTION BETWEEN NATIONAL SECURITY AND FOREIGN DIRECT INVESTMENT

The relationship between foreign investment and national economic security is a key factor in ensuring the security of the national economy and eliminating risks to the country's strategic sectors. By trying to control foreign influence and the flow of foreign companies, China protects domestic stability and security. Foreign investment is very important for the development of any country's economy, but it can also cause harm and pose threats to stability and development. In the new national security strategy, China gives an expanded definition of “National Security”, especially emphasizing financial and economic security and the impact of foreign investment on the country's domestic and external security, as it was discussed above.

Some Chinese scholars also confirm in their article that China has expanded its national security powers, particularly emphasizing the country's financial and economic security: “Only by actively responding to and maintaining financial

security we can more effectively coordinate financial openness and security and safeguard the overall national security”³⁷. This quote emphasizes that the Chinese Communist Party emphasizes financial security as an important element of the country's economic and social life, which is conducive to its all-round development. Finance is intertwined with all spheres of influence of China; therefore, control over finances is a prerequisite for the stability of the state.

Globalization promotes closer interaction between countries and attracts financial flows and various technologies and resources, including human ones. China is increasingly integrating into the world economy by exporting its goods abroad and attracting foreign investment. “With China's gradual incorporation into the world economy and the internal pressure of economic reforms, Chinese scholars and policy makers started to conceptualize the economic-security relationship and sought linkages between economic growth and national security”³⁸.

However, on the other hand, as mentioned in the article rapid economic growth also brings instability in national security. At the same time, globalization carries a great danger, since by opening borders for foreign finance, companies and labor, a huge amount of foreign influence also enters the country, which negatively affects the internal stability of the state. Rapid economic growth and openness policies also affect the vulnerability of internal stability with the increasing influence of foreign investors and companies on the internal affairs of the state, including the economy and strategic development sectors.

Some scholars in their book identify four main threats to national security from foreign investment:

1. Denial and manipulation access. Refusal to provide the necessary data on the company's resources and assets for the purpose of manipulation and concealment of information.

³⁷ Zhou RuiFan 周芮帆 Ding JianChen 丁建臣, yǐ jīn róng gāo zhì liàng fā zhǎn quán miàn tuī jìn jīn róng qiáng guó jiàn shè jiànshè 以金融高质量发展全面推进金融强国建设, 光明日报, 23.11.2023, <http://ztjy.people.cn/n1/2023/1123/c457340-40124387.html>, 3 December 2024.

³⁸ Wang Zhengyi, Conceptualizing economic security and governance: China confronts globalization, *The Pacific Review*, Volume 17, Issue 4, <https://www.tandfonline.com/doi/abs/10.1080/0951274042000326050>, 14 December 2024.

2. Leakage of sensitive technology and know-how. Important innovations, technologies that occupy an important place in the development of the state can become available to foreign companies that invest in countries and have access to strategic resources.

3. Infiltration and espionage, and disruption. Foreign firms with access to critical resources and technologies may engage in deliberate destabilization and espionage in order to collect strategically important data and information to transfer this data to foreign companies, competitors, or even foreign governments³⁹.

Although foreign investment brings many benefits to the host country's economy, it can also cause leakage of important information or technology, including state secrets and so on. As well as theft of intellectual property and the penetration of foreign investment and companies into important and key sectors of the host country's economy.

Countries are trying to protect themselves through legislation and strengthening control over foreign investment. China has a system of control and supervision of foreign investors, which includes a Negative List (Wàishāng tóuzī zhǔnrù tèbié guǎnlǐ cuòshī (fùmiàn qīngdān) 外商投资准入特别管理措施(负面清单)) to protect key sectors of the economy and state life, through the National Security Law and the National Security Review Measures (Wài shāng tóuzī ānquán shēnchá bànfǎ 外商投资安全审查办法). And also, the Cybersecurity Law of 2017 (Zhōnghuá rénmín gònghéguó Wǎngluò ānquán fǎ 中华人民共和国网络安全法) to protect the cyber part of economy. In particular, economic security is highlighted in these documents.

China's economic security is an integral part of the country's national security. For example, Chinese scholar's article separately highlights three main features of economic security in China:

³⁹ Theodore H. Moran, Lindsay Oldenski, Foreign direct investment in the United States: benefits, suspicions, and risks with special attention to FDI from China, "Econbiz (economic literature)", 2013, https://www.piie.com/publications/chapters_preview/6604/04iie6604.pdf, 14 December 2024.

1. First, individuality, which emphasizes the uniqueness of economic security. The individuality of China's economic security is characterized by the unique features of the Chinese economy. China, being a country with a socialist market economy, is a unique type of economy, which is an unprecedented case in world practice.

2. Secondly, the protection of strategically important elements of the economy. Also, the second factor in China's economic security is the safety and independence of the country's strategic resources from foreign influence, which is the most important factor for national security.

3. Thirdly, the prevalence of external threats over internal ones⁴⁰.

And accordingly, the third factor is the importance of protecting the country from threats coming from outside, the threat of foreign intervention and foreign investment is much more serious than internal problems.

China's openness, attracting new innovations, investments and finances, also makes China a dependent state on the international market and foreign companies, and the instability of the international market can have a severe impact on China's economy⁴¹. That is why the relationship between economic security and foreign investment is an essential factor for the development of internal stability of China's economy. By attracting new investors to the country, China is trying to make itself dependent on changes in the world arena. Therefore, the development of national, especially economic security, by investing in national security of China.

Foreign investment is an important tool for the development of the financial sector and economic stability of China. However, at the same time, it can carry threats that can seriously harm the sector of the country to which they are directed. It is precisely done to secure its country and stability that China is trying to use its legislative framework to create a strong national security system. The creation and

⁴⁰ Ye Weiping 叶卫平, (edited by Huang HuaDe 黄华德), Guó jiā jīng jì ān quán de sān gè zhòng yào tè xìng jí qí duì wǒ guó de qǐ shì 国家经济安全的三个重要特性及其对我国的启示 (Three important characteristics of national economic security and their implications for my country), China Academic Journal Electronic Publishing House (cnki.net), <http://econ.ruc.edu.cn/upload/jl00300.pdf>, 15 December 2024.

⁴¹ Ibidem

improvement of the legislative framework in the field of national security of foreign investment is an important process for maintaining stability and further development of the Chinese economy.

Since foreign investment is an important element of China's development, therefore, it comes with both benefits and threats. The relationship between foreign investment and national security is undoubtedly important for building strong and necessary relationships between foreign investors, governments and legislation. Therefore, in conclusion, it is worth noting that the connection between foreign investment and national security is very large and for the stable development of the country it is necessary to maintain a balance between these two positions and try to improve them every time.

CHAPTER 2. LEGISLATION OF FOREIGN DIRECT INVESTMENT AND NATIONAL SECURITY IN THE PEOPLE'S REPUBLIC OF CHINA

2.1. NATIONAL SECURITY IN THE FOREIGN INVESTMENT LEGISLATION IN THE PEOPLE'S REPUBLIC OF CHINA

Foreign investment is an important element of the economy of any country, including China. It helps bring money into the country, open new companies, and, accordingly, create new jobs, improve relations with other countries, and strengthen its international position due to this. China is trying to attract foreign investors to develop the country's economy.

At the same time, as discussed above, there is a need to monitor the credibility of investors, check their financial stability and protect important sectors of the state from espionage and information leakage. Accordingly, China is trying to do this through the country's legislative framework, creating the necessary documents or reforming existing ones in order to simultaneously help investors and protect itself in this situation.

In 2019, the official law of the PRC “On Foreign Investment” (Wàishāng tóuzī fǎ 外商投资法) was issued. The new law, which came into effect in 2020, encourages foreign investment, simplifies the operation of foreign companies in China, protects the interests of foreign investors, and promotes openness and the healthy development of the socialist market economy⁴².

Until 2019, there were three separate laws: “The Law of the People's Republic of China on Wholly Foreign Owned Enterprises” (Zhōnghuá rénmín gònghéguó wàizī qǐyè fǎ 中华人民共和国外资企业法), “The Law of the People's Republic of China on Sino-Foreign Equity Joint Ventures” (Zhōnghuá rénmín gònghéguó zhōngwài hézī jīngyíng qǐyè fǎ 中华人民共和国中外合资经营企业法) and “The Law of the People's Republic of China on Sino-Foreign Cooperative

⁴² Foreign Investment Law of the People's Republic of China, “gov.cn”, 2020, https://en.ndrc.gov.cn/policies/202105/t20210527_1281403.html, 21 October 2024.

Joint Ventures” (Zhōnghuá rénmin gònghéguó zhōngwài hézuò jīngyíng qǐyè fǎ 中华人民共和国中外合作经营企业法).

According to the official website of the Trade Bureau: ...transformed from corporate organization law to investment behavior law. The historical background and legislative concept when the three foreign investment laws were introduced mainly regulated the organizational form and establishment changes of foreign-invested enterprises led to the transition from the law of corporate organization to the law of investment conduct⁴³. The historical background and legislative concepts adopted at the time of the adoption of the three laws on foreign investment determined that, in essence, these were laws on the organization of corporations, regulating mainly the organizational form, as well as the establishment and modification of enterprises with foreign investment⁴⁴. Accordingly, the new law differs from the old one in that it focuses on investments rather than corporate law.

The old laws focused on the structure of the firm, the organization of the enterprise and the types of companies with foreign capital. However, the new law already focuses on the investment activities of enterprises and foreign investors, describing their rights and obligations.

The new Foreign Investment Law of the People's Republic of China states in Article 1 that this law was developed “for the purpose of ... actively stimulating foreign investment, protecting the rights and legitimate interests of foreign investors, streamlining the regulation of foreign investment ... ensuring the normal development of the socialist market economy”⁴⁵. It clearly states that, firstly, this law simplifies and, moreover, activates the entry of foreign investors into the

⁴³ Foreign Investment Law of the People's Republic of China, “gov.cn”, 2020, https://en.ndrc.gov.cn/policies/202105/t20210527_1281403.html, 21 October, 2024.

⁴⁴ “Zhōnghuá rénmin gònghéguó wàishāng tóuzī fǎ xuéxí jiědú” 《中华人民共和国外商投资法》学习解读 (Study and Interpretation of the Foreign Investment Law of the People's Republic of China), gov.cn, (<https://www.wxbh.gov.cn/doc/2023/12/07/4129041.shtml>), 21 October 2024.

⁴⁵ Foreign Investment Law of the People's Republic of China, “gov.cn”, 2020, https://en.ndrc.gov.cn/policies/202105/t20210527_1281403.html, 21 October 2024.

Chinese market. It combines three old laws at once and helps investors navigate Chinese investment legislation more easily.

Secondly, this law protects, among other things, the state, limiting its economy and financial stability, as well as critically important sectors of the country's life from the illegal actions of unscrupulous investors.

Thirdly, this law is also one of the most important National Security Laws in the field of foreign investment. For example, Article 6 of this law states that foreign enterprises in the territory of the PRC must comply with this law of China and not threaten the national security of the country.

It is worth highlighting Articles 34 and 35. Article 34 states that all foreign investors or enterprises with foreign participation shall submit information on investments to the commercial regulatory authority through the enterprise registration system and the open enterprise creditworthiness system⁴⁶. Accordingly, in order to control foreign investments, MOFCOM requests all necessary information to register a foreign investor and check its solvency and other factors.

Article 35 describes the system of control over the safety of foreign investments and the system of their verification. Also clearly assigns to the state the right of the final decision, that is, if state bodies for some reason refuse for a foreign investor to invest in China, then this decision is final. As it is described in the law: The state establishes a system for supervising the safety of foreign investment, and carries out safety inspections on foreign investment that threatens or may threaten national security⁴⁷. Accordingly, the law emphasizes that foreign investment must be supervised and inspected to ensure that there is no threat to China's national security.

The Foreign Investment Law requires all foreign investors and foreign-invested companies to register through the system, which was also specified in Article 34, namely the enterprise registration system open enterprise credit rating system. The state does this through a control system, that is, through bodies such

⁴⁶ Foreign Investment Law of the People's Republic of China, "gov.cn", 2020, https://en.ndrc.gov.cn/policies/202105/t20210527_1281403.html, 2 November 2025.

⁴⁷ Ibidem

as the National Development and Reform Commission (NDRC) (Zhōnghuá rénmin gònghé guó guójiā fāzhǎn hé gǎigé wěiyuánhùi 中华人民共和国国家发展和改革委员会) and MOFCOM (was already discussed above) with the support of the State Council of the People's Republic of China. The verification and control system will be described in more detail further.

An important element of the Foreign Investment Law from the point of view of national security can also be considered Chapter 5 on legal liability. In particular, such chapters as 37, 38 and 39.

Article 37 regulates the provision of complete information “on investment in accordance with the requirements of the Foreign Investment Information Reporting System”⁴⁸. If a company refuses to provide information or correct existing errors in the information, the company will be fined according to law. Information in the Foreign Enterprise Registration System (Wàishāng qǐyè dēngjì zhìdù 外商企业登记制度) and Creditworthiness System (Qǐyè xìnyòng xīnxi gōngshì xìtǒng 企业信用信息公示系统) is necessary for the supervision of foreign investment and investors and their activities in the territory of the People's Republic of China, so each company is required to provide complete information as required.

Article 38 speaks of the investigation of all violations of the law by the relevant authorities and the entry of “creditworthiness information into the relevant systems in the prescribed manner”⁴⁹.

Article 39 is already aimed at employees of state bodies “negligent attitude to official duties, committing abuses for selfish motives, as well as for disclosure or illegal communication to other persons of information that became known to them in the course of performing official duties, constituting a commercial secret”⁵⁰. Accordingly, legal liability is aimed not only at violations by foreign investors, but also at state bodies and their representatives, accordingly protecting

⁴⁸ Foreign Investment Law of the People's Republic of China, “gov.cn”, 2020, https://en.ndrc.gov.cn/policies/202105/t20210527_1281403.html, 2 November 2025.

⁴⁹ Ibidem

⁵⁰ Ibidem

both the country's own national security and foreign investors from the arbitrariness of the authorities.

It is also important to mention Article 40, which already protects Chinese investors in other countries. "In the event that any state or region applies discriminatory prohibitions, restrictions and other similar measures in the investment sphere with respect to the People's Republic of China, the People's Republic of China has the right, in accordance with the actual circumstances, to take appropriate measures with respect to such state or region"⁵¹. The Chinese government also protects its investors who invest in other countries and foreign companies. As Chinese citizens, they play an important role in the growth of China's economy and are also part of China's national security, and must be protected by law.

This law, in addition to giving foreign investors more rights and opportunities in the country and simplifying the control and verification of foreign investments by the government, will also strengthen measures to protect the national security of the country, which is indicated and emphasized in the articles in the law itself, which has already been discussed above. It turns out that the new law on Foreign Investments works together with the Law on Companies and the Law on National Security.

To protect national security, the state uses Negative Lists, which are also specified in the Foreign Investment Law in Article 4. This article defines the negative list as "special measures established by the state to regulate market access, applied to foreign investment in certain industries"⁵². This means that the Negative List includes areas of state life that are vulnerable to foreign interference and critical to the development of the country.

"The state grants national treatment to investments in industries not included in the negative lists"⁵³. According to the Great Law Dictionary, National Treatment

⁵¹ Foreign Investment Law of the People's Republic of China, "gov.cn", 2020, https://en.ndrc.gov.cn/policies/202105/t20210527_1281403.html, 21 October 2024.

⁵² Ibidem

⁵³ Ibidem

(Guómín dài yù 国民待遇) is “the principle ... by virtue of which legal entities and individuals of one contracting state are granted in the territory of another the same rights, benefits and privileges as its own legal entities and individuals have”⁵⁴. It turns out that, according to the law, foreign investors whose investments do not affect the areas set out in the Negative List are in an equal position with Chinese businessmen. The law equates foreign investors with Chinese citizens, giving them the same rights and opportunities as local entrepreneurs.

The Negative List has economic benefits for China, such as promoting economic transformation and developing competition among participants. Secondly, the Negative List improves the efficiency of government agencies by relieving them of the need to constantly check and supervise enterprises in key economic sectors.

Thirdly, as stated in the article: “On the Development and Improvement of China's Negative List System for Foreign Investment Access”: Negative Lists are an international practice for protecting national security, so the adoption of this decision helps China integrate into international relations ⁵⁵. Accordingly, the creation and development of a Negative List for foreign investment is beneficial for China's national security, in order to clearly define the important boundaries of the country's economic security and at the same time relieve unnecessary burdens from the mechanisms for checking foreign investment. Because now it is clearly defined where foreigners can enter, and where their presence is either limited or prohibited altogether.

In fact, this document is one of the most effective documents in the field of national security of foreign investment. In China, the Negative Lists are jointly

⁵⁴ Foreign Investment Law of the People's Republic of China, “gov.cn”, 2020, https://en.ndrc.gov.cn/policies/202105/t20210527_1281403.html, 21 October 2024.

⁵⁵ Wang Chanyuan 王婵媛, “Lùn zhōngguó wàizī zhǔn rù fùmiàn qīngdān zhìdù de fāzhǎn yǔ wánshàn” 论中国外资准入负面清单制度的发展与完善 (On the Development and Improvement of China's Negative List System for Foreign Investment Access), <https://www.sciscanpub.com/uploads/2021/07/13/pss20211019v3.pdf>, 15 October 2025.

approved by two special bodies of governmental structure: first is NDRC⁵⁶ and the second is MOFCOM.

There are several types of Negative Lists. To protect national security, the important one need to be mentioned:

The most important list for national security is the Special Administrative Measures (Negative List) for Foreign Investment Access in China (Zhōngguó wàishāng tóuzī zhǔn rù tèbié guǎnlǐ cuòshī (fùmiàn qīngdān) 中国外商投资准入特别管理措施（负面清单）), updated in 2021, which includes twelve sectors, such as software, scientific research and technology services, mining, media and so on, that are prohibited or restricted for foreign investors.

For example: It is prohibited to invest in news organizations (including but not limited to news agencies). At this includes some spheres described in Negative list, they can let foreign investors in, but with restrictions: For the construction and operation of civil airports, the comparative controlling stake shall be held by the Chinese Party⁵⁷. Therefore, the restrictions basically preserve the CCP or Chinese partners' controlling stake or control over the management of the company or production, so as not to allow foreign investors complete freedom of action in critical sectors. More specifically, investors can check the possibility of investing in a particular sector in the Negative List updated in 2021.

Negative lists protect China's vulnerable sectors and strengthen the country's national security. In this way, the government ensures an influx of new foreign investment (including through free trade zones) and protects its economy, finances

⁵⁶ The National Development and Reform Commission (NDRC) is a ministerial-level department of the State Council. The main functions undertaken by the NDRC in the sphere of foreign investment include: To formulate strategies, plans and policies for utilizing foreign capital, conducting overseas investment and achieving aggregate balance and optimizing structure; to play a leading role in implementing the Belt and Road Initiative, and to undertake and coordinate China's "go global" strategy. To work with relevant agencies to formulate the negative list for foreign investment in China, and to take charge in controlling, monitoring and optimizing the structure of the total size of China's foreign debt. Main Functions of the NDRC, NDRC GOV, <https://en.ndrc.gov.cn/aboutndrc/mainfunctions/>, 18 November 2024.

⁵⁷ China's Negative List for Foreign Investment Access (New Edition): English Version Available, "China Briefing", 2021, <https://www.china-briefing.com/news/chinas-foreign-investment-negative-list-2021-edition-english-version/>, 8 November 2025.

and other sectors of the state's life from threats that foreign investors and companies can pose to China's national security.

The new Foreign Investment Law in China repealed three previous laws and simplified the system of attracting and registering foreign investors. This made things easier not only for investors from other countries, but also for the Chinese government, by removing the burden on the mechanism for checking and controlling foreign investments. This law was able to coordinate both the attraction and easier entry into the Chinese market for foreign investors, but also reduced the burden on the country's national security. The law has separate articles devoted to the security of investments, their verification and control.

In conclusion, although foreign investment is an important element of the economy of the People's Republic of China, it was also needed to establish mechanisms for the protection, verification, control and blocking of companies that threaten national security and vulnerable sectors of the life of the state of China. Such a verification mechanism is necessary to maintain stability in foreign investment in the economy of China, in order to avoid unforeseen situations that could be dangerous for China and its citizens.

2.2. RECENT PROVISIONS ON NATIONAL SECURITY IN FOREIGN INVESTMENT LEGISLATION IN THE PEOPLE'S REPUBLIC OF CHINA

Foreign Direct Investment is when an investor resident in one economy establishes a lasting interest in and a significant degree of influence over an enterprise resident in another state. The development of foreign investment in the world is a long process that covers all countries and the entire world economy. The modern history of FDI protocols is usefully analyzed in four distinct phases, which include regulation in historical societies, the period of regulation prior to the end of

World War II, the period subsequent to that war, and the present global era⁵⁸. Since beginning and up to the present day, investment in other countries and economic communication between countries has been key not only for the internal development of a country, but also for the external economic situation of the entire world.

Now investments in China are undergoing their own transformation and change under the modern system of development. The flow of foreign investment brings important changes to the state of the world economy and internal situation in China, influencing the situation both positively and negatively. However, with all the important global changes that were described above, events that play an important role in global economic flows are still taking place.

Due to the changing global circumstances and the emergence of new global threats that have loomed over the world and China in particular, there is a need to create a more comprehensive national security law in China that would cover new threats that have emerged in the world in recent years: environmental threats, terrorism, cyber threats, economic threats, especially foreign investment and in particular the control and protection of foreign investment. As some Russian scholar notes in his article: “China, without losing sight of traditional security threats, also focuses on non-traditional threats in areas such as economics, finance, information technology, energy, food, health care, and after September 11, 2001, also on the fight against terrorism. Thus, a comprehensive concept of national security of the PRC has been formed ...”⁵⁹.

In accordance with this, the old national security law of 1993 with the amendments of 2009 no longer covered new problems and threats that have appeared in the world, including in the issue of foreign investment, therefore, in

⁵⁸ Kenneth Vandavelde, A Brief History of International Investment Agreements, 12 U.C. Davis J. Int'l L. & Pol'y 157, 2005, Microsoft Word - Vandavelde1-27.doc, 23 February 2025.

⁵⁹ Mantsurov Alexander, “Principles of Ensuring National Security in the People's Republic of China” Issues of Modern Jurisprudence: collection of articles on the materials of the LXVI international scientific-practical conf. No. 10 (60), 2016, p 6-11.

2015, a new National Security Law came into force, which expanded the boundaries of the old law and supplemented it with new threats and global problems that have or may have a direct impact on the development of China. The main provisions on protecting China's national interests, sovereignty, territorial integrity, social stability and cybersecurity are described in the National Security Law of 2015, which replaced the 1993 Law.

The new National Security Law of 2015 covers the main areas of national security, including control and responsibility, in an even broader sense. Analyzing this law, we can conclude that it is very different from the previous version, including in terms of its size and coverage of all aspects of national security. It includes economic, political, environmental and other areas, including the area of foreign investment.

Firstly, the new format of the law expands the concept of national security in China “from the core area of national defense to a wide range of geopolitical, cultural and economic issues that have more to do with tightening the ruling Communist Party's grip on China”⁶⁰. Due to the increasing flow of foreign investment into China and the corresponding risks, the law also covers the topics of economic security and control over foreign investment in more detail.

As described earlier, China is now actively trying to attract foreign investment and foreign companies to the country; moreover, China is a very attractive country for foreign investors. But foreign investment brings not only benefits, but also a threat from foreign influence for national security in the field of economy, important and key sectors of the country and political stability. Therefore, disparate laws for maintaining national security no longer worked and there was a need for a unified law. In 2015, a new law on national security of the PRC was issued.

⁶⁰ China's New National Security Law Creates More Insecurity For Foreign Businesses, Conventuslaw, 2015, (<https://conventuslaw.com/report/chinas-new-national-security-law-creates-more/>), 23 February 2025.

Secondly, major world events that occurred in the period between the old law of 1993 and the new law of 2015 affected China, including the development of national security in China, the emergence of important documents in this area and the need to develop a new law on national security.

As Xi Jinping announced Holistic National Security approach in 2014 “more than 20 special laws on national security have been adopted, such as the National Intelligence Law, the Anti-Terrorism Law, the Cybersecurity Law, ..., and more than 110 laws have been formulated and revised”⁶¹. This concept of Holistic National Security, that was discussed above, has become an impetus for the development of a new page in the history of national security in China and became the base for new legislation.

The National Security Law of the People’s Republic of China defines national security as the defense of the country against internal and external threats, as well as the state’s task of maintaining the country’s political, economic and social stability. This is shown in Article 2 that describes the key areas of national security, including state power, sovereignty, unity and territorial integrity, as well as the people's well-being, sustainable development and others⁶².

According to Article 5, this body is “responsible for decision-making and coordination of work on national security, including major issues and promoting the rule of law”⁶³. The law also highlights the establishment of the Leading Organ for National Security, the Central Committee (Zhōngyāng wēiyuánhui 中央委员会).

The new law also separately highlights the protection of national security in the field of economy and finance, in particular foreign investment. For example, Article 19 of the National Security Law talks about security in the field of

⁶¹ Chen Yixin 陈一新, “Quánmiàn jìnzhǐ zōngtǐ guójiā ānquán guān” 全面贯彻总体国家安全观 (Comprehensively implement the overall national security concept), “Qiushi”, 2024, (http://www.qstheory.cn/dukan/qs/2024-04/15/c_1130109145.htm), 21 October 2024.

⁶² National Security Law of the People's Republic of China, ChinaLawTranslate, 2015, <https://www.chinalawtranslate.com/2015nsl>, 21 October 2024.

⁶³ Ibidem

economy and ensure the security of important industries and crucial fields related to the lifeline of the national economy, key sectors, major infrastructure, major construction projects, and other major economic interests... protect social market economy⁶⁴. The law strengthens control over foreign investment, establishing rules for their control and verification. Moreover, the law seeks to protect the social market economy (SME) or market economy with Chinese characteristics from the influence of Western countries in order to preserve its identity. In the context of ensuring national security, as stipulated in the law, it also protects the unique political system — the socialist system with Chinese characteristics — and the economic system — the socialist market economy with Chinese characteristics.

Article 19 focuses on protecting the basic economic system and the security of important industries, infrastructure and other economic interests, which affirms the government's commitment to economic security. The law aims to protect the socialist market economy from external and internal threats, including foreign interference⁶⁵. The Chinese government protects the country's economic security and the important industries that affect economic development and the establishment of the socialist market economy from external and internal threats, including foreign interference in the form of foreign companies or investors.

The new law more clearly regulates the activities of foreign enterprises and organizations in China, as well as the impact of foreign investment. Article 59 clearly states: “The State shall establish a system and mechanism for reviewing and supervising national security, and shall conduct national security examinations on foreign investment... so as to effectively prevent and eliminate national security risks”⁶⁶. The article sets norms and regulations for the system of supervision of foreign firms and investors in China, as well as for the protection of information and technology.

⁶⁴ National Security Law of the People's Republic of China, ChinaLawTranslate, 2015, <https://www.chinalawtranslate.com/2015nsl>, 21 October 2024.

⁶⁵ Ibidem

⁶⁶ Ibidem

Thus, this law covers all kinds of threats both inside and outside the country. It also creates an excellent mechanism for protecting China and all major areas, and, moreover, preventing future problems. In particular, the law places emphasis on protecting economic security and supervising foreign investment, as well as the need to protect key sectors of the country, such as politics, the economy, and information security.

Another vital document for national security in foreign investment is National Security Review Measures, which will be deeper discussed in Chapter 2.3. It is a provision that is used for instrument of checking foreign investment issued by Foreign Investment Law in its Article. It has power to reject investment if its not secure enough for Chinese economy.

These Measures are also important for establishing the working mechanisms for examining and coordinating foreign investment security review work (NDRC and MOFCOM)⁶⁷. It also precisely defines the document package and submission process to the foreign investment review authorities (NDRC) and controls its implementation.

The Central National Security Commission (CNSC) (中央国家安全委员会) was also established in 2013. This is the culmination of more than twenty years of effort by Chinese reformers to institute a mechanism similar to the US National Security Council (NSC) that would improve bureaucratic coordination over national security affairs and, potentially, strengthen China's ability to respond to foreign and domestic crises⁶⁸. The Central National Security Commission is an

⁶⁷ The National Development and Reform Commission (NDRC) is a ministerial-level department of the State Council. The main functions undertaken by the NDRC in the sphere of foreign investment include: To formulate strategies, plans and policies for utilizing foreign capital, conducting overseas investment and achieving aggregate balance and optimizing structure; to play a leading role in implementing the Belt and Road Initiative, and to undertake and coordinate China's "go global" strategy. To work with relevant agencies to formulate the negative list for foreign investment in China, and to take charge in controlling, monitoring and optimizing the structure of the total size of China's foreign debt. Main Functions of the NDRC, NDRC GOV, <https://en.ndrc.gov.cn/aboutndrc/mainfunctions/>, 18 November 2024.

⁶⁸ Zhao Kejin 赵可金 Zhongguo guojia anquan weiyuanhui 中国国家安全委员会 (China National Security Council), 9 July 2015, <https://carnegieendowment.org/posts/2015/07/chinas-national-security-commission?lang=zh>, 21 November 2024.

organ for the coordination, review and control of China's national security issues. The establishment of this commission is confirmed in several documents on national security. Its powers are confirmed by the established laws National Security Law of 2015 (Article 59). Also, the main provisions of this commission include control over foreign investment and foreign companies in China, which is described in the Measures on National Security Review of Foreign Investment.

In this way, the National Security Commission coordinates domestic economic affairs specified in the National Security Law and international economic risks posed by foreign companies, technologies, and others.

While reducing the risks of foreign investment, this commission also makes it more difficult for foreign investors to enter the Chinese market. Fierce with the system of checking and monitoring investors leads to difficulties. But as mentioned earlier, China is a very attractive side for investment, which justifies such a difficult entry into the Chinese market.

From all of the above, it can be concluded that national security is an important part of the state system and covers both external and internal factors, forming a stable life of all structures of the Chinese state and society.

The new concept of national security proposed by Xi Jinping became the basis for all subsequent laws in this area. China's national security in the field of foreign investment has come a long way and is still developing. In recent years, the Chinese government has carried out reforms in the field of national security of foreign investment and, to a greater extent, the inspection and control of investors and foreign companies, making the process clearer and easier for foreign investors. The chapter outlined the main documents and mechanisms that affect and are used to protect China's domestic stability and important sectors from foreign intrusion and influence.

2.3. HOW FOREIGN INVESTMENTS ARE CHECKED BY FOREIGN INVESTMENT SECURITY REVIEW

The Foreign Investment Screening System in China is a system of screening, registration and control of investors in China. The importance of this system has been noted by the Chinese government.

Organs, through which is happening examination foreign investments V China: National Development and Reform Commission, MOFCOM and State Administration for Market Regulation (Guójiā shìchǎng jiāndū guǎnlǐ zǒngjú 国家市场监督管理总局) (SAMR), which regulate process checks and regulation foreign investments in PRC.

Initially foreign investor must decide on the type foreign investments in China, will be this is: Greenfield, Brownfield, Mergers and Acquisitions, Joint Venture and so on. Then determine the sector of foreign investment, more importantly, determine whether this sector is included in the Negative List. Determined whether a foreign investor has the right to invest in this sector at all, or is limited, so foreign enterprises cannot use all their opportunities as foreign investors, and are restricted in their activities in this sector.

Firstly, if the activities of a foreign investor do not affect the areas described in the negative list, then according to the Measures for Verifying the Security of Foreign Investments, the company is not required to register for the national security verification of foreign investments, which will be discussed further.

It is necessary to provide data from an official website of the Ministry of Commerce of China, which states that “According to the Foreign Investment Law, from January 1, 2020, foreign investors or enterprises with foreign investment must submit investment information to commercial authorities through the enterprise registration system and the enterprise credit information disclosure

system”⁶⁹. Thus, on the website, you can register your foreign company as a foreign company in China by filling out the necessary documents.

However, this system only operates if there is no reason to suspect that a foreign company may harm China's national security. The procedure for checking foreign investments is described through two official systems MOFCOM and NDRC, which is described in the Measures for Checking the Security of Foreign Investment, that was already introduced above. In this case, a special check of the foreign company must be carried out according to the special legislative act.

This information is described in Article 2 of this legislation. “Article 2. Foreign investments that affect or may affect national security shall be subject to security screening in accordance with the provisions of these Measures”⁷⁰. Thus, there is a mandatory screening of foreign investments if they affect sensitive sectors of China’s economy or have some feature that requires screening for a threat to China’s national security.

“In China, the Foreign Investment Law (FIL) and its implementing regulations provide the basis for the Foreign Investment Security Review System (Wàishāng tóuzī ānquán shěenchá zhìdù 外商投资安全审查制度) (FISR)”⁷¹. Article 35 of the Foreign Investment Law clearly states the establishment of a foreign investment review system, the decision of which is final.

In the article it was pointed out the need to screen foreign investments through the Foreign Investment Security Screening System. “A foreign investment transaction is subject to the FISR if: it involves sectors related to national defense and security ... or it involves sectors significant to national security and so on and will result in foreign investors gaining ‘effective control’ over the target

⁶⁹ Ministry of Commerce of the People's Republic of China 中华人民共和国商务部, “Wàishāng tóuzī zōnghé guǎnlǐ” 外商投资综合管理 (Comprehensive management of foreign investment), Mofcom, (<https://wzxxbg.mofcom.gov.cn/>), 17 February 2025.

⁷⁰ “Wài shāng tóuzī ānquán shěnchá fǎ” 外商投资安全审查办法 (Foreign Investment Security Review Measures for the Security Review of Foreign Investment), “NDRC.gov”, (<https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/202012/P020201219582032130362.pdf>), 17 February 2025.

⁷¹ Vivian Tsoi, James Hsiao, Chunlei Pang, Foreign direct investment reviews 2024: China, “White case.com”, 2024, https://www-whitecase-com.translate.google/insight-our-thinking/foreign-direct-investment-reviews-2024-china?_x_tr_sl=en&_x_tr_tl=ru&_x_tr_hl=ru&_x_tr_pto=sge, 17 February 2025.

enterprise”⁷². This further confirms that foreign investments that involve important sectors of the Chinese economy are subject to screening.

This system provides foreign investors with the opportunity to invest in China's economy with discretion and at the same time provides the registration and control of such activities of foreign investors, so as to prevent disruption of China's economic security processes from the illegal actions of foreign investors, which were made intentionally or unintentionally.

And foreign investors in both countries are under threat and at the same time under high pressure and inspections. According to the law, the inspection is carried out by the Office of the Working Mechanism (gōngzuò jīgòu 工作机构).

Another important mechanism in Chinese national security (for controlling and checking foreign investments and investors) is National Security Review Measures for foreign investment of China (NSRM). This mechanism was stated in the new Foreign Investment Law and Measures were issued in 2020.

According to Article 4 of National Security Review Measures the sectors subject are divided into two categories according to these measures: sectors related to the military sector and weapons, and the second type are sectors related to “important agricultural products, important infrastructure facilities, ..., key technologies and other important sectors, to the extent that the foregoing have a bearing on national security and that actual control of the investee enterprise is acquired”⁷³. Embracing all the most important spheres where foreign investment should be checked in order these investments not to harm or permeate in the critically important for national security and economic or political stability sectors.

The Measures for screening foreign investments are a key element that links foreign investment and national security. That is, an element of the legislation of

⁷² Vivian Tsoi, James Hsiao, Chunlei Pang, Foreign direct investment reviews 2024: China, “White case.com”, 2024, https://www-whitecase-com.translate.google/insight-our-thinking/foreign-direct-investment-reviews-2024-china?_x_tr_sl=en&_x_tr_tl=ru&_x_tr_hl=ru&_x_tr_pto=sge, 17 February 2025.

⁷³ Measures for security review of foreign investors, 2020, https://www.bakermckenzie.com/-/media/files/insight/publications/2021/01/foreign_investment_security_review_measures.pdf?la=en, 21 November 2024.

the People's Republic of China that allows for the practical reduction of risks from foreign investments and at the same time facilitates the inflow of foreign finance and companies into the country⁷⁴. Unlike laws, the measures are a practical part that describes in detail all the necessary measures to eliminate risks, as well as reduce the possible influence of foreigners on national legislation and the economy. The measures are the practical application of the law on national security. According to the law, the inspection is carried out by the Office of the Working Mechanism (Gōngzuò jīgòu 工作机构).

“Article 6. When a party applies for foreign investment to the Work Mechanism Office, it shall submit the following materials: Application Form, Investment Plan; Statement on Whether Foreign Investment Affects National Security, and other materials required by the Work Mechanism Office”⁷⁵. Article 6 specifies the necessary documents that a foreign investor must provide on its own, if necessary, which are described above in the legal act in the measures for examining foreign investment in the PRC.

Also, important articles of this document are articles 7 and 8, which state that the Office must carry out the inspection within 15 days, and in a special case described in the law, the period may be extended from 30 to 60 days⁷⁶. Thus, the law limits the time frame for checking investments in order to prevent arbitrariness of the Chinese authorities and at the same time relieve the burden on the state bodies of China, officially giving additional time for inspection when considering special cases.

Article 12 states that the decision on the inspection must be taken into account by the foreign investor, i.e., if the Office has allowed the investment to be made, the parties may make the investment, otherwise, if the Office declined the

⁷⁴ “Wài shàng tóuzī ānquán shén chá bān fǎ” 外商投资安全审查办法 (Foreign Investment Security Review Measures for the Security Review of Foreign Investment), “NDRC.gov”, (<https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/202012/P020201219582032130362.pdf>), 17 February 2025.

⁷⁵ Ibidem

⁷⁶ Ibidem

investment, then the foreign investor must comply with the decision of the Office and cease its activity in that particular case or sector.

Article 19 states that if the rules described in this law, a foreign investor violates the terms of the “national credit information system, and the joint punishment shall be applied according to the relevant national regulations”⁷⁷. Therefore, the decision of the Chinese government on foreign investment is the priority, if the Office decides to block the investment or company, it means that the investor or company is a threat to China's national security, and violating all the provisions of this law worsens the credit history of this investor.

It is also important to note Chapter 20, which also protects foreign investors themselves from the illegal actions of the government inspection office official, such as disclosure of commercial secrets, abuse of power, and so on⁷⁸. This article shows that in addition to protecting its national security, China also protects foreign companies and foreign citizens from arbitrary actions by the authorities.

In conclusion, although foreign investment is an important element of the economy of the People's Republic of China, it was also important to establish mechanisms for the protection, verification, control and blocking of companies that threaten national security and vulnerable sectors of the life of the state of China. Such a verification mechanism is necessary to maintain stability in foreign investment in the economy of China, in order to avoid unforeseen situations that could be dangerous for China and its citizens.

Also, it is needed to mention the reports of foreign investors, which are indicated in the measures for checking investments. There are 4 types in total reports: Initial Reports, Change Reports, Annual Reports and Dissolution Reports. In the article it is clearly described all types of reports, which foreign investors must collect which report, when and what it must include. For example, Initial Report is submitted by foreign direct investment investors when they register a

⁷⁷ “Wài shàng tóuzī ānquán shén chábān fǎ” 外商投资安全审查办法 (Foreign Investment Security Review Measures for the Security Review of Foreign Investment), “NDRC.gov”, (<https://www.ndrc.gov.cn/xxgk/zcfb/fzggwl/202012/P020201219582032130362.pdf>), 17 February 2025.

⁷⁸ Ibidem

foreign-invested company in China. The report must include the enterprise card (basic information about the company), information about investors and the parent company from which the investment comes, and information about the investment transaction⁷⁹. And so on, the table shows the data for all the reports that are necessary to protect China's national security.

Finally, it is important to note that “it is critical for foreign investors to be aware of the requirements of the FISR in China and plan their investment carefully before entering the Chinese market”⁸⁰. If a foreign investor wants to start a business in China, he or she must follow the rules of the Chinese government, which is trying to stabilize the situation with foreign investment in the country.

“Having said that, it should be noted that the FISR Rules were promulgated alongside China's continued openness for foreign investment”⁸¹. These rules are a consequence of China's reforms to foreign investment, which should bring new financial flows, new jobs, and so on to China. However, all of this requires control, which is precisely made by the reports, registrations, and legislation described in this study provide. All this legislation framework is done to protect and stabilize foreign influence on Chinese economy and vulnerable sectors.

⁷⁹ Zheng Yu, Chen GuanQiao, Liu Yiru, Navigation the new foreign investment information reporting system, “Junhe.com”, 2020, https://www.junhe.com/legal-updates/1131?locale=en&utm_source=chatgpt.com, 14 May 2025.

⁸⁰ Yang Zhou, The development of China's foreign investment security review regime, “Chunlun.com”, 2021, <https://en.zhonglun.com/research/articles/52405.html>, 15 May 2025.

⁸¹ Ibidem

CHAPTER 3. HAZARDS TO NATIONAL SECURITY FROM FOREIGN DIRECT INVESTMENT IN THE PEOPLE'S REPUBLIC OF CHINA

3.1. HAZARDS TO CHINA'S NATIONAL SECURITY FROM FOREIGN INVESTMENT

China's national security faces a huge number of threats, including those coming largely from foreign investment. The greatest danger to foreign investment comes from the countries themselves and the global geopolitical situation. That is, relations between countries can also be a cause of threat to China's national security.

Now, China's national security is particularly challenged by the trade war between China and the United States, which is also testing the strength of China's foreign investment legislation.

The complex interplay between China's openness to foreign investment and efforts by some US politicians to restrict investments in China represents a critical aspect of the broader US-China economic and political relations. The unfolding of these dynamics will have lasting implications for international business and geopolitics⁸².

The two world powers, the United States and China, are the world's leading leaders and at the same time shape new trends in the world economy. The contradictions between China and the United States in foreign investment led to changes in the geopolitical economic situation of the countries and changes in the international interests of large international companies.

It turns out that, as discussed earlier, despite the fact that China is open to foreign investment and tries to attract them by simplifying legislation and equating foreign investors with Chinese entrepreneurs, but the expansion of the Chinese

⁸² Aarav Shen, China's Surge in Foreign Investments in 2023: Opportunities, Challenges, and Global Implications - Beijing Times, "beijingtimes.com", 2023, <https://beijingtimes.com/china/2023/08/07/chinas-surge-in-foreign-investments-in-2023-opportunities-challenges-and-global-implications/>, 2 February 2025.

market and the attractiveness of investment in China in fact do not please some countries, for example, the United States of America. Which are afraid of the expansion of the Chinese market and the increase in its influence on the world economy?

The trade war between the US and China began in and this has led to changes in international trade relations. In particular, it has had a strong impact on the position of Chinese and American companies. American firms in China have become a threat to China's national security, and so the country has stepped up its screening and monitoring of foreign investment.

The US threatens China's economic stability and security for several reasons; firstly, the US has declared a policy of “desinicization” of supply chains. “The alliance does not focus on joint research and development, but on implementing multilateral export controls and investment reviews, blocking China's high-tech cooperation channels with other countries or regions, and trying to “lock” China in the middle and lower links of the chip production chain, ensuring the US's leadership in the global semiconductor industry”⁸³. In this way, the US is trying to destabilize China's economic stability. Moreover, it is trying to undermine China's national security in foreign investment. Thus, it blocks the flow of foreign investment into the country, especially in areas important for China's development.

Secondly, the long-standing China-Taiwan issue is a lever of pressure on the Chinese economy. The US is trying to be a hegemon in the field of high-tech goods, but since Chinese companies are not inferior to American ones in this regard, the US is trying to “put pressure” on China through military aid to Taiwan.

It turns out that foreign investment depends on the political situation in the world and relations between countries, which in turn can put pressure on the national security of the country, as was the case with China and the United States.

⁸³ Yang Jijun 杨继军, “Kān pò měiguó jiāng gōngyìngliàn “zhèngzhìhuà” de bà líng běnzhì” 勘破美国将供应链“政治化”的霸凌本质 (Uncovering the bullying nature of the United States’ “politicization” of the supply chain), “Guangming Daily”, 2024, (http://www.qstheory.cn/qshyjx/2024-07/05/c_1130175289.htm), 2 February 2025.

As it was said by some Chinese scholar: "...China hereby decides to take the countermeasures against seven companies: Insitu, Inc., Hudson Technologies Co., Saronic Technologies, Inc., Raytheon Canada, Raytheon Australia, Aerkomm Inc. and Oceaneering International, Inc., and relevant senior executives, according to the statement"⁸⁴. China imposed sanctions on these military companies precisely because of the introduction of military aid to Taiwan from the United States.

China protects itself via the PRC Law on Countering Foreign Sanctions (Zhōnghuá rénmin gònghéguó fǎn wàiguó zhìcái fǎ 中华人民共和国反外国制裁法). Article 3 says that "The People's Republic of China opposes hegemony and power politics and opposes any country's interference in China's internal affairs by any means and under any pretext"⁸⁵.

"Where foreign nations violate international law and basic norms of international relations to contain or suppress our nation under any kind of pretext or based on the laws of those nations to employ discriminatory restrictive measures against our nation's citizens or interfere with our nation's internal affairs, our nation has the right to employ corresponding countermeasures"⁸⁶. Once again reaffirming the fact that the Chinese government is committed to promoting fair trade between countries and healthy foreign investment.

If any country takes measures to suppress economic freedom, the State Council (Guówùyuàn 国务院) has the right to restrict their activities on the territory of China through sanctions and legal actions on individuals or legal entities, including foreign investors.

The confrontation between the US and China greatly affects the entire nature of foreign investment in China and in the world as well, but in turn, the US is not the only country that poses a threat to China's national security through foreign investors.

⁸⁴ Liu Xin, China sanctions 7 US military companies and relevant executives over arms sales to Taiwan region, "Global Times", 2024, <https://www.globaltimes.cn/page/202412/1325889.shtml>, 3 February 2025.

⁸⁵ Law of the THE PRC on Countering Foreign Sanctions, "China law translate", 2021, <https://www.chinalawtranslate.com/en/counteringforeignsanctions/>, 3 February 2025.

⁸⁶ Ibidem

Another problem is the interference of foreign companies in China's internal affairs and the accusation of wrongdoing by the Chinese government. In other words, it is the threat of foreign companies to China's national security in the field of economic and political stability, and the undermining of China's ideological unity.

For example, some foreign brands Nike, Adidas, H&M have come under fire from Chinese citizens and the Chinese government for inciting internal strife in China after making public statements about China's Xinjiang Uyghur region (xīnjiāng wéiwú'ěr zìzhìqū 新疆维吾尔自治区). As some journalists have stated: “Chinese state media had singled out H&M ... over a statement reported last year where the Swedish fashion retailer said it was deeply concerned by reports of accusations of forced labor in Xinjiang and that it did not source products from the Chinese region”⁸⁷. These companies in China have accused the Chinese government of using heavy and forced labor in the Uyghur region, including child labor on cotton plantations. The topic of the Xinjiang Uyghur region and the people of this region have long been a hot topic among human rights defenders and in China itself. Thus, these companies have spread unverified information and jeopardized the internal stability of the country.

In the article “The Xinjiang Case and Its Implications from a Business Ethics Perspective” it is pointed out the importance of the Xinjiang Uyghur region for foreign investment in China, and even points out in the article the various manufacturing sectors that are located in the region. “In order to proceed with this goal, the Chinese government has set up institutions such as the Xinjiang Association of Enterprises with Foreign Investment, which coordinates investment projects”⁸⁸.

⁸⁷ Ryan Woo, Nike, Adidas join brands feeling Chinese social media heat over Xinjiang, “Reuters.com”, 2021, <https://www.reuters.com/world/china/after-hm-more-foreign-retail-brands-under-fire-china-xinjiang-fallout-2021-03-25/>, 3 February 2025.

⁸⁸ Alexander Kriebitz, Raphael Max, The Xinjiang Case and Its Implications from a Business Ethics Perspective, “link.springer.com”, 2020, s12142-020-00591-0.pdf, 3 February 2025.

Moreover, this article highlights Volkswagen as a particularly important point for this region, as a company that specifically does business in Xinjiang in order to be able to invest in other regions of China, highlighting the importance of human rights in this region and the expropriation of the Uyghurs⁸⁹. It turns out that a foreign company in China that invests in the Xinjiang-Uyghur region receives a great opportunity for investment from the Chinese government to promote this region and develop the economy in it. Although at the same time, the foreign investor undermines Chinese unity by accusing the Chinese government of violating human rights.

More about this stands out in Human Rights Watch⁹⁰ article, where it is said about Volkswagen and its Chinese joint venture, SAIC-Volkswagen, operating a production plant in Urumqi (wūlǔmùqí 乌鲁木齐), Xinjiang's capital, and a testing track in the city of Turpan. The company has long denied any risk of forced labor at the facilities and cited “economic reasons” for the decision to sell them⁹¹. So Human rights watch says the Chinese government uses forced labor in factories of foreign companies, including joint venture Volkswagen factories. Although the official Volkswagen auditor's report did not confirm this data⁹². It turns out that another threat from foreign investors to China is the threat to the unity and well-being of the people, that is, to undermine the country's political stability.

While the Volkswagen example stands out in these articles, it is not the only example of foreign companies that could pose a threat to China's national security. The article Business and Human Rights Resource Center published list of major brands implicated in report on forced labor of ethnic minorities from Xinjiang

⁸⁹ Alexander Kriebitz, Raphael Max, The Xinjiang Case and Its Implications from a Business Ethics Perspective, “link.springer.com”, 2020, s12142-020-00591-0.pdf, 3 February 2025.

⁹⁰ Human Rights Watch (HRW) is an international non-governmental organization that conducts research and advocacy on human rights watch. HRW advocates freedoms in connection with fundamental human rights, such as freedom of religion and freedom of the press. It seeks to achieve change by publicly pressuring governments and their policymakers to curb human rights abuses, and by convincing more powerful governments to use their influence on governments that violate human rights. “Frequently Asked Questions”, 2015, “Human Rights Watch. Archived”, www.hrw.org, 21 January 2025.

⁹¹ Volkswagens-China joint venture exit Xinjiang, “Human Rights Watch”, 2024, <https://www.hrw.org/news/2024/12/02/volkswagens-china-joint-venture-exit-xinjiang>, 3 February 2025.

⁹² Ibidem

assigned to factories across provinces with company responses. The article lists companies whose factories were inspected for labor conditions and human rights abuses in the region⁹³. These inspections were aimed not only at foreign companies, but also at checking the Chinese government and the accusations against it, which accordingly is a belittlement of the authority of the People's Republic of China in the world community and, as an option, this could lead to bad consequences for Chinese economy and China itself.

Of course, China does not leave these statements unanswered. The Chinese government is trying to prevent foreign companies from interfering with the country's internal sovereignty and disuniting people of China. And it is also trying to preserve the good name of the country and Chinese companies in the international market.

First, through ordinary Chinese citizens who boycott foreign companies that have accused China of wrong doing. Boycotts related to Xinjiang are the best-known example⁹⁴. The Xinjiang issue is not the only one where Chinese people refuse to buy goods and services from foreign investors, although it is the most discussed issue on the Internet, including at the political level.

In the article *Purchasing with the Party: Chinese consumer boycotts of foreign companies, 2008–2021* lists the most common cases in which foreign companies have had problems with Chinese citizens or the Chinese government amid some international political or economic problems. First, the human rights situation in Xinjiang and China's policy on Hong Kong and Taiwan, then growing tensions in US-China relations, US and European companies sometimes appear to lack an understanding of the cultural sensitivities of the Chinese consumer base

⁹³ China: 83 major brands implicated in report on forced labour of ethnic minorities from Xinjiang assigned to factories across provinces; Includes company responses, “business-humanrights”, 2020, <https://www.business-humanrights.org/en/latest-news/china-83-major-brands-implicated-in-report-on-forced-labour-of-ethnic-minorities-from-xinjiang-assigned-to-factories-across-provinces-includes-company-responses/>, 4 February 2025.

⁹⁴ Viking Bohman, Hillevi Pårup, *Purchasing with the Party: Chinese consumer boycotts of foreign companies, 2008–2021*, “Swedish national China Center”, 2022, <https://kinacentrum.se/en/publications/chinese-consumer-boycotts-of-foreign-companies/>, 4 February 2025.

and what is considered “politically correct” in the country⁹⁵. In all cases, the products or services of foreign companies that were involved in such scandals were ignored by ordinary citizens.

On several occasions, this has put pressure on companies to clarify their stance on China's policies, which has in turn prompted nationalist reactions from Chinese consumers⁹⁶. Ultimately, such boycotts have had an effect on foreign investors, who either left the Chinese market or changed their development policies in China in order not to lose their image and profits from investing in China.

Secondly, the Chinese government itself has taken action against foreign companies that in one way or another have become a threat to the national security of the People's Republic of China in various areas. Measures to counteract dangerous actions by foreign investors are described in the Chinese legislation discussed above in Chapter Two.

As an option in the article MOFCOM is said about blocking 11 foreign companies in China for violating Chinese laws and undermining the rights of Chinese companies in China itself: “The above-mentioned enterprises are prohibited from engaging in import-export activities related to China and the above-mentioned enterprises are prohibited from making new investments in China”⁹⁷. Companies from various fields of activity are described in this article. In this way, China is trying to protect itself from illegal actions of foreign investors.

China can restrict their actions: import, export of goods, services and finances, prohibition of business activities or restrictions in work, and so on. There

⁹⁵ Viking Bohman. Hillevi Pårup, Purchasing with the Party: Chinese consumer boycotts of foreign companies, 2008–2021, “Swedish national China Center”, 2022, <https://kinacentrum.se/en/publications/chinese-consumer-boycotts-of-foreign-companies/>, 4 February 2025.

⁹⁶ Ibidem

⁹⁷ “Ānquán yù guǎnzhì jú” 安全与管制局 (Security and Control Bureau), “Bù kěkào shítǐ qīngdān gōngzuò jīzhì guānyú jiāng sī kǎidí ào gōngsī děng 11 jiā měiguó qīyè liè rù bù kěkào shítǐ qīngdān de gōnggào” 不可靠实体清单工作机制关于将斯凯迪奥公司等 11 家美国企业列入不可靠实体清单的公告 (Announcement of the Working Mechanism of the Unreliable Entity List on the inclusion of 11 U.S. companies including Skaudio in the Unreliable Entity List), “Mofcom”, 2025, (https://aqygzj.mofcom.gov.cn/flzc/gzjgfwj/art/2025/art_7f68ea17b56c4b32a45cc966dbfebde5.html), 17 February 2025.

is a possibility that they will even prohibit any activity of this specific foreign company on the territory of China.

Through legislation, the PRC is trying to protect itself from threats coming from foreign companies or even other countries, also by raising the image of its own brand. Despite the positive aspects of foreign investment, China is also trying to develop local brands, which could replace foreign ones in the case if geopolitical situations in the world will change.

“The separate legal regime designed for foreign-invested enterprises is used both to complement socialism and to insulate socialism from the full impact of foreign direct investment (FDI)”⁹⁸. This legal reform regime, which was discussed in Chapter Two of this study, both gave foreign investors more rights and opportunities and at the same time aimed at protecting the country’s internal processes, including protecting China’s socialist system and, most importantly, its citizens. Not to mention the sectors of the economy in which foreign investors are either restricted or banned altogether.

These are advantages when they venture into international markets, giving them greater financial flexibility to secure increased market share by: setting lower prices; making more flexible or tailored offerings; creating higher-quality, more innovative, and more popular products; and generating greater credibility.

It turns out that China's national security faces many threats, the main ones, which are highlighted in many scientific articles, are the threat to national unity, the undermining of China's authority at the international level, the threat to China's political and economic stability. The Chinese government, while trying to attract foreign investment, also tries to limit their influence on the country's economy and finances. This is done through legislative acts, a list of unreliability, economic sectors, and so on. China also tries to simultaneously develop foreign companies within the country, and promote the national brand and expand it not only within the country, but also internationally.

⁹⁸ Yasheng Huang, One country, two systems: Foreign-invested enterprises and domestic firms in China, “Science Direct”, 2003, <https://www.sciencedirect.com/science/article/abs/pii/S1043951X03000609>, 17 February 2025.

Moreover, an important part in protecting the national security of the country goes to ordinary citizens in the country, who, while protecting the unity of the country from the threat of foreign companies and their unfounded claims against the Chinese government and its actions, also boycott foreign companies, thereby worsening the brand image and refusing to buy their products or services. Thus, this leads to a positive result. Moreover, Chinese citizens themselves prefer to use domestic brands, supporting the local manufacturer.

As China's influence on the global economy grows and the Chinese market becomes more attractive to foreign investors, other countries are trying to limit its influence on the world stage through trade wars, human rights disinformation, etc., as well as through restrictions on Chinese investors in their countries.

3.2. MERGERS AND ACQUISITIONS' THREAT TO NATIONAL SECURITY IN CHINA

Mergers and Acquisitions (M&A) are one of the types of foreign direct investment. A merger is usually the combination of two businesses of equal strength, while an acquisition is the purchase of one company by another typically a bigger one buying a smaller one⁹⁹. Thus, a merger is the process of combining two companies into one, and an acquisition is the process of one company buying another (buying a controlling stake). Accordingly, here it can already be seen the risks to the national security of the host country from foreign investors and companies, since in both cases a foreign company, merging with a Chinese company or buying its assets, also receives full access to its internal resources and assets, which can become a danger to national security.

Thus, from the point of view of national security, the most important and at the same time dangerous are Mergers and Acquisitions. “The authors also address the degree of similarity between the M&A model and a model of aggregate FDI

⁹⁹ “Mergers and acquisitions”, Encyclopaedia Britannica, 2023, <https://www.britannica.com/event/Tiananmen-Square-incident>, 12 December 2024.

flows. Their results confirm the empirical significance of macro-governance variables as determinants of both inward and outward FDI regardless of mode. They also confirm the statistical importance of liquid and efficient capital markets as determinants of cross-border M&A activity, but show that good overall governance promotes more liquid stock markets”¹⁰⁰. Thus, it turns out that if the liquidity of the market depends on foreign direct investment, then companies are more likely to engage in mergers and acquisitions and attract foreign investors through good governance and favorable foreign investment laws.

As it has many advantages for foreign investments, for example, “Mergers and acquisitions are also seen as the fastest way to achieve growth, as they involve already established companies and operations”¹⁰¹. They bring important benefits to foreign investment in China and the development of the foreign investment situation in the country. However, they also carry risks to China's national security.

They are also the most vulnerable from a national security perspective, since compared to other types of investments, M&A investors gain complete control over all processes in company.

“All M&A risks and threats were divided into 4 groups according to the stages of the M&A process where the risks could arise: risks arising at the stage of due diligence (DD), integration planning (IP), integration execution (IE), and those that could arise at all stages (AP-all stages)”¹⁰². According to this quote, M&A could pose a threat at different stages of concluding an M&A transaction and running the business thereafter by a foreign investor. The risks to China's national security could be the three main stages mentioned in the article above.

Firstly, the risks at the verification stages, through the processes that have already been described above. Due specifically for this purpose “ensuring due

¹⁰⁰ Lorraine Eden and Wendy Dobson, *Governance, Multinationals and Growth*, “elgaronline”, 2005, <https://www.elgaronline.com/edcollchap/9781843769095.00011.xml>, 15 November 2025.

¹⁰¹ ResearchFDI, *What are Mergers and Acquisitions?*, “ResearchFDI”, 2022, <https://researchfdi.com/what-are-mergers-and-acquisitions-fdi/>, 15 October 2024.

¹⁰² Skitsko Volodymyr I., Huzenko Oksana Yu., *Risks of mergers and acquisitions processes*, “cyberleninka”, 2017, №6 (473), <https://cyberleninka.ru/article/n/risks-of-mergers-and-acquisitions-processes>, 17 July 2025.

diligence” is drawn up¹⁰³. This means that these risks are associated with the reliability of the parties involved in the merger and acquisition transaction, the is checked by investor's integrity. This is an important part of national security, because the risks from unreliability of partners are very large. This is an important part of working with foreign investments; since it is due diligence gives an understanding of the investor's reliability and its financial and economic risks. Moreover, it gives the Chinese government an understanding of its background and facts that may pose a risk to China's national security.

Second is integration execution. “Integration leads must be involved before signing a Letter of intent (LOI). It is crucial for integration leads to map out their requirements as early as possible and have input in the letter of intent”¹⁰⁴¹⁰⁵. Letter of intent is a part of integration process, which forms the official intention of the parties' desire to enter into an agreement and describes the main agreements between the foreign investor and the company.

Third is integration planning, as another national security risk from mergers and acquisitions. “Integrated planning is an approach to project management that consolidates all project-related information into a single plan, ensuring alignment and coordination across all Project Control functions”¹⁰⁶. So, this risk is associated with insufficient planning and setting clear goals and objectives for the team and employees.

Moreover, there are 4 main types of risk from Mergers and Acquisitions: The analysis identifies four primary thematic areas of risk: (1) risks related to information asymmetry and the impact of emerging technologies; (2) issues concerning sustainability and corporate reputation; (3) litigation risks; and (4) risks

¹⁰³ “Большой юридический словарь” (Big juridical dictionary). “gufo.me”, 2005, <https://gufo.me/dict/law?page=3&letter=д>, 15 October 2024.

¹⁰⁴ Kison Patel, The Basics of M&A Integration Execution, “linkedin”, 2023, <https://www.linkedin.com/pulse/basics-ma-integration-execution-kison-patel-7aeeec>, 15 October 2024.

¹⁰⁵ Letter of intent is a written statement of the intention to enter into a formal agreement. Letter of intent, “Merriam-Webster.com Dictionary”, 2015, [https://www.merriam-webster.com/dictionary/letter of intent](https://www.merriam-webster.com/dictionary/letter%20of%20intent), 25 October 2024.

¹⁰⁶ Roman Acevedo Dicillo, Integrated Planning: How to enhance project performance, “Migso-Pcubed”, 2024, <https://www.migso-pcubed.com/blog/schedule-management/integrated-planning/>, 26 October 2024.

emerging from the contemporary geopolitical landscape¹⁰⁷. Each theme is reviewed to provide a definition for each risk, the impacts of such, and mitigation strategies followed by companies.

1. Uneven distribution of information. A foreign investor may not share all data and technologies with the Chinese side, while having full access to the other side's data.

2. A foreign investor can bring his ideas and capabilities to a new company; thus the company's problems can cause reputational losses to the Chinese side, accordingly, due to the illegal actions of a foreign investor, a Chinese business that has entered into a deal with a foreign investor can lose its sustainability and reputation.

3. Legal issues and government issues and lawsuits directly related to China's national security. Foreign investor due diligence is an important point of the Chinese government. Through due diligence mechanisms, foreign investors go through a serious due diligence system and accordingly, foreign investors are required to follow China's internal laws that regulate foreign activities in China and in case of non-compliance with these laws, they will be subject to legal risks. This is a disadvantage to both parties, as it also poses a threat to China's national security and may cause harm.

4. International issues between countries can also become a stumbling block in China's national security. As a foreign investor, he represents his country, so legally, if he has problems, he can be helped by official representatives of his country in China¹⁰⁸. However, if a foreign investor in China behaves untrustworthy, this can cause discord between the Chinese government and the government of the country of which this foreign citizen is a citizen.

And again, the issue of national security arises, because it could be a completely deliberate decision by the government to obtain data, technology, etc. from a Chinese company. Alternatively, a foreign investor could have a direct

¹⁰⁷ Roman Acevedo Dicillo, Integrated Planning: How to enhance project performance, "Migso-Pcubed", 2024, <https://www.migso-pcubed.com/blog/schedule-management/integrated-planning/>, 26 October 2024.

¹⁰⁸ Ibidem

connection with its government and pass the information on directly to the state, which is also directly one of the risk points under point four.

As it is also needed to notice legislation side of national security of mergers and acquisitions. There are a number of laws in China that govern Mergers and Acquisitions, that needed to be talked about. There are regulations on M&A of domestic enterprises by foreign investors, which regulates the rules of Mergers and Acquisitions in particularly important sectors of the Chinese economy. Particularly important for the protection of China's national economy are Articles 12.

Article 12 clearly states:

Where a foreign investor acquires and obtains actual control over a domestic enterprise, and the enterprise involves key industries, has factors that affect or may affect national economic security, or results in the transfer of actual control over a domestic enterprise with a well-known trademark or a time-tested Chinese brand, the interested party shall report the matter to the Ministry of Commerce¹⁰⁹.

If the company fails to do so, the Ministry of Commerce may stop the deal or take other measures to protect the country's national economy. It turns out that if a foreign investor takes over a Chinese company in a key industry that affects China's economy or decides to acquire a domestic Chinese brand or trademark that has a name and history and, accordingly, trust from Chinese and foreign citizens, then its transfer to the influence of a foreign investor must be controlled by Chinese government agencies.

Article 31 points out the importance of due diligence.

A M&A consultant shall satisfy the following requirements:

- (1) Having a good reputation and corresponding experiences;*
- (2) No record of serious violation of any law or regulation; and*

¹⁰⁹ Regulations for Merger with and Acquisition of Domestic Enterprises by Foreign Investors, “china-ningbo-lawyer”, 2006, <https://www.china-ningbo-lawyer.com/blog/regulations-for-merger-with-and-acquisition-of-domestic-enterprises-by>, 25 October 2024.

(3) Being capable of investigating and analyzing the legal systems of the registration place of the overseas company and the place where the overseas company is get listed, and the financial status of the overseas company¹¹⁰.

Moreover, Chapter 5 of this law touches upon the issue of Antitrust Law (Fǎn lǒngduàn fǎ 反垄断法) to ensure that the merger and acquisition agreement does not violate the laws of fair competition and does not undermine the economic security and balance between companies in China.

The topic of Mergers and Acquisitions is also strictly regulated by the laws of the People's Republic of China, including protecting the country's internal national security from malicious and unreliable investors. In the case of M&A, this is even more important. As discussed above, Mergers and Acquisitions pose a great threat to China's national security, so proper regulation and review of them is critical to protecting China's national reliability.

Thus, M&A represent a special type of foreign investments, which combine several terms at once. From all this, it can be concluded that Mergers and Acquisitions may pose four major threats to China's national security: a communication problem, damage to the reputation and brand of a Chinese company (if merged with it or acquired completely), may have legal problems, or be the cause (consciously or unconsciously) of bad relations in the international arena.

3.3. FUTURE DEVELOPMENT OF NATIONAL SECURITY IN FOREIGN INVESTMENT IN THE PEOPLE'S REPUBLIC OF CHINA

The Chinese government has gone through a remarkable path of reform to improve its foreign investment laws. The previous chapters have detailed how China has reformed its legislation in FDI and national security. The most important thing that the researchers have noted is that these reforms of laws have

¹¹⁰ Regulations for Merger with and Acquisition of Domestic Enterprises by Foreign Investors, “china-ningbo-lawyer”, 2006, <https://www.china-ningbo-lawyer.com/blog/regulations-for-merger-with-and-acquisition-of-domestic-enterprises-by>, 25 October 2024.

simultaneously allowed foreign investors to feel like full members of the Chinese financial system and receive the necessary support from the government, and at the same time, these laws protect China's internal processes: the economy, politics, social status, and so on, from those foreign investors who violate the laws and pose a threat.

Since the opening up of the People's Republic of China, Chinese legislation has undergone significant changes, including in the field of protecting national security from foreign investment. However, the development of foreign investment in China does not stand still, especially in times of unstable international situation and difficult relations between countries. In particular, the relations between the United States and China: two world powers, relations. That affects not only the domestic economy of these countries, but also the general international system.

In such a situation, protecting national security is a priority in the field of foreign investment development. The threats described in the previous paragraphs that hang over China today are the subject of new legislation and the development of the country's national economy in the future.

Thus, a new round of development. Foreign investment is just beginning to develop. "In light of the changing global economic landscape, China has set itself the task of meeting the diverse needs of international investors by adapting its approach based on the unique characteristics of its main investment sources"¹¹¹. China has developed a plan to stabilize and develop foreign investment in 2025.

The next few years may be difficult for foreign investment in China due to the growing geopolitical problem of the United States and China. With the rise of Donald Trump to power in the United States in 2025, the trade war between the two countries has intensified again, which is a threat to foreign direct investment in China. Therefore, it is important for the state to stabilize its national security situation now, so as not to give the United States a pretext to destabilize the country's economic and political situation.

¹¹¹ Giulia Interesse, Qian Zhou, China's 2025 Foreign Investment Lawion Plan: Key Measures and Opportunities, "ChinaBriefing", 2025, <https://www.china-briefing.com/news/chinas-foreign-investment-action-plan-2025-implications/>, 04 May 2025.

“On February 19, 2025, China unveiled a comprehensive action plan to stabilize foreign investment, reaffirming its commitment to high standards of openness and promoting economic modernization”¹¹². Through this action plan, China is trying to attract foreign investors and establish relations with the European Union and the USA within the framework of open policies and economic modernization. On the other hand, this will help China reduce the risk of deliberate threats to national security from investors from other countries.

This article describes all the main points that the Chinese government is trying to focus on developing foreign investment. “The government is trying to optimize the business environment to ensure equal treatment of all enterprises, promoting the creation of an environment in which companies are not only encouraged to invest, but also to reinvest their profits domestically”¹¹³. Making foreign investors equal to Chinese entrepreneurs and equal to each other not only in law but also in practice is actually a very difficult task, including from the point of view of the safety of such a maneuver. China in the future sets itself a plan to develop such provisions and establish incentives for investment of more investors and their consolidation in China, especially focusing on reliable investors.

“Finally, to enhance investor confidence, the plan includes initiatives to improve transparency and communication on economic policy issues”¹¹⁴. It is important for China to allow foreign companies to operate safely in China and to have a transparent legal system in the country, where investments not only continue to develop domestically, but can also safely follow the laws of the country and not pose a threat to national security.

Secondly, China plans to open up new sectors of China’s activity to foreign investment. “Through targeted efforts in strategic sectors such as biotechnology, animal husbandry, high-tech industries and modern services, the action plan lays

¹¹² Giulia Interesse, Qian Zhou, China’s 2025 Foreign Investment Lawion Plan: Key Measures and Opportunities, “ChinaBriefing”, 2025, <https://www.china-briefing.com/news/chinas-foreign-investment-action-plan-2025-implications/>, 04 May 2025.

¹¹³ Ibidem

¹¹⁴ Ibidem

the foundation for deeper foreign participation in China's industrial upgrading"¹¹⁵. In this way, China tries to attract new investments by reducing restrictions on entry into a particular sector. China plans to allow foreign brands to invest in biotechnology, high-tech industries and others in the coming years. However, it is necessary to review the national security system in these vulnerable sectors to ensure that they are not threatened by foreign investors who could harm or make these sectors dependent on inflows of foreign money.

Ultimately, the plan proposes twenty points "aimed at stimulating foreign investment by expanding market access, promoting fair competition and improving financial mechanisms. These initiatives signal China's commitment to further opening up its economy and ensuring a stable investment environment"¹¹⁶. Thus, from this document, we can summarize that there is main two directions for the development of foreign investment in China can be called attracting investment and its stability for the peace of mind of the investor himself and, of course, the internal security of the People's Republic of China. Which once again confirms that China is striving to further develop its economy in the future through international exchange of goods, services and technologies. But at the same time this is not always very easy to do due to the additional time and resources that are spent on protecting national security and economic stability and further checking and monitoring foreign investment.

The future of foreign investment is fundamentally determined by the instability of the global environment, which may affect the Chinese economic situation, including: "The more severe the external environment, the more it is necessary to respond to external uncertainty with higher-quality economic development and a higher level of openness"¹¹⁷. Thus, in an attempt to protect itself from the non-standard situation between countries and other political

¹¹⁵ Giulia Interesse, Qian Zhou, China's 2025 Foreign Investment Lawion Plan: Key Measures and Opportunities, "ChinaBriefing", 2025, <https://www.china-briefing.com/news/chinas-foreign-investment-action-plan-2025-implications/>, 04 May 2025.

¹¹⁶ Ibidem

¹¹⁷ Luo Shanshan, Chi Jingyi, Zhang Yiyi, Delving the truths of foreign investment in China, "Global Times", 2025, <https://www.globaltimes.cn/page/202502/1328210.shtml>, 16 May 2025.

organizational structures. China is trying to attract new investments and develop its own brand at the same time. Thus, continuing to develop plans for foreign investment in the future.

Especially the development of national security was accompanied by the development of the country's economy, so in China, together with foreign investment, the strengthening of domestic security is also developing. Since the promulgation of the FIL, China has been strengthening its national security review regime, which has begun to play a more prominent role in regulating foreign investment. That is the plan for the development of the Chinese economy for the future, along the path of developing foreign investment, to strengthen its security and enhance the domestic brand. In any case, this is an axiom of economic development when attracting the attention of foreigners to the country - to also attract security from these same foreigners.

China is developing its own brand “Invest in China” (Tóuzī zhōngguó 投资中国). “We will deepen the institutional reform of the foreign investment promotion system as needed, formulate an annual implementation plan to build the “Invest in China” brand, and carefully design and implement a series of “Invest in China” activities”¹¹⁸. The idea of developing this brand was born in 2024, but it was developed in the plans for the development of foreign investment in China in 2025.

In the future, China plans to develop the brand of investment in China, which would in turn develop China as a stable stronghold for foreign investors. “As for how to continue to develop the brand of “Invest in China” in 2024 and continuously improve the level of utilization of foreign investment, China will insist on the combination of “attraction” and “withdrawal”, well organize key investment promotion activities, widely advertise investment opportunities in China, and polish the golden sign of “Invest in China”¹¹⁹. Therefore, it turns out

¹¹⁸ Ministry of Commerce, 2025 Action Plan for Stabilizing Foreign Investment, “gov.cn”, 2025 https://english.www.gov.cn/news/202502/22/content_WS67b9044dc6d0868f4e8efdff.html, 15 May 2025.

¹¹⁹ How to better build the brand of “Invest in China” (Policy Q&A: What China's economy will do in 2024), “gov.cn”, 2024, https://www.gov.cn/zhengce/202402/content_6932420.htm, 15 May 2025.

that the plan for China's development in the brand is: firstly, attracting investment to China, and secondly, active investment by Chinese investors in other countries to balance between receiving investment and developing their companies in other countries. So, it turns out that the Chinese government talks about attracting new investors, but this does not mean attracting just anyone; in China, in any case, there is a strict selection of investors and verification, which will only become more and stricter with the development of the brand.

Third, organize key events to develop opportunities for investors, attract them to projects that are worth investing in and developing in the country, and thereby protect from the penetration of unreliable investors into vulnerable sectors of China's economy, and make China's brand more recognizable and reliable for investors to invest in China safely. This is the development plan for China's foreign investment and national security in the future.

From all the above, we can conclude that China is in constant development of foreign investment, and accordingly, national security, updating the plan every year. In the future, the country wants to create a transparent investment system in the environment to create a safe environment for investors and create acceptable conditions for them. At the same time, this situation with the development of foreign investment also makes the future development of national security in foreign investment important. China has a plan for the development of investment at home and abroad to develop the country and the economy for several years to come.

In the complex geopolitical situation in the world, internal processes of different countries, including China, also suffer. Due to the unstable situation in the world and unfavorable relations between world powers, China tries to protect itself from both existing and potential threats, which can also greatly affect the economy, finances and internal unity of the peoples of the country. To a greater extent, as described above, this situation is influenced by unstable relations that arise between countries, especially between the United States and China, two countries that influence world politics and economics.

Threats to China's national security from foreign investment arise from all over the world: from the geopolitical situation, from trade wars between countries and so on. Problems can arise from foreign investors who, by their actions, try to disrupt the balance and stability in the Chinese economy and politics, and even more so, to disrupt the unity between the nationalities in the country. As described in this study, for example, this threat is pressure on human rights, which, according to governments in other countries, are violated in China (the study describes the example of Xinjiang and the hard work of people on cotton plantations). China copes with these problems through legislation or tightening laws, civil boycott of certain foreign companies that, in the opinion of people, have violated stability in the state, as well as through constant control over foreign investors in order to prevent them from violating the same rules and customs.

The rules are regulated through special bodies that check and control foreign investors in China. Checks are arranged on the condition that the foreign company enters a sector that is critical to the development of the Chinese economy. Such bodies are, as recorded in the Foreign Investment Law, the National Development and Reform Commission (NDRC), Ministry of Commerce (MOFCOM) and State Administration for Market Regulation (SAMR), which regulates the process of checking and regulating foreign investments in the PRC. The Chinese government in any case tries to make this process more understandable and transparent in order to develop a positive legal environment for attracting foreign investors. When investors understand who checks them and how the government controls them, it is easier for them to provide all the necessary documents and it is easier for them to turn to government agencies for help if difficulties arise for foreign investors in China.

The development of foreign investment in the future is aimed at developing the “Invest in China” brand, which includes developing the legal environment, attracting new investors and reinvesting Chinese entrepreneurs in other countries. As well as developing events within China, where foreign investors can get to know the investment system in China better, as well as the system of inspections

and control over foreign investment in the country. China's development plan for 2025-2026 and beyond shows that the country is striving to attract foreign investment to develop its economic and financial situation, and at the same time to develop national security and its protection from intentional and unintentional threats that foreigners can bring along with investments from different countries, including those, who are unfriendly to China.

CONCLUSION

This study examined the main facts concerning the development of national security and foreign investment development, terminology and history, and in particular, the approach to protect national security particularly from the threat of foreign investment, that was represented by Xi Jinping in 2014. The second chapter is devoted to the legislation and provisions of foreign investment and national security in People's Republic of China, and the system of checking and controlling foreign investment in China and its importance for the economic situation in the country, that was studied in detail. It was also important to note the connection between foreign investment and national security in general, why they can pose a threat to the internal stability of any country, and in particular China. In the third chapter the hazards to national security that can arise from foreign investment and foreign influence on Chinese economy. M&A was considered as the most dangerous type, which can pose a threat to the economic security of the country. And also, the main laws in FDI and national security in China were studied in detail, and moreover, all the governmental organs that examine and track the activities and financial flows of foreign investors in China, especially in vulnerable sectors of the economy.

Foreign investments can take several forms: Greenfield investment, Brownfield investment, Wholly Foreign-Owned Enterprises (WFOE), Joint Ventures and Mergers and Acquisitions (M&A) and so on. The company chooses the most appropriate type of investment in China, the one that is more suitable for each specific case and foreign investor. Each type has its advantages and disadvantages, moreover has its hazards to Chinese economy coming from local economic difficulties to full control over the company by foreign businessmen.

While China is one of the world's major economies, a large commodity market and has a large population, making it very attractive to foreign investors, it also suffers from the looming threat of foreign investment. Attracting new

investors is the most crucial aspect for Chinese economy, since it brings diversity and develops economy in the state, but at the same time national security is a priority to China. Guarding internal sovereignty, the unity of the people and protecting the socialist regime within the country, along with protecting economic and financial stability from dependent and hazards of foreign influence. So everything has to be in balance.

Foreign investment and national security are closely related, because foreign investment brings both great benefits to certain countries. Moreover, foreign investment leads to greater globalization, which in turn benefits only developed and developing countries, while less developed countries only suffer losses from rapid global development and excessive foreign investment, they become dependent on foreign intervention, not being able to progress without foreign financial flow and as a result are deprived of important resources and infrastructures.

Since the Chinese legal framework in the field of foreign investment was very complicated and brought many difficulties in developing and attracting investments from other countries, the Chinese government needed to reform the Foreign Investment Law and the National Security Law (especially in the FDI sphere) to make them more suitable and clearer for both sides. In these laws, an important part was taken for the protection of national economy, political and social stability. They bring the transparency in the system of inspection and control of foreign investment and the establishment of a working mechanism and governmental organs, which were made for checking and monitoring the business activities of investors. And also, in addition to these laws, the publication of the Negative List, which protects vulnerable sectors of the Chinese economy from the harmful influence of foreign investors.

All these changes were made within the framework of the Chinese “reform and opening-up policy”, when China began to open up to the outside world, foreign trade and more open relations with other countries, which meant that

foreign investors also began to enter the country, who brought with them not only new job opportunities, development of infrastructure, the economy of China and improvement of China's position on the world stage.

However, at the same time, there are huge number of threats that could threaten the country's internal security. For example, tensions between China and other countries on the world arena and foreign investors jeopardizing Chinese sovereignty and economic, political and socio stability.

Chinese scholars emphasized these threats: denial and manipulation access, leakage of sensitive technology and know-how, infiltration and espionage, and disruption. These problems are both small, concerning only one company or a brand, and can be enormous, threatening the entire country and its stability. And since China is one of the most important economies in the world, it can also influence the economy of the entire world and other countries.

If a foreign investor enters a vulnerable sector of Chinese economy, then he is obliged to submit the necessary documents for verification to the body registered in the Foreign Investment Law: National Development and Reform Commission (NDRC). All FDI in the country are under the full control of NDRC and MOFCOM, which were stated in Measures on Security Review of Foreign Investment.

Measures are the main provision that shows how screening process works, what documents to submit and why foreign investments are checked. It the core of the whole national security legislation in foreign investment, that gives not only the law but practical actions that are made for the security.

Thus, foreign investment must be subject to inspection and control by the state, and the reformed National Security Law specifically removes unnecessary burdens from inspection bodies in order to simplify the system and make it more efficient.

From all of the above, we can conclude that foreign investment cannot exist without security, both in terms of protecting the investors themselves and protecting the state where they invest. China has made great strides in this regard. The reform of the investment legislation system with a greater emphasis on security has allowed China to advance even further economically. But at the same time, the country has room for improvement, the continuous development of the world leads to the development of new trends in investment security, which helps China develop.

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