

Legal Adaptation of Chinese Multinational Corporations in Responding to Foreign Investment National Security Review

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Abstract: Against the backdrop of economic globalization, national security reviews of foreign investments have become a significant legal obstacle for Chinese multinational corporations in their overseas investment activities. This paper conducts an in-depth analysis of the characteristics and trends of national security review systems in major economies such as the United States and the European Union. Combining case studies of investments by Chinese multinational corporations, it proposes systematic and targeted legal adaptation strategies from aspects including pre-investment risk assessment, investment structure design, defense strategies during reviews, and post-review remedies. These strategies aim to help Chinese multinational corporations enhance the compliance and security of their overseas investments.

Keywords: Multinational Corporations; National Security Review; Legal Adaptation

1. Introduction

In recent years, the scale and scope of overseas investments by Chinese multinational corporations have continued to expand, and their position in the global industrial and supply chains has become increasingly important. However, some countries, citing national security concerns, frequently initiate national security review procedures for investments, creating numerous obstacles to the normal investment activities of Chinese multinational corporations. These review systems are characterized by vague standards, opaque procedures, and often strong political overtones, seriously disrupting the overseas investment layouts of Chinese multinational corporations. In this context, in-depth research on foreign investment national security review systems and exploration of effective legal adaptation paths are of urgent practical significance for safeguarding the legitimate rights and interests

of Chinese multinational corporations and promoting the healthy development of foreign investment.

2. Overview of Foreign Investment National Security Review Systems

2.1 Broadening of Review Scope

The U.S. Foreign Investment Risk Review Modernization Act (FIRRMA) includes key technologies, critical infrastructure, and sensitive personal data in its review scope, with the definition of "key technologies" continuously expanding dynamically—explicitly covering emerging frontier technologies such as artificial intelligence and biotechnology. Although the European Union has not formulated a unified and detailed list, member states generally extend their review scope to critical infrastructure in fields like energy, transportation, and communications, as well as advanced technologies [1]. This broadening trend has brought numerous investment projects of Chinese multinational corporations under review, significantly increasing investment risks. For example, in the technology sector, Chinese enterprises' investments in U.S. companies are often reviewed due to their involvement in key technologies, as seen in Huawei's troubled investment layout in the United States.

2.2 Vagueness of Review Standards

Most countries lack precise definitions of "national security" in their review standards, relying instead on broad and abstract descriptions. For instance, during CFIUS reviews in the United States, considerations include the transaction's control over key technologies and its impact on U.S. critical infrastructure—factors with blurred boundaries and large interpretive space. Review standards in EU member states are similar; France, for example, strictly controls investment projects involving broad concepts such as national

defense security and public order. The vagueness of standards leaves significant room for discretionary power among review authorities, making it difficult for Chinese multinational corporations to accurately predict whether an investment project will trigger a review or the outcome of such a review [2].

2.3 Opacity of Review Procedures

In the United States, although the CFIUS review process has a general time frame, information from the pre-filing informal consultation phase is not publicly disclosed, and enterprises struggle to promptly and fully understand the progress and issues during the investigation. Review procedures in some EU countries also lack transparency; in Germany, for example, communication mechanisms between review authorities and enterprises are inadequate in certain investment reviews, preventing enterprises from effectively participating in the review process. This is extremely detrimental to safeguarding their own rights and interests and increases the difficulty and uncertainty for Chinese multinational corporations in responding to reviews [3].

3. Challenges Faced by Chinese Multinational Corporations

3.1 Increase in Blocked Investment Projects

With the rise of investment protectionism globally, standards for national security reviews of foreign investments have been continuously tightened, leading to a growing number of blocked investment projects for Chinese multinational corporations. In the North American market, since the revision of FIRRMA in 2018, CFIUS has significantly strengthened reviews of Chinese enterprises' investments in semiconductors, quantum computing, new energy technologies, and other fields [4]. In 2023 alone, over 20 Chinese investments in U.S. high-tech sectors were rejected on grounds of "national security risks." In Europe, Germany's Federal Ministry for Economic Affairs and Energy rejected a Chinese enterprise's acquisition of a German robotics company in 2022, citing that the company's technology involved core automotive manufacturing processes that could affect German industrial security. The Italian government blocked a Chinese internet enterprise's investment in a local data service

company on the grounds of "data security." These blocked projects not only resulted in the loss of upfront costs such as due diligence and negotiations but also disrupted the companies' global technology layouts and market expansion plans. For example, a Chinese new energy enterprise planned to acquire core patents for solid-state batteries by purchasing a European battery research and development company, but the blocked review delayed technology introduction, causing it to miss opportunities in the new energy vehicle battery sector [5].

3.2 Significant Increase in Investment Costs

Responding to foreign investment national security reviews has become a heavy cost burden for Chinese multinational corporations in overseas investments. Firstly, there are professional service fees: enterprises must hire international law firms and consulting agencies familiar with the target country's review system. Legal consulting fees for U.S. CFIUS reviews alone typically reach millions of dollars, and complex projects can exceed tens of millions. Secondly, there are declaration preparation costs: to meet review requirements, enterprises must invest significant human resources in sorting out information such as investment structures, technical details, and data flows, resulting in declaration materials that can be thousands of pages long. For a Chinese communication enterprise's investment project in the EU, preparing data compliance materials alone took 6 months and cost over 3 million yuan in labor. Thirdly, there are capital costs due to extended review cycles: the average CFIUS review cycle in the United States has increased from 45 days in 2018 to 120 days in 2023, with some projects exceeding 18 months, leading to a substantial rise in the cost of capital occupation [6]. Additionally, structural modifications such as business divestitures and equity adjustments to pass reviews incur additional costs. A Chinese home appliance enterprise was forced to divest the smart chip business of the target company to pass a German review, resulting in a nearly 20% shrinkage in investment value [7].

3.3 Increased Risk of Reputational Damage

Foreign investment national security reviews are often accompanied by a complex public opinion environment, which can easily negatively impact the international reputation of

Chinese multinational corporations. On one hand, review procedures are frequently associated with "geopolitical games" and "technological competition" in international media reports, and some Western media outlets provide biased interpretations, framing normal commercial investments as "national security threats." During a Chinese artificial intelligence enterprise's investment review in Europe, multiple media outlets falsely reported that it was "assisting in the transfer of sensitive technologies"; although the review ultimately passed, the brand image was damaged. On the other hand, the uncertainty of review results may trigger trust crises among partners and in the market [8]. During a Chinese automobile enterprise's investment review in Southeast Asia, local partners suspended cooperation due to concerns about project stagnation, causing supply chain disruptions. More seriously, a rejected review result may create a "labeling effect," subjecting the enterprise to stricter reviews in other countries. A Chinese technology enterprise once rejected by U.S. CFIUS was required by the local government to provide 12 additional security commitments when entering the Latin American market, significantly increasing the difficulty of market expansion. Such reputational risks not only affect business cooperation but also weaken consumer trust; a Chinese electronic device enterprise saw its product sales in the European market drop by 15% year-on-year after a review controversy [9].

4. Legal Adaptation Strategies for Chinese Multinational Corporations

4.1 Pre-Investment Risk Assessment and Prevention

Chinese multinational corporations should establish a systematic pre-investment risk assessment mechanism, incorporating foreign national security review risks into the core considerations of investment decisions. Firstly, they need to build a database of review systems covering major investment destinations, updating in real-time the review scope, standards, processes, and latest cases in key countries such as the United States, the European Union, and Australia. For example, tracking the expansion of CFIUS's definition of "sensitive personal data" to predict investment risks in fields like healthcare and social

platforms. Secondly, introducing quantitative assessment models to score projects based on dimensions such as the sensitivity of the investment field, the target enterprise's connection to national security, and the target country's political environment, classifying risks as high, medium, or low. High-risk projects should be subject to "veto" or re-evaluation. Thirdly, strengthening cooperation with professional institutions by hiring local law firms in the target country to conduct compliance due diligence at the early stage of investment. A Chinese new energy enterprise, for instance, discovered through a local law firm that a European photovoltaic company it planned to invest in was involved in the production of military photovoltaic modules, prompting it to terminate the investment in a timely manner and avoid review risks. Additionally, leveraging government resources—such as obtaining updates on investment reviews in target countries through the Ministry of Commerce and overseas embassies—a Chinese infrastructure enterprise adjusted its investment plan after learning through the Chinese embassy in Africa that a certain country was including port operations in its review scope [10].

4.2 Optimized Design of Investment Structures

Reasonable design of investment structures can effectively reduce the probability of triggering foreign national security reviews or mitigate review intensity. Firstly, adopting a phased investment strategy: entering with a minority equity investment initially and gradually increasing holdings once the market environment stabilizes. A Chinese internet enterprise, for example, first made a 15% financial investment in a European social platform to avoid triggering a review, then increased its stake to 30% within a compliant framework two years later. Secondly, establishing offshore holding structures: investing through special purpose vehicles (SPVs) set up in third countries (such as Singapore or the Netherlands) to reduce review risks by leveraging investment agreements between these countries and the target country. A Chinese semiconductor enterprise acquired a German chip design company through its Dutch subsidiary, utilizing preferential terms in China-Netherlands and Netherlands-Germany

investment treaties to reduce review resistance [11]. Thirdly, introducing local strategic investors: co-investing with well-known local enterprises or investment institutions in the target country. A Chinese electric vehicle enterprise invited a local automotive group to take a 20% stake when building a factory in North America, using its local influence to ease review pressures. Fourthly, implementing business isolation: splitting sensitive and non-sensitive businesses and only investing in non-sensitive segments. A Chinese technology enterprise successfully passed a review by acquiring only the civilian software business of a European software company and divesting segments involving government clients [12].

4.3 Proactive Defense and Communication during Reviews

After the initiation of review procedures, Chinese multinational corporations should adopt proactive defense and communication strategies to strive for favorable outcomes. Firstly, forming a response team consisting of local lawyers, industry experts, and in-house legal personnel in the target country to develop targeted strategies. A Chinese biopharmaceutical enterprise, for example, hired a law firm that participated in FIRRMA legislation during its CFIUS review, enabling it to accurately grasp the focus of the review authorities. Secondly, preparing detailed defense materials to prove with data that the investment will not endanger national security. A Chinese energy enterprise, during a review in Australia, submitted a power grid security assessment report issued by a third-party institution to demonstrate that its investment would not affect the stability of the power system. Thirdly, establishing regular communication mechanisms to report progress to review authorities periodically and respond to inquiries promptly [13]. A Chinese rail transit enterprise communicated in writing with Germany's Federal Ministry for Economic Affairs every week during the review process, proactively clarifying the scope of technology transfer. Additionally, leveraging the support of local stakeholders—such as inviting local governments and industry associations where the target enterprise is located to voice their opinions—a Chinese photovoltaic enterprise, during a U.S. review, secured a letter from the governor of the state where the target enterprise

was located to CFIUS, emphasizing the positive impact of the investment on local employment. At the same time, focusing on public opinion guidance by objectively explaining investment intentions through press conferences and white papers to avoid misleading the review authorities with false reports [14].

5. Conclusion

National security reviews of foreign investments have become an unavoidable and complex challenge for Chinese multinational corporations in their overseas investments, affecting investment decisions, cost control, market reputation, and other aspects. In response, Chinese multinational corporations need to build a full-process legal adaptation system: conducting thorough risk assessment and prevention before investment, reducing review risks through optimized investment structures, and actively defending and communicating effectively during reviews to maximize the protection of their legitimate rights and interests. Meanwhile, the government should strengthen coordination of international investment rules and promote the establishment of more transparent and predictable review mechanisms to create a favorable environment for enterprises' overseas investments. Only through joint efforts between enterprises and the government can Chinese multinational corporations develop steadily in the complex international investment environment, enhance their global competitiveness, and contribute to the advancement of economic globalization.

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