

FACTORS FOR DETERMINATIONS UNDER § 800.1001(a) / § 802.1001(a)

In making a determination with respect to whether a foreign state has established and is effectively utilizing a robust process to assess foreign investments for national security risks and to facilitate coordination with the United States on matters relating to investment security (or that it has made significant progress toward these processes), the Committee will generally take into consideration, as appropriate, such matters as:

- (a) the extent to which the foreign state possesses legal authority to review foreign investment transactions regardless of whether the parties involved are publicly traded, privately held, or state-owned entities;
- (b) the extent to which the foreign state has in place and effectively utilizes a review mechanism for foreign investment transactions that is cross-sectoral and includes the defense industrial base, advanced technology, dual-use and military goods, network technologies, and critical infrastructure of the foreign state;
- (c) whether the foreign state possesses the legal authority to impose conditions on, prevent, or, if already consummated, unwind, foreign investment transactions to protect its national security, and the extent to which the foreign state has effectively utilized such authority;
- (d) whether the foreign state has the legal authority to obtain information concerning, and conducts a comprehensive analysis of:
 - (1) the ultimate beneficial owners of the parties to a foreign investment transaction;
 - (2) the persons with key rights relating to important matters affecting the parties to a foreign investment transaction; and
 - (3) the national security risk posed by the parties to a foreign investment transaction;
- (e) the extent to which the foreign state maintains the confidentiality of sensitive commercial information provided by the parties to transactions reviewed by the national security investment review regime of the foreign state;
- (f) the extent to which the foreign state monitors and enforces compliance by parties to a foreign investment transaction with conditions the foreign state has imposed on such transaction;
- (g) the extent to which the foreign state monitors and identifies foreign investment transactions for which the parties to such foreign investment transactions did not notify the foreign state government authorities;

- (h) whether the foreign state has in effect an arrangement with the U.S. Government to safeguard national security as it pertains to foreign investment that includes confidentiality and classification requirements regarding sensitive information shared by the U.S. Government with the foreign state;
- (i) whether the foreign state possesses the legal authority to share with the U.S. Government information important to national security analysis of foreign investment, to the extent necessary for national security purposes, and subject to appropriate confidentiality and classification requirements; and
- (j) such other factors as the Committee may deem to be appropriate regarding a foreign state's processes related to reviewing foreign investments for national security risks, generally or in connection with a specific foreign state, including the national security interests of the United States.

The above factors are provided as guidance only and do not establish any legal standard.