

State Council Regulation on Outbound Investment

国务院关于对外投资的规定

Order of the State Council of the People's Republic of China No. 837

[国务院关于对外投资的规定_对外经贸合作_中国政府网](#)

Analysis and Interpretation — Ignacio Araya

China's Premier Li Qiang signed a State Council decree promulgating new regulations on overseas investment, which will enter into force on July 1, 2026. The text was approved on April 17, 2026, at the 83rd executive meeting of the State Council and published under Order No. 837, dated May 5, 2026.

According to Xinhua News Agency, the regulations aim to promote the country's high-level opening-up and the high-quality development of its outbound investment, to protect the legitimate rights and interests of investors and their investments, and to "safeguard national sovereignty, security, and development interests."

I present below my interpretation of the scope of this regulation:

1. It is not only an economic regulation

Although the title refers to the Regulations on Overseas Investment, the text is structured around a national security logic. Article 1 already sets out among its objectives 维护国家主权、安全、发展利益 (safeguarding national sovereignty, security, and development interests), and Article 3 explicitly establishes that overseas investment must be governed by the concept of holistic national security (总体国家安全观).

However, it is important to be precise: Article 5 preserves market logic and investor autonomy (自主决策、自担风险、自负盈亏: autonomous decision-making, bearing one's own risks, and being responsible for profits and losses). For this reason, the most accurate interpretation is not that Beijing ceases to treat overseas investment as a commercial activity, but rather that it superimposes a national security layer onto an otherwise commercial framework: it is an "and," not a "replacement."

2. Formalizes the fusion between overseas investment and technological security

Article 13 is one of the most significant provisions. It prohibits the export or use of goods, technologies, services, and data whose export is either banned or subject to

restrictions without the appropriate license. It further extends this prohibition to transfers conducted through non-physical channels, including cross-border dispatch of technical personnel, relocation of personnel to work abroad, cross-border technical consulting, and overseas training of staff.

In other words, the regulation is not limited to the physical export of goods; it also encompasses knowledge transferred through people. This reflects a growing concern over technological competition with the United States and other actors.

3. Introduces a relatively discreet blocking clause

Article 22 stipulates that Chinese organizations and individuals involved in overseas arbitration, litigation, or judicial and law enforcement investigations, who are required to provide evidence or documentation outside China, must comply with regulations on state secrets, data security, personal information protection, technology export controls, export control regulations, and judicial assistance. Where required by law, they must also obtain approval from the competent authorities.

In practice, this provision may function as a mechanism to control the cross-border transfer of information and to condition the access of foreign courts, arbitrators, or authorities to certain documents and data. In disputes or regulatory investigations involving Chinese companies in Latin America, it could become as relevant as the security review regime itself.

4. Creates a security review mechanism for Chinese outbound investment

Article 15 establishes a formal security review system for outbound investment (境外投资安全审查制度). The key point is the directional shift it represents: discussions are typically centered on Western mechanisms that screen inbound Chinese investment (such as CFIUS in the United States or the European investment screening frameworks). Here, China institutionalizes a mechanism to review the investments its own firms make abroad.

While Western countries have developed tools to control the entry of Chinese capital on national security grounds, China is simultaneously developing tools to govern the outward flow of capital and investment for similar security-related reasons.

5. Contains an explicit geopolitical dimension

Articles 23, 24, and 25 are the most notable. Article 23 authorizes the Ministry of Commerce, either on its own or jointly with other competent State Council agencies, to investigate investment barriers faced by Chinese enterprises in a destination country

and, based on the findings, adjust investment policy toward that country or restrict trade in goods, technologies, or services.

Article 24 establishes that if another state adopts discriminatory measures against China, 中国政府及其有关部门可以根据实际情况采取相应的措施 (the Chinese government and its relevant departments may adopt corresponding measures). It explicitly refers to the PRC Anti-Foreign Sanctions Law (反外国制裁法) and its implementing regulations, including the mechanism of a countermeasure list (反制清单). This directly links overseas investment governance with China's broader toolkit of economic countermeasures.

Article 25 further specifies the measures that may be applied against foreign organizations or individuals: restrictions on their trade with China, on their investment in Chinese territory, and on their transactions with Chinese entities; restrictions on entry of persons, goods, and means of transport; and cancellation of work or residence permits.

6. Protects Chinese companies and citizens abroad

Articles 18, 19, and 20 strengthen risk monitoring and early warning systems (Article 18), international cooperation in law enforcement (Article 19), and consular protection (Article 20). The latter provides for assistance and evacuation arrangements in cases of war, armed conflict, civil unrest, natural disasters, serious accidents, epidemics, or terrorist attacks. This is consistent with a new reality: China now has an increasing number of citizens, assets, and investments distributed across the world.

7. Implications for Latin America

For Latin America, the most relevant provisions are likely Articles 13 (technology and data), 15 (security review), 20 (protection of citizens and Chinese interests abroad), 22 (information transfer in international litigation and investigations), and Articles 24 and 25 (responses to what are considered discriminatory measures). In projects such as submarine cables, data centers, strategic mining, telecommunications, or digital infrastructure, this regulation provides a more robust legal basis for incorporating national security considerations, technological protection, and risk management into the overseas operations of Chinese companies.

The regulation is also relevant to the debate on foreign investment screening mechanisms in Chile. While the Chilean discussion has focused on the possibility of reviewing incoming foreign investments when they may affect strategic national interests, this regulation shows that China is also developing instruments to review

certain outward investments made by its own companies abroad. Although these are different mechanisms—one focused on inbound investment and the other on outbound investment—they reflect a broader trend: international investment is increasingly understood not only as an economic issue, but also as a matter of national security.

Source: State Council of the People's Republic of China, Order No. 837 (gov.cn). Author's own analysis.

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