

China's foreign investment law may end up hindering 5G tech development

The new Chinese foreign investment law has caught a lot of positive attention. But there is one clause that could turn international political risks into business hurdles, especially for 5G infrastructure production



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The benefits of the foreign investment law

Last month, China passed a [new foreign investment law](#), which in principle means that foreign companies will receive the same treatment as their Chinese counterparts. The law will come into effect on 1 January 2020, and we think this is an attempt at appeasing the US during the ongoing trade negotiations.

So far, most media reports have focused on the benefits of the law which in theory should help foreign firms operating in China protect business secrets from 'forced' sharing requests from local governments. Another advantage is that foreign companies will have the same market entry, exit and operation standards as local Chinese companies.

However, there is a sector 'blacklist' for sectors that aren't open for foreign investment. For example, there is a complete ban on investing in fishing, gene research, religious education, news media, and television broadcasting. Additionally, only partial investment is allowed in oil and gas exploitation, nuclear power, airlines, airport operation, and public health, among other sectors.

But there is a clause that increases political risks

The law includes a clause that protects Chinese companies operating or investing in foreign countries. It says that if any country or region imposes discriminatory measures against China, then China can take similar retaliatory actions. At first glance, this might seem irrelevant for foreign companies operating in China, but it really isn't.

For example, Huawei and ZTE are two of the biggest producers of 5G components in China and also export their products to the US and Europe. Both companies were sanctioned by the US during the trade talks. If Huawei's and ZTE's 5G products cannot be exported abroad, this could be interpreted as discrimination against Chinese products, and then China may retaliate.

Therefore, we see this political risk increasingly having the potential to turn into a business risk.

The trade war is really a tech war

The foreign investment law confirms our view that the trade war targets not only goods trade but also how China grows its technology sector and that this is really a technology war.

China and the US are now discussing cybersecurity and cloud computing in their trade negotiation and how these negotiations pan out will largely affect how Chinese firms will be treated when they sell high-tech products in the U.S.

As the US continues to advocate banning the use of China made 5G products, the enforcement of the foreign investment law could become a real risk to the progress of building a 5G network globally and to China's Made in China 2025 agenda.