



PRC Laws, Policies, and Regulations: Implications for Commercial, Economic, and National Security Interests

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Abstract

The People's Republic of China (PRC) has passed a large number of laws, policies, and regulations that could have implications for US supply chains and the defense industrial base. This document provides an overview of such laws, policies, and regulations and highlights some potential implications.

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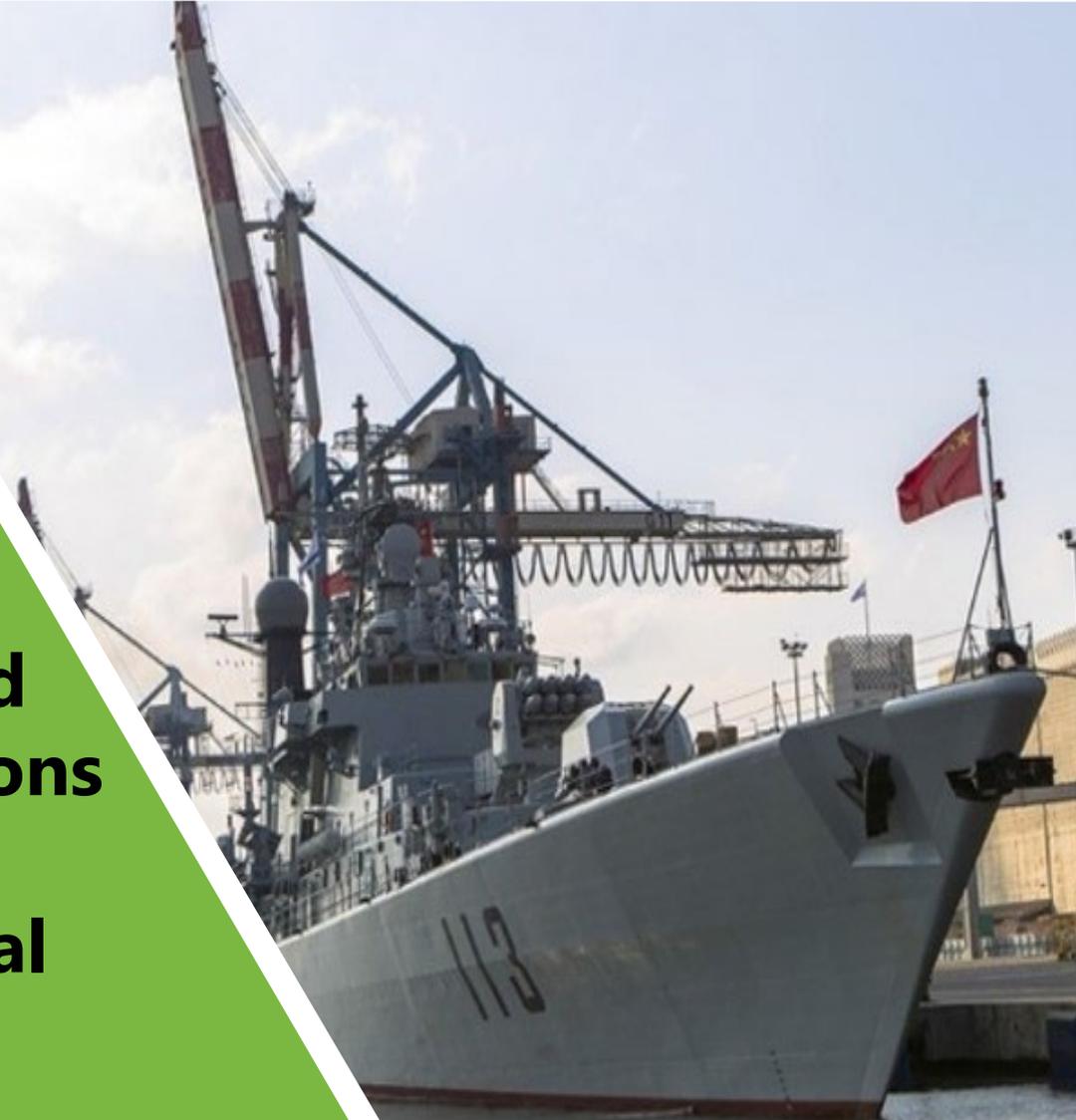
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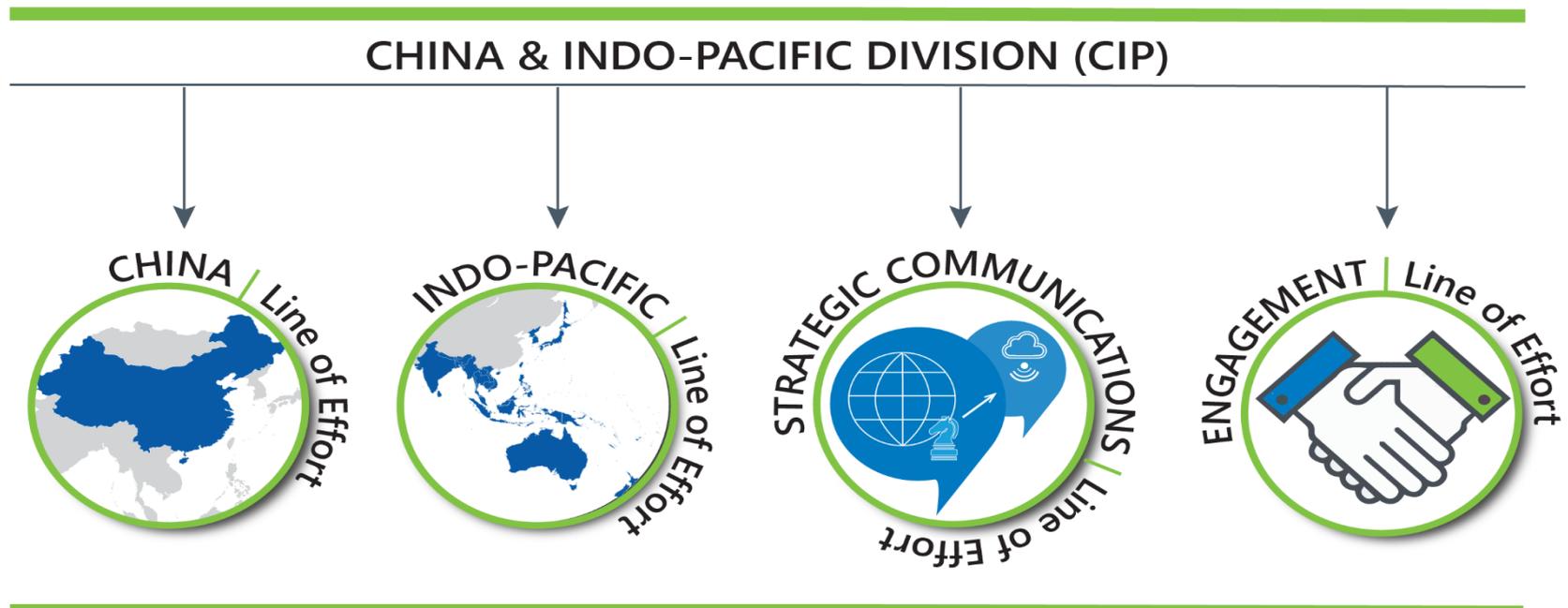


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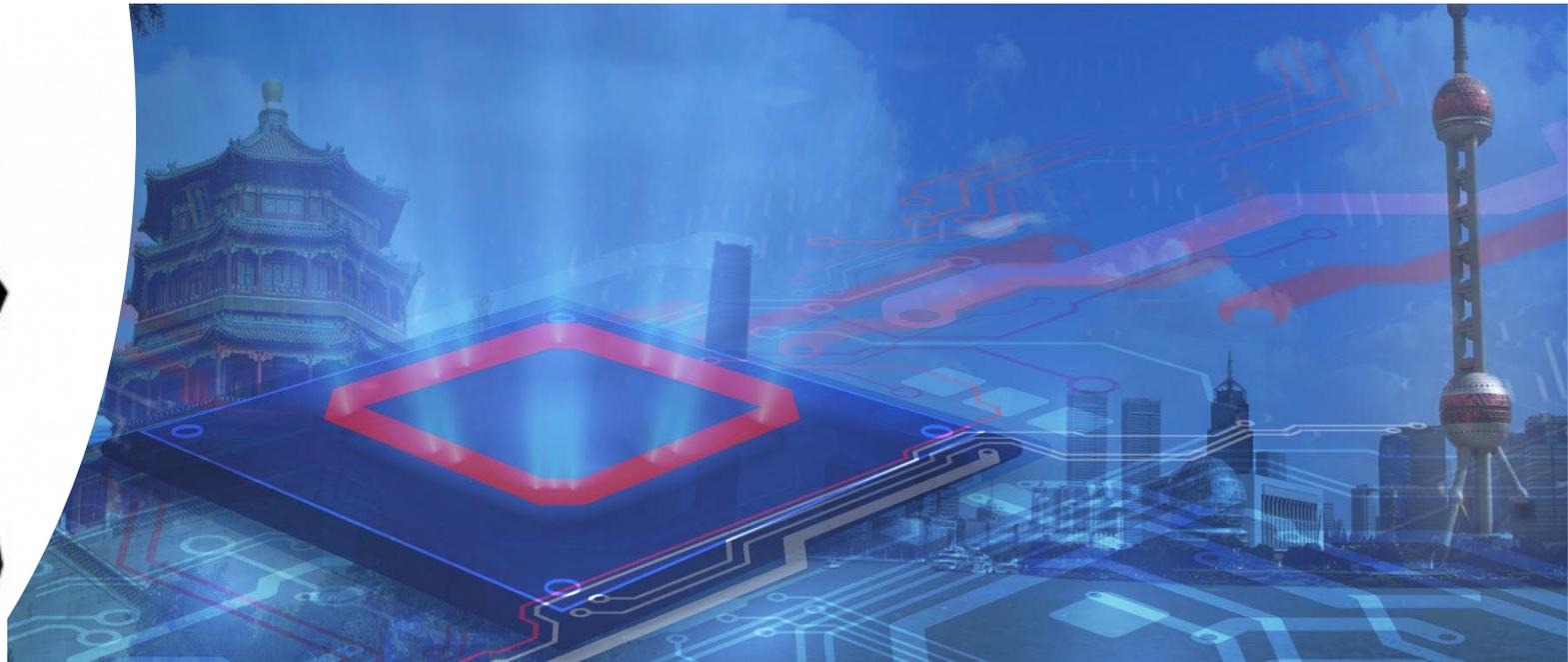
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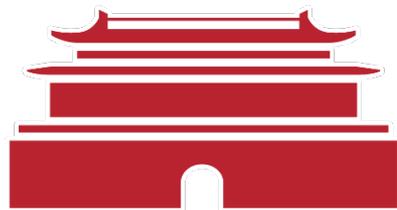
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Why should YOU care about PRC laws, policies, and regulations?



PRC laws, policies, and regulations are important tools of government control



- China has created a wide range of laws, policies, and regulations that could threaten other countries' national security, commercial, and economic interests.



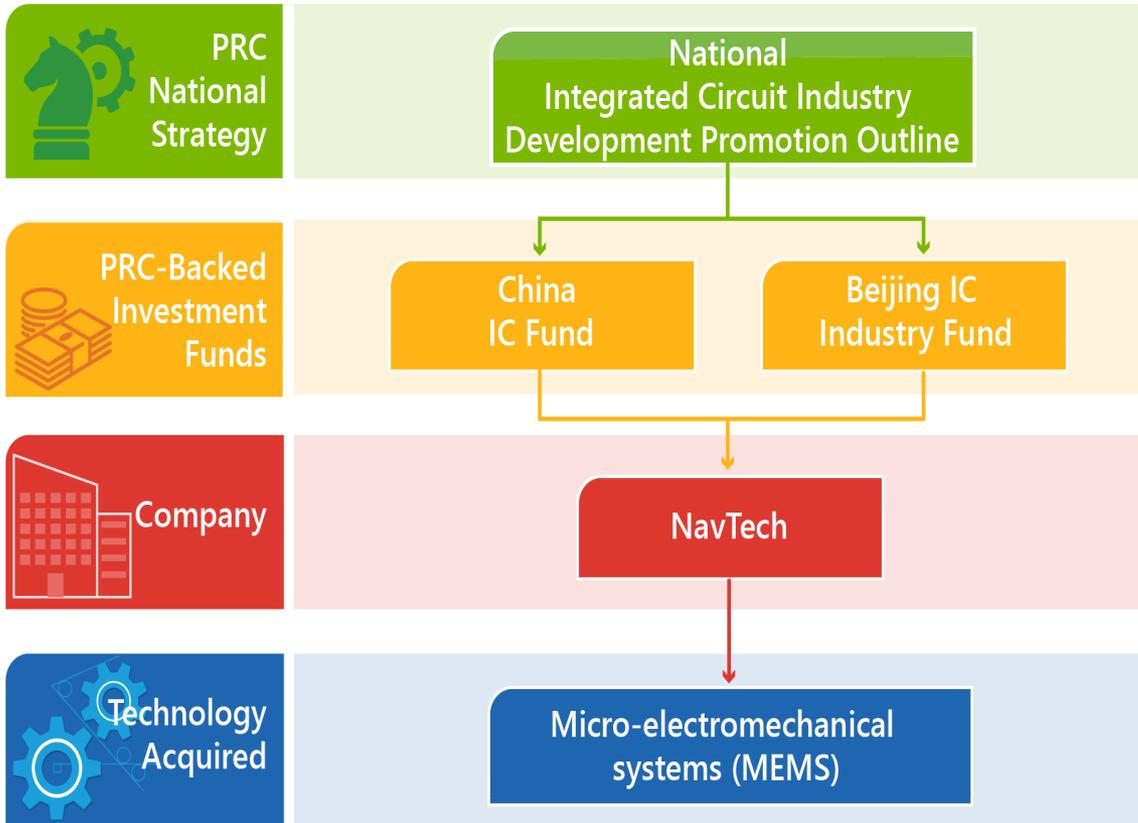
- The People's Republic of China (PRC) uses "lawfare" to improve the military capabilities of the People's Liberation Army (PLA) and gain advantages in international competition.
- How these laws and policies will be implemented is still unfolding.

Some laws are too new to assess their full implications or whether they could be applied outside of the PRC.

PRC laws, policies, and regulations could:

- Provide incentives for PRC actors to acquire specific technologies from abroad
- Allow PRC firms to evade measures by foreign countries to protect technologies
- Provide a legal foundation for the PRC government to access sensitive corporate data from foreign-owned firms
- Enable interruption of foreign countries' defense industrial base or supply chains
- Provide the PRC with tools to retaliate against foreign firms that comply with sanctions
- Provide a legal foundation to detain non-PRC citizens living in China, Hong Kong, and Macau

PRC laws, policies, and regulations direct and enable corporate behavior



Step 1: PRC government publishes official guidance.

Step 2: PRC government creates incentives.

Step 3: Investment funds provide resources to Chinese firms.

Step 4: A Chinese firm acquires a foreign firm in order to access key technology.

4 Categories of Laws, Policies, and Regulations

National security laws aim to strengthen PRC and Chinese Communist Party (CCP) control over claimed territories, people, and interests.



Military-civilian integration policies blur the line between end users of technology and outline areas for PLA capability development.



Export controls could curtail Chinese exports in key sectors for supply chains or be used to retaliate against foreign sanctions.



Investment laws and policies protect sensitive sectors, encourage investment in key technologies, and create avenues for CCP involvement in firms.



National Security-Related Laws

PRC laws passed to increase domestic security or address sovereignty concerns:

- **Domestic focused**
 - E.g., National Security Law (2015), Biosecurity Law (2020)
- **International security related**
 - E.g., National Intelligence Law (2017), Counter-Espionage Law (2014)
- **Data related**
 - E.g., Data Security Law (2021), Cryptography Law (2019)



Poster advertising the enactment of the National Security Law in Hong Kong, June 2020

How might these laws affect foreign commercial interests?

For example: Data-related laws could require that foreign companies operating in China hand over proprietary data to the PRC government. Depending on how China chooses to apply these laws, some could have extraterritorial jurisdiction.

Military-Civilian Integration (MCI) Policies

- The PRC government tasks civilian institutions with conducting dual-use research to improve specific military capabilities



- Key policies:
 - Made in China 2025 (2015)
 - Special Plan for Science & Technology Innovation in the Ocean Realm (2017)
 - Promoting the Development of MCI in the National Defense Technology Industry (2017)
 - National Defense Transportation Law (2016)

Made in China 2025 Focus Areas

Advanced manufacturing	Information technology (digitalization)
Machinery and robotics	Aerospace equipment
Oceanographic engineering equipment	New materials

Export Control Laws and Policies

- The 2020 Export Control Law establishes a national-level, comprehensive legal framework to control exports, replacing the PRC's previous piecemeal system.
- Regulatory changes could limit certain strategic commodities from export, such as rare earth elements.
- It is unclear whether China will alter its defense exports based on the Export Control Law, especially for technologies restricted by US and European policies.



Investment Laws and Policies

- The Revised Company Law (2018) provides a mandate for all PRC enterprises to establish and maintain a CCP cell.
- The Investment Law (2019) is *meant* to streamline regulations for foreign firms, but implementation varies.
 - Encourages investment in strategic sectors within China to attract foreign firms.
 - Promotes PRC outbound foreign direct investment into key technology areas abroad.



What's next?

- **Legal and regulatory directives enhance the CCP's role in the commercial sector**, creating new channels for CCP influence over firms, economic sectors, and supply chains.
- **China's 14th Five-Year Plan** (issued in 2021) updates the PRC's technology, defense, and industrial priorities.
 - Shapes how PRC actors do business with foreign firms.
- **How will these policies be implemented?**
 - Newness and vague wording means that we do not yet know *how* PRC government actors will apply these guidelines.

Questions?



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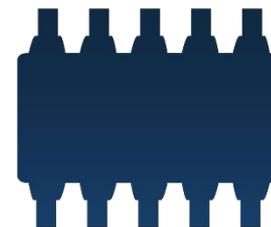
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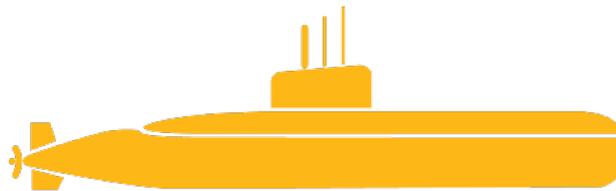
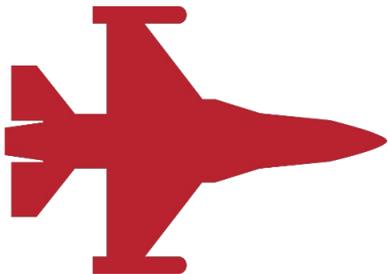
National Security–Related Laws

- Domestic focused
 - Law on Safeguarding National Security in the Hong Kong Special Administrative Region (2020)
 - Biosecurity Law (2020)
 - National Security Law (2015)
- International security related
 - National Intelligence Law (2017)
 - Counter-Terrorism Law (2015)
 - Counter-Espionage Law (2014)
- Data related
 - Data Security Law (2021)
 - Cryptography Law (2019)
 - Cybersecurity Law (2016)



Military-Civilian Integration Policies

- Catalog for the Promotion of Military Technology Transfer to Civilian Use (updated annually)
- State Council Opinion on Promoting the Deepening Development of Military-Civilian Integration in the National Defense Technology Industry (2017)
- New Special Plan for Science and Technology Innovation in Ocean Realm (2017)
- National Defense Transportation Law (2016)
- Made in China 2025 (2015)





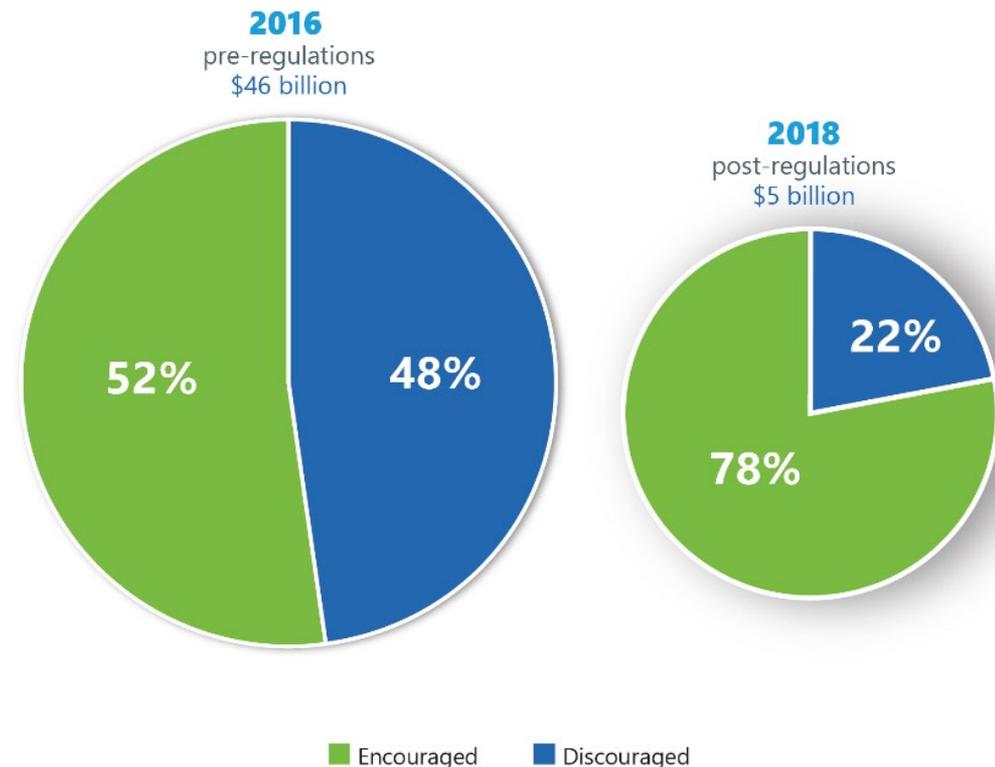
Export Controls

- PRC Ministry of Commerce Order #1 of 2021 on Rules on Counteracting Unjustified Extra-Territorial Application of Foreign Legislation and Other Measures (2021)
- PRC Ministry of Commerce Order #4 on Provisions of the Unreliable Entity List (2020)
- Export Control Law (2020)
- Catalog of Technologies Prohibited or Restricted from Export (revised 2020)
- Regulation on Technology Import and Export Administration of the PRC (revised 2019)
- Catalog of Technologies and Products Encouraged for Import (revised 2016)

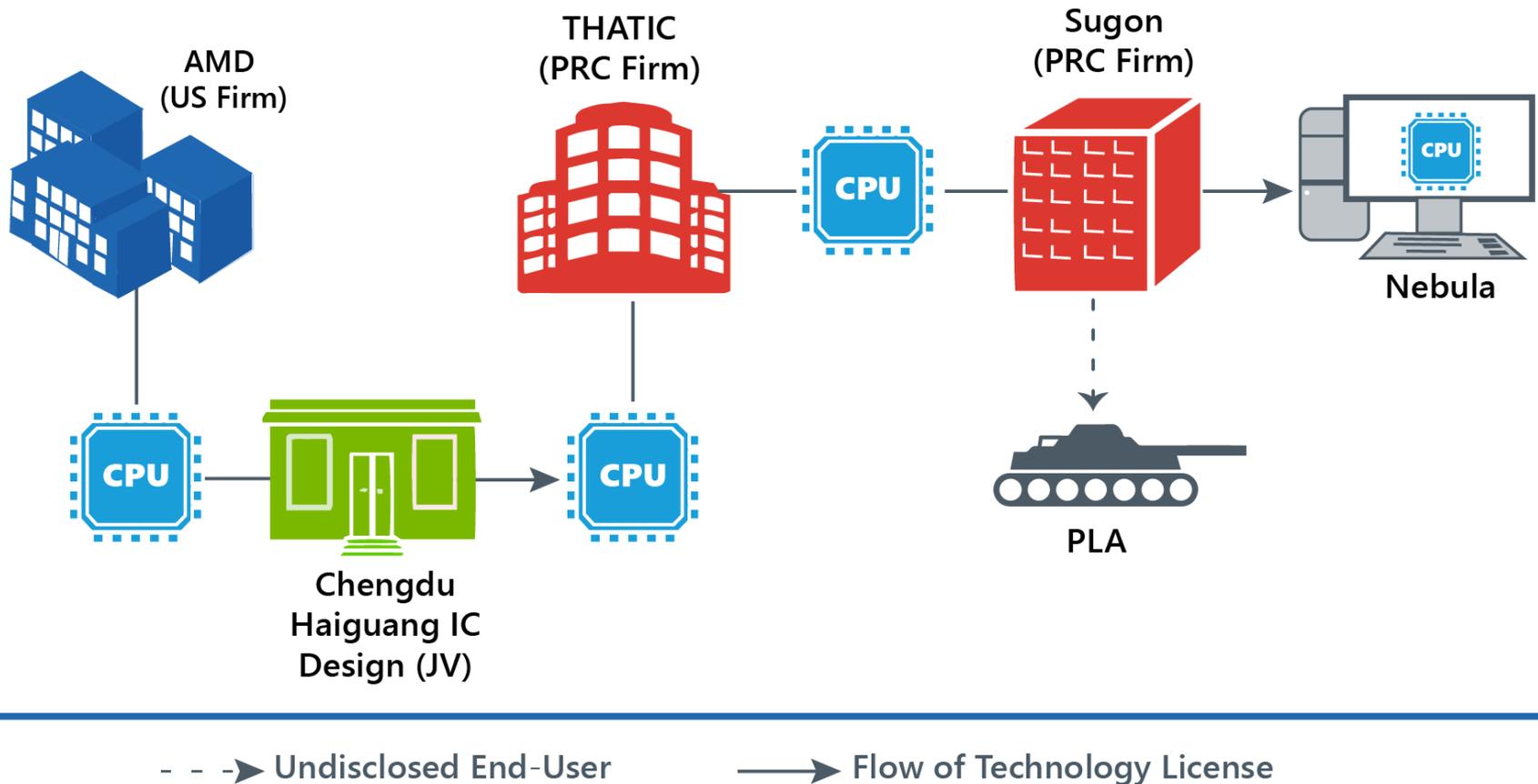
Investment Policies



- Catalog of Industries for Encouraging Foreign Investment (annual)
- Foreign Investment Law (2019)
- Company Law (revised 2018)
- Guiding Opinions on Further Guiding and Regulating Overseas Investment (2017)
- Measure for the Administration of Outbound Investment by Enterprises (2017)



PRC foreign investments may obfuscate end users



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