

China's Development Plan for the Utilization of Foreign Capital during the 14th Five-Year Period: Prospects and Analysis

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On October 22, 2021, the Ministry of Commerce of the People's Republic of China (PRC) promulgated the Development Plan for the Utilization of Foreign Capital during the 14th Five-Year Period. The plan has attracted wide attention from investors and scholars at home and abroad. The global economic recovery is full of unpredictable challenges due to the spread of Covid-19, so absorbing foreign investment is critical to the economic development in most countries. The plan was based on the 14th Five-Year Plan for National Economic and Social Development and the Outline of Long-term Objectives for 2035. China is changing the direction of attracting investment from manufacturing industry to service industry. This article discusses China's current utilization of foreign capital and analyzes the newly promulgated plan, including its key features, overall objectives, and basic tasks. It also examines the opportunities and challenges China faces in its future utilization of foreign capital.

Keywords: 14th Five-Year Period, Foreign Capital, Pilot Free Trade Zones, Negative List of Market Access

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I. INTRODUCTION

As the first official foreign capital utilization plan promulgated by the People's Republic of China (PRC) government on October 22, 2021, the Development Plan for the Utilization of Foreign Capital during the 14th Five-Year Period (hereinafter Plan for Utilization of Foreign Capital) has attracted wide attention from investors and scholars at home and abroad.¹ The utilization of foreign capital is an important part of China's basic national policy of opening to the world. The PRC government has made important arrangements to stabilize foreign capital for four consecutive years. During the 14th Five-Year Plan for National Economic and Social Development (2021-25), China has been and will be accelerating the construction of a new development pattern with domestic circulation as the main body and domestic and international double circulation promoting each other. The promulgation of this plan in such a challenging period indicates China's firm determination to absorb and utilize foreign direct investment (FDI) with greater openness. For this reason, overseas investors have given much attention to the plan.

The primary purpose of this research is to analyze the current situation in the utilization of foreign capital in China and the opportunities and challenges in this field by expatiating the key points in the new promulgated plan. This paper is composed of current situation analysis, objectives and key tasks of utilizing foreign capital during the 14th five-year plan period, measures for the accomplishment of the plan, and chances and challenges for China's future utilization of foreign capital.

II. CHINA'S CURRENT UTILIZATION OF FOREIGN CAPITAL

The utilization of foreign capital is a crucial segment of China's basic national policy of opening to the world. As an important market entity, foreign-funded enterprises, accounting for only about 2 % of the total enterprises in China, have created nearly two-fifths of the country's foreign trade, one-sixth of its tax revenue, and one-tenth of its urban employment.² Thus, FDI has made important contributions to building a moderately prosperous society in China.³

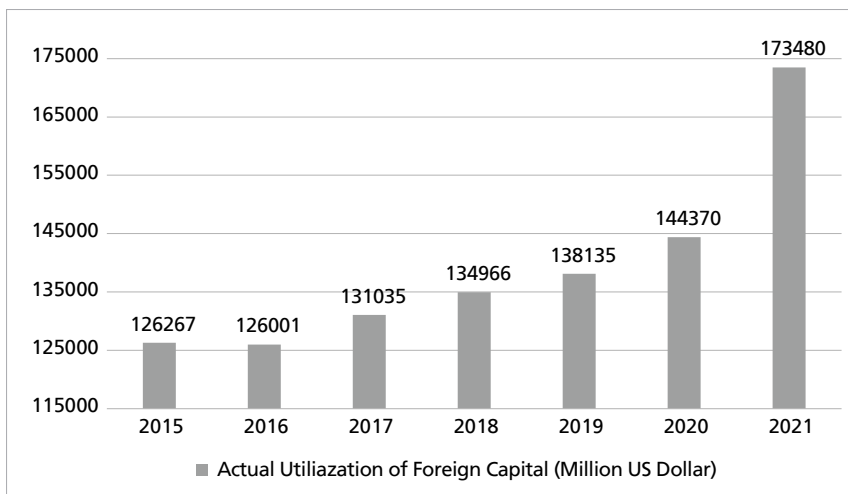
During the 13th Five-Year Plan for Economic and Social Development (2016-20)

(13th Five-Year Plan) period, China achieved positive results in utilizing foreign capital. The newly established foreign-funded enterprises and the actual use of FDI in China increased by 61.8 % and 10.4 %, respectively, compared to the 12th Five-Year Plan for National Economic and Social Development (2011-15) (12th Five-Year Plan) period.⁴ China’s utilization of FDI in global total transnational investment increased from 6.7% in 2015 to 15% in 2020.⁵ In 2017-20, China was the world’s second-highest FDI recipient for four consecutive years.⁶ More than 1.04 million foreign-invested enterprises (FIEs) were established with more than USD 2.4 trillion of FDI.⁷

In accordance with the deployment of the Central Committee of China and the State Council on stabilizing the foreign trade and investment⁸ and the policy of “Six stabilities”⁹ and “Six guarantees,”¹⁰ the PRC Ministry of Commerce, together with relevant regions and departments, has solidly promoted the work.

The scale of foreign investment attraction in China has achieved double-digit growth. According to data from the Ministry of Commerce, in 2021, the actual use of FDI in China was RMB 1,149.36 billion, a year-over-year (YOY) increase of 14.9 % (equivalent to USD 173.48 billion, a YOY increase of 20.2%, excluding banking, securities, and insurance).¹¹ This is the first double-digit growth in 10 years.¹²

Figure 1: China’s Actual Utilization of Foreign Capital from 2015 to 2021¹³



Source: Ministry of Commerce, PRC

Foreign Investment attraction in manufacturing and service industries has reached a new level. In 2021, the actual use of FDI in the service industry was RMB 906.49 billion, a YOY increase of 16.7 %. The actual use of FDI in high-tech industries increased by 17.1 % YOY, including 10.7 % in high-tech manufacturing and 19.2 % in high-tech services.¹⁴

The supporting role of foreign capital in large projects has been strengthened. According to the PRC Ministry of Commerce, in the first three quarters of 2021, the number of newly established major projects with foreign capital and the foreign capital increase contract of more than USD 100 million reached 899, a YOY increase of 56.6 %.¹⁵ Several landmark major projects, including ExxonMobil Chemical in Huizhou, Guangdong Province, SK New Energy in Yancheng, Jiangsu Province, GAC Fiat Chrysler in Changsha, Hunan Province, and Costco Supermarket in Shanghai, have been implemented or increased in capital.¹⁶

The opening platforms are playing prominent roles in attracting FDI. For example, the utilization of foreign capital in 21 pilot free trade zones (FTZs) and Hainan Free Trade Port increased by 31.9 % and 386%, respectively, YOY.¹⁷ The utilization of foreign capital in state-level economic and technological development zones increased by 20.7% YOY.¹⁸ Since 2021, the Chinese government has vigorously promoted the promulgation and implementation of the Hainan Free Trade Port Act.¹⁹ Four pilot FTZs (Tianjin, Shanghai, Hainan, and Chongqing) were added to expand the opening of service industries,²⁰ and 13 state-level economic and technological development zones were established.²¹ In addition, major exhibition platforms such as China International Import Expo,²² China International Fair for Investment and Trade,²³ China International Fair for Trade in Services,²⁴ and Central China Investment and Trade Expo played significant roles in attracting FDI.²⁵

Since the outbreak of Covid-19, the production network system has been adjusted. As the world's second-largest economy and a manufacturing power, China has gradually grown into a large consumer and innovation power. Eight new industrial bases have been built in China, and more business segments, such as cold chain equipment production and sales, have been transferred to China. Homma Tetsuro, global vice president of Panasonic, said that Panasonic has nearly 9,000 research and development personnel in China, and products for the Chinese market rely more on the development of Chinese teams.²⁶

A forecast report by international accounting firm KPMG shows that China's

FDI is highly attractive and expected to remain high in 2022.²⁷ On February 15, 2022, the PRC Ministry of Commerce released the report card on foreign capital absorption and utilization in January 2022. According to the data, the actual use of FDI in China in January 2022 was RMB 102.28 billion, a YOY increase of 11.6% (equivalent to USD 15.84 billion, a YOY increase of 17.6%, excluding banking, securities, and insurance).²⁸ Peng Bo at the Research Institute of the Ministry of Commerce said that the double-digit growth rate in the beginning of 2022 was very impressive. This achievement was based on RMB 1,149.36 billion in 2021, a YOY increase of 14.9% (equivalent to USD 173.48 billion, a YOY increase of 20.2%), which shows the continuous attraction of foreign capital in the Chinese market. During the deployment of economic work in 2022, the Central Economic Work Conference²⁹ sought to expand high-level opening-up; promoted institutional opening-up; implemented the national treatment of foreign-funded enterprises; attracted more FDI from multinational corporations; and accelerated the implementation of major foreign-funded projects.³⁰

III. CHINA'S OVERALL OBJECTIVES OF UTILIZING FOREIGN CAPITAL DURING THE 14TH FIVE-YEAR PLAN PERIOD

According to the Plan for Utilization of Foreign Capital, during the 14th Five-Year Plan period, China's level of utilizing foreign capital would reach the forefront of the world.³¹ The structure of utilizing foreign capital would be optimized continuously. As the linkage with FDI, foreign trade, and consumption will be further strengthened, China should play a more positive role in promoting the domestic economic cycle and linking the double cycle from the domestic and international levels.³²

The Plan for Utilization of Foreign Capital puts forward a series of quantitative indicators. The cumulative amount of utilizing FDI is expected to reach USD 700 billion. By 2025, the proportion of foreign capital absorbed by high-tech industries will reach 30%, and the proportion of foreign capital absorbed by FTZs and the Hong Kong Special Administrative Region will reach about 19%.³³ The plan also looks toward 2035, when China plans to have higher comprehensive competitive advantages in attracting FDI, improving the level and quality of foreign investment

significantly; constructing a world-class business environment; becoming the main destination of transnational investment; and building an innovative and high-end manufacturing center in East Asia.³⁴

IV. KEY TASKS OF UTILIZING FOREIGN CAPITAL DURING THE 14TH FIVE-YEAR PLAN PERIOD

A. Promoting the Opening Level to a Higher Degree

Currently, the Special Administrative Measures for Foreign Investment Access (Negative List) in national-level and pilot FTZs have been revised for five consecutive years.³⁵ The newest version of the Negative Lists (2021 version) in pilot FTZs was promulgated on December 27, 2021, which took effect on January 1, 2022.³⁶ The national restrictions on FDI access have been reduced to 31, and the restrictions on pilot FTZs have been reduced to 27.³⁷

The main changes in the Negative List (2021) include the deep opening of the manufacturing industry. In the future, the restrictions on the share ratio of foreign investment will gradually be relaxed, and foreign shareholding or sole proprietorship will be allowed in more fields. In the areas outside the negative list, the “entry if not prohibited” standard is strictly implemented in accordance with the principle of consistency between domestic and foreign investment.³⁸

The key areas for FDI should be further relaxed, including the relevant businesses in telecommunications, the Internet, education, culture, and medical treatment, personnel qualification, and other requirements in FDI laws, transportation, and other industries. It is expected for China to steadily promote banking, securities, insurance, funds, forward, and other financial fields.³⁹

Market access restrictions are going to be reduced. These include the timely adjustment of the laws, regulations, rules, normative documents, and various administrative approvals related to market access based on the adjustment of the negative list of market access.⁴⁰

B. Optimizing the Structure of Foreign Capital Utilization

By regularly improving the Catalogue of Industries to Encourage Foreign Investment,⁴¹ further support should be given to encourage FDI in more advanced

manufacturing, strategic emerging industries, and modern service industries. This structural change has appeared in some key areas. According to the PRC Ministry of Commerce, from the perspective of the industrial structure, in 2021, the actual use of FDI in the service industry was RMB 906.49 billion, a YOY increase of 16.7%. The actual use of FDI in the high-tech industry increased by 17.1% YOY, including 19.2% in the high-tech service industry and 16.7% in the high-tech manufacturing industry.⁴²

In terms of regional distribution, in 2021, the utilization of foreign capital in the eastern, central, and western regions increased by 14.6%, 20.5%, and 14.2%, respectively.⁴³ In light of the current imbalance of regional development in China, the plan puts forward the following measures: (1) consolidate the leading position of the eastern coastal areas in the opening-up process; (2) expand the scope of FDI in the central and western regions and Northeast China and promote the construction of industrial supporting systems of those areas; and (3) encourage foreign capital to actively participate in China's major regional strategies.

In 2021, investments from countries along the Belt and Road Initiative (BRI) increased by 29.4%, and investment from ASEAN countries increased by 29%.⁴⁴ China will also strengthen investment cooperation with Europe, America, and other regions and guide FIEs to extend their layout along the upstream and downstream of the supply chain. In addition, efforts should be made to attract important investment to strategic emerging industries, green industries, digital economy, intelligent manufacturing, scientific and technological innovation, and other emerging fields. Furthermore, cooperation between countries along the BRI should be deepened, and Saudi Arabia's sovereign wealth fund actively guided to increase investment in China. Then, the complementary advantages of the Regional Comprehensive Economic Partnership (RCEP) should be strengthened.⁴⁵

C. Strengthening the Function of Opening Platform

Pilot FTZs are quite important platforms for foreign investment. The capital will be encouraged to invest in integrated circuits, digital economy, new materials, biomedicine, high-end equipment, modern logistics, and other industries. The plan also strengthens the innovation of offshore trade business and expands the development space of FIEs.⁴⁶

Chinese government is encouraging multinational corporations to set up

their international and regional headquarters in Hainan Free Trade Port. Foreign investors can invest in characteristic industries in the region, such as tourism, the modern service industry, and the high-tech industry.⁴⁷ With the assistance of the Boao Forum for Asia as an international exchange platform,⁴⁸ China will further promote cooperation with other countries and regions along the BRI.

On January 31, 2019, the State Council issued the Comprehensive Pilot Work Plan for Comprehensively Promoting the Expansion and Opening up of Beijing's Service Industry.⁴⁹ The plan emphasized support for more FDI in science and technology services, digital economy, Internet, and finance and allowed well-known overseas arbitration and dispute resolution institutions to provide arbitration services in Beijing. Beijing will base the development upon its strategic positioning of "four centers" to build a comprehensive demonstration area for expanding and opening the national service industry.⁵⁰ A "1+n" demonstration pilot layout will be formed to support other pilot areas to keep their strategic positioning;⁵¹ carry out differentiated exploration; and accelerate the development of the modern service industry.

National economic and technological development zones are located primarily in central cities, such as provincial capital cities and autonomous regions. By the end of 2021, the Chinese government had approved the construction of 232 national economic and technological development zones. The plan emphasizes that during the 14th Five-Year Plan period, China will accelerate the process of opening-up and innovation in these regions. Local governments in these regions will be further empowered to improve their administrative efficiency.⁵² Environmentally friendly green industries, low-carbon transformation, energy conservation, emission reduction, carbon peaking, and carbon neutralization are prioritized in the 14th Five-Year Plan period.⁵³

The final sub-plan is to develop the level of border (cross-border) economic cooperation zones including a high-level platform building to integrate border trade, processing and manufacturing, production services, and logistics procurement.⁵⁴

D. Improving the Service Level of Foreign Investment Promotion

Public service systems are important for the improvement of the service level for foreign investment. So, local governments need to optimize their service platforms in order to summarize and publish laws and regulations related to foreign investment,

and provide information consultation, project docking, and other services for FIEs. Furthermore, investment promotion institutions and business associations need to play more important roles to strengthen communication with foreign businessmen to help them solve difficulties in project investigation, negotiation, and contract signing. Guidelines for Foreign Investment need to be updated timely and the government will encourage all localities to regularly prepare and publish guidelines for FDI in their own regions.⁵⁵

On November 10, 2021, the fourth China International Import Expo closed in Shanghai. The Expo attracted more than 600 enterprises from 50 countries, with a cumulative intended turnover of USD 70.72 billion.⁵⁶ The plan also proposes to organize “local travel of multinational corporations” activities and build a platform for multinational corporations to exchange information, industry cooperation, and project docking with local governments.⁵⁷

The plan calls for constructing multilateral and bilateral investment cooperation mechanisms and various investment promotion activities during the 14th Five-Year Plan period.⁵⁸ During the annual meeting of the Boao Forum for Asia, Haikou International Investment Promotion Bureau organized units and departments in the city to connect 42 participating enterprises and signed 56 projects, with a total investment of RMB 40.057 billion.⁵⁹ The Chinese government will officially promote multilateral negotiations, global investment, and financing activities on cooperation platforms such as G20, Shanghai Cooperation Organization (SCO), RCEP, and BRICS.

E. Improving the Management System of Foreign Investment

More than two years have passed since the Foreign Investment Law (FIL) entered into force in China.⁶⁰ The laws, regulations, and normative documents which are inconsistent with the FIL will be abolished or reformed. Chinese government has been consolidating and implementing the policy of the “decentralization, supervision and service” in FDI. During the 14th Five-Year Plan period, the policy should play more significant role.⁶¹ In order to improve the related legal framework, the management system of pre-admission national treatment plus Negative List need to be regularly optimized and the restrictions not included in the list should be cleaned up timely.⁶²

At the level of supervision, the plan specifies the need to improve the FDI

information reporting system, optimize the data reporting process, strengthen the supervision and inspection mechanism, and ensure timely, accurate, and complete information reporting and disclosure.⁶³

F. Optimizing the Foreign Investment Environment

Fair treatment to foreign investment is vital to the business environment. The Chinese government is putting forward offering FIEs the equal right to apply various support policies and the opportunity to obtain production factors such as talents, funds, and land. FIEs may equally participate in formulating national, industrial, local, and group standards. The improvement in fairness of administrative enforcement can ensure the equal treatment of the domestic and foreign-funded enterprises.⁶⁴

In order to protect the legitimate right and interests of foreign investors, Chinese government is going to implement the Measures for Complaints from FIEs to handle their complaints from FIEs in a timely manner.⁶⁵ A punitive compensation system for intellectual property (IP) infringement will be implemented during the 14th Five-Year Plan period, which can strengthen the protection of trade secrets and crack down on IP infringement.⁶⁶ China should further promote IP arbitration and mediation, explore diversified IP dispute resolution mechanisms, and effectively protect the IP rights of FIEs.

The plan stipulates that it is necessary to establish and improve the tracking service mechanism and linkage guarantee mechanism for key foreign-funded enterprises and projects, and coordinate and solve the difficulties reflected by foreign-funded enterprises.⁶⁷ The plan also puts forward the improvement of mechanism for responding to major public emergencies; promote the cross-border exchanges of personnel and materials of FIEs and ensure normal production and operation of the enterprises.⁶⁸

G. Promoting Investment Liberalization and Facilitation

The plan stipulates that the World Trade Organization (WTO) should be maintained as the main channel of global trade and investment, and necessary reform should be supported to promote the multilateral system to keep pace with the times.⁶⁹ Multilevel cooperation with international organizations and global platforms such as UN, G20, BRICS should play important role during the discussion of rules on new investment topics and provide solutions for the interests of developing

countries. Furthermore, international investment dispute settlement mechanism is also emphasized as a key point of establishing a new types of international trade relations.⁷⁰

Beside the implementation of the RCEP, the Chinese government is actively promoting its accession to the Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP) in order to construct high-standard international investment rules.⁷¹ At the same time, bilateral investment agreements with relevant countries and regions on economic cooperation are also important to attract foreign capital.⁷²

V. SAFEGUARD MEASURES FOR THE UTILIZATION OF FOREIGN CAPITAL

A. Strengthening the Policy Support System

Meeting the common demands of FIEs and improving relevant policy measures are necessary for China to attract special funds for foreign economic and trade development, guide all localities to continuously optimize the foreign investment environment, and improve the public service level of foreign investment.⁷³ In terms of the production and operation activities of FIEs, the implementation time shall be reasonably set to improve the predictability of the policies.⁷⁴

1. Improving the Talent Training System

In terms of the foreign capital personnel, a foreign investment talent team is going to be set up during the 14th Five-Year Plan period, and a better environment for foreign investment talent can be constructive for the progress of the investment attraction. General training materials need to be compiled and multilevel business training activities need to be widely carried out during the period.⁷⁵

2. Optimizing the Statistical System of Foreign Investment

The plan covers the revision of the foreign investment statistical investigation system. Different government departments need to strengthen data exchange and information sharing, broaden data sources, and improve the ability of multi-source data fusion and comprehensive analysis. At the same time, the construction of the

foreign capital statistics platform is going to be further optimized including system functions, security protection and early warning monitoring.⁷⁶

3. Strengthening the Organization and Implementation of the Plan

The plan points out that local competent commercial departments should connect and coordinate relevant plans, decomposing planning objectives and tasks; implementing planning implementation responsibilities; and forming joint efforts. China will improve the monitoring and evaluation mechanism for implementing the plan. If there are major changes in the international and domestic environment, the objectives of the plan may be adjusted in accordance with relevant procedures and regulations.

VI. CHALLENGES AND OPPORTUNITIES FOR CHINA'S UTILIZATION OF FOREIGN CAPITAL

A. Will China's Utilization of Foreign Capital Encounter a Ceiling?

Some investors found that the target of utilizing foreign capital during the 14th Five-Year Plan period was USD 700 billion.⁷⁷ However, the actual use of FDI during the 13th Five-Year Plan period was already close to USD 700 billion.⁷⁸ Does this mean that China's utilization of foreign capital is facing a ceiling?

In terms of figures alone, the scale of China's utilization of foreign capital during the 14th Five-Year Plan period will not change much, but in terms of horizontal comparison, China is still a "top student" in the utilization of foreign capital. Due to the Covid-19 and trade unilateralism, major economies worldwide, including China, are facing problems of shrinking foreign capital and declining liquidity. A recent UN Conference on Trade and Development (UNCTAD) report shows that FDI fell dramatically in 2020 during the Covid-19 crisis.⁷⁹ However, as one of the major economies that have maintained economic growth, China realized the use of foreign capital of RMB 999.98 billion, equivalent to USD 144.37 billion, an increase of 4.5% against the trend in 2020.⁸⁰

B. "Entry and Exit" Conforms to the Law of Market Economy

Recently, foreign-funded enterprises shut down their businesses in China or moved

out of the country. Zong Changqing, director of the Foreign Investment Department of the PRC Ministry of Commerce, responded that China's market is open, and the "entry and exit" of foreign-funded enterprises every year is a normal market behavior in line with the market law and a manifestation of investment liberalization and facilitation.⁸¹ According to Zong Changqing, some enterprises closed their factories in China because their products no longer have competitive advantages in the market. While some have transferred investment in labor-intensive fields abroad and increased investment in technology-intensive fields in domestic enterprises, thereby optimizing their global layout. Other enterprises have left the Chinese market for reasons such as cost.⁸²

Actually, foreign capital has not withdrawn from China on a large scale. On the contrary, it has been flowing and accelerating steadily in 2021.⁸³ The underlying reasons include the irreversible trend of economic globalization and the relocation of manufacturing enterprises to developed countries not in line with economic interests. Either, no other developing country can undertake industries transferred from China on a large scale within a short time.⁸⁴

India's GDP in 2021 was USD 3.17 trillion, only about 18 percent of China.⁸⁵ Vietnam had a GDP of only USD 362.64 billion in 2021, almost 2 percent of China's GDP.⁸⁶ Therefore, although some foreign-funded enterprises have moved from China to India and Vietnam, the proportion is low. Covid-19 has made multinational companies paying more attention to the importance of industrial chain security while pursuing profit maximization.

In the first three quarters of 2021, 36,000 FIEs were established in China, with a YOY increase of 36.5%, the highest growth in the same period in recent 20 years except for 2018. At the regular press conference of the Ministry of Commerce held on December 30, 2021, Mr. Gaofeng, the press spokesman, mentioned that from January 2021 to November 2021, the number increased to 43,370, with a YOY increase of 29.3%.⁸⁷ In comparison, the newly established Japanese-funded, Korean-funded, American-funded, and European-funded enterprises increased by 32.1%, 31.6%, 30.2%, and 28.9%, respectively. In terms of industries, manufacturing and service industries increased by 24.1% and 30.1%, respectively, while high-tech industries increased by 25.4%, accounting for 28% of newly established foreign-funded enterprises.⁸⁸ According to a recent survey by the Ministry of Commerce, 99% of more than 3,000 key foreign-funded enterprises have no plans to reduce or

withdraw their capital from the Chinese market.⁸⁹

Overall, the Chinese market has maintained a strong attraction for FDI for development in China.⁹⁰ According to the National Bureau of Statistics, although hit by the spread of Covid-19 in 2020, the total profit of large industrial enterprises reached RMB 1.8 trillion, increased by 7% from the previous year, which is 2.9 % percentage points above the national average.⁹¹ At the same time, foreign investment expectations and confidence in China have remained stable.

In the future, China will set higher and stricter requirements in selecting foreign-funded enterprises. In this course, the number of small enterprises entering the Chinese market may decrease, while the number of large and medium-sized enterprises entering will increase.

C. Seize the New Opportunity to Utilize Foreign Capital

At the domestic market, China has turned to a high-quality development stage constructing a new development pattern. In 2021, China's GDP increased by 8.1% over the previous year. The economic growth rate ranked ahead of the major economies, and the total economic output reached RMB 114.4 trillion. Converted at the annual average exchange rate, the amount reached USD 17.7 trillion, ranking second in the world and accounting for more than 18% of the global economy.⁹² The per capita GDP is RMB 80,976, reaching USD 12,551 at the annual average exchange rate.⁹³ At the end of 2021, China's foreign exchange reserve balance was USD 3,250.2 billion, ranking first in the world.⁹⁴

According to the World Bank forecast, the global economic growth rate in 2022 is expected to be 4.1%, 0.2% lower than the previous forecast. The number will further slide down to 3.2% in 2023.⁹⁵ Against the backdrop, the World Bank predicts that China's economy would grow by 5.1% in 2022. Its report also pointed out that despite global challenges such as supply chain bottlenecks, China's manufacturing activities remained stable and export growth accelerated.⁹⁶

To meet the new needs of China's high-quality development, foreign investment will be increasing in high-tech industries which will transform and upgrade the industrial structure in China. In 2021, high-end industries was rapidly developing in semiconductors, new energy vehicle power batteries and vehicle ceramic capacitors in Tianjin and Xi'an.

If economic globalization trend will continue, a new round of technological

revolution is coming and new industries models are emerging with the digital economy and green industry based on foreign capital.

D. Responding Actively to New Challenges in Utilizing Foreign Capital

The global economic recovery is facing great pressure due to the intertwined influence of the world's centennial changes and the Covid-19 pandemic. According to the prediction of UNCTAD, it will be difficult for global transnational investment to achieve rapid growth in 2022.⁹⁷ Chen Chunjiang, director of the Foreign Investment Management Department of the Ministry of Commerce, has stated:

Despite the challenges, China has a good foundation for economic development and epidemic prevention and control. China has favorable conditions such as complete industrial supporting facilities, complete infrastructure and abundant human resources. China also has a strong attraction to foreign investment from the super large-scale market and the overall expectation of foreign investment in China is good.⁹⁸

The reports from major foreign chambers of commerce show that China would remain one of the main investment destinations of multinational corporations.⁹⁹ For example, the 2021-22 business confidence survey report released by the German Chamber of Commerce in China shows that enterprises in China are full of confidence in the growth of the Chinese market, 71% of which thus plan to continue to increase investment there.¹⁰⁰ The 24th business environment survey report launched by the American Chamber of Commerce in China and Price Waterhouse Coopers points out that although affected by factors such as the Covid-19, nearly 60% of the enterprises surveyed said that they made profits or made rich profits in China in 2021, and two-thirds of the enterprises plan to increase investment in China in 2022.¹⁰¹ Regarding foreign capital access, the management mode of pre-entry national treatment plus a Negative List is fully implemented. In this course, the Negative List is continuously decreasing. At the level of industrial opening, China has expanded from the initial opening of processing trade and heavy industry to the opening of service fields, such as finance, medical treatment, and telecommunications. In terms of the business environment, China will continue to promote trade and investment liberalization and facilitation, and pay more attention to IP protection.¹⁰²

Domestically, the supply and demand relationship of land, resources, and other factors is tightening. As a result, costs is rising, while the traditional

comparative advantage is weakening. The distribution of foreign capital utilization is unbalanced, and the potential of attracting foreign capital in the central, western and northeast China has not been fully stimulated. For China, obstacles remain to developing foreign investment in some fields, but there is room for improvement in the business environment. Internationally, the business environment is becoming more complicated. Under the Covid-19 pandemic, economic globalization has encountered adverse currents. Unilateralism and protectionism have spread, and cross-border investment review has become stricter.¹⁰³

VII. CONCLUSION

Generally, the current inflow of foreign capital in China is the momentum of stability and improvement. On January 1, 2022, the RCEP came into force. In terms of manufacturing and service industries, the RCEP member states have made a strong commitment to opening their markets. The UNCTAD report previously evaluated that this agreement would greatly promote the growth of foreign direct investment not only within the region, but also among other economies.¹⁰⁴

Although the pandemic is still evolving, the global industrial and supply chain are being reinstated under the complex external environment for foreign investment. Meng Huating, deputy director of the Foreign Investment Department of the PRC Ministry of Commerce, said that the ministry's next step would be to work with relevant departments to speed up the revision and release of the new Negative List of foreign access in the whole country and pilot FTZs.¹⁰⁵

In terms of investment promotion, China is paying attention to major exhibition platforms, such as the China International Expo, in order to strengthen investment promotion and strive for more exhibitors to become investors. As regard facilitating the business environment, China should comprehensively clean up the provisions inconsistent with the FIL and its implementing regulations. Furthermore, it should coordinate the complaint mechanism of foreign-funded enterprises, thereby strengthening the protection of the legitimate rights and interests of foreign investors. Finally, China should use the advanced technology and management mode brought by foreign investment; improve the efficiency and level of the domestic cycle following the international cycle; and realize the mutual promotion of domestic and international

dual cycles to achieve win-win cooperation in two markets and two resources.

Appendix I: Development Course of China's Utilization of Foreign Investment

Stages	Description	Main Features
Stage of Initial Exploration (1978-1991)	The utilization of foreign investment in China started with the establishment of special economic zones. With the further expansion of China's opening to the outside world, foreign investment in various places had been further developed. In 1988, the central government established the Hainan Special Economic Zone and provided policy support. In 1994, the central government opened 14 coastal port cities. The special economic zones played an important leading role at this stage.	<ol style="list-style-type: none"> 1. Regions carrying out investment promotion and preferential policies are quite limited. 2. Tax preference, low land prices, and cheap labor are the main means of attracting investment. 3. The preliminary investment attraction model was formed with the central government designing the system at the macro level, the local governments providing policies at the intermediate level, and the investment attraction branches implementing those policies at the micro level.
Stage of Rapid Advancement (1992-2002)	In 1992, Deng Xiaoping issued the "Southern Tour Speech," pointing out the direction of China's reform and opening-up, and the work of attracting foreign investment all over the country entered a stage of rapid progress. At this stage, local governments carried out effective investment promotion activities with economic parks such as development zones, high-tech zones, and bonded areas.	<ol style="list-style-type: none"> 1. Scale of foreign investment utilization continued to expand. 2. Foreign investment mainly focused on special policy areas. 3. Local governments gradually replaced the central government and became the main body for local foreign capital investment.
Stage of Adjustment and Optimization (2003-2011)	In 2003, foreign investment utilization in China entered the stage of adjustment and optimization. Local governments expanded the depth and breadth of investment utilization and actively attracted foreign capital in the construction of new urban areas, the transformation of shantytowns, municipal construction, and other fields.	<ol style="list-style-type: none"> 1. The main bodies and institutions of foreign investment attraction were more diversified. 2. The structure of attracting foreign investment changed, and the service industry developed rapidly. 3. A relatively comprehensive investment attraction and utilization system were formed.

<p>Stage of “Double” Attraction” (2012-Present)</p>	<p>The 18th CPC National Congress proposed to “improve the comprehensive advantages and overall benefits of utilizing foreign capital and promote the organic combination of attracting capital, technology and intelligence.” The Chinese government’s foreign investment utilization has also turned to a new stage of “double attraction.”</p>	<ol style="list-style-type: none"> 1. The investment promotion policy has changed from standardized management to stronger measures. 2. The upsurge of attracting and utilizing foreign investment is set off again. 3. Greater preferential efforts.
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Source: Forward Looking Industry Research Institute of the Ministry of Commerce

Appendix II: Summary of China’s Investment Promotion Policies

Time	Name of Policy Document	Main Content
Aug 1980	Regulations on Special Economic Zones of Guangdong Province	The enterprise income tax rate is 50%. Preferential treatment shall be given to those enterprises which invested and established within two years after the promulgation of the regulation and enterprises with an investment of more than USD 5 million or with high technology and a long capital turnover period
Sept 1983	Instructions on Strengthening the Use of Foreign Capital	The Instructions put forward clear preferential policies for foreign-funded enterprises in terms of relaxing tax policies, providing part of the domestic market, and relaxing restrictions on equipment import.
Nov 2014	Circular of the State Council on Cleaning up and Standardization of Preferential Policies such as Taxation and so on	While sorting out all kinds of preferential policies such as taxation across the country, China effectively standardized those policies from the aspects of unifying the authority for tax policy formulation and standardizing the management of non-tax revenue and financial expenditure management.
Jan 2017	Circular of the State Council on Measures for Expanding Opening and Utilizing Foreign Capital	Further opening to the world and deepening an impartial competition environment. Specific measures include promoting a new round of high-level opening procedures, formulating foreign investment policies, and actively carrying out investment promotion activities.

Aug 2017	Circular of the State Council on Measures for Promoting the Growth of Foreign Investment	Further reduced foreign investment access restrictions, formulate fiscal and tax support policies, improved the comprehensive investment environment of national development zones, facilitated the exit of talent, and optimize the business environment.
June 2018	Measures on Active and Effective Utilization of Foreign Capital to Promote High-quality Economic Development	Greatly relax market access and improve the level of investment liberalization. Deepen the reform of “decentralization, management and service” and improve the level of investment facilitation. Improve the level of investment protection and create a high-standard investment environment. Optimize the layout of Regional Opening-up and guide foreign capital to invest in the central and western regions. Promote the national development zones, and strengthen the role of platforms for utilizing foreign capital.
Nov 2019	Opinions of the State Council on Further Improving the Utilization of Foreign Capital	Twenty policies and measures were put forward from four aspects: deepening opening to the outside world, strengthening investment promotion, deepening the reform of investment facilitation, and protecting the legitimate rights and interests of foreign investment.
Jan 2020	Foreign Investment Law of the People’s Republic of China	Promote the formation of a new pattern of comprehensive opening-up, and promote the healthy development of the socialist market economy. Open wider to the outside world, actively promote foreign investment, protect the legitimate rights and interests of foreign investment and standardize the management of foreign investment.
July 2020	Implementation Opinions on Further Optimizing the Business Environment and Better Serving Market Entities	Twenty specific measures were taken to create a good business environment from six aspects: continuously improving the convenience of investment and construction, simplifying the approval of enterprise production and operation, optimizing the foreign trade environment, reducing the threshold of employment and entrepreneurship, improving the quality and efficiency of enterprise-related services, and improving the long-term mechanism for optimizing the business environment.

Aug 2020	Opinions on Further Stabilizing Foreign Investment and Foreign Trade	Fifteen specific policies and measures on guiding the gradient transfer of processing trade included, giving financial support to key foreign-funded enterprises, strengthening the support services for key foreign-funded projects, and reducing the threshold for foreign-funded research and development centers to enjoy preferential policies.
Feb 2021	Notice on Stabilizing Foreign Investment Centered around the Building of a New Development Pattern	Twenty-two specific measures were proposed from five aspects: expanding high-level opening-up, improving the level of the opening-up platform, increasing investment attraction in the industrial chain, improving the service guarantee system for foreign investment, and deepening the reform of “decentralization, management and service.”
Mar 2021	Outline of the 14th Five-Year Plan (2021-2025) for National Economic and Social Development and Vision 2035 of the People’s Republic of China	Major economic development objectives in the 14th Five-Year Plan period included: taking new steps in reform and opening-up, improving the level of social civilization, and achieving new progress in the construction of ecological civilization. People’s livelihood and well-being will reach a new level, and the efficiency of national governance will be improved.
Apr 2021	Construction Scheme of G60 Science and Innovation Corridor in Yangtze River Delta	Continuously improving the industrial alliance system and carrying out joint investment promotion of the industrial chain. Exploring the establishment of collaborative mechanisms such as joint investment promotion, resource sharing, output accounting, and tax division.
June 2021	Business Development Plan in the 14th Five-year plan	In terms of optimizing the foreign investment environment, it is proposed to improve the efficiency of investment promotion; In terms of innovating and upgrading national economic and technological development zones, it is proposed to innovate and optimize the ways of attracting investment.
Oct 2021	Development Program for the Utilization of Foreign Capital during the 14th Five-Year Planning Period	The development program has put forward the development goal of utilizing foreign capital during the 14th Five-Year Plan period. Twenty-three main tasks and specific measures have been defined from seven aspects.

Appendix III: List of Supporting Projects of Utilizing Foreign Capital during
the 14th Five-Year Plan Period

Promotion Project for Domestic Reinvestment of Foreign-Invested Enterprises (FIEs)	Optimize the domestic reinvestment support policies for FIEs	<ol style="list-style-type: none"> 1. Encourage FIEs to reinvest their profits, especially in high-tech industries like artificial intelligence, advanced materials, integrated circuits, and biomedicine. 2. Support will be given to the financing needs of FIEs for reinvestment and their participation in the reform of mixed ownership of state-owned enterprises.
	Improve the elements of protection for the domestic reinvestment of FIEs	<ol style="list-style-type: none"> 1. Strengthen the protection of domestic reinvestment of FIEs in land, energy, employment, and other aspects. 2. Provide policy guarantee of power, gas, water, and other aspects for reinvestment of FIEs. 3. Formulate a “point-to-point” labor docking and cooperation mechanism to meet the labor demand of domestic reinvestment projects.
Construction Project for Investment Attraction Platform	Comprehensive pilot demonstration project to expand the opening of the service industry	<ol style="list-style-type: none"> 1. Depen a new round of comprehensive pilot projects to expand the opening-up of Beijing’s service industry and build a national comprehensive demonstration area for the expansion and opening-up of the service industry. 2. Form a layout of “1 + n” demonstration pilot. 3. Strengthen safety assessment and risk prevention. 4. Form representative and practical cases and promote them to the whole country.
	Actively promote the “double carbon” work of national economic and technological development zones	<ol style="list-style-type: none"> 1. Implement the deployment of carbon peak and carbon neutralization and strengthen the “double carbon” target management. 2. Explore the inventory of carbon emissions, and clarify relevant work measures and time schedule. 3. Vigorously develop clean energy. 4. Strengthen the demonstration of low-carbon infrastructure construction.

Efficiency Improvement Project for Investment Promotion	Establish linkage mechanism	<ol style="list-style-type: none"> 1. Adhere to the combination of “Bringing in” and “Going out” investment promotion. 2. Strengthen the coordination and docking of domestic and foreign government agencies, industry organizations, and key enterprises.
	Strengthen industrial chain investment promotion	<ol style="list-style-type: none"> 1. Draw the “industrial chain investment map.” 2. Build an industrial chain service platform. 3. Strengthen the investment promotion policy of the industrial chain. 4. Focus on core enterprises, attract upstream and downstream related supporting industries and promote the extension and expansion of the industrial chain.
	Promote cluster investment promotion	<ol style="list-style-type: none"> 1. Give full play to the industrial agglomeration effect of various investment attraction platforms and promote the investment attraction of key industrial clusters. 2. Deeply tap project resources and do a good job in the introduction of new projects and the capital increase and production expansion of existing FIEs.
	Carry out investment promotion in counterpart countries (regions)	<ol style="list-style-type: none"> 1. Promote local cooperation under multilateral and bilateral mechanisms. 2. Guide all localities to establish and improve foreign cooperation mechanisms and promote project docking by relying on local platforms and combining the industrial advantages of key countries (regions).
Improvement Project for Foreign Investment Service	Optimize foreign investment registration and visa services for foreigners	<ol style="list-style-type: none"> 1. Optimize the registration and information reporting process and service quality for FIEs. 2. Improve the level of investment facilitation. Simplify the approval procedures for foreign investment projects. 3. Optimize the work permit and residence permit system for various types of foreign personnel such as contract service providers of FIEs and accompanying family members and promote the facilitation of visa application.

Improvement Project for Foreign Investment Service	Optimize foreign investment management services	<p>1. Deepen the “separation of licenses” and comprehensively implement the notification and commitment system for certification and enterprise-related business license matters.</p> <p>2. Promote and optimize the platform of “One Netcom Office”¹⁰⁶ in all localities and encourage all localities to establish a “single-window system”¹⁰⁷ for international investment.</p> <p>3. Promote the “inter-provincial government services” and promote the inter-provincial recognition of electronic certificates and licenses.</p>
	Optimize professional services for foreign investment	Encourage all localities to cultivate professional service institutions to provide legal, accounting, tax declaration, and other professional services for FIEs in the establishment, operation, liquidation, and other stages.

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104. UNCTAD, RCEP Agreement a Potential Boost for Investment in Sustainable Post-Covid Recovery (Nov. 16, 2020), https://unctad.org/system/files/official-document/diaeciainf2020d5_en_0.pdf.
105. *Supra* note 89.
106. "One Netcom Office" means to get through the information systems of different departments. The masses can handle matters in different fields by operating one service system and solve all problems. In addition to realizing the connection of information systems of different departments, it is also necessary to open up the online and offline government service platform, which is the basic work related to the effectiveness of government service and points to the long-standing stubborn disease of online service." See "Opinions on Division of Work among Key Departments in Government Work Report" [国务院关于落实《政府工作报告》重点工作部门分工的意见] (June 11, 2020), http://www.gov.cn/zhengce/content/2020-06/11/content_5518699.htm.
107. "Single-window system" means traders can submit documents or electronic data required for the import, export, or transshipment of goods to relevant government agencies through one entrance: it refers to that all parties involved in international trade and transportation submit standardized information and documents through a single platform to meet the requirements of relevant laws, regulations, and management. See "Proposal of the CPC Central Committee on Formulating the 13th five-year plan for National Economic and Social Development" [中共中央关于制定国民经济和社会发展第十三个五年规划的建议] (Nov. 3, 2015), http://www.gov.cn/xinwen/2015-11/03/content_5004093.htm.