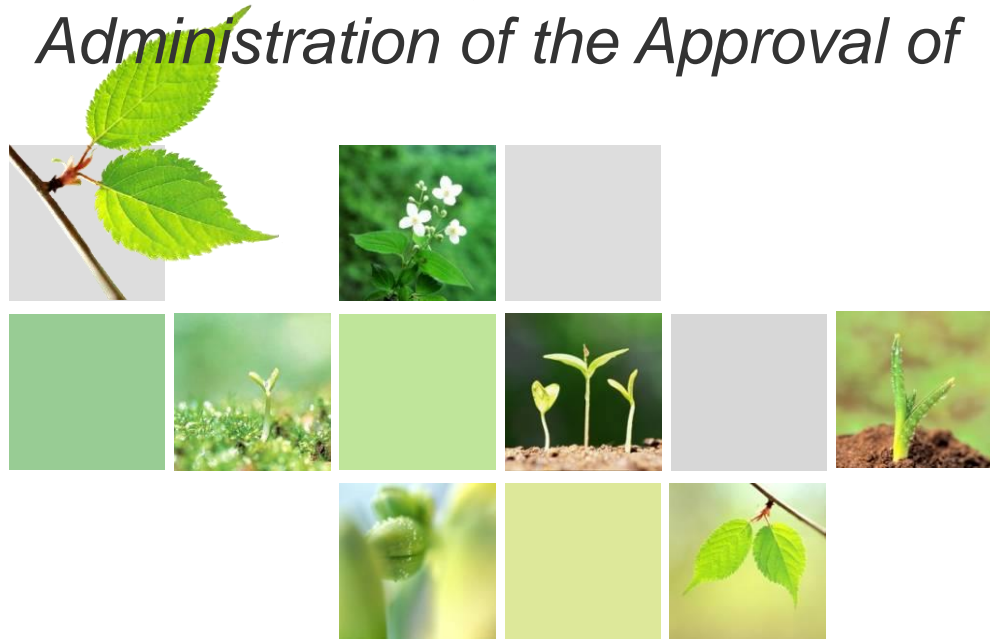




# Industrial Security and FDI Project Approval Administration

the textual analysis of *Shanghai's Interim Measures for the Administration of the Approval of FDI Project*



**Liu Zhiguang**

**The department of economics  
and management in Shanghai  
Administration Institute**

## 内容摘要 (Abstract)



随着外资对中国经济的介入越来越深，外资规模和结构问题、跨国公司的品牌和市场控制等都已经影响到国家的产业安全。对于外商直接投资管理来说，项目核准是政府维护国家产业安全的重要环节。本文通过对《上海市外商投资项目核准暂行管理办法》进行文本分析，找到当前项目核准制度在维护国内产业安全方面存在的缺陷，并在此基础上提出了改进建议。

Chinese economy's security has suffered by the scale and structure of FDI, Multi-National Corporations' brands and market control, with the participation of FDI in Chinese economy more and deeper. For FDI administration, project approval is the key link of the government to protect the national industrial security. This paper makes a textual analysis of "Shanghai's Interim Measures for the Administration on FDI Project Approval" and finds some flaws in protecting the domestic industry security. Last, this paper also offer some proposals to improve the approval system on the perspective of protecting industry security.

# 主要内容 (Contents)



## 1、中国产业安全现状

### 1、 The situation of Chinese domestic industry security

## 2、中国外商投资项目核准制度在维护产业安全方面存在的问题

### 2、 The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

## 3、完善中国外商投资项目核准制度的建议

### 3、 The proposals on improving Chinese administration on FDI project approval



# 一、中国产业安全现状



## I .The situation of Chinese domestic industry security

### The control of FDI on the first industry in China (%)

Year	Stock control	R&D control	Investment control of fixed assets
2002	--	1.15	--
2003	--	1.51	--
2004	--	1.48	3.98
2005	7.8	1.25	2.33
2006	8.2	1.60	1.71
2007	8.2	1.00	1.77
2008	8.3	0.62	1.46
2009	--	0.55	1.16



# 一、中国产业安全现状



## I .The situation of Chinese domestic industry security

### The control of FDI on the industry in China (%)

Year	Market control	Stock control	Technical control			Total assets control	Net value of fixed assets control
			Patent control	R&D control	The new product output value control		
1999	25.72	21.81	14.19	--	31.39	19.68	18.75
2000	26.79	22.37	18.97	--	35.18	20.37	18.84
2001	27.76	23.08	16.64	--	38.59	20.94	19.92
2002	28.49	23.84	17.91	--	37.99	21.55	20.07
2003	30.46	25.28	22.17	23.12	39.48	23.26	20.35
2004	32.73	26.91	21.71	27.12	40.77	25.82	23.24
2005	31.61	26.99	25.08	26.04	38.74	26.27	23.91
2006	31.55	27.28	27.23	27.26	41.02	26.48	24.17
2007	31.40	27.49	32.29	29.12	41.16	27.30	24.71
2008	29.32	27.04	26.50	26.80	39.59	26.00	24.01
2009	27.70	26.25	--	--	--	25.21	22.52

# 一、中国产业安全现状



## I .The situation of Chinese domestic industry security

### The control of FDI on the third industry in China (%)

Year	Market control	Stock control	Total assets control	Fixed assets control
2004			7.1	11.8
2005	9.6	15.5	7.4	11.0
2006	9.1	15.6	7.9	11.3
2007	10.3	16.4	8.7	11.9
2008	11.4	16.6	8.9	11.0
2009	11.6	16.6	8.0	9.0



# 一、中国产业安全现状



## I .The situation of Chinese domestic industry security

### 几个基本判断（the basic judgments）：

1、外商投资试图通过对中国农产品加工业和高端种源市场的控制实现对第一产业的控制，典型如中国大豆产业。

I . FDI try to control the Chinese first industry by controlling on agro-industry and up-market of seeds, the typical example is soybean industry in China.

2、外商投资通过跨国公司对技术和品牌控制消解了中国关于重要工业领域股权控制的影响，典型如中国汽车制造业。

II . FDI reduces the binding of stock rights by Multi-National Corporations' brands and market control in the industry field that China wants to control by stock control, the typical example is automobile industry in China.



# 一、中国产业安全现状



## I .The situation of Chinese domestic industry security

几个基本判断（the basic judgments）：

3、外商投资试图通过对中国第三产业中相关行业或优势企业的控制更大发挥对中国经济的影响力，典型如大型连锁超市业、房地产业。

Ⅲ. FDI try to strength the control on Chinese economy by the control the important field of the third industry enterprises with comparative advantages, the typical example is large supermarket chains and real estate in China.

4、外商投资通过多个项目加总控制了国内相关行业，严重挤压中国国内企业的影响力，典型如中国大豆产业。

IV. FDI control some important industry in China by several projects together which squeeze the domestic enterprise influence seriously, the typical example is soybean industry also in China.



# 一、中国产业安全现状



## I .The situation of Chinese domestic industry security

总判断（the general judgment）：

外商对中国的直接投资日渐规模化、系统化、联盟化，其目的是通过进一步加强对产业链和价值链的控制，以获得最大的资本利润。

FDI in China is becoming more and more large-scale, systematic and the federations are also becoming , which purpose is to maximize the profit by further strengthening the control of the industry chain and value chain.



## 二、中国外商投资项目核准制度及其不足



### II. The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

- ◆ 从经济思想史的角度来看，限制外国资本扩张以保护国内产业安全的主张一直处于支配地位。
- On the perspective of the history of economics thoughts, the claim of imposing restrictions on foreign capital expansion in order to protect domestic industry security has always been dominant.
  
- ◆ 从世界经济史的角度来看，为了维护国家根本利益，保护国内产业安全一直是发达国家立法的重要目的。
- On the perspective of the world economic history, in order to protect the nation's basic interests, protecting domestic industry security has always been the important purpose of legislation in developed countries.



## 二、中国外商投资项目核准制度及其不足



### II. The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

中国政府非常重视国内产业安全问题，定期公布《外商投资产业指导目录》，规定鼓励和限制外商投资的产业。但中国产业安全的严峻形势表明，这一措施并非有效，而其根源还必须到中国外商投资项目核准制度中去寻找。

Chinese government has always attached importance to the domestic industry security. It published catalogue for guiding FDI in industry in China which distinguishing the encouraged industries and the restricted industries. But the serious situation of industry security has always declared that the catalogue for guiding FDI in industry has been invalid in protecting industry security. The root of the problem is that there are some flaws in Chinese administration on FDI project approval.



## 二、中国外商投资项目核准制度及其不足



### II. The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

2004年中国投融资体制改革以后，中国政府主要按照外商投资项目规模实行分级核准。从实践来看，绝大部分的外商投资项目都是由各级地方政府核准的。我们以《上海市外商投资项目核准暂行管理办法》为例来分析了这一制度在维护国内产业安全方面存在的不足，有了初步的结论。

Since China's reform of the investment system in 2004, the approval system has been applied to FDI projects, and the approval power is different in different levels of governments according to the scale of FDI projects. Most of the FDI projects were approved by local governments. For the purpose of finding out the flaws of the approval system, we did a simple textual analysis of *Shanghai's Interim Measures for the Administration on FDI Project Approval*. We have a preliminary conclusion.



## 二、中国外商投资项目核准制度及其不足



### II. The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

#### 1、维护国内产业安全不是中国外商投资项目核准制度的目的。

《上海市外商投资项目核准暂行管理办法》第一章总则第一条的内容为“根据《国务院关于投资体制改革的决定》、国家发展改革委发布的《外商投资项目核准暂行管理办法》，结合本市实际，制定本办法。”

#### i . Protecting the domestic industry security is not the purpose of Chinese approval system of FDI project.

These procedures are formulated in accordance with *State Council's decision on the reform of the investment system, Interim Measures for the administration of the approval of foreign investment projects* issued by the national development and Reform Commission, and in the light of the actual circumstances of shanghai.

Article 1, the first chapter, *Shanghai's Interim Measures for the Administration of the Approval of FDI Project*



## 二、中国外商投资项目核准制度及其不足



### II. The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

2、核准程序是全封闭式的，缺乏社会参与的安排。

ii . The approval procedure is fully closed, lack of social involvement.

3、项目核准申请材料不包括产业安全方面的评估。

iii . The project approval application materials do not include an assessment of industry security.



## 二、中国外商投资项目核准制度及其不足



### II. The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

4、项目核准条件不足以维护国内产业安全问题。

iv. The project approval conditions are not sufficient to protect the domestic industry security.

《上海市外商投资项目核准暂行管理办法》第四章第十三条第三款规定：“符合公共利益和国家反垄断的有关规定。”

In accordance with the public interests and the provisions of Anti-monopoly Law.

The third paragraph, Article 13, the fourth Chapter, *Shanghai's Interim Measures for the Administration of the Approval of FDI Project*.



## 二、中国外商投资项目核准制度及其不足



### II. The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

#### 4、项目核准条件不足以维护国内产业安全问题。

#### iv. The project approval conditions are not sufficient to protect the domestic industry security.

◆ 是否符合公共利益是由分散在全国各地的各级政府主管部门确定的。在引进外资作为官员重要考核指标情况下，绝大部分外商投资都会被认为是符合公共利益的。

□ The decentralized government departments at all levels throughout the country judge the FDI in accordance with the public interests or not. Then we can see when FDI is a important quantifiable index on government officers assessment, most of FDI projects are recognized as according with public interests.





## 二、中国外商投资项目核准制度及其不足



### II. The flaws of Chinese administration on FDI project approval in protecting the domestic industry security

#### 4、项目核准条件不足以维护国内产业安全问题。

iv. The project approval conditions are not sufficient to protect the domestic industry security.

◆ 反垄断法主要针对破坏市场竞争的行为。但维护国家产业安全与维持市场竞争是不同的概念，前者主要是指国内资本失去对该产业的控制权。

□ Anti-monopoly Law aimed at the behaviors of destroying the market competition. But protecting the domestic industry security and protecting the market competition are different conceptions, the former mainly refers to the domestic capitals lose control of the industry.



### 三、完善中国外商投资项目核准制度的建议



#### Ⅲ. The proposals on improving Chinese administration on FDI project approval on the perspective of protecting the domestic industry security

1、将维护国内产业安全作为外商投资项目核准的重要目的。

i . Protecting the domestic industry security should be the important purpose of Chinese approval system of FDI project.

凡事预则立，不预则废。

Forewarned is forearmed.



## 三、完善中国外商投资项目核准制度的建议



### Ⅲ. The proposals on improving Chinese administration on FDI project approval on the perspective of protecting the domestic industry security

2、将维护国内产业安全作为外商投资项目核准的必要条件。

ii . Protecting the domestic industry security should be the necessary condition of Chinese approval system of FDI project.

3、制订国家产业安全法，使外商投资项目核准有法可依。

iii . The legislature should formulate *The National Industry Security Act* which making the government departments having clearer rules on FDI project approval.



### 三、完善中国外商投资项目核准制度的建议



#### Ⅲ. The proposals on improving Chinese administration on FDI project approval on the perspective of protecting the domestic industry security

##### 4、将社会参与作为外商投资项目核准的必要程序。

iv . Social participation should be the necessary procedure of Chinese approval system of FDI project.

◆ 为提高社会参与的有效性，外商投资项目与运行数据库建设及其公开是非常必要的。

□ To improve the effect of social participation, it is necessary to build and open the database of FDI projects and their business.





# Thanks

- Email : [lzgyx@sina.com](mailto:lzgyx@sina.com)

