



Department for  
Business, Energy  
& Industrial Strategy

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22 July 2021

Dear Tom,

Thank you for your letter of 13 July to the Prime Minister on behalf of the Foreign Affairs Committee about the acquisition of Newport Wafer Fab. The Prime Minister has asked me to respond on his behalf.

I want to reassure you that the Government has considered this issue thoroughly and will continue to monitor the situation closely. It remains the case that we will not hesitate to take further action should the situation change.

You will appreciate that I cannot comment on the Government's detailed internal processes for conducting national security assessments into foreign investment transactions. For this specific case, as the Prime Minister said in Parliament, he has asked the National Security Adviser to review this case in his capacity as the principal official adviser to the Prime Minister on national security matters.

At all times, the Government's consideration of national security matters includes whether it is appropriate to engage the relevant legislation. You rightly refer to the provisions of the National Security and Investment Act 2021 (the "NSIA") as providing a new framework for the scrutiny of acquisitions that may give rise to national security concerns. The relevant provisions of the NSIA (including the power to call in transactions) are not yet in force, so any formal decision to use those powers retrospectively could only be taken once they are commenced in full on 4 January 2022. Consideration will be given to the Enterprise Act 2002 if relevant to the circumstances arising in this matter.

Regarding your question on call-in under NSI: The impact assessment for the National Security and Investment Act estimates that of the 1000–1,800 notifications the Government expects to receive, approximately 70-95 are likely to be called in per year. To exercise the call-in power under the Act I must reasonably suspect that a trigger event has taken place or is in progress or contemplation and that the trigger event has given, or may give rise to, a risk to national security. As you know, the Act also grants me the power to call in acquisitions that took place after 12 November 2020 (the day after the Bill was introduced) but before the full commencement of the Act in the wider economy which were not notified but may raise national security concerns.

The National Security & Investment Act modernises the Government's powers to investigate and intervene in potentially hostile foreign direct investment, while advancing the UK's world-leading reputation as an attractive place to invest. I would like to thank you and the committee for your support in getting the Act through Parliament.

Yours sincerely,

**RT HON KWASI KWARTENG MP**  
Secretary of State for Business, Energy and Industrial Strategy



## Foreign Affairs Committee

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**From the Chair**  
Tom Tugendhat MP

Rt Hon Boris Johnson MP  
Prime Minister  
10 Downing Street  
London SW1A 2AA

By Email

13 July 2021

Dear Prime Minister,

I am writing on behalf of the Foreign Affairs Committee regarding your statement on 7 July that you have "asked the national security adviser to review" the recent acquisition of Newport Wafer Fab by Nexperia and the process that underpinned your decision.

As you will know, the National Security and Investment (NSI) Act, established the Investment Security Unit (ISU) as the body responsible for assessing investments for national security risks within the Department for Business, Energy and Industrial Strategy (BEIS) and provided the Secretary of State with the responsibility to intervene in such transactions where a national security concern arises. Prior to the Act coming into force, the public interest intervention notice (PIIN) provisions of the Enterprise Act 2002, giving the Secretary of State for BEIS the power to intervene and review a transaction on public security grounds, remain in force. As you will be aware, the proposed acquisition by Nvidia of ARM is presently being reviewed under a PIIN.

I previously raised concerns with the Secretary of State for BEIS when Nexperia installed two of its employees on the board of Newport Wafer Fab, fearing that this marked the beginning of a full takeover of the company. BEIS responded that it did not believe it appropriate to intervene at this time. Again, when it was reported that Nexperia planned to acquire 100 percent of Newport Wafer Fab, BEIS declined to intervene. I note that Nexperia was previously owned by Wise Road Capital, a China backed private equity fund, whose acquisition of Magnachip Semiconductor was the subject of a recent review by CFIUS. CFIUS has challenged that transaction and Wise Road Capital's attempts to reduce its US presence to remove CFIUS jurisdiction.

I welcomed your statement at the Liaison Committee that you have asked your National Security Adviser to examine this transaction. This decision, while welcome in itself, raises concerns about the process for reviewing and intervening in such transactions. Prime Ministerial intervention should not be required if our review system is working properly. The National Security and Investment Act 2021 established a screening process designed to protect UK businesses from precisely this type of acquisition; yet the case of Newport Wafer Fab provides a worrying indication of the Government's limited appetite for exercising its call-in power once the regime comes into force. Moreover, it has demonstrated that pending the coming into force of that legislation, the present legislation is not being utilised.

With this in mind, I would be grateful for answers to the following questions:

- Under what legal provisions was the acquisition of Newport Wafer Fab called in for review by the National Security Adviser?
- What was the process for alerting you to this acquisition, and what new information - that had not previously been available to or sought by the Secretary of State for BEIS - led to your decision to request a review of the transaction?
- Does the Secretary of State for BEIS intend to issue a PIIN in relation to this transaction and impose an immediate order preventing further integration or any further action which could compromise the Newport Wafer Fab business?

- Why was the National Security Adviser not previously involved in the assessment of the national security risks associated with this transaction?
- How will the National Security Adviser be involved in the assessment of future investments under the NSI Act?
- The Government has projected that the ISU will receive an estimated 1,000 - 1,830 notifications of relevant investments per annum under the NSI Act; under what circumstances will you intervene in such transactions?

In view the urgency of this matter, I would request a response to this letter by 20 July 2021. I intend to place your response in the public domain.

Best wishes,

A handwritten signature in black ink, appearing to read "Tom Rye". The signature is fluid and cursive, with a long horizontal stroke at the end.