

For Public Release

UNCLASSIFIED

Foreign Actor Interference (FAI)-related Legislation and Offences

The RCMP plays a significant role in countering Foreign Actor Interference (FAI). Pursuant to the *Royal Canadian Mounted Police Act* (para. 18), it is the duty of RCMP officers to preserve the peace and prevent crime. Subsection 6(1) of the *Security Offences Act* further designates the RCMP as the primary enforcement body in relation to threats to the security of Canada, as defined in Section 2 of the *Canadian Security Intelligence Service Act* (CSIS Act), which includes for acts of FAI.¹ The RCMP strategically leverages different legislation and offences to counter FAI, including (but not limited to): the *Criminal Code*, *Security of Information Act*, and *Investment Canada Act*. Other legislation that can be leveraged, as well, includes *Immigration and Refugee Protection Act* and *Export and Import Permits Act*.

Relevant *Criminal Code* offences that can be leveraged include:

- **S.122 – Breach of Trust**
- **S.264(1) – Criminal Harassment**
- **S.342.1 – Unauthorized Use of a Computer**
- **S. 391 – Fraud for Obtaining Trade Secrets**
- **S.423 (1) – Intimidation**
- **S.430 (1) – Mischief**
- **S. 120 – Bribery of Officers**

In November 14, 2022, the RCMP reported in a news release that it charged a former Hydro-Québec employee for allegedly obtaining trade secrets to benefit the People's Republic of China, to the detriment of Canada's economic interests. Furthermore, three of the above-noted CC charges were advanced: S.342.1, S.391, and S.122, alongside a *Security of Information Act* offence (S.19) noted below. In December 8, 2021, the RCMP also reported via a news release that it charged a former Canada Space Agency employee with the CC charge (S.122).

The *Security of Information Act* includes offences relating to the illegal communication of safeguarded information with foreign entities, economic espionage, and threats or violence, including:

- 14 (1) – Unauthorized communication of special operational information
- 16 (1 & 2) – Communicating safeguarded information
- S. 19 (1) – Use of trade secret for the benefit of foreign economic entity
- 20 (1) – Threats or violence (either at the direction of, for the benefit of, or in association with a foreign entity)

Both the *Investment Canada Act* (under Part IV.1), as well as accompanying *Guidelines on the National Security Review of Investments*, outlines the process, and related provisions, through which foreign direct investments are reviewed by security and intelligence agencies for potential national security injuries. The RCMP both leads, and supports in, the national security review of foreign direct investments, and the outcome of reviews informs whether proposed foreign direct investments are authorized, authorized with conditions, and/or disallowed.

¹ Paragraph 2(b) of the CSIS Act includes in its definition of threats to the security of Canada "foreign influenced activities within or relating to Canada that are detrimental to the interests of Canada and are clandestine or deceptive or involve a threat to any person."