

A tool is not a strategy: technology security amidst contested global orders

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ABSTRACT

In recent years, policymakers and analysts concerned for the future of global economic governance have advanced numerous proposals to constrain governments' use of security exceptions. However, framing the current situation merely as a governance crisis may create an illusion that consensus still exists regarding the fundamental principles that should govern global economic relations. To understand whether and how the current Trump administration wishes to change the global economic order—and whether and how it may succeed—we must concentrate analytic attention beyond the tools of the administration and instead examine the objectives these tools are being placed in service of. I examine the strategic objectives of the three most recent US administrations related to international investment and trade in dual-use technology, as well as the ways in which each administration has employed, sharpened, and strengthened similar tools in service of different visions of global governance and order. I conclude by demonstrating how Trump 2.0, in contrast to Trump 1.0 and the Biden administration, is more fully challenging core principles of mutually beneficial exchange in ways that are order breaking.

In May 2023, G-7 leaders, under the presidency of Japan, released their first-ever statement¹ on economic resilience and economic security. The statement framed economic security concerns as three related challenges—fragilities in global supply chains and critical infrastructure networks, policies and practices that undermine prevailing international rules and norms, and technology leakage that could threaten international peace and security. Signatories pledged to root their economic security efforts in 'maintaining and improving a well-functioning international rules-based system'. The G-7 communiqué's call to discipline economic security imperatives within existing structures of global governance mirrors other attempts at international economic institutional reform and accommodation, such as the Multiparty Interim Appeal Arbitration Arrangement (MPIA).

More broadly, scholars, commentators, and policymakers have sought to constrain the invocation of security exceptions.² Whether addressing trade, capital, or information flows, advocates

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¹ European Council, *G7 Leaders' Statement on Economic Resilience and Economic Security* (2023) <<https://www.consilium.europa.eu/en/press/press-releases/2023/05/20/g7-leaders-statement-on-economic-resilience-and-economic-security/>> accessed 14 May 2025.

² See, as a recent example, Geoffrey Gertz and Emily Kilcrease, 'A World Safe for Prosperity' (*Foreign Affairs*, 6 February 2025) <<https://www.foreignaffairs.com/united-states/world-safe-prosperity>> accessed 14 April 2025.

of governance reforms emphasize the need to bring economic security concepts into the realm of normal rule of law rather than states of exception.³ They seek to prevent the capricious and expansive use of such powerful tools outright, or at least to create clear administrative procedures for their implementation.⁴

Framing today's challenges merely as governance failures assumes a shared understanding of global economic principles still exists. I am sympathetic to attempts to reform global governance institutions in ways that develop greater regulatory space to address legitimate economic security⁵ imperatives while disciplining and regularizing their use. However, such conversations often over-emphasize tools—and their regulation—at the expense of the strategic objectives governments place these tools in service of. Tools themselves can be used to defend the existing order or to undermine it. For example, the financial sanctions and export controls imposed on Russia in response to its full-scale invasion of Ukraine may be seen as order-preserving because they were used to defend a central ordering principle of the post-World War II order—that wars of territorial conquest are illegitimate—and because they were pursued through a broad, plurilateral coalition. At the same time, export controls used against China in peacetime to impede its ability to develop indigenous advanced semiconductor capabilities could be viewed as order-breaking, especially since the line between military use and commercial competition has become so blurred in recent years.

My thesis is straightforward: analysing economic tools alone obscures the strategic objectives they serve. To understand how the current Trump administration may transform the global economic order, we must examine underlying objectives, not just tools. This essay traces the strategic goals and ordering consequences of the first Trump, Biden, and second Trump administrations' approaches to international economic policy, concentrating on investment and dual-use technology trade. While threats to global economic governance exist at the intersection of trade, investment, technology, financial sanctions, and industrial policy, I structure my analysis around investment and trade in technology for three reasons: (i) my own experience in the US government most directly relates to these domains; (ii) my scholarly projects are similarly centred on investment and technology policies; and (iii) other contributors to this special issue are better positioned to address issues of tariffs, financial sanctions, and industrial policy.

I examine these administrations' strategic objectives related to international investment and trade in dual-use technology as well as the ways in which each administration has employed, sharpened, and strengthened similar tools in service to different visions of global governance and order. As a result, the broader consequences of the use of these tools for the future of global governance have varied across administrations. Each administration has shared frustrations with pre-existing multilateral economic governance institutions as well as security concerns connected to a rising China. And yet, despite that continuity, their strategic worldviews and tactics for inducing change have different long-term implications for whether the global governance system should be reformed or completely restructured on new terms.

Trump 1.0 prioritized more fully realizing the weaponization potential of the US's central position in the global economy and global economic order.⁶ While unorthodox and disconcerting

³ Harlan G Cohen, 'Nations and Markets' (2020) 23 *Journal of International Economic Law* 793; Mona Paulsen, 'The Past, Present, and Potential of Economic Security' (2025) 50 *The Yale Journal of International Law*.

⁴ Harlan G Cohen, 'Toward Best Practices for Trade-Security Measures' (2024) 27 *Journal of International Economic Law* 93.

⁵ The concepts of 'economic security' or 'economic coercion' do not have a widely shared definition. See, eg, Jacob K Cogan, 'Two Approaches to Economic Coercion' (2024) *Yale Journal of International Law* <<https://yjil.yale.edu/posts/2024-08-09-two-approaches-to-economic-coercion>> accessed 14 April 2025. In this essay, I do not directly address definitional questions. Generally, I view economic security concerns as those that arise from negative security externalities of economic exchange, particularly of private, market-based exchange. Economic coercion, in my view, is the state-directed threat or use of economic leverage to influence a change in another state's behaviour, usually in an orthogonal domain. Economic coercion can be used both to uphold a liberal, rules-based order (eg through the threat of withholding generalized system of preferences status to a country with weak labour protections) or to undermine it (eg by cutting off access to critical minerals during an unrelated diplomatic dispute).

⁶ For more on weaponized interdependence, see Henry Farrell and Abraham L Newman, 'Weaponized Interdependence: How Global Economic Networks Shape State Coercion' (2019) 44 *International Security* 42. For more on how the first Trump administration internalized a weaponized interdependence framework, see Chris Miller, *Chip War* (Simon & Schuster 2023) 317.

to small open economies, the underlying objective of the first Trump administration was to remedy real or perceived subversions of the global trade and investment system in ways that benefitted China's state-directed economy while disadvantaging market-based firms, workers, and countries. The Biden administration further blurred the lines between economic security and economic competitiveness in a manner that also tested the prevailing global economic order, though less in service of realpolitik and more in order to address domestic competitiveness and working-class concerns. Trump 2.0, in contrast, is more fully challenging core principles of mutually beneficial exchange through actions that are order breaking.

MAPPING TOOLS, MAPPING PURPOSE

Many observers of US international economic policy have noted the substantial continuity of recent administrations' initiatives and priorities, despite rhetorical differences, in the realm of trade and investment policies. After all, the Biden administration kept and extended Trump 1.0's China tariffs and did not immediately reverse the first Trump administration's Section 232 tariffs. The Biden administration also doubled down on the Trump administration's more assertive use of investment and technology regulations by further strengthening the Committee on Foreign Investment in the United States (CFIUS), expanding the use of export controls for increasingly offensive purposes, and using a combination of economic statecraft tools to construct a comprehensive and largely unprecedented sanctions coalition against Russia after its full-scale invasion of Ukraine in February 2022. Even now, the second Trump administration may seem to be layering new actions on top of the Biden administration's policy entrepreneurship, such as by seeking to expand outbound investment restrictions.

An analysis not just of tools, but of the purpose for which they are put into service, elucidates important differences in administrations' stance towards international economic governance. **Table 1** overviews the key components of each administration's foreign investment and trade in technology strategy and tactics. Each president has developed, sharpened, and deployed the same or similar tools: investment screening, export controls, and list-based economic restrictions. Yet, the ways in which administrations have used these tools, and to what purposes, differ substantially. This is evident in specific actions that illustrate each administration's overarching strategy and goals for investment and technology restrictions. A comparison of shifting objectives across administrations underscores how each president has acted to reimagine global economic ordering principles.⁷

THE FIRST TRUMP ADMINISTRATION—WEAPONIZING CONNECTIONS

Trump ascended to office amid widespread populist dissatisfaction with the international liberal order that demanded a fundamental rethinking of the relationship between economic exchange, national security, and American statecraft. In Washington, this reassessment stemmed predominantly from perceptions that economic engagement with China had yielded counterproductive results: trade did not make the mainland more democratic; instead, it had allowed the People's Republic of China (PRC) to develop technical capacity, economic leverage, and military

⁷ Here, I follow International Relations theory in distinguishing between governance (the rules and processes through which a system is managed) and order (a set of shared understandings of the core principles by which states and other relevant actors make decisions about how to interact with each other and how to manage disagreement). This literature is vast. See, especially David A Lake, Lisa L Martin, and Thomas Risse, 'Challenges to the Liberal Order: Reflections on International Organization' (2021) 75 International Organization 225. Michael Barnett, 'International Progress, International Order, and the Liberal International Order' (2021) 14 *The Chinese Journal of International Politics* 1. Barry Buzan and George Lawson, *The Global Transformation: History, Modernity and the Making of International Relations* (Cambridge University Press 2015).

Table 1. Investment and technology policy developments under three administrations

	Central tools	Illustrative actions	Strategy/goal	Ordering implications
Trump 1.0	FIRRMA ECRA & Emerging & Foundational Technology List Entity listings EO 13959 (CMIC) Foreign Direct Product Rules	Huawei entity listing and de minimis rule ^a ZTE listing and deal ^b renegotiation ^c	Weaponization; Extraterritoriality	State of exception in the context of rules-based order
Biden	EO 14083 (CFIUS guidance) EO 14105 (Outbound Investment Regulation) China Semiconductor Export Controls CHIPS & Science BIS Rules (167) ^d	Export controls on advanced semiconductors Connected vehicle regulation	Technological supremacy, resilience, and competitiveness	Embedded, securitized liberalism
Trump 2.0	America First Investment Policy Memorandum ^e Restrict outbound portfolio flows Restrict inbound non-passive investment from China Encouragement of inbound passive investment 'Fast-track' inbound control investment from friendly countries	Saudi ^f and Emirati ^g investment pledges Golden Visas ^h	Domination	Expansionary Mercantilism

^aAddition of Huawei Non-US Affiliates to the Entity List, the Removal of Temporary General License, and Amendments to General Prohibition Three (Foreign-Produced Direct Product Rule), 85 Fed. Reg. 51,596 (20 August 2020) <<https://www.federalregister.gov/documents/2020/08/20/2020-18213/addition-of-huawei-non-us-affiliates-to-the-entity-list-the-removal-of-temporary-general-license-and>> accessed 14 May 2025.

^bUS Department of Commerce, 'Order Activating Suspended Denial Order Relating to Zhongxing Telecommunications Equipment Corporation and ZTE Kangxun Telecommunications LTD' (U.S. Department of Commerce, 15 April 2018) <https://www.commerce.gov/sites/default/files/zte_denial_order.pdf> accessed 14 May 2025.

^cClaire Ballentine, 'U.S. Lifts Ban That Kept ZTE From Doing Business With American Suppliers' *The New York Times* (13 July 2018) <<https://www.nytimes.com/2018/07/13/business/zte-ban-trump.html>> accessed 14 May 2025.

^dAdditions to the Entity List, 90 Fed. Reg. 4621, 16 January 2025 <<https://www.federalregister.gov/documents/2025/01/16/2025-00480/additions-to-the-entity-list>> accessed 14 May 2025.

^eThe White House, *America First Investment Policy* (2025) <<https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy>> accessed 14 May 2025.

^fJon Gambrell, 'Saudi Crown Prince Says Kingdom Intends to Invest \$600 billion in US during Call with Trump' *Associated Press* (24 January 2025) <<https://apnews.com/article/saudi-arabia-us-investment-trump-6730a89f93b44ed8d705638f-9570ccb>> accessed 14 May 2025.

^gWill Weissert and Josh Boak, 'Trump announces \$20B US investment by Emirati businessman' *Associated Press* (24 January 2025) <<https://apnews.com/article/trump-damac-emirates-investment-data-centers-00aa7c2189ba631eede4d232797a296f>> accessed 14 May 2025.

^hMichael Williams and Piper H Blackburn, 'Trump says US will sell \$5 million 'gold card' to wealthy foreigners' CNN (25 February 2025) <<https://www.cnn.com/2025/02/25/politics/us-gold-card-foreigners-trump/index.html>> accessed 14 May 2025.

modernization by exploiting US openness. A prominent evaluation of the negative effects of Chinese accession to the WTO on US jobs added fuel to the fire by creating an alliance of security hawks (usually Republicans) with Democrats who drew their support from labour unions.⁸

While Trump's rhetoric emphasized trade deficits and tariffs, his administration—staffed with mainstream Republican appointees—emphasized security vulnerabilities and military

⁸ David H Autor, David Dorn, and Gordon H Hanson, 'The China Shock: Learning from Labor Market Adjustment to Large Changes in Trade' (2016) NBER Working Paper 21906. <<https://www.nber.org/papers/w21906>> accessed 26 May 2025.

competition. The administration's National Security Strategy declared that 'economic security is national security', reflecting concerns that China could exploit the open US system to achieve military dominance.⁹ An influential Defense Innovation Unit report that sounded the alarm on ways in which Chinese investors were using venture capital to secure access to critical emerging technology generated a sense of urgency in the administration and Congress to prevent China from accessing critical emerging technologies through venture capital and other investment channels.¹⁰ Simultaneously, 'Made in China 2025' and Xi Jinping's Military–Civil fusion policies prompted officials to reconsider export control strategies. Unlike the post-Cold War system's narrow focus on preventing military end-users from accessing advanced technologies, the Trump administration recognized that dual-use technologies flowing to ostensibly civilian Chinese entities posed security risks. The conventional approach of permitting commercial openness while restricting only military users became unsustainable as the boundaries between private and public economic entities in China grew increasingly indistinct.

In this context, the first Trump administration, in tandem with Congress, substantially strengthened its regulatory authority over inward investment and the export of critical technology and related expertise. It did so by using two distinct types of authorities: comprehensive, generally applied regulations and targeted, list-based actions. These approaches reflected different levels of commitment to maintaining a rules-based international economic governance system and therefore had differential effects on global governance.

First, the administration backed Congressional reforms to foreign investment reviews and export control laws. The Foreign Investment Risk Review Modernization Act (FIRRMA) strengthened CFIUS oversight, focusing on emerging technologies, sensitive data, and the cumulative effect of foreign purchases on market control concerns linked to Chinese economic policy.¹¹ It instituted mandatory filings for critical technology transactions and government-controlled investors. Simultaneously, the Export Control Reform Act (ECRA) established a permanent legal basis for export controls and mandated the development of an emerging and foundational technologies list through formal regulatory processes.¹²

FIRRMA and ECRA formed the backbone of the Trump administration's strategy to prevent foreign actors from accessing sensitive and emerging technologies through open markets. While robust, these reforms remained incremental, preserving the principle that economic flows should generally remain unrestricted, with security-based limitations as exceptions determined through standard procedures. These rules, then, largely aligned with and reinforced existing global governance frameworks. Despite targeting Chinese security threats, FIRRMA maintained CFIUS's country-neutral stance and even funded outreach to encourage allies to develop similar investment screening mechanisms. Similarly, ECRA was built on established export control structures, requiring the Department of Commerce to demonstrate that any newly controlled emerging technology had a pathway to multilateral control within 3 years, affirming the view that unilateral controls harmed US businesses without achieving security objectives.

The Trump administration's list-based measures, however, signalled less commitment to regulating in ways that were compatible with WTO obligations or broadly accepted ordering norms. The process for controlling emerging technology through ECRA's critical and emerging technologies list proved slow, and developing consensus between security and business interests around how aggressively to implement controls was challenging. In this context, the Administration

⁹ The White House, *National Security Strategy of the United States of America* (2017). <https://trumpwhitehouse.archives.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf> accessed 14 May 2025.

¹⁰ Michael Brown and Pavneet Singh, 'China's Technology Transfer Strategy: How Chinese Investments in Emerging Technology Enable a Strategic Competitor to Access the Crown Jewels of U.S. Innovation' (Defense Innovation Unit Experimental 2018).

¹¹ Foreign Investment Risk Review Modernization Act 2018 (US).

¹² Paul K Kerr and Christopher A Casey, *The U.S. Export Control System and the Export Control Reform Act of 2018* (Congressional Research Service 2021).

became increasingly willing to reach for list-based, unilateral controls that allowed it to impose restrictions on specific entities quickly, without having to engage in lengthy rulemaking processes. Such actions included more aggressive use of entity listings¹³ and the expansion of other forms of list-based sanctions, including an end-of-term executive order¹⁴ that prohibited US investors from purchasing securities of entities identified as ‘Communist Chinese Military Companies’ by the Department of Defense.¹⁵

The first Trump administration’s list-based approach to technology control, in comparison to its strengthening of dual-use export licensing, was both more of a challenge to the rules-based order and more susceptible to being watered down. Thus, these actions were simultaneously less binding than some other measures the administration could have taken, while also indicative of a broader desire to restructure expectations for global economic exchange. The Administration’s stance towards Huawei helps illustrate this seeming contradiction. In May 2019, the Trump administration placed Huawei and numerous subsidiaries on the entity list.¹⁶ It justified its action by referencing Huawei’s record of evading Iran sanctions, but it was clear from administration officials that government initiatives were also designed to limit Huawei’s ability to continue to expand its market share, its surveillance infrastructure, and its technological capabilities.¹⁷

Despite harsh rhetoric, however, US businesses were largely able to continue trade with Huawei through a series of temporary general licenses¹⁸ (TGL) that were extended for over a year, ending only in August 2020.¹⁹ At that time, Commerce’s Bureau of International Security (BIS)²⁰ ended the TGL regime, established a presumption of denial for export license requests, and incorporated an updated de minimis rule²¹ designed to further restrict not just American companies’ exports to Huawei but any foreign company’s exports to Huawei if they relied on any amount of US technology in their product. This expansive use of what is called a foreign direct product rule (FDPR) meant that the US was moving beyond regulating its own companies on national security grounds to also exerting extraterritorial control over non-US entities. Even then, the Trump administration seemed to have challenges fully enforcing its own rules. Between 2019 and 2020, BIS approved export licenses worth \$87 billion in sales to Huawei.²² A House Foreign Affairs report found that between 9 November 2020 and April 2021, BIS approved close to 70 per cent of all applications to export items to Huawei.²³ While this figure spans the end of the Trump and

¹³ The Entity List, which is maintained by the Commerce Department’s Bureau of Industry and Security (BIS), names specific foreign entities, companies, and persons to which the US government has restricted access to dual-use technology due to national security, weapon proliferation, human rights, or military surveillance concerns. US exporters must obtain licences to send controlled items to listed entities, and even non-US exporters face restrictions if their items contain US technology.

¹⁴ Addressing the Threat from Securities Investments That Finance Communist Chinese Military Companies, 85 Fed. Reg. 73,185 (17 November 2020) <<https://www.federalregister.gov/documents/2020/11/17/2020-25459/addressing-the-threat-from-securities-investments-that-finance-communist-chinese-military-companies>> accessed 14 May 2025.

¹⁵ The process for the DoD list was delineated in the National Defense Authorization Act for Fiscal Year 2021.

¹⁶ Addition of Entities to the Entity List, 84 Fed. Reg. 22,961 (21 May 2019)<<https://www.federalregister.gov/documents/2019/05/21/2019-10616/addition-of-entities-to-the-entity-list>> accessed 14 May 2025.

¹⁷ U.S. Department of State, *Special Briefing with Keith Krach, Under Secretary of State for Economic Growth, Energy, and the Environment; Cordell Hull, Acting Under Secretary of Commerce for Industry and Security; Dr Christopher Ashley Ford, Assistant Secretary of State for International Security and Nonproliferation* (U.S. Department of State, 17 August 2020) <<https://2017-2021.state.gov/special-briefing-with-keith-krach-under-secretary-of-state-for-economic-growth-energy-and-the-environment-cordell-hull-acting-under-secretary-of-commerce-for-industry-and-security-dr-christophe/>> accessed 14 April 2025.

¹⁸ Temporary general licences allow US exporters to continue to export controlled items to listed entities without first seeking a licence.

¹⁹ In the language of export control licensing, a presumption of denial means that the licensing agent (in this case, BIS) will only approve a licence in extraordinary circumstances.

²⁰ BIS is responsible for overseeing the US system of dual-use export controls.

²¹ De minimis rules specify the amount of US-controlled content a foreign-made item needs to contain before it is also subject to US export control regulations. The default is 25 per cent for most countries and 10 per cent for embargoed countries. In this case, the Trump administration set the de minimis to zero.

²² Karen Freifeld, ‘Biden Administration Adds New Limits on Huawei’s Suppliers’ Reuters (11 March 2021) <<https://www.reuters.com/technology/biden-administration-adds-new-limits-huaweis-suppliers-2021-03-11/>> accessed 14 April 2025.

²³ House Committee on Foreign Affairs, *Huawei Licensing Information* (April 2021) <<https://foreignaffairs.house.gov/wp-content/uploads/2021/10/Huawei-Licensing-Information.pdf>> accessed 14 April 2025.

the beginning of the Biden Administrations, it makes clear that Trump's rhetoric and policymaking around targeted export restrictions was not substantially followed with strenuous enforcement.

The aggressive use of FDPR is itself a substantial challenge to a liberal and rules-based economic order because it undermines the sovereignty of other states that did not assent to such rules, bypasses existing multilateral bodies such as the Wassenaar Arrangement that are designed to govern export controls, and reduces trust in the ability of allies' and partners' businesses to enjoy uninterrupted access to trade in US technology. However, because the Administration's actions targeted specific entities that many governments viewed as national security threats and focused on a core set of military-adjacent technologies, the effect of its policies on global economic governance of foreign investment and trade in technologies was largely limited to arguments over the line between commercial and dual-use technology and how far the US could push extraterritorially applied regulations without suffering substantial blowback from partners and allies.

In aggregate, the first Trump administration's foreign investment and technology trade policies contested the liberal, rules-based order primarily at the margins. While the administration's approach to trade—which is not the emphasis of this commentary—may have been more revolutionary, investment, and export control regulations under Trump 1.0 were aggressive but also largely focused on asserting a right to restrict economic exchange that generated negative national security externalities. Other countries might have viewed some of the administration's security claims as specious, as indeed they did, with respect to section 232 tariffs on steel and aluminium. But, in the realm of investment and strategic trade controls, the USA found its allies and partners also viewing some economic activity through the prism of national security. Many advanced industrial economies also developed new or strengthened existing investment screening authorities during this time,²⁴ the European Commission developed an agenda to implement an array of economic security regulations,²⁵ and countries across Europe and the Indo-Pacific implemented a variety of measures to limit their exposure to Huawei.²⁶

As a result, the global governance effects of US investment and technology restrictions in the first Trump administration were muted. US allies and partners complained about the extraterritoriality of American export controls, but such frustrations with respect to US coercive economic statecraft were not new or unique to the Trump administration. These same concerns featured prominently in discussions related to the US secondary sanctions programme. Thus, the general effect of Trump 1.0's investment and technology regulations on global governance was largely that they renegotiated and broadened shared understandings of the conditions under which economic exchange could be governed by exception, and they demonstrated a resolve to use asymmetric patterns of economic and infrastructure interdependence to more aggressively pursue their perceived national security imperatives.

THE BIDEN ADMINISTRATION—TECHNOLOGICAL SUPREMACY AND EMBEDDED LIBERALISM

The Biden administration inherited a revitalized national economic security state from the Trump administration. Rather than unwind or weaken it, Biden's team set about using the administrative state to further address national security vulnerabilities in the context of rapid developments in advanced semiconductor technology and artificial intelligence. However, the Biden administration built these new authorities on a different set of principles than Trump 1.0 did. The

²⁴ Sarah Bauerle Danzman and Sophie Meunier, 'Mapping the Characteristics of Foreign Investment Screening Mechanisms: The New PRISM Dataset' (2023) 67 *International Studies Quarterly* sqad026.

²⁵ Sarah Bauerle Danzman and Sophie Meunier, 'The EU's Geoeconomic Turn: From Policy Laggard to Institutional Innovator' (2024) 62 *Journal of Common Market Studies* 1097.

²⁶ Han-Wei Liu and Shin-Yi Peng, 'Managing Trade Conflicts in the ICT Industry: A Case Study of EU–Greater China Area' (2016) 19 *Journal of International Economic Law* 629.

administration placed more emphasis on multilateralism and on restricting activities of both foreign dual-use technology entities and foreign technology and defence sectors. In this regard, the Biden administration also sought changes to the liberal rules-based order, but largely again as reforms to the existing governance system rather than directives that would usher in an entirely new global economic order.

It is impossible to understand the Biden administration's investment and technology trade strategy without acknowledging two key contextual factors: COVID-related supply chain shocks and the sanctions coalition against Russia. The administration came to power when COVID-related supply chain shocks were still not resolved. This heightened concerns about US *vulnerabilities* to overly concentrated supply chains, especially in China. Because COVID supply chain fragilities also contributed to spikes in inflation, the administration viewed addressing these concerns as both a matter of national security and of domestic economic health and political stability. Within the first month of taking office, President Biden signed three supply chain-oriented executive orders including E.O. 14001²⁷ (A Sustainable Public Health Supply Chain), E.O. 14005²⁸ (Ensuring the Future is Made in All of America by All of America's Workers), and E.O. 14017²⁹ (America's Supply Chains).³⁰ And, as the US constructed a robust sanctions coalition against Russia after its full-scale invasion of Ukraine, the Biden administration also began to see the *opportunities* it had, in combination with allies, to frustrate adversaries' military machines by impeding the flow of high-end semiconductor items.

Consequently, Biden's administration pursued what could be characterized as 'securitized embedded liberalism' in its investment and technology trade policies.³¹ That is, the Biden administration acted in ways that were still aligned with central pillars of the liberal rules-based order, such as by emphasizing multilateral dialogue and coordination, as well as a desire for clearly articulated regulatory proceduralism. However, the administration also wished to carve out more regulatory space to address issues of national security and domestic economic imperatives.

The core investment regulatory measures of the Biden administration reflect these commitments to proceduralism and further insulation from economic activities that generate negative security externalities. The administration continued to use CFIUS assertively while also trying to reduce market uncertainty around the committee's concerns. For example, E.O. 14083 provided—for the first time in CFIUS's history—a clear outline of the factors the committee was to consider when reviewing transactions.³² Biden also issued executive orders to strengthen CFIUS's

²⁷ A Sustainable Public Health Supply Chain, 86 Fed. Reg. 7219 (21 January 2021) <<https://www.federalregister.gov/documents/2021/01/26/2021-01865/a-sustainable-public-health-supply-chain>> accessed 14 May 2025.

²⁸ Ensuring the Future is Made in All of America by All of America's Workers, 86 Fed. Reg. 7475 (25 January 2021) <<https://www.federalregister.gov/documents/2021/01/28/2021-02038/ensuring-the-future-is-made-in-all-of-america-by-all-of-americas-workers>> accessed 14 May 2025.

²⁹ America's Supply Chains, 86 Fed. Reg. 11,849 (24 February 2021) <<https://www.federalregister.gov/documents/2021/03/01/2021-04280/americas-supply-chains>> accessed 14 May 2025.

³⁰ Trump 1.0 also took supply chain measures, but usually around narrower sets of industries with more direct ties to activities traditionally seen as defence related such as E.O. 13806 (Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the USA), E.O. 13817 (A Federal Strategy to Ensure Secure and Reliable Supplies of Critical Minerals), E.O. 13873 (Securing the Information and Communications Technology and Services Supply Chain), and E.O. 13953 (Addressing the Threat to the Domestic Supply Chain from Reliance on Critical Minerals from Foreign Adversaries and Supporting the Domestic Mining and Processing Industries).

³¹ Embedded liberalism is a term first developed by John Ruggie to describe the post-war system until the neoliberal era. Embedded liberalism combined open markets with social welfare protections and a greater degree of compensation to the losers from free trade. See John G Ruggie, 'International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order' (1982) 36 International Organization 379. I describe the Biden administration's version of embedded liberalism as a securitized one because it justified much of its social welfare initiatives through a national security lens. For more on securitization, see Barry Buzan, 'Rethinking Security after the Cold War' in *National and International Security* (1st edn, Routledge 2000).

³² Ensuring Robust Consideration of Evolving National Security Risks by the Committee on Foreign Investment in the United States, 87 Fed. Reg. 57,369 (20 September 2022) <<https://www.federalregister.gov/documents/2022/09/20/2022-20450/ensuring-robust-consideration-of-evolving-national-security-risks-by-the-committee-on-foreign>> accessed 14 April 2025.

monitoring and enforcement capabilities and to update technical components of the CFIUS process.

The Biden administration mostly acknowledged the limits of CFIUS authority. While the Trump administration tried to use CFIUS to force ByteDance to divest from TikTok,³³ the Biden administration seemed to be dubious that CFIUS clearly had authority over the post-closing transaction and instead worked with Congress to develop separate legal authorities to address US national security concerns associated with Chinese ownership of the popular social media application.³⁴ The Biden administration also took flak from Congressional Republicans for determining that it did not have jurisdiction over a Chinese greenfield investment in a Michigan electric vehicle battery plant.³⁵ Of course, the high-profile CFIUS prohibition³⁶ of Nippon Steel's proposed acquisition of US Steel at the end of Biden's term is an important exception to the administration's otherwise seeming determination to keep CFIUS mostly out of the news cycle. However, even in this case, the administration in the end punted resolution of this transaction to the second Trump administration.³⁷

In addition to further regularizing CFIUS procedures, the Biden administration pursued a range of regulatory authorities in pursuit of technological supremacy vis-à-vis China. This policy objective was most clearly articulated in National Security Advisor Jake Sullivan's September 2022 speech at the Special Competitive Studies Project Global Emerging Technologies Summit where he argued the USA should seek to achieve as large a technology lead as possible with China.³⁸ In this context, the Biden administration pushed much further than did Trump on export controls.³⁹ The administration's aggressive approach to placing export controls on semiconductor and supercomputer items on all of China—that is, on a country-level rather than a specified end-user or end-use restriction—is a clear example of this strategy. These rules, first issued in October 2022⁴⁰ and updated in October 2023⁴¹ and December 2024,⁴² are incredibly complex, each comprising

³³ Stephen P Mulligan, *Restricting TikTok (Part I): Legal History and Background* (Congressional Research Service 2023).

³⁴ Protecting Americans from Foreign Adversary Controlled Applications Act, Pub. L. No 118-50, Div. H (2024)

³⁵ Sen. Marco Rubio, Rep. John Moolenaar, Rep. Lisa McClain, Rep. Bill Huizenga, Rep. Mike Bost, and Rep. John James, *Open Letter to Secretary of Treasury* (2023) <<https://moolenaar.house.gov/sites/evo-subsites/moolenaar.house.gov/files/evo-media-document/09.20.23-jm-letter-to-treasury-re-chus-review-of-gotion.pdf>> accessed 14 May 2025.

³⁶ Sarah Bauerle Danzman, 'Biden's blocked US Steel Deal Carries Big Risks. Here are the Top 'Three' Atlantic Council (3 January 2025) <<https://www.atlanticcouncil.org/blogs/new-atlanticist/bidens-blocked-us-steel-deal-carries-big-risks-here-are-the-top-three/>> accessed 14 April 2025.

³⁷ Reuters, 'Biden Administration Delays Enforcing Order Blocking Nippon Steel-U.S. Steel Deal' Reuters (11 January 2025) <<https://www.nbcnews.com/business/business-news/biden-administration-delays-enforcement-order-blocking-nippon-steel-us-rcna187294>> accessed 14 April 2025. On 23 May 2025, the Trump administration announced a deal with Nippon Steel that would allow the transaction to move forward. As of this writing, the details of this arrangement have still not been made public. See Mariko Katsumura and Yuka Obayashi, 'Trump's backing for Nippon's US Steel bid leaves key questions unanswered' Reuters (25 May 2025) <<https://www.reuters.com/business/nippon-steel-shares-climb-5-after-trump-offers-support-us-steel-deal-2025-05-26/>> accessed 26 May 2025.

³⁸ Remarks by National Security Advisor Jake Sullivan at the Special Competitive Studies Project Global Emerging Technologies Summit' (The White House, 16 September 2022) <<https://bidewhitehouse.archives.gov/briefing-room/speeches-remarks/2022/09/16/remarks-by-national-security-advisor-jake-sullivan-at-the-special-competitive-studies-project-global-emerging-technologies-summit/>> accessed 14 April 2025.

³⁹ Indeed, it was not always clear how committed the first Trump administration was to constraining Chinese technology capabilities, especially if doing so came at the expense of trade-related objectives. For example, the Trump administration removed the Chinese ICT company ZTE from the Entity List in 2018 as part of an agreement that included payment of a \$1 billion USD fine and a 1-year monitoring agreement. See Joseph Schoorl, Meghan Hamilton, and Alison Powell, 'Commerce Department Terminates ZTE Denial Order Issued April 15, 2018' (*Global Sanctions and Export Controls Blog*, 16 July 2018) <<https://sanctionsnews.baker-mckenzie.com/commerce-department-terminates-zte-denial-order-issued-april-15-2018/>> accessed 14 April 2025.

⁴⁰ Bureau of Industry and Security, *Commerce Implements New Export Controls on Advanced Computing and Semiconductor Manufacturing Items to the People's Republic of China (PRC)* (2022) <<https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3355-2023-10-17-bis-press-release-acs-and-sme-rules-final.js?file#:~:text=Today's%20rules%20reinforce%20the%20October,ands%20they%20remain%20durable.>> accessed 14 May 2025.

⁴¹ Bureau of Industry and Security, *Commerce Strengthens Restrictions on Advanced Computing Semiconductors, Semiconductor Manufacturing Equipment, and Supercomputing Items to Countries of Concern* (2023) <<https://www.bis.doc.gov/index.php/documents/about-bis/newsroom/press-releases/3355-2023-10-17-bis-press-release-acs-and-sme-rules-final.js?file#:~:text=Today's%20rules%20reinforce%20the%20October,ands%20they%20remain%20durable.>> accessed 14 May 2025.

⁴² Bureau of Industry and Security, *Commerce Strengthens Export Controls to Restrict China's Capability to Produce Advanced Semiconductors for Military Applications* (2024) <<https://www.bis.gov/press-release/commerce-strengthens-export-controls-restrict-chinas-capability-produce-advanced-semiconductors-military>> accessed 14 May 2025.

hundreds of pages. The length, perhaps paradoxically, is indicative of the administration's desire to operate broadly within the principles of the liberal rules-based order. A simpler framework would be to just ban all semiconductor technology to China. The Biden administration, however, wanted to only block technology deemed sufficiently sensitive to justify this action on national security grounds. In trying to thread the needle, the administration produced, in aggregate, thousands of pages of dense rules.

Along with more ambitious export controls, the administration issued E.O. 14105⁴³ (*Addressing United State Investments in Certain National Security Technologies and Products in Countries of Concern*), which created the first US restrictions on outbound foreign investment in peacetime. These outbound regulations were developed largely to preempt and cabin Congressional interest in similar but more expansive legislation, first introduced⁴⁴ by Senators Cornyn and Casey in late 2021, and with a dual interest in sensitive security technologies and broader critical supply chains. The final executive order⁴⁵ pared back coverage to three rather narrow sectors—advanced semiconductors, quantum computing, and artificial intelligence systems designed for military or surveillance use.

Across these actions, the administration attempted (perhaps not always successfully) to act in a multilateral fashion. This was both a principled and practical consideration. Unlike US dollar centrality, US technology chokepoints are less secure and therefore less able to be unilaterally weaponized.⁴⁶ The USA could use Foreign Direct Product Rules (FDPRs) to make unilateral trade sanctions more binding, but monitoring and enforcing export controls is harder than enforcing financial sanctions, and the extraterritoriality implied by FDPRs angers partners and allies, as discussed above. Therefore, the USA worked to bring key partners along with its semiconductor controls against China—especially the Dutch and the Japanese. The Biden administration similarly moved forward with outbound investment regulations only after receiving some assurances that other major partners would consider similar rules. This explains why the outbound regulation was only announced after the G7 Economic Resilience And Economic Security Statement that, among other things, articulated a belief that narrowly scoped outbound investment regulation was compatible⁴⁷ with a rules-based approach to economic security. Furthermore, in a variety of public venues, top US officials were careful to emphasize the importance of multilateral technology control.⁴⁸ The fact that Russia's war in Ukraine made actual, rules-based multilateral export control processes through the Wassenaar Arrangement unthinkable likely allowed the USA to pursue aggressive export control action while still making credible claims of multilateral engagement.

Finally, the Biden administration's attempt to rebalance the global governance system towards a version of liberalism with more room for public interest regulation included substantial regulatory entrepreneurship. The scale and scope of these regulations, whether intentional or not, produced an often-underappreciated source of contestation against the prevailing rules-based

⁴³ Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern, 88 Fed. Reg. 54,867 (9 August 2023) <<https://www.federalregister.gov/documents/2023/08/11/2023-17449/addressing-united-states-investments-in-certain-national-security-technologies-and-products-in>> accessed 14 May 2025.

⁴⁴ Sarah Bauerle Danzman, 'Is the US Going to Screen Outbound Investment?' (*Atlantic Council*, 10 January 2022) <<https://www.atlanticcouncil.org/blogs/econographics/is-the-us-going-to-screen-outbound-investment/>> accessed 14 May 2025.

⁴⁵ Sarah Bauerle Danzman and Emily Weinstein, 'A New White House Order is Taking Aim at Investment in Chinese Tech. How Will it Actually Work?' (*Atlantic Council*, 10 August 2023) <<https://www.atlanticcouncil.org/blogs/new-atlanticist/a-new-white-house-order-is-taking-aim-at-investment-in-chinese-tech-how-will-it-actually-work/>> accessed 14 May 2025.

⁴⁶ Sarah Bauerle Danzman and Emily Kilcrease, 'The Illusion of Controls' (*Foreign Affairs*, 30 December 2022) <<https://www.foreignaffairs.com/united-states/illusion-controls>> accessed 14 May 2025.

⁴⁷ Ministry of Foreign Affairs of Japan, G7 Hiroshima Summit (*Session 5 Economic Resilience and Economic Security*) (2023) <https://www.mofa.go.jp/ecm/ec/page1e_000686.html> accessed 14 May 2025.

⁴⁸ Lili Pike and Rishi Iyengar, 'Jake Sullivan's Closing Argument on Biden's Global Economic Agenda' (*Foreign Policy*, 23 October 2024) <<https://foreignpolicy.com/2024/10/23/jake-sullivan-speech-china-brookings-allies-biden-election/>> accessed 14 May 2025.

order. The administration's measures in this respect illustrate how quickly economic security-focused strategies push against key principles of a liberal, rules-based order by expanding the set of economic activities vulnerable to security exceptions and by imposing central states' security preferences on others through supply chain structures that act as extraterritorial points of leverage.

During the Biden administration, BIS promulgated 167 rules, which is over 100 more than were issued by BIS under the first Trump administration.⁴⁹ Many of these rules were aimed at the intersection of safety regulations on rapidly developing technology, national security concerns, and the long-term economic competitiveness of important US industries. The administration's connected vehicle rule, which prohibited Chinese technologies or parts in sensitive systems in electric vehicles, is illustrative of the administration's approach.⁵⁰ Such rules, even if they were drafted primarily to address a domestic concern, presented substantial challenges to the liberal order because the size of the US market and the Biden administration's willingness to condition market access on a growing set of issues classified as national security concerns (and justified through the International Emergency Economic Powers Act) had the effect of pressuring non-American firms to conform to US national security regulations.

TRUMP 2.0—TOWARDS EXPANSIONARY MERCANTILISM?

Above, I attempt to synthesize the foreign investment and trade and technology policy strategies of the first Trump and Biden administrations in a structured analytic fashion. Despite both presidents' contributions to a strengthening economic security state, and despite both administrations' assertive use of investment screening, export controls, and related regulatory tools, a close examination of the strategic objectives of each administration helps to distinguish the important ways in which the administrations differed in their orientation towards pre-existing global economic governance arrangements. Furthermore, this exercise clarifies that both administrations challenged these governing arrangements without seeking to overturn the core principles that have undergirded the post-World War II, US-led liberal rules-based order.

What, then, should we anticipate from the current Trump administration? Does it represent an intensification of trajectories established during his first term? Or are the strategic objectives of a second Trump administration fundamentally distinct from the first? Perhaps it is too early to tell. I contend, however, that characterizing the current Trump administration as merely restoring a coherent regime temporarily interrupted by Biden would be misguided. To conclude, I will briefly explain why I believe the current Trump administration has distinct economic governance and global ordering objectives from the first Trump administration.

For now, the primary source of insight into the foreign investment and trade and technology policy strategy of the new Trump administration is the America First Investment Presidential National Security Memorandum.⁵¹ In the title, at least, the memo seems to simply be a continuation of the rhetorical flourishes of Trump's campaign. However, a closer reading reveals a substantial break with previous expectations for how foreign investment should be governed. The memo articulates a strategic posture in which the USA will encourage inbound passive investment from any country, have a presumption of denial of all inbound non-passive investment from China, expand the definition of emerging and foundational technologies to control, and restrict a larger

⁴⁹ Author's own calculations from reviewing the federal register for rules authored by BIS in both administrations.

⁵⁰ Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles, 90 Fed. Reg. 5360 (16 January 2025) <<https://www.federalregister.gov/documents/2025/01/16/2025-00592/securing-the-information-and-communications-technology-and-services-supply-chain-connected-vehicles#:~:text=In%20this%20final%20rule%2C%20BIS,including%20the%20Hong%20Kong%20Special>> accessed 14 April 2025.

⁵¹ The White House, *America First Investment Policy* (2025) <<https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/>> accessed 14 May 2025.

set of outbound US direct and passive investment to China. Furthermore, it will impose all these restrictions while simultaneously creating ‘fast-track’ authorizations for investments made by investors from partner countries who refrain from investing in or with Chinese entities.

Taken together, these policy pronouncements indicate a substantial break with previous administrations’ approaches to investment policy. First, the memo solely emphasizes the benefits that foreign investment can provide to US national interests, rather than emphasizing the ways in which investment is mutually beneficial. Secondly, it reveals a worldview that foreign investors are political instruments of their home country governments and that the purpose of international exchange is to amass state power rather than private commercial wealth. Thirdly, the administration is uninterested in even paying lip service to existing core principles of global economic governance, such as multilateral dialogue, reciprocity, or non-discrimination.

For these reasons, I expect that the current Trump administration will challenge global economic governance—and indeed global order—in far more direct and consequential ways than did Biden or even his first administration. The order-building of an America First Investment Policy is one of preferential treatment for wealthy individuals and governments willing to make splashy announcements of major investments in ways that benefit the administration.⁵² It is also one of renewed talk of territorial conquest rather than mutually beneficial open economic exchange.⁵³ In other words, it is a return to a view of economic exchange as a tool of state domination and of ordering principles of expansionary mercantilism rather than rules-based liberalism.⁵⁴ The second Trump administration may sound like the first, but it is far more radical in its (re)ordering ambitions.

⁵² See, eg, recent investment announcements by Emirati DAMAC Properties, Masayoshi Son, and TSMC. See also his plan for golden visas for foreigners who agree to invest at least \$5 million in the USA. Will Weissert and Josh Boak, ‘Trump announces \$20B US investment by Emirati businessman’ *Associated Press* (7 January 2025) <<https://apnews.com/article/trump-damac-emirates-investment-data-centers-00aa7c2189ba631eede4d232797a296f>> accessed 14 April 2025; Jessica Jacobs, ‘Trump Announces up to \$500 billion in Private Sector AI Infrastructure Investment’ *CBS News* (22 January 2025) <<https://www.cbsnews.com/news/trump-announces-private-sector-ai-infrastructure-investments>> accessed 14 April 2025; David Sephardson and Steve Holland, ‘Trump and TSMC Announce \$100 billion Plan to Build Five New US Factories’ *Reuters* (4 March 2025) <<https://www.reuters.com/technology/tsmc-ceo-meet-with-trump-tout-investment-plans-2025-03-03/>> accessed 14 April 2025; Michael Williams and Piper H Blackburn, ‘Trump says US will sell \$5 million ‘Gold Card’ to Wealthy Foreigners’ *CNN* (25 February 2025) <<https://www.cnn.com/2025/02/25/politics/us-gold-card-foreigners-trump/index.html>> accessed 14 April 2025.

⁵³ Trump has claimed the USA will ‘get [Greenland]—one way or another’, and has repeatedly voiced interest in reannexing the Panama Canal and annexing Canada. Christian U Jeppesen, Maya Tekeli, and Jeffrey Gettleman, ‘Trump Said the U.S. Will ‘Get’ Greenland. Greenlanders Aren’t Impressed’ *The New York Times* (5 March 2025) <<https://www.nytimes.com/2025/03/05/world/europe/trump-greenland-speech.html>> accessed 14 April 2025; Katherine Doyle and Vaughn Hillyard, ‘Trump Suggests he could Use Military Force to Acquire Panama Canal and Greenland and ‘Economic Force’ Annex Canada.’ *NBC News* (7 January 2025) <<https://www.nbcnews.com/politics/donald-trump/trump-suggests-use-military-force-acquire-panama-canal-greenland-econocra186610>> accessed 14 April 2025; Matina Stevis-Gridneff, ‘How Trump’s ‘51st State’ Canada Talk Came to Be Seen as Deadly Serious’ *The New York Times* (7 March 2025) <<https://www.nytimes.com/2025/03/07/world/canada/trump-trudeau-canada-51st-state.html>> accessed 14 April 2025.

⁵⁴ Here, I borrow from Robert Gilpin’s older writings on realism and international political economy. See Robert Gilpin, *U.S. Power and the Multinational Corporation: The Political Economy of Foreign Direct Investment* (Basic Books 1975).