

Trump 2.0, Taiwan, and Transnational Investment Security

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Introduction

Donald Trump and the Republican Party's victory in the 2024 U.S. elections has invigorated investors, innovators, bankers, venture capitalists, and crypto enthusiasts from Wall Street to Silicon Valley. U.S. stocks have soared since early November, with the benchmark S&P 500 index breaking through 6,000 for the first time and tech giants including Tesla, Apple, Meta, and Nvidia each hitting historic highs shortly after Trump's re-election was confirmed. The dollar has surged by about 1.65% against a host of different currencies, posting its biggest gain in eight years. The cryptocurrency market has also seen remarkable growth, with Tether reaching record levels and Bitcoin climbing to \$100,000 in the weeks following the former president's success in retaking the White House. This robust market performance reflects widespread expectations that Trump's second term will advance an "America First" agenda,¹ prioritizing free-market orthodoxy and U.S. economic growth over issues such as climate change, labor protections, and even national security.

These developments, however, could present a critical test for emerging transnational mechanisms designed to bolster economic resilience and investment security. In particular, if Trump distances the United States from these collaborative efforts, global initiatives to safeguard critical technologies could be significantly weakened, leaving key sectors exposed to exploitation by adversaries and eroding trust among allies. For Taiwan, such a shift would likely increase its exposure to geopolitical threats from China. This would also heighten the urgency for Taiwan to

¹ Jeremy W. Peters & Ruth Igielnik, Support for Trump's Policies Exceeds Support for Trump, *The New York Times*, January 18, 2025. [Online]. Available: <https://www.nytimes.com/2025/01/18/us/politics/trump-policies-immigration-tariffs-economy.html>.

strengthen its own regulatory framework and deepen bilateral cooperation with like-minded allies.

In 2023, the Group of Seven (G7) countries issued a joint statement recognizing the role of outbound direct investment (ODI) controls in protecting “sensitive technologies from being used in ways that threaten international peace and security.”² Similarly, the European Commission proposed new outbound measures as part of its economic security strategy to address risks associated with cross-border investment flows.³ Shortly afterward, the United States and the United Kingdom pledged to align their investment screening policies to prevent the leakage of critical and emerging technologies that are reshaping the national security landscape, including artificial intelligence (AI), quantum information technology (QIT), and semiconductors.⁴ To this end, the two nations committed to addressing risks from outbound investments and ensuring that their capital and expertise would not aid the military or intelligence capabilities of countries of concern. The following year, the U.S.-EU Trade and Technology Council (TTC) reaffirmed a shared interest in mitigating risks from outbound investments in a targeted range of critical technologies.⁵ Together, these initiatives represent the first coordinated efforts among democracies to develop robust international norms for managing outbound investments that could harm national security.

During Trump’s first term as U.S. President, his administration proactively employed investment screening tools to address perceived national security threats, particularly those posed by China. Citing concerns about surveillance and espionage linked to Chinese technology products and services, the administration frequently

² Ministry of Foreign Affairs of Japan, G7 Leaders’ Statement on Economic Resilience and Economic Security, G7 Hiroshima Summit, May 20, 2023. Available: <https://www.mofa.go.jp/files/100506815.pdf>.

³ European Commission, JOINT COMMUNICATION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL ON “EUROPEAN ECONOMIC SECURITY STRATEGY,” 20, June, 2023. Available: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52023JC0020>.

⁴ Prime Minister’s Office, The Atlantic Declaration: A framework for a twenty-first century US-UK Economic Partnership, 21 June, 2023. Available: <https://www.gov.uk/government/publications/the-atlantic-declaration/the-atlantic-declaration#contents>; Prime Minister’s Office, Addressing the national security risks posed by certain types of outbound investment, 21 June, 2023. Available: <https://www.gov.uk/government/publications/the-atlantic-declaration/addressing-the-national-security-risks-posed-by-certain-types-of-outbound-investment>.

⁵ European Commission, EU-US Trade and Technology Council (2021-2024), 3 May, 2024. Available: <https://digital-strategy.ec.europa.eu/en/factpages/eu-us-trade-and-technology-council-2021-2024>.

used divestment orders, including notable cases involving TikTok⁶ and WeChat,⁷ and mandated ownership transfers for Chinese investments in U.S. tech firms. Trump also sought to restrict U.S. persons from trading stocks, debts, and publicly traded securities associated with enterprises tied to the Chinese Communist Party (CCP).⁸

However, during the 2024 campaign, Mr. Trump appeared to signal opposition to such measures, suggesting a potential rollback of these policies.⁹ This shift could undermine the transnational mechanisms that have emerged to safeguard international investment security, leaving global efforts vulnerable without strong U.S. leadership. For Taiwan, such a change could complicate its efforts to secure steady support from Washington as Beijing intensifies its pressure. The anticipated policy reversal could also compromise efforts by allies to block authoritarian regimes from acquiring critical capabilities and threaten peace and stability in the Indo-Pacific. This chapter explores both challenges and opportunities for Taiwan by analyzing investment screening laws and policies in the United States and the island democracy, while also examining the power dynamics underlying U.S. politics and their broader implications for the burgeoning transnational efforts to preserve investment security.

U.S. Policies and Practices

1. Balancing Economic Openness with National Security: The Role of CFIUS

The United States has long supported an open investment environment to promote economic growth.¹⁰ Nevertheless, it has also maintained a robust

⁶ Exec. Order No. 13942 of August 6, 2020, “Addressing the Threat Posed by Tiktok, and Taking Additional Steps to Address the National Emergency With Respect to the Information and Communications Technology and Services Supply Chain.” Available: <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-addressing-threat-posed-tiktok/>.

⁷ Exec. Order No. 13943 of August 6, 2020, “Addressing the Threat Posed by Wechat.” Available: <https://trumpwhitehouse.archives.gov/presidential-actions/executive-order-addressing-threat-posed-wechat/>.

⁸ Exec. Order No. 13959 of November 12, 2020, “Addressing the Threat From Securities Investments That Finance Communist Chinese Military Companies.” Available: <https://www.govinfo.gov/content/pkg/FR-2020-11-17/pdf/2020-25459.pdf>.

⁹ Sapna Maheshwari, “Trump Raises TikTok’s Hopes for a Rescue in the United States,” *The New York Times*, November 12, 2024. [Online]. Available: <https://www.nytimes.com/2024/11/12/technology/trump-tiktok-ban.html>.

¹⁰ “Regulation of U.S. Outbound Investment to China,” (Congressional Research Service, December 2024). Available: <https://crsreports.congress.gov/product/pdf/IF/IF12629>.

mechanism for safeguarding national security in the context of foreign direct investments (FDI) in U.S. companies. Established nearly half a century ago by President Gerald Ford, the Committee on Foreign Investment in the United States (CFIUS) serves as a national security panel tasked with reviewing a narrow category of foreign investments. Specifically, CFIUS focuses on mergers and acquisitions that could result in foreign control of U.S. businesses and potentially pose national security risks. Chaired by the Secretary of the Treasury, the committee operates as a federal interagency panel, including representatives from key cabinet departments such as Defense, State, Commerce, Energy, and Homeland Security.¹¹

CFIUS was initially formed to address security concerns related to the influx of petrodollar investments.¹² Over the past five decades, its jurisdiction and authority have expanded significantly, often in response to high-profile transactions that raised national security alarms. For example, the 2007 passage of the Foreign Investment and National Security Act¹³ (FINSA) was spurred by heightened security concerns following the September 11 terrorist attacks and the controversial 2006 proposal by Dubai Ports World to acquire commercial operations at six U.S. ports. More recent reforms to the CFIUS review process have been influenced by growing apprehension over China's strategic ascent and its state-driven advancements in critical technologies. While these technologies bolster civilian industries, they also present risks of military exploitation or use in espionage activities.

2. Strengthening Investment Security: From FIRRMA Reforms to Global Coordination

To address these challenges, Congress, in collaboration with the first Trump administration, enacted the Foreign Investment Risk Review Modernization Act¹⁴ (FIRRMA) and the Export Control Reform Act¹⁵ (ECRA) in 2018. In early 2020, the Department of the Treasury implemented regulations focusing on investments in critical technologies, critical infrastructure, sensitive personal data, real estate, and

¹¹ "Committee on Foreign Investment in the United States (CFIUS)," (Congressional Research Service, December 2024). Available: <https://crsreports.congress.gov/product/pdf/IF/IF10177>.

¹² "The Committee on Foreign Investment in the United States (CFIUS)," (Congressional Research Service, February 2020). Available: <https://crsreports.congress.gov/product/pdf/RL/RL33388>.

¹³ 50 U.S.C. App. 2061.

¹⁴ *Federal Register*, vol. 83 no. 197, October 11, 2018, p. 51322.

¹⁵ 50 U.S.C. §§4801-4852.

certain non-controlling stakes.¹⁶ These measures marked one of the most comprehensive overhauls of U.S. investment screening mechanisms and reflected a broader strategy to correspond to a changing geostrategic and technological environment.

Under the Biden Administration, U.S. investment screening policies continue to expand in scope, jurisdiction, authority, and frequency. CFIUS has tightened restrictions on real estate and broadened its jurisdiction over certain types of covered transactions to address an increasingly complex national security landscape.¹⁷ Efforts to improve interagency coordination have led to closer integration between CFIUS and Commerce-administered export control mechanisms. The United States has also begun implementing restrictions on outbound investments to prevent American capital and capabilities from supporting the military modernization efforts of adversarial nations.¹⁸ While these measures remain largely unilateral, the adoption of CFIUS-like mechanisms and proliferation of parallel actions on outbound investment are growing among U.S. allies.¹⁹ These developments highlight Biden's emphasis on multilateral cooperation to strengthen a coordinated international effort on investment security.

In practice, CFIUS has increased its focus on compliance and enforcement of its authorities over the last few years. In 2023 alone, the penalties imposed doubled the total number the Committee had previously issued in its nearly 50-year history.²⁰ This shift includes dedicating more resources and staff to the Committee, enhancing

¹⁶ Farhad Jalinous & Karalyn Mildorf, "CFIUS Finalizes New FIRRMA Regulations," White & Case LLP, January 22, 2020. Available:

<https://www.whitecase.com/insight-alert/cfius-finalizes-new-firma-regulations>.

¹⁷ Exec. Order No. 14083 of September 15, 2022, "Ensuring Robust Consideration of Evolving National Security Risks by the Committee on Foreign Investment in the United States." Available: <https://www.govinfo.gov/content/pkg/CFR-2023-title3-vol1/pdf/CFR-2023-title3-vol1-eo14083.pdf>.

¹⁸ Exec. Order No. 14105 of August 9, 2023, "Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern." Available: <https://www.govinfo.gov/content/pkg/FR-2023-08-11/pdf/2023-17449.pdf>. Department of the Treasury Office of Investment Security, Provisions Pertaining to U.S. Investments in Certain National Security Technologies and Products in Countries of Concern, 31 C.F.R. Part 850. Available: <https://www.govinfo.gov/content/pkg/FR-2024-11-15/pdf/2024-25422.pdf>.

¹⁹ Michael E. Leiter Brian J. Egan John Adebisi Pascal Bine Andrew L. Foster Matthias Horbach Akira Kumaki Brooks E. Allen & Jason Hewitt, "CFIUS Goes Global: New FDI Review Processes Proliferate, Old Ones Expand," January 19, 2022. Available: <https://www.skadden.com/insights/publications/2022/01/2022-insights/regulation-enforcement-and-investigations/cfius-goes-global>.

²⁰ Committee on Foreign Investment in the United States, Annual Report to Congress, CY 2023. Available: <https://home.treasury.gov/system/files/206/2023CFIUSAnnualReport.pdf>.

processes to proactively identify and address potential violations, and taking enforcement action when necessary.²¹ These efforts reflect broader U.S. initiatives to safeguard national security amid evolving geopolitical and technological threats.

Implications Underlying Trump's Second Term

While Trump, who famously dubbed himself the “Tariff Man,” has pledged to impose 100% import duties on all goods from China and 50% on imports from Mexico and other nations,²² he has offered little detail on how his second-term administration would approach investment screening policies. This lack of clarity makes his plans for U.S. investment security difficult to predict.

Nevertheless, the President-elect's policy record and public rhetoric may provide insights into the direction of his second-term agenda. More specifically, three major trends are likely to define the second Trump administration's investment screening policies:

1. Expansive Use of Economic Tools for National Security

Drawing on his first term, many commentators speculate that Trump might extend Biden's broader use of national security rationales to justify the deployment of sanctions, export controls, investment screening, and other economic tools. This assumption stems largely from Trump's initiation of the U.S.-China trade war, his promotion of the idea that “economic security is national security,”²³ and his frequent reliance on national security arguments to defend trade- and investment-related actions.

However, whereas Biden's administration generally applied restrictive tools with balance and proportionality—targeting the most sensitive technologies through narrowly tailored measures—Trump's approach is expected to diverge significantly.

²¹ Christian C. Davis, Laura Black, Katherine Penberthy Padgett, John W. Babcock & Eveline Liu, “CFIUS Continues to Expand Its Authority and Increase Enforcement Activity,” Akin Gump Strauss Hauer & Feld LLP, October 23, 2024. Available: <https://www.akingump.com/en/insights/alerts/cfius-continues-to-expand-its-authority-and-increase-enforcement-activity>.

²² Costas Pitas, “Trump vows new Canada, Mexico, China tariffs that threaten global trade,” *Reuters*, November 21, 2024. [Online]. Available: <https://www.reuters.com/world/us/trump-promises-25-tariff-products-mexico-canada-2024-11-25/>.

²³ The White House, National Security Strategy of the United States of America 17 (2017). Available: <https://trumpwhitehouse.archives.gov/wp-content/uploads/2017/12/NSS-Final-12-18-2017-0905.pdf>.

Regulatory measures may be imposed more aggressively, with many potentially driven by political motivations. Careful means-end analysis could give way to more arbitrary and reflexive actions. The “small yard, high fence” strategy could transform into a “football field with an extraordinarily high fence.”²⁴

This approach risks being turned against U.S. investors, causing friction within the business community and leading to backlash in investment reviews over the medium to long term. Such a broad proposition of national security could also undermine credibility and blur the distinction between routine business transactions and those posing genuine national security risks. The lack of credibility could further make compliance and enforcement more challenging. Enforcement becomes particularly difficult when policies are politicized and lack a clear, credible national security justification. The significant hurdles faced by both the Biden Administration and Trump’s first term in enforcing a ban on TikTok highlight these challenges, as public opposition complicated the implementation of such measures.

For Taiwan, a more arbitrary and reactionary U.S. approach could complicate collaborative efforts. When national security policies are politicized and lack credibility, it becomes harder for Taipei to secure domestic support for closer cooperation with the United States. This dynamic threatens to strain a critical partnership amid escalating regional challenges.

2. A Lack of Multilateral Coordination

Arbitrary actions also risk alienating allies and undermining an emerging transnational effort to build unified initiatives. While targeted measures with a clear national security nexus can draw international consensus and encourage allied countries to adopt similar mechanisms, unpredictable and expansive invocations of national security rationales may erode trust and credibility both domestically and internationally.

In contrast to the Biden Administration’s emphasis on multilateralism, Trump is expected to favor unilateral strategies. During his first term, he dismantled the

²⁴ Geoffrey Gertz, “Goodbye to Small Yard, High Fence,” *The New York Times*, December 3, 2024. [Online]. Available: <https://www.nytimes.com/2024/12/31/opinion/china-semiconductor-biden-xi.html?smid=li-share>.

Office of the Coordinator for Sanctions Policy,²⁵ and his second term could bring uncertainty to initiatives such as the U.S.-EU Trade and Technology Council and the G7+ export control coordination platform.

Recent cabinet appointments by the President-elect reflect this shift in approach. With figures such as Marco Rubio, Mike Waltz, Elise Stefanik, and Jacob Helberg poised to assume key foreign policy roles, the incoming Trump administration seems prepared to elevate some of Washington's most hardline China critics to positions of influence. These appointments indicate a more assertive U.S. presence on the global stage and a likely shift toward a more hawkish and confrontational stance toward Beijing. In this context, the administration's investment security policy—particularly the outbound investment security program targeting China, initiated under Biden—could take on a more arbitrary and aggressive tone under Trump's leadership.

Such a shift risks undermining the transnational mechanisms developed to preserve international investment security, leaving an emerging allied effort vulnerable without strong U.S. leadership. Under Biden, the adoption of CFIUS-like mechanisms and the proliferation of comparable regimes for outbound investment have gained traction among U.S. allies. The United States engaged in extensive consultations with its European allies when imposing economic regulations, including sanctions, export controls, and investment screening. A lack of robust transatlantic coordination could prove detrimental to Taiwan, as these mechanisms primarily target China, the central challenge in this equation. Should the United States become increasingly isolated on the global stage, China may find greater opportunities to expand its influence.

3. A Nuanced and Transactional Approach

More importantly, the President-elect's willingness to negotiate on issues ranging from American's data privacy to national security could set the tone for his second term. By appointing Wall Street veterans Howard Lutnick and Scott Bessent

²⁵ Brandon Carter, "Tillerson eliminates key State Department sanctions office: report," *The Hill*, October 26, 2017. [Online]. Available: <https://thehill.com/policy/international/357445-tillerson-eliminates-key-state-department-sanctions-office-report/>.

to spearhead his economic agenda, Trump has demonstrated a clear intent to prioritize U.S. financial and commercial interests. Reinvigorating the private sector and boosting industrial competitiveness are likely to be his primary objectives. However, his highly transactional approach suggests that his team may pursue economic revitalization at any cost—even if it compromises U.S. national security.

For instance, during his first term, Trump took inconsistent positions on several matters, such as revoking sanctions on a major Chinese telecom company in exchange for progress on a trade deal and blocking efforts by administration hawks to restrict exports of GE jet engines after corporate appeals warned of potential harm to business and the trade deficit.²⁶ The TikTok case further illustrates his transactional tendencies. Initially, Trump used extensive investment screening powers to pressure ByteDance, TikTok’s China-based parent company, to divest and restructure its U.S. operations, citing concerns over data privacy and national security.²⁷

Yet, during the 2024 election cycle, he appeared to retreat from these measures, later crediting TikTok with significantly contributing to his electoral victory.²⁸ More recently, he even indicated a willingness to keep the platform “around for a little while” and submitted a request for a “political resolution” to the Supreme Court,²⁹ reflecting a stark shift in his stance toward the social media giant he once deemed a serious national security threat. These examples underscore Trump’s more nuanced and transactional policy approach to national security, which often prioritizes immediate economic or political gains over consistent adherence to long-term security principles.

²⁶ Kevin Wolf on Semiconductor Export Control Trends Under Trump 2.0 —An Interview With DSET, *CommonWealth Magazine*, January 8, 2025. Available: <https://english.cw.com.tw/article/article.action?id=3908>.

²⁷ President Trump ordered ByteDance Ltd. to divest all interests and rights in any property “used to enable or support ByteDance’s operation of the TikTok application in the United States,” along with “any data obtained or derived from” U. S. TikTok users. 85 *Fed. Reg.* 51297. The facts are also detailed in *TikTok Inc. v. Garland*, 604 U.S. ____ (2025).

²⁸ Lisa Friedman & Sapna Maheshwari, “How Donald Trump Went From Backing a TikTok Ban to Backing Off,” *The New York Times*, December 28, 2024. [Online]. Available: <https://www.nytimes.com/2024/12/28/us/politics/trump-tik-tok-ban.html>.

²⁹ Brief amicus curiae of President Donald J. Trump in support of neither party in *TikTok Inc. v. Garland*, Supreme Court of the United States, December 27, 2024. Available: https://www.supremecourt.gov/DocketPDF/24/24-656/336151/20241227163400981_2024-12-27%20-%20TikTok%20v.%20Garland%20-%20Amicus%20Brief%20of%20President%20Donald%20J.%20Trump.pdf.

This approach becomes particularly concerning when paired with the personal ties and business dealings of Donald Trump and his billionaire allies with U.S. adversaries. These relationships have raised significant concerns about potential conflicts of interest. Questions have emerged regarding Commerce Secretary nominee Howard Lutnick, whose financial connections to the CCP have fueled speculation about whether he could be unduly influenced by Beijing in decisions involving tariffs and export controls on China.³⁰

Power Dynamics in U.S. Politics

Even more troubling here is the influence of Elon Musk, Trump's largest political donor. Musk, the world's richest man, contributed at least \$277 million to the 2024 campaign cycle in support of Trump and the Republican caucus,³¹ cementing his role as one of the President-elect's closest advisers. Musk's significant influence has been evident in his recent actions, including jeopardizing House Speaker Mike Johnson's position by opposing a bipartisan spending bill³² and clashing with Trump's MAGA base over legal immigration policies.³³ These instances underscore his role as one of the most powerful voices shaping Trump's agenda.

The tech entrepreneur's increasing involvement in American politics has coincided with the deepening of his investments in China and personal ties with CCP leadership over the years.³⁴ Tesla, Musk's car company, has invested billions of dollars in China, particularly in large-scale battery manufacturing and other critical sectors of the Chinese economy. The company is also awaiting Beijing's approval for

³⁰ Alexandra Alper, "Lutnick's China ties draw fire after Trump taps him to lead US in trade war," *Reuters*, November 21, 2024. [Online]. Available: <https://www.reuters.com/world/us/lutnicks-china-ties-draw-fire-after-trump-taps-him-lead-us-trade-tariffs-2024-11-21/>.

³¹ Trisha Thadani & Clara Ence Morse, "Elon Musk is now America's largest political donor," *The Washington Post*, December 6, 2024. [Online]. Available: <https://www.washingtonpost.com/technology/2024/12/06/elon-musk-trump-campaign-spending-fec/>.

³² Faiz Siddiqui, Jacob Bogage, Jeff Stein & Tony Romm, "A government shutdown looked unlikely. Then Elon Musk took to X," *The Washington Post*, December 18, 2024. [Online]. Available: <https://www.washingtonpost.com/business/2024/12/18/elon-musk-government-shutdown-bill/>.

³³ Johnathan Edwards, "MAGA is fighting a 'civil war' over H-1B visas. Here's what they are," *The Washington Post*, December 30, 2024. [Online]. Available: <https://www.washingtonpost.com/business/2024/12/30/h1b-visas-musk-maga/>.

³⁴ John Hyatt, "What Musk's Tweets Reveal About His Relationship with China," *Forbes*, January 18, 2025. [Online]. Available: <https://www.forbes.com/sites/johnhyatt/2025/01/18/what-musks-tweets-reveal-about-his-relationship-with-china/>.

its autonomous driving technology,³⁵ further intertwining its future with Chinese regulatory decisions. Moreover, Tesla's reliance on rare earth elements (REEs), essential to its electric vehicle (EV) supply chain,³⁶ suggests Musk may continue expanding operations in China, which is a key source of these REEs. This deepening dependency amplifies concerns about the extent of Chinese leverage over Musk and, by extension, Trump's second-term administration.

Taken together, the unelected multibillionaire's rapid accumulation of political power has sparked alarm. Critics warn that Musk's commercial ties to China and Tesla's substantial investments in the country could enable the Chinese government to have considerable sway over Trump's second term. Some even argue that Musk's growing power within Trump's team risks fostering a form of oligarchy, with policies potentially skewed to benefit Musk and his businesses at the expense of the broader security interests of the United States and its allies.

Taking these dynamics into account, although Trump has vowed to be tough on China, the end result could be far less significant. This is not only because such policies might be used as bargaining chips in negotiations but also because they could be undermined by the significant influence of his billionaire buddies. This is particularly evident in the sensitive area of outbound investment screening, where regulations frequently clash with the interests of powerful capital players. In the EU, efforts are already underway to weaken investment screening rules designed to limit Chinese access to cutting-edge technologies,³⁷ and similar moves could emerge—or may already be unfolding—in the United States.

A recent example of this dynamic is Elon Musk's effort to derail a bipartisan, bicameral funding agreement that included a critical provision for screening and regulating U.S. investments in China. Musk leveraged his outsized influence to push the federal government toward a potential shutdown just before Christmas. Although Congress eventually passed a stopgap funding bill, what House Democrats have

³⁵ Keith Bradsher, "What Elon Musk Needs From China," *The New York Times*, December 3, 2024. [Online]. Available:

<https://www.nytimes.com/2024/11/22/business/elon-musk-tesla-china.html?searchResultPosition=3>.

³⁶ Ariel Cohen, "Elon Musk's Hail Mary In China," *Forbes*, May 1, 2024. [Online]. Available:

<https://www.forbes.com/sites/arielcohen/2024/05/01/elon-musks-hail-mary-in-china/>.

³⁷ Camille Gijs, "EU capitals try to gut investment screening rules aimed at keeping China out," *Politico*, November 26, 2024. [Online]. Available:

<https://www.politico.eu/article/eu-capitals-fdi-screening-rules-china/>.

derisively labeled the “Musk-Johnson Proposal”³⁸ ultimately excluded the key provision aimed at regulating U.S. investments in China’s critical sectors to protect American capital and capabilities.³⁹ This episode underscores the underlying politics and power dynamics among Trump’s billionaire allies and close advisors, revealing the significant influence they wield in shaping his administration’s investment security policies, often at the expense of broader national security considerations.

Prospect for Taiwan-U.S. Collaborations

Despite the challenges and uncertainties, there are meaningful opportunities for Taiwan to effectively collaborate with the United States during Trump’s second term. For Taiwan, first and foremost, the priority should be for the Lai Administration to refine and modernize its long-standing yet somewhat outdated investment review mechanisms, regardless of what the second Trump administration does.

With nearly four decades of experience in implementing inbound and outbound investment screening policies, Taiwan has established itself as a seasoned player in this field. These regulations originated in the 1980s, a period when Taipei became increasingly concerned about the potential mass relocation of Taiwanese enterprises to China, which was emerging as a “world factory” at the time. Factors such as China’s low labor costs, lenient environmental standards, and expansive consumer market sparked fears of a rapid drain on Taiwan’s capital and the “hollowing out” of its economy.⁴⁰ This regulatory framework, designed to preserve Taiwan’s overall competitiveness, has largely persisted in its core objectives ever since.

As a result, Taiwan’s regulatory regime differentiates investments based on their destination, with industrial competitiveness serving as the key evaluation

³⁸ Robert Costa, “How Trump and Elon Musk derailed bipartisan plans for a funding bill, bringing on risk of shutdown,” *CBS News*, December 19, 2024. [Online]. Available: <https://www.cbsnews.com/news/trump-elon-musk-bipartisan-funding-bill-government-shutdown/>. See also, Billy House, Steven T. Dennis & Ari Natter, “Musk Backs Johnson Plan to Avert Shutdown as House Vote Begins,” *Bloomberg*, December 20, 2024. [Online]. Available: <https://finance.yahoo.com/news/house-may-vote-temporary-fix-142146044.html>.

³⁹ DeLauro in Letter to Congressional Leadership: Musk Chaos in Government Funding Process Protects His Chinese Investments, Congress of the United States, December 20, 2024. Available: <https://delauero.house.gov/sites/evo-subsites/delauro.house.gov/files/evo-media-document/2024.12.20%20Letter%20from%20RM%20DeLauro%20to%20Congressional%20Leadership.pdf>.

⁴⁰ Chien-Huei Wu, *Taiwan’s Economic Security in the Shadow of Chips Nationalism*, J. OF WORLD TRADE (April 2025), Available at SSRN: <https://ssrn.com/abstract=4913668>.

criterion. Under the Statute for Industrial Innovation,⁴¹ for example, outbound investments are governed by relatively relaxed regulatory measures, adhering to principles of an open and liberal investment environment. However, investments directed toward China, Hong Kong, and Macau are subject to stricter controls under specific laws, such as the Act Governing Relations Between the People of the Taiwan Area and the Mainland Area and the Laws and Regulations Regarding Hong Kong & Macao Affairs.⁴² Within this framework, Taipei has concentrated significant regulatory resources on overseeing key industries like Liquid-Crystal Display (LCD) panels and semiconductors,⁴³ both of which represent Taiwan's global competitive edge.

However, many of these frameworks were designed for a different era, addressing threats and technologies that have since evolved. As a result, when this regulatory approach—focused predominantly on maintaining industrial competitiveness—is assessed within the broader context of investment security mechanisms that have emerged among democracies in recent years, it appears increasingly outdated and misaligned with current global priorities, if not fundamentally at odds with today's trends.

As noted earlier, today's transnational investment security mechanisms have emerged in response to an evolving national security landscape. Events such as the COVID-19 pandemic, Russia's invasion of Ukraine, and China's more assertive global posture have alarmed democracies worldwide, transforming countries like Japan, Australia, and members of the European Union into more strategic actors. Consequently, democracies are now adopting more proactive measures, including outbound investment regulations, to protect their strategic interests. In this context, the primary objective of outbound investment review has shifted toward preventing critical technologies from being exploited to advance the military modernization efforts of foreign adversaries.

⁴¹ Article 22 of Statute for Industrial Innovation [產業創新條例].

⁴² Article 35 of Act Governing Relations Between the People of the Taiwan Area and the Mainland Area [臺灣地區與大陸地區人民關係條例]; Article 30 of Laws and Regulations Regarding Hong Kong & Macao Affairs [香港澳門關係條例].

⁴³ Ministry of Economic Affairs, Key Points for the Review of Critical Technologies and Supervision of Investment in Wafer Foundries, Integrated Circuit Design, Integrated Circuit Packaging, Integrated Circuit Testing, and LCD Panel Factories in Mainland China [在大陸地區投資晶圓鑄造廠積體電路設計積體電路封裝積體電路測試與液晶顯示器面板廠關鍵技術審查及監督作業要點], August 12, 2002. Available: <https://law.moea.gov.tw/LawContent.aspx?id=FL021027>.

Specifically, the technologies subject to these restrictions include transformative fields such as artificial intelligence and quantum computing, which are fundamentally reshaping the national security landscape. Moreover, investment restrictions imposed by entities like the United Kingdom and the European Union are primarily focused on military applications, with advanced semiconductors serving as a key example. While the second Trump administration would likely broaden the use of economic tools to address national security challenges, the underlying regulatory rationale is unlikely to undergo significant change.⁴⁴

With this in mind, if Taiwan's Lai Administration aims to demonstrate its willingness to cooperate with the second Trump administration and contribute to an allied effort to safeguard investment security, one of Taipei's first steps should be to modernize its regulatory framework. This would involve redefining objectives, updating regulatory tools, and leveraging existing statutory authorities. Where necessary, new legislation or amendments to existing laws should be introduced to ensure adaptability to the shifting geostrategic and technological landscape.

For instance, Taiwan's current regulatory system leans heavily on *ex post* measures, such as fines and penalties,⁴⁵ while lacking more proactive *ex ante* tools like divestment orders or transaction blocks. Moreover, the penalties currently in place are insufficient to serve as effective deterrents. Recent legislative proposals, for example, set the maximum penalty at just over USD 30,000.⁴⁶ This raises an important question: how much deterrent effect can a USD 30,000 fine have on a well-resourced technology company, particularly when cutting-edge capabilities are at stake?

Taipei's efforts should also prioritize enhancing its enforcement capacity. In particular, regulatory resources should be concentrated on advanced

⁴⁴ Julian E. Barnes & Ana Swanson, "Commerce Dept. Is on the Front Lines of China Policy," *The New York Times*, December 8, 2024. [Online]. Available: <https://www.nytimes.com/2024/12/08/us/politics/commerce-dept-is-on-the-front-lines-of-china-policy.html?smid=nytcore-ios-share&referringSource=articleShare>. See also, Marc Vartabedian, "Departing Export-Control Watchdog Predicts Continued Enforcement in Second Trump Term," *The Wall Street Journal*, December 9, 2024. [Online]. Available: <https://www.wsj.com/articles/departing-export-control-watchdog-predicts-continued-enforcement-in-second-trump-term-7bfb4292>.

⁴⁵ See e.g., Article 86 of Act Governing Relations Between the People of the Taiwan Area and the Mainland Area, Article 50 of Laws and Regulations Regarding Hong Kong & Macao Affairs.

⁴⁶ Executive Yuan, Draft Amendments to Statute for Industrial Innovation, December 19, 2024. Available: <https://www.ey.gov.tw/File/32184A4820DA0827?A=C>.

semiconductors—an area where Taiwanese firms like TSMC and others account for nearly 90% of global manufacturing.⁴⁷ Over the years, CFIUS has made significant strides in these areas. This progress provides a valuable model for initial collaboration between Taipei and Washington.

Ultimately, both Taipei and Washington must recognize their shared concerns as close allies with a long-standing defense partnership and as global leaders in critical and emerging technologies: investments in China's critical sectors risk channeling essential capital and expertise that could bolster the People's Liberation Army's (PLA) capabilities. Such developments would not only undermine the collective efforts of allied nations to restrict Beijing's access to advanced technologies but also pose a direct threat to Taiwan's national security. Both governments, therefore, should ensure that their regulatory frameworks are robust enough to serve their common interests. The Taiwanese government should also prioritize direct engagement with the Trump administration, including demonstrating its commitment to implementing comparable regulatory regimes and enhancing information-sharing mechanisms on threats. This effort should involve key stakeholders in both policy and intelligence communities.

All in all, while Trump's transactional tendencies may create obstacles in the future, Taipei has numerous opportunities to lay the groundwork for Taiwan-U.S. collaboration. Crucially, both nations must recognize that this effort transcends mere transactional interests. Taiwan's participation is vital to a U.S.-led initiative to prevent cutting-edge technologies from falling into Beijing's hands and to ensure that these technologies are developed by the United States and its allies. Strengthening cooperation on investment security will be critical to ensuring a unified and effective response to shared challenges.

⁴⁷ The Economist, "Taiwan's dominance of the chip industry makes it more important," March 6, 2023. Available: <https://www.economist.com/special-report/2023/03/06/taiwans-dominance-of-the-chip-industry-makes-it-more-important>.