## III. *Restrictions on Investments in China - New Outbound Investment Regime*

### A. Introduction

The United States and China are the two biggest economic powers in the World and over the past couple of decades both countries have developed a crucial trade relationship.[1] Both countries have benefitted from such trade relations: China is "one of the largest export markets for U.S. goods and services," and the United States is "among the top export markets for China."[2] The total trade value has grown astronomically since the beginning of this economic relationship, increasing from $5 billion in 1980 to $660 billion in 2018.[3] However, these large scale commercial ties between the United States and China did not start until the 1980s, where China enacted an economic reform that initiated its rapid economic growth.[4] More specifically, China and the United States' trade relationship took a leap forward once China became a member of the World Trade Organization ("WTO").[5] China has seen consistent economic growth from its economic reforms: "From 1979 (when economic reforms began) to 2017, China's real gross domestic product (GDP) grew at an average annual rate of nearly 10%."[6] China's enactment of economic reforms played a key role in its economic growth, and one of the main reforms involved removing trade barriers which encouraged greater competition and opened the door for

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[1] Adam Hayes, *Direct Foreign Investment (FDI): What It Is, Types, and Examples*, INVESTOPEDIA (Mar. 27, 2023) ("U.S. trade with China has grown enormously in recent decades and is crucial for both countries. Today, China is one of the largest export markets for U.S. goods and services, and the United States is among the top export markets for China.").
[2] *Id.*
[3] WAYNE M. MORRISON, CHINA'S ECONOMIC RISE: HISTORY, TRENDS, CHALLENGES, AND IMPLICATIONS FOR THE UNITED STATES (Congressional Research Service, 2019), https://www.everycrsreport.com/file s/2019 0625_RL33534_088c5467dd11365dd4ab5f72133db289fa10030f.pdf ("According to U.S. trade data, total trade between the two countries grew from $5 billion in 1980 to $660 billion in 2018.").
[4] *Id.* (discussing China's economic modernization and growth strategy in the 1980s leading to change in China's economic status).
[5] HAYES, *supra* note 1 (stating how China and the U.S.'s relationship grew even further after China joined WTO).
[6] MORRISON, *supra* note 3.

foreign direct investment ("FDI").[7] It has been noted that "large-scale capital investment (financed by large domestic savings and foreign investment) and rapid productivity growth" are two of the largest factors accredited with aiding China's rapid economic growth.[8]

But what is FDI and why has it become the center of political and economic tension between the United States and China?[9] This topic has recently gained a lot of attention as in late 2023, President Biden signed an executive order restricting outbound investments in certain sensitive industries in China.[10] Current political and economic tensions are very high between the world's two largest economies, and it remains to be seen if more restrictions will be put in place.[11] Specifically, the economic and political tensions between the United States and China have gone back and forth dating to the 1950s.[12] Tensions between the countries date back even towards the beginning of the trade relationship between the countries due to fear from the labor unions in the United States that this relationship would lead to a "race to the bottom."[13] Economic skepticism arose from the positives that the United States would benefit from cheaper goods and labor, but the effect of this led to

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[7] *Id.* ("Removing trade barriers encouraged greater competition and attracted FDI inflows.").

[8] *Id.*

[9] Brian J. Egan, et. al., *US Moves to Narrowly Limit Investment in China*, SKADDEN (Aug. 10, 2023) https://www.skadden.com/insights/publications/2023/08/us-moves-to-narrowly-limit-investment-in-china (reporting on the FDI restrictions made by the Biden administration).

[10] Anshu Siripurapu and Noah Berman, *The Contentious U.S.-China Trade Relationship*, COUNCIL ON FOREIGN REL. (Sept. 26, 2023, 12:00 PM), https://www.cfr.org/backgrounder/contentious-us-china-trade-relationship#chapter-title-0-5; Noah Berman, *President Biden Has Banned Some U.S Investment in China. Here's What to Know.*, COUNCIL ON FOREIGN REL. (Aug. 29, 2023, 2:40 PM), https://www.cfr.org/in-brief/president-biden-has-banned-some-us-investment-china-heres-what-know ("These include three main industries: advanced computing chips and microelectronics, quantum technology, and artificial intelligence (AI).").

[11] BERMAN, *supra* note 10 (mentioning whether the U.S. will enforce further restrictions).

[12] *Timeline: U.S.-China Relations*, COUNCIL ON FOREIGN REL., https://www.cfr.org/timeline/us-china-relations (pointing out how China and the U.S. were on opposites side of the Korean War).

[13] HAYES, *supra* note 1 ("Still, the move was opposed by U.S. labor unions and many congressional Democrats, who argued that China's weak worker and environmental protections would incentivize similar practices elsewhere and bring about a "race to the bottom.").

Americans losing jobs from being unable to compete with Chinese imports.[14] From the 1950s to present day, the United States and China have faced bilateral tensions over trade and potential military escalations.[15] The political tensions arise out of the United States' support of Taiwan and China's increased military spending in the 21st century.[16] One reason for the economic tensions arises from the United States wanting to decrease its dependence on China and seeking to "reduce exposure to Chinese markets and suppliers."[17] Additionally, a growing tension has been over the battle for semiconductor chips, where the United States aims to prevent investments to benefit Chinese military advancement, and China is restricting exports of key materials needed to make semiconductors.[18] But for now, the restrictions on FDI target key sectors in technology and the Biden administration have justified such restrictions by citing national security concerns.[19]

### B. What is Foreign Direct Investment?

FDI is "an ownership stake in a foreign company or project made by an investor, company, or government from another country."[20] FDI creates stable and long-lasting links between economics and plays a key role in international economic interaction.[21] FDI inflows in a country can be a positive indication in long-term investment appeal and in 2021 China had a larger percentage of FDI account for its gross

[14] *Id.* ("Though U.S. consumers benefited from the flood of cheaper goods from China, millions of Americans lost their jobs due to import competition.").
[15] Timeline, *supra* note 12 (organizing the tensions chronically from the Korean War to Taiwan today).
[16] Timeline, *supra* note 12 (stating the reason of the heightened tensions and the possibility of escalation).
[17] Michelle Toh, *3 Key sources of tension between the US and China*, CNN (Nov. 15, 2023, 1:37 PM), https://www.cnn.com/2023/11/15/economy/us-china-key-issues-apec-summit-intl-hnk/index.html.
[18] *Id.* ("Over the past year, both sides have been progressively escalating a feud over China's access to the most advanced semiconductors, as well as the materials and equipment needed to create the technology.").
[19] Ana Swanson, *Biden to Restrict Investments in China, Citing National Security Threats*, N.Y. TIMES (Aug. 8, 2023), https://www.nytimes.com/2023/08/08/business/economy/biden-china-companies-restrictions.html (emphasizing the restrictions are for national security reasons in an attempt to decrease China's access to military funds and sensitive technologies).
[20] HAYES, *supra* note 1.
[21] *Id.* (discussing the international benefits that FDI provides).

domestic product than the United States.[22] Still, both the United States and China benefitted from FDI as they are the two top destinations of such investments.[23] FDI is one of the main reasons for China's economic growth and productivity gains.[24] For example, "there were reportedly 445,244 foreign-invested enterprises (FIEs) registered in China in 2010, employing 55.2 million workers or 15.9% of the urban workforce."[25] Foreign-invested enterprises also account for a strong percentage of China's imports and exports, reporting up to 41.7% and 43.7% in 2018.[26] In 2018, China's FDI inflows were worth $139 billion.[27] China has benefitted from FDI in increasing its economic and trade growth, while also being able to develop technologically and improve economic efficiency.[28] China's shift in policies to attract FDI came from wanting to "go global."[29] More specifically, China's government wanted to use FDI to get access to intellectual property, technology, and famous brands in an attempt to increase the value of Chinese firms in manufacturing, boosting domestic firms and innovation, and to become global competitors.[30]

Overall, this strategy led to great success and led to China to continue to focus on an FDI outflow strategy.[31] China's FDI outflow strategy was done in part due to its large amounts of foreign exchange

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[22] *Id.* (indicating the economic growth China has received from FDI).
[23] *Id.* (comparing both U.S. and China's beneficial relationship from FDI).
[24] MORRISON, *supra* note 3 (stating the significant investment of FDI in China and what it has done to shift the growth of their economy).
[25] *Id.*
[26] *Id.* ("At their peak, FIEs accounted for 58.3% of Chinese exports in 2005 and 59.7% of imports, but these levels have subsequently fallen, reaching 41.7% and 43.7%, respectively, in 2018.").
[27] *Id.* ("China's FDI inflows in 2018 were $139 billion, making it the world's second- largest recipient of FDI after the United States.").
[28] *Id.* (gaining increase in investments provided China the opportunity to allocate resources more efficiently).
[29] *Id.* ("The sharp increase in China's global FDI outflows in recent years appears to be largely driven by a number of factors, including Chinese government policies and initiatives to encourage firms to 'go global.'").
[30] *Id.* ("The government wants to use FDI to gain access to IPR, technology, know-how, famous brands, etc., in order to move Chinese firms up the value-added chain in manufacturing and services, boost domestic innovation and development of Chinese brands, and help Chinese firms (especially SOEs) to become major global competitors.").
[31] *Id.* (describing China's FDI reforms which changed the way it interacted on an international level).

reserves (up to $3.1 trillion in 2019), and have encouraged state-owned enterprises to invest overseas.[32] Another reason for outward FDI investment has been "to obtain natural resources, such as oil and minerals, deemed by the government as necessary to sustain China's rapid economic growth."[33] An United States database tracked who the main recipients of China's outward investment were from 2005-2017, specifically to see if it was to be redirected from one country to another, and found that the "United States ($172.7 billion), Australia ($103.7 billion), the United Kingdom ($75 billion), Brazil ($61.2 billion), and Russia ($53.8)" were the main recipients.[34]

With China's success from FDI, the question remains on why China is an attractive source of investment for companies, and what, if anything makes investors hesitant to invest.[35] Firstly, some positive news for investors was that China has aimed to make reforms to its business regulatory environment, by making it more friendly for investors.[36] These reforms include: "increasing the efficiency of business processes, such as tax cuts, trade with tariff cuts, and reduced barriers to foreign investors."[37] Making these changes were necessary to attract more foreign investments and to appeal to investors by reducing import tariffs, improving mechanisms for the delivery of foreign investments, making customs clearance a smoother process, and creating a filing system to regulate FDI.[38] Investors also find China's low labor costs to be beneficial when making FDIs and its well-

[32] *Id.* ("Additionally, increased FDI outflows may be the result of the Chinese government attempting to diversify its foreign exchange reserve holdings (which totaled $3.1 trillion as of April 2019—by far the world's largest holder).").

[33] *Id.*

[34] *Id.*

[35] *China: Foreign Investment*, SANTANDER TRADE MARKETS, https://santandertrade.com/en/portal/establish-overseas/china/foreign-investment (illustrating the positives and benefits of investing in China).

[36] *Id.* "The country demonstrated reform agendas that aim to improve the business regulatory environment.").

[37] *Id.*

[38] *Id.* ("In order to attract further foreign investment, the country has introduced mechanisms to improve the delivery of major foreign investment projects, reduce import tariffs, streamline customs clearance, and establish an online filing system to regulate FDI.").

developed manufacturing sectors.[39] Additionally, China's large population gives businesses access to a massive domestic market that is protected by the sovereign's control of its public debt.[40] However, even with the many positives to make a FDI in China, it comes with its negatives as well due to the lack of transparency and its continuously changing legal and bureaucratic environment.[41] Another negative factor is the lack of protection for intellectual property rights and China's strong protectionist measures in favor of local businesses.[42] Some FDI investors have also found that China to be even more restrictive with FDI compared to other big countries, and even having certain industries (where state-owned enterprises and flagship companies dominate) to be closed off from FDI.[43] An example of this that has had an effect on United States' investors has been China's "national security and anti-espionage laws that curb routine and necessary corporate due diligence and compliance."[44] The pros and cons that comes with FDI in China it seems as if the positives have continued to outweigh the negatives as many well-known companies such as Apple and Nike continue to operate in China, and it has put China in a strong economic position to develop its domestic industries and not be as reliant on FDI in the present day.[45]

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[39] *Id.* ("With a wealth of employees and potential partners eager to learn and evolve, the country is a base for low cost production, which makes it an attractive market for investors.").

[40] *Id.* ("Sovereign risk contained as public debt remains mainly domestic and denominated in local currency.").

[41] *Id.* ("Nevertheless, certain factors can hinder investments, such as China's lack of transparency, legal uncertainty, low level of protection of intellectual property rights, corruption or protectionist measures which favour local businesses.").

[42] *Id.* ("A lack of transparency and weak intellectual property rights protection.").

[43] *Id.* ("Generally speaking, the Chinese government is more restrictive than other big economies in regard to foreign investment, with numerous sectors closed to FDI.").

[44] Associated Press, *Biden orders restrictions on U.S. investments in Chinese Technology*, NPR (Aug. 9, 2023, 5:08 PM), https://www.npr.org/2023/08/09/1193013362/biden-executive-order-restricts-investments-china-tech.

[45] SANTANDER, *supra* note 35 ("A substantial number of foreign multinationals operate in China: GM, KFC, Cummins (CMI), Starbucks, Apple, Intel (INTC), Dell Computer (DELL), Texas Instruments (TXN), Walmart, Nike (NKE), Gucci, Abercrombie & Fitch, Toyota and Samsung.").

While China has advanced significantly and is not as reliant on FDI, it was a worrying sight in Q3 of 2023 when foreign investment turned negative outflows.[46] Now with the Biden administration's restriction on FDI in sensitive industries, specifically in "advanced computing chips and microelectronics, quantum technology, and artificial intelligence,"[47] and tariffs on Chinese products from the Trump administration, there is potential for further tension between the two economic powerhouses.[48] The restrictions on FDI in China by the Biden administration can further damage China's FDI inflows, but the Chinese government during the pandemic restricted foreign investments and have a history of restricting individual corporations and firms.[49] It is too early to tell if FDI on China will continue to be on a negative trend.[50]

### C. Restrictions on FDI in China

The Biden administration in the latter half of 2023 signed an executive order that ushered a restriction on U.S. outbound investments in China, which has opened the door for a new potential economic clash between the two economic powerhouses.[51] The executive order specifically "authorizes the U.S. Treasury secretary to prohibit or restrict U.S. investments in Chinese entities in three sectors: semiconductors and microelectronics, quantum information technologies and certain artificial intelligence systems."[52] The

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[46] Matt Phillips, *Foreign Investments in China goes negative for first time in decades*, Axios (Nov. 7, 2023), https://www.axios.com/2023/11/07/china-economy-negative-foreign-investments ("Foreign investment into China turned negative for the first time on record in the third quarter.").
[47] BERMAN, *supra* note 10.
[48] SIRIPURAPU, *supra* note 10 ("President Donald Trump took an even more assertive approach, withdrawing from the TPP and imposing tariffs on hundreds of billions of dollars worth of Chinese goods.").
[49] U.S. DEPARTMENT OF STATE, 2023 INVESTMENT CLIMATE STATEMENTS: CHINA https://www.state.gov/reports/2023-investment-climate-statements/china/ (illustrating China's restrictive business nature).
[50] Phillips, *supra* note 46 (clarifying that more data will be needed overtime to tell if China will continue on a negative slope).
[51] EGAN, et. al., *supra* note 9 (describing the FDI restrictions and what it could mean for the tensions between the two economic powerhouses).
[52] Karen Freifeld, et. al, *Biden orders ban on certain US tech investments in China*, REUTERS (Aug. 10, 2023, 8:03 AM) https://www.reuters.com/world/white-house-detail-plans-restricting-some-us-investments-china-source-2023-08-09/.

executive order is likely to affect private equity, venture capital, joint ventures, and greenfield investments, but the measure will only affect future investments not existing ones.[53] The overall goal of the executive order from the Biden administration is to slow the growth of China' tech sector, which has been increasing in its domestic production.[54] The executive order is weary of China's quantum sensing platforms and wants to restrict investments in these quantum communications that are designed to improve China's intelligence and surveillance applications.[55] The Biden administration has taken this step in order to protect national security needs, as the executive order has also been described as:

> "The Order directs Treasury to create an outbound FDI review program that will require reporting on or (in more narrow circumstances) will prohibit investments by U.S. persons involving "covered national security technologies and products," which is defined to include "sensitive technologies and products in the semiconductors and microelectronics, quantum information technologies, and artificial intelligence (AI) sectors that are critical for the military, intelligence, surveillance, or cyber-enabled capabilities" of China (to include Hong Kong and Macau)."[56]

The outbound review program on FDI is furthering past restrictions made in 2022 to restrict China's ability to develop these sensitive technologies.[57] The United States wants to prevent the benefits

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[53] *Id.* (elaborating on what the FDI restrictions mean for certain investment industries).

[54] Kevin Klyman, *Biden Takes Measured Approach on China Investment Control*, FOREIGN POLICY (Aug. 19, 2023, 7:00 AM), https://foreignpolicy.com/2023/08/19/biden-approach-china-economy-investment-control/ (analyzing the caution the Biden administration wants to take in China's tech and chip sector growth).

[55] *Id.* (stating the overall goal of the executive order is to decrease military funding).

[56] EGAN, et. al., *supra* note 9.

[57] *Id.* ("Thus, the outbound FDI review program will complement other efforts by the Biden administration to limit China's ability to develop these categories of sensitive technologies, most notably the October 7, 2022, rule issued by the Department of Commerce imposing additional export controls over these technologies.").

these investments provide, such as "managerial assistance, reputational benefits, further investment and talent networks, and market access not captured by other regulatory regimes."[58] The restrictions, however, do not involve investments in publicly traded securities like stocks or bonds because they have a smaller impact on the benefits of FDI stated above.[59] Specifically, protecting and restricting investments in semiconductors and computer chips has been of great concern to the United States and its allies.[60] The concern relates to evidence showing that U.S. capital is being used to advance China's military capabilities and amidst the heightened political tensions.[61] More specifically, the Biden administration that analyzed the data for this executive order have found China to takes advantage of U.S. investments to modernize its military and further support its military development.[62] It is an attempt by the United States to weaken China's ability to gain access to such vital advanced technology industries, but to also keep the broad trade relations between the two countries.[63] China has been extremely dissatisfied with the executive order and finds the measures to be unreasonable.[64] China has also pointed out that the United States' executive order would also affect

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[58] *Id.*

[59] BERMAN, *supra* note 10 ("It does not target less involved investment in publicly traded securities such as stocks or bonds.").

[60] FREIFELD, *supra* note 52 ("The proposal focuses on investments in Chinese companies developing software to design computer chips and tools to manufacture them. The U.S., Japan and the Netherlands dominate those fields, and the Chinese government has been working to build homegrown alternatives.").

[61] SWANSON, *supra* note 19 ("“There is mounting evidence that U.S. capital is being used to advance Chinese military capabilities and that the U.S. lacks a sufficient means of combating this activity…").

[62] ASSOCIATED PRESS, *supra* note 44 ("The officials previewing the order said that China has exploited U.S. investments to support the development of weapons and modernize its military.").

[63] *Id.* ("The order seeks to blunt China's ability to use U.S. investments in its technology companies to upgrade its military while also preserving broader levels of trade that are vital for both nations' economies.").

[64] FREIFELD, *supra* note 52 ("The Chinese foreign ministry said the country was "strongly dissatisfied" with and "resolutely opposes the U.S.'s insistence on introducing investment restrictions on China", having also lodged solemn representations with the U.S.").

70,000 U.S. companies that do business in China.[65] China's commerce ministry has also threatened countermeasures against the United States and has pointed out the hypocrisy of the United States on the laws of the economy and principles of free competition.[66]

This order has increased the tensions of the tech war between the United States and China, but the scope of the order can be seen limited in its impact.[67] However, if United States' allies in the European Union follow suit and impose its own restrictions, this could have a significant impact on China.[68] For example, many of the United States' allies have decided to take a look at the impact this could have on the market, and potentially reexamine the risks when deciding to make investments in China.[69] Even in the United States there are calls for further restrictions, specifically, members of the Republican Party want Biden to be more aggressive and stop all of U.S. investments in China's critical technology.[70] Others have also stated that this executive order can fall right into China's plans when it comes to FDI and handling foreign investments in China.[71] The fear is that those in China who seek

[65] Betsy Reed, *Biden's China investment ban: who's targeted and what does it mean for the 2024 US election?*, THE GUARDIAN (Aug. 9, 2023, 9:14 PM), https://www.theguardian.com/world/2023/aug/10/joe-biden-us-china-investment-ban-who-is-targeted-what-does-it-mean-for-2024-usa-election/ ("The embassy warned that it would affect more than 70,000 US companies.").

[66] *Id.* ("The country's commerce ministry said it reserved the right to take countermeasures and encouraged the US to respect the laws of market economy and the principle of fair competition.").

[67] KLYMAN, *supra* note 54 ("Part of the reason that Biden's proposed outbound investment controls are limited in scope is that they have been subject to intense private-sector lobbying.").

[68] *Id.* ("Germany, which accounts for roughly half of EU foreign direct investment in China, voiced support for such restrictions in its new China strategy, and the United Kingdom is also considering outbound investment controls.").

[69] ASSOCIATED PRESS, *supra* note 44 (elaborating on what the next potential restrictions on China can come from).

[70] *Id.* ("Republican presidential candidate Nikki Haley, a former U.S. ambassador to the United Nations, said Biden should been more aggressive, saying, "we have to stop all U.S. investment in China's critical technology and military companies—period.").

[71] SWANSON, *supra* note 19 ("Others have argued that the restriction would mainly put the U.S. economy at a disadvantage, because other countries continue to forge technology partnerships with China, and China has no shortage of capital.").

to have a reason to cut dialogue and diplomacy ties with the United States can gain support from this executive order and fuel further tensions by retaliating against the U.S.[72]

Other members in Congress that have argued that Biden should not have only addressed national security concern when formulating this executive order, and point out that the Biden administration should have also focused on the potential economic and diplomatic fallouts that could arise from restrictions on China's tech sector.[73] It will be important to watch if the United States' allies do follow suit with restrictions and reviews of FDI, because then the impacts of this executive order can be limited as China would have the opportunity to find capital elsewhere.[74] The restriction on FDI outbound investments is another way for the United States to focus on other critical suppliers than China, but it is too soon to call on the extent and force this restriction will play and if others will follow suit.[75]

### D. Conclusion

The executive order by the Biden administration has come with criticism.[76] Some Republicans believe that the executive order is too broad and that it should push for further limits for investments into Chinese technology.[77] Others argue that the restriction puts the United States at a disadvantage by allowing other countries to foster and grow

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[72] *Id.* (discussing that by executing the FDI restrictions, China would actually benefit).

[73] KLYMAN, *supra* note 54 ("National security risks should not be the sole consideration when formulating U.S. international technology policy—policymakers must also weigh the economic, diplomatic, and technological fallout from restrictions on China's tech sector.").

[74] EGAN, et. al., *supra* note 9 (describing the weakness of the FDI restrictions if allies do not follow suit in the future).

[75] SWANSON, *supra* note 19 ("At the same time, the Biden administration has continued to push to "de-risk" critical supply chains by developing suppliers outside China, and it has steadily ramped up its restrictions on selling certain technologies to China, including semiconductors for advanced computing.").

[76] *Id.* (stating the criticisms from both sides, where one party says it is not strong enough and another side who is not in favor of the restrictions).

[77] *Id.* ("The planned measure has already faced criticism from some congressional Republicans and others who say it has taken too long and does not go far enough to limit U.S. funding of Chinese technology.").

trade relationships with China.[78] The current discussion over the executive order is whether the investment controls on quantum technologies will even have an impact on China and if the further restrictions should be more focused on semiconductors and AI.[79] However, there is possibility that the Biden administration has opened the door for further restrictions on limiting large AI models and set up the possibility of export controls on AI.[80] With these restrictions being put into place by the United States, it remains to be seen if it will make it more difficult to diffuse tensions with China.[81] Most importantly, the restrictions put into place by the Biden administration creates a model for future restrictions against China.[82]

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[78] *Id.* ("Others have argued that the restriction would mainly put the U.S. economy at a disadvantage, because other countries continue to forge technology partnerships with China, and China has no shortage of capital.").
[79] KLYMAN, *supra* note 54 ("Outbound investment controls on quantum information technologies may be much less impactful than restrictions on investment in semiconductors and AI in China.").
[80] *Id.* ("One specific way in which the Biden administration may alter outbound investment controls is by limiting investment in large AI models.").
[81] *Id.* ("These tit-for-tat measures make it more difficult to diffuse tensions and decrease the likelihood of conflict between the U.S. and China.").
[82] *Id.* ("While there are still plenty of details for Treasury to fill in, Biden's executive order represents a potential model for future restrictions: go slowly, take factors other than national security into consideration, and do not get too far ahead of allies.").

However, the Biden administration has placed emphasis on taking these restrictions slowly as to not get ahead its allies in placing restrictions and to look at potential frameworks to restrict other than national security.[83] The Biden administration has referred to its strategy as "maintaining a 'small yard with a high fence.'"[84] Many are in favor of this strategy but are weary of the United States enacting fully protectionist measures.[85] The best course of action remains to be seen, but restricting investments in national security concerns is the course that the Biden administration continues to follow.[86]

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[83] *Id.* (emphasizing the need to not rush further restrictions and escalate tensions).
[84] Siripurapu, *supra* note 8. Berman, *supra* note 8.
[85] *Id.* (describing the need for the United States to maintain diplomatic relations and keeping its international presence).
[86] *Id.* (portraying the unpredictability of what is to come from both the United States and China).
[87] Student, Boston University School of Law (J.D. 2025).