

--- GLOBAL RISK & GEOPOLITICS ---

The Changing Trade System & Multinational Corporate Strategies.

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Theme:

We have had huge changes in *tariff and trade policies* under Trump and Biden as well as historical regional conflicts ('Ukraine' and 'Gaza'). These changes and events threaten and portend significant systemic changes in global politics and global trade relations. *Geopolitical risks* for the trading system and international business generally are becoming vastly more complex and unpredictable. Policymakers and corporate executives are confronting new realities in their decisionmaking processes.

Please look at the various items below which we'll discuss in class. In particular, let's look at *Biden's and Trump's trade and tariff* actions and proposals. I would then like to conclude with a discussion of implications for the future --- especially in light of the forthcoming presidential election. (*See* questions for class discussion at the end of this outline.)

Recent Articles:

- Malawer, "[Has the United States Become a National Security Trading State.](#)" 17 Journal of East Asia and International Law No. 1, at 205 (2024).

Abstract: *Geopolitical risk is now among the most important factors in the formulation of multinational corporate strategy and the U.S. trade policy. The US has aggressively enacted national-security-based trade sanctions, which recently include export controls on semiconductor chips and restrictions on outbound and inbound investment. The US has also adopted major legislation providing historical subsidies and tax breaks. Congress and the courts have upheld the president's use of national security as a basis of trade actions and generally supported his protectionist policies. Trade should not be restricted or weaponized. Global and national rules need to be strengthened and, perhaps, a bit updated, but protectionism in the name of national security is a losing argument. The growing movement by the US to rely more on national security and protectionism in formulating trade policy is a very worrisome development. No one in Washington is proposing a return to pre-Trump policies. The real question is how far US trade policy will continue to change in the near future. Geopolitics will give us the answer.*

- Malawer, "[U.S. – China Trade Relations: Tectonic Changes and Political Risk in the Global System – National Security, Industrial Policy and Protectionism.](#)" 9 China and WTO Review No. 2 at 367 (2023).

Abstract: *There has been a tectonic shift in the trade relationship between the United States (US) and China. This can be seen in the passage of new US legislation, recent US trade restrictions on exports and investment transactions with China, and worsening US relations with the World Trade Organization (WTO), particularly with its dispute resolution system. The Trump administration initiated a haphazard tariff and trade war with China, reversing decades of US trade policy pursuant to its long-standing stances of supporting free trade. To the dismay of many in the trade community within the US and globally, the trade actions by President Trump have been significantly extended and broadened by the Biden administration in its first two years, despite the expectation that it would reverse many of Trump's policies. In this article, I present seven observations concerning President Trump's and President Biden's trade policies.*

- Malawer, "[The US Trade Relations with China: Worrisome Developments in US Law.](#)" 9 China and WTO Review No. 1 at 147 (2023).

Abstract: *As the Biden administration succeeded President Trump's chaotic and undisciplined trade and investment policies toward China, the last six months of 2022 have seen significant developments in the US trade law and economic policy toward China. These legislative and regulatory developments bring into sharper focus a broader and more aggressive US legal and regulatory structure fostering industrial policy and confronting China. The recent midterm elections in the US and meeting in Bali between Xi and Biden only seem to maintain the current unsettling state of affairs. The subsequent WTO panel decision against the United States concerning its Section 232 national security tariffs and its rejection of national security defense only further complicates the US-China trade relations. The legislative and regulatory measures emanating from the US in the last half of 2022 are not helpful and represent a worrisome development. These measures are by far more aggressive, with significant domestic and global implications. They portend a new emerging post-WTO order.*

- Malawer, [“Biden's Trade Policies \(Year One\) -- More Aggressive than Trump's?”](#) 8 *China and WTO Review* No. 1, at 177 (2022).

Abstract: After President Biden’s first year in office, one big question is whether the Biden trade policy differs from the Trump chaos. My answer is no. I consider Biden’s trade policy to be Trump without the tweets. They both relied on unilateral measures and broadened protectionist ones. In fact, Biden not only relies upon Trump’s actions but also has expanded them. Trade policies have not changed much between Presidents Trump and Biden. In fact, Biden, relying upon Trump’s actions, has kept them in place. There has been a slight change in tune: a little more reconciliation with Europe and the OECD. However, it is extremely difficult to identify any significant difference concerning China, Russia, and Iran. Has Trump’s America First policy morphed into Biden’s America First or worker-centric trade policy? It looks that way. Let’s look at what Trump did, what Biden has done so far, and the challenges ahead.

From My Blog

“TARIFFS & U.S. TRADE STRATEGY — BIDEN’S & TRUMP’S — Similar but Really Different” (May 20, 2024). <https://globaltraderelations.com/> [Blog](#)

Trade wars and tariffs have become central to U.S. foreign and trade policies under both Trump and Biden— And even more central to this current campaign season. It’s really important to look closely at what has happened over the last eight years and what is currently transpiring during this campaign season. There are differences between Biden and Trump and there are some basic economic factors that are in play, even if both fail to adequately note them. But an integrated U.S. tariff and trade strategy is emerging, for example, focusing on chip and battery production (and employment promotion). A movement away from free trade and more protectionism with a focus on national security and something of a national industrial policy. The Biden administration is leading the charge to foster a more secure supply chain and domestic production, with Trump proposing even more extensive policy changes.

- “Tariffs aimed at *protecting America’s solar industry* from foreign competition snapped back into place, ending a two-year pause that President Biden approved as part of his effort to jump-start solar adoption in the U.S. The tariffs, which will apply to certain solar products made by Chinese companies in Southeast Asia.” [“Tariffs to Protect Solar Sector.” *New York Times* \(June 7, 2024\).](#)
- “Both men, as they vie for a second White House term, say that tariffs on imported Chinese goods are needed to promote domestic manufacturing and to clap back at China’s zero-sum trade practices Biden’s tariffs on \$18 billion in Chinese electric vehicles, batteries and computer chips, announced last month, are likely too small to lift the economy’s overall price level, economists said. But Trump’s plan for 60 percent tariffs on all \$427 billion in goods that China ships to the United States each year would almost certainly reshape trade in ways that consumers would notice.” [“Biden & Trump Embrace Tariffs.” *Washington Post* \(June 7, 2024\).](#)

- *“Tariff policy has gone through three distinct phases since the 1700s From independence until the Civil War the purpose of tariffs was mainly revenue: They accounted for 90% of federal receipts. From the Civil War until the Great Depression, the purpose was restriction: protecting northern manufacturers A third era began with the passage of the Reciprocal Trade Agreements Act in 1934 empowering the president to negotiate lower duties if other countries did the same. Reciprocity remained the dominant paradigm after World War II as presidents of both parties sought to knock down other countries’ trade barriers The tariffs he imposed on China and to which President Biden just added are a different animal altogether. They are partly about restriction and reciprocity—protecting nascent industries and prodding China to change its ways. But the more fundamental goal is realignment: diversifying U.S. trade away from China Tariffs are more than taxes. They are also an instrument of geopolitical competition. Nonetheless, like all taxes, they impose costs that need to be weighed against their benefits.” [“Tariffs & Geopolitics \(Historical Stages of U.S. Tariffs\).” Wall Street Journal \(May 31, 2024\).](#)*
- *“[If Trump wins] Economically, an “America first” strategy would feature *protectionism and predation*. The United States would remain engaged in the global economy. But it would seek to dramatically rebalance the burdens and benefits of that involvement. There would be no more tolerating asymmetric discrimination by trade partners, even democratic allies.” [“Trump’s ‘America First World’ if He Wins.” Foreign Affairs.” \(May 27, 2024\).](#)*
- *“There are different kinds of tariff strategies Trump used tariffs as a blunt tool in a single-prong strategy to reduce the US trade deficit with China, but for Biden they are part of a much broader plan. This aims not only to tackle Chinese mercantilism, the global economic and political fallout from it and the failure of the existing trade system to address it, but also to expand capacity in key areas like semiconductors and clean tech.” [“Not all U.S. Tariffs are Equal.” Financial Times \(May 20, 2024\).](#)*
- *“A new report from the U.S. trade representative’s office finds that President Donald Trump’s tariffs on Chinese products *reduced Americans’ real incomes and depressed investment but didn’t increase manufacturing employment* (under Section 301 actions) George W. Bush was one of many presidents who imposed tariffs on imported steel Barack Obama placed tariffs on Chinese tires, costing Americans an estimated \$900,000 per job saved Presidents from Franklin D. Roosevelt to Obama, however, sought to liberalize trade generally, believing that a coordinated opening of markets would boost all economies The big change in U.S. trade policy under Trump and Biden is that there’s *no longer any big-picture effort to move toward freer trade*.” [“Trump and Biden Tariffs.” Washington Post \(May 22, 2024\).](#) See also, [“FOUR-YEAR REVIEW OF ACTIONS TAKEN IN THE SECTION 301 INVESTIGATION: CHINA” \(USTR 2024\).](#)*
- *“The new tariffs President Biden announced last week *aren’t economically significant. Symbolically, they are huge*. The U.S. buys almost no electric vehicles, steel or semiconductors—all targets of the tariffs—from China It signals that the decoupling of the Chinese and U.S. economies is becoming irreversible. More important, the tariffs are the *final piece of an economic strategy for competing with China*. This strategy is a *three-legged stool*. The first consists of *subsidies* to build a viable technology manufacturing sector. The second is *tariffs* on Chinese imports that threaten those efforts. The third is *restrictions on access to money, technology and know-how* that could help China compete The strategy that has ultimately emerged is *largely the work of Sullivan* He sees *trade, domestic economic policy and security as integrated*.” [“U.S. China Pivot – Tariffs and New Strategy.” Wall Street Journal \(May 21, 2024\).](#)*

- “A small increase in prices on goods subject to tariffs suggests that retailers absorbed much of the cost. Absorption by retailers and wholesalers would mean that the *tariffs function as a tax on businesses* ... Even if businesses end up absorbing some or most of the tariff, economists still see that imposing a cost. Firms faced with higher prices might have to lay off workers or hold off on expansions. That could sap overall growth and ultimately *still affect consumers* The primary effect is a regressive tax on consumers.” [“Tariffs and Who Pays.” *Wall Street Journal* \(May 20, 2024\).](#)

“*Tariffs and Supply Chains.*” [My Blog](#) <https://globaltraderelations.com/> (June 10, 2024)

Issues concerning *tariffs and supply chains* continue to dominate trade issues between China and the U.S. The Biden administration continue to roll out new trade initiative and measures — especially as they relate to and support *newer U.S. fiscal tax and subsidy legislation.*

“Washington putting pressure on *EV and battery makers* to build a *new non-Chinese supply chain* for *graphite anodes*, a crucial component in *electric vehicle batteries*. The US trade representative announced that 25 per cent tariffs on *natural and synthetic graphite anodes* from China While natural graphite — a form of carbon — is relatively abundant, almost all natural graphite processing and 98 per cent of synthetic graphite production for *battery-grade anodes* is presently conducted in China.” [“U.S. Tariffs and China’s Graphite.” *Financial Times* \(June 10th, 2024\).](#)

“JEAIL Interview with Dr. Malawer on U.S. Tariff History (Historical Stages) and Trump – Biden Tariffs.” (YIJUN Institute of International Law in Korea) (June 2024). (Click)

“We are moving into a *protectionist world*, led by the US, as in the early 1930s. Donald Trump is of course, a committed protectionist — a true successor of Senator Smoot and Representative Hawley, who instigated the infamous Smoot-Hawley tariff in 1930 The point is simple But trade policy, especially protection, will rarely be the best way of achieving the objective ... Tariffs are rarely the best policy instrument, one needs to understand what they do. *Tariffs are taxes on consumers* Yes, there are perfectly sound arguments for *intervention in markets*. But returning to the trade policies of the 1930s is quite mad.” [“Tariffs are Bad Policy.” *Financial Times* \(June 12, 2024\).](#)

“The *European Union* said it would impose *additional tariffs of up to 38 percent* on *electric cars* built in China The *Biden administration* announced last month that it would impose *new tariffs of 100 percent* on Chinese electric vehicles. That measure quadrupled the tariffs that the United States previously charged for foreign cars, in an effort to shield the American auto industry from Chinese competition.” [“EU Imposes Higher Tariffs on Chinese Electric Vehicles.” *New York Times* \(June 13, 2024\).](#)

Some Questions for Class Discussion:

- Historical phases of *U.S. tariff policy*?
- Major legislation authorizing presidential tariff & trade actions? Section 301, Section 201, CFIUS?
- Recent tariffs on *solar imports*?
- Recent tariffs on *Chinese EV imports*?
- Recent legislation -- *Chips Act, Inflation Reduction Act*?
- Recent *EU Chinese EV tariffs*?
- Decline of *WTO and its Dispute Resolution System*?
- Impact of *China's 2001 WTO membership* on WTO's problems today?
- Movement toward *protectionism, industrial policy and reliance on national security*?
- *Economics of tariffs*?
- Newer administrative actions primarily focused on *China and Russian Federation*?
- Is *trade policy toward China* driving U.S. industrial and tariff policies?
- Geopolitics and future of trade relations – New historical political and economic epochs?
- Any thoughts about the *Biden-Trump presidential race* and tariff policy?

