



An Israeli Sunscreen Policy Towards China?

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Abstract

Under the Trump administration, U.S. approach towards China has been one of blanket opposition to any Chinese-initiated projects, including the Belt and Road Initiative and related investments. However, trying to galvanize other countries to decouple from the world's second largest economy and block Chinese investments is counter-productive. As such, allies such as Israel should instead adopt a more balanced sunscreen policy towards Chinese investments—having the right layer of protection that keeps out the harmful UV rays (national security risks), yet still allows in the healthy sunlight and Vitamin D (foreign investments and economic growth).

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Analysis

An Israeli colleague recently asked this author an interesting question: to what extent can the commercial relations between Israel and China harm Israel's special relationship with the Trump administration?

One ponders if this is the right question to ask. It was not a question about increasing military ties, which of course would strain U.S.-Israel relations. Rather, it was a question about commercial ties, which Israel as a sovereign nation has a legitimate right to engage with any economy in the world—be it China, India, Germany or Russia. One also ponders if it is Washington's place to grant permission to other countries regarding their trading partners.

Understandably, this is against the backdrop of the Trump administration's escalating trade war with China and increasing displeasure over Chinese investments in Israel's economy. As such, perhaps this warrants different questions to help distill the real underlying issues.

Q1: How do allies balance defense dependency on the U.S. with need for FDI/economic growth?

Here, Israel, East European NATO countries and other U.S. protectorates are in the same boat. They have defense dependency on the U.S., yet need foreign direct investments (FDI), economic growth and alternative markets. This is especially the case for Israel, at a time when it is seeking new markets in the face of growing BDS movement in the West.

Since part of the Trump administration's trade war against China is in high-tech industries, essentially trying to restrict trade in "dual-use" technologies with potential military applications would encompass most high-tech sectors today. And given Israel's comparative advantage is in high-tech goods that need scale economies for continual innovation, it puts Israel in a hard place to curb trade with large economies such as China, for fear of exporting dual-use goods or its diversion to third party end users. If this is a legitimate U.S. concern, then Israel would need to stop trading with China and India altogether, as both have good ties with Iran.

Moreover, the fear that China would transfer Israeli technology to Iran and others is not as salient as one might think, considering that Israeli defense companies seem nonplussed about the issue. Back in the early 2000s, in the aftermath of the Harpy and Phalcon deals to China, an angry Taiwanese delegation went to Israel to demarche their arms sale.

When pressing an Elbit senior executive whether they were concerned if Israeli military technologies are transferred via China to third countries hostile to Israel, the Taiwanese delegation was surprised he answered no. The Elbit executive explained he prefers older generations of Israeli military technology are transferred since Israel understands the system and can establish countermeasures, as opposed to Russian or other systems since lack of knowledge poses challenges to effective countermeasures.

Q2: How does the U.S. define a "national security threat"?

This is a question the Israelis need to ask Washington while it is currently establishing an investment vetting mechanism similar to the U.S. Committee on Foreign Investment in the United States (CFIUS).

Traditionally, CFIUS had a narrow definition for a national security threat—foreign acquisition of any sole domestic supplier with defense contracts, which is in line with the 1988 Exon-Florio Amendment¹ to the

¹ https://en.wikipedia.org/wiki/Exon%E2%80%93Florio_Amendment



Defense Production Act of 1950.² For example, if a foreign entity attempts to acquire a sole supplier of an input for U.S. defense systems, and there are no other U.S.-owned substitutes within U.S. territory, then Washington would lose control over the last supplier of that particular product as well as control over related classified information and weapon system.

The concern here is defense dependence and supply cut-off by a foreign actor, and ideally a country should keep at least two national suppliers within its territory.

Q3: How does the Trump administration define a “national security threat”?

However, under the Trump administration, national security is more broadly defined with the passing of Foreign Investment Risk Review Modernization Act (FIRRMA)³ in 2018 that specifically targets Chinese investments. While in the past CFIUS evaluated national security concerns from proposed “merger, acquisition or takeover” of U.S. companies by foreign entities that could “control” the company, now the jurisdiction has cast a wide net to include most economic transactions.

These include the purchase or lease of property near “sensitive” government property, such as U.S. ports and military facilities; non-passive investments in “critical technology,” “critical infrastructure” and “sensitive personal data of United States citizens” that can impact national security; or any other transaction structured to evade CFIUS review. Thus it seems U.S. objections to Chinese investments in Israel is based on its own definition of a “national security threat” under FIRRMA, especially as it pertains to controversies⁴ over Haifa port and critical infrastructures.

Nonetheless, these categories are vague and Washington needs to explain to Israel where they draw their parameters for a “national security threat” and coordinate with Jerusalem’s own definition, since not all countries face the same threats. The U.S. also needs to take care not to abuse “national security” as an excuse to arbitrarily boycott any foreign companies that happens to be a competitor of U.S. companies. There are indeed cases of legitimate concerns which should be reviewed and possibly restructured or blocked if necessary, but these need to be reviewed on a case by case basis.

A sunscreen policy towards China?

Finally, in trying to maintain national security in an age of a globalized defense industrial and technological base, it may be prudent for both the U.S. and Israel to adopt a sunscreen foreign policy towards Chinese investments rather than decoupling their economies or trade protectionism. That is, having the right layer of protection that keeps out the harmful UV rays (national security risks), yet still allows in the healthy sunlight and Vitamin D (foreign investments and economic growth).

Remarks: Opinions expressed in this contribution are those of the author. This article was first published in *The Times of Israel* on March 16, 2019.

² https://en.wikipedia.org/wiki/Defense_Production_Act

³ <https://www.lawfareblog.com/foreign-investment-risk-review-modernization-act-2018>

⁴ <https://www.jpost.com/Opinion/China-phobia-is-not-a-strategy-580075>



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