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National Security and FDI Policy Ambiguity: A commentary

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Abstract:	<p>From Germany's chipmaker Infineon's proposed takeover of US-based Wolfspeed being blocked in 2017 to China's Huawei being banned in the USA and other countries in 2020; from the UK's new National Security and Investment Bill being announced in the Queen's Speech on 19 December 2019, to the EU's FDI Screening Regulation fully entering into force on 11 October 2020, inward foreign direct investments are increasingly scrutinized by host-country governments on the grounds of national security concerns. While FDI policy and screening regimes work differently in different countries, they share something in common, that is, ambiguity and obscurity have become the key features of FDI policies for most countries when concerned with national security. Drawing on securitization and balance-of-power theories, I contend that the ambiguity in FDI policy is intentionally constructed to leave room for power struggles. I argue that ambiguity is an important prerequisite for politicians and other political and corporate actors to engage in the securitization of FDI to support their political and commercial agendas. This commentary contributes to a better understanding of the prevailing trend of ambiguity in relation to inward FDI policy, a reality that is different from what Cuervo-Cazurra (2018) advocates.</p>

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National Security and FDI Policy Ambiguity: A commentary

Abstract

From Germany's chipmaker Infineon's proposed takeover of US-based Wolfspeed being blocked in 2017 to China's Huawei being banned in the USA and other countries in 2020; from the UK's new National Security and Investment Bill being announced in the Queen's Speech on 19 December 2019, to the EU's FDI Screening Regulation fully entering into force on 11 October 2020, inward foreign direct investments are increasingly scrutinized by host-country governments on the grounds of national security concerns. While FDI policy and screening regimes work differently in different countries, they share something in common, that is, ambiguity and obscurity have become the key features of FDI policies for most countries when concerned with national security. Drawing on securitization and balance-of-power theories, I contend that the ambiguity in FDI policy is intentionally constructed to leave room for power struggles. I argue that ambiguity is an important prerequisite for politicians and other political and corporate actors to engage in the securitization of FDI to support their political and commercial agendas. This commentary contributes to a better understanding of the prevailing trend of ambiguity in relation to inward FDI policy, a reality that is different from what Cuervo-Cazurra (2018) advocates.

Keywords: FDI Policy, National Security, Multinationals, Securitization, Politicization

Introduction

“China has weaponized [investment] in order to vacuum up U.S. industrial capabilities from American companies that focus on dual-use technologies. China seeks to turn our own technology and know-how against us in an effort to erase our national security advantage China poses a threat...” (cited by Boyd, 2019)

Senator John Cornyn, the senior United States Senator from Texas, and the author of the Foreign Investment Risk Review Modernization Act of 2018

From Germany’s chipmaker Infineon’s proposed takeover of US-based Wolfspeed being blocked in 2017 to China’s Huawei being banned in the USA, Sweden and other countries in 2020; from the UK’s new National Security and Investment Bill being announced in the Queen’s Speech on 19 December 2019, to the EU’s FDI Screening Regulation fully entering into force on 11 October 2020, inward foreign direct investments (FDI) are increasingly scrutinized by host-country governments on the grounds of national security concerns. Focusing on state-owned multinational corporations (MNCs) from emerging economies, Professor Alvaro Cuervo-Cazurra (2018) observes that many host-country governments have a “Thanks but no thanks” attitude toward investments by these firms, which are sometimes questioned or even blocked by host countries. The central idea in Cuervo-Cazurra’s paper is that host-country governments should establish “ex-ante rules-based policies that clarify views, address concerns, and support inward FDI” (p. 129). He argues, “an appropriate host-country policy is one that provides an ex-ante rules-based framework by which the economic, political, and psychological concerns about the behavior of foreign firms can be addressed” (p. 151). While I agree that clarity in FDI policies is important, I use this commentary to explore why the reality is often otherwise. In fact, ambiguity and obscurity seem to have become key features of FDI policies for most countries when national security is concerned (Wehrle & Pohl, 2016; Esplugues, 2018).

To explain why FDI policies tend to be ambiguous and obscure in many countries, I draw on securitization (Wæver, 1995; Buzan, Wæver & de Wilde, 1998) and balance-of-power theories (Waltz, 1979) from international relations and existing research in international law, and argue that the lack of clarity is intentional in many host countries' FDI policies. National security is not an objective condition but the outcome of a social construction process (Williams, 2003). By labeling something a security risk, the actor can dramatize the issue and claim "a special right to use whatever means are necessary to block it" (Wæver, 1995, p. 55). In the case of FDI policy, I argue that ambiguity and vagueness provide important prerequisites for politicians and other actors to engage in the process of securitization of FDI to support their political and commercial agendas. Specifically, an ambiguous policy allows certain parties/actors/governments to say no to any foreign investment on national security grounds; for example, when host-country governments are worried about the behavior of state-owned MNCs from emerging markets (i.e., the political concern highlighted by Cuervo-Cazurra), or fear losing relative status in new competition with these state-owned MNCs (i.e., the psychological concern Cuervo-Cazurra references). In sum, I argue that ambiguous FDI policies allow politicians and others to use ambiguity as a tool to achieve a balance of power, either between nations, or between different interest groups within one nation.

Ambiguity in FDI policy

Cuervo-Cazurra (2018) advocates for clearly defined FDI policies. He suggests:

If the host-country government considers the particular industry, location, or activity to be of national security importance for the country, the appropriate policy is to state this clearly with the list of sectors from which foreign investments are excluded. This will clarify which areas of activity are open to foreign investors and which are not, and can be applied consistently across all foreign investors rather than by subjecting state-owned investors to additional scrutiny, reducing the inclination of politicians to influence decisions. (p. 142)

These points are perfectly valid. When policies lack clarity, the FDI review process becomes politicized with many concerned parties (e.g., politicians) trying to influence decisions. A politicized

FDI review process is not healthy, as it creates uncertainty and risk for foreign investors, thus pushing them away. Further, this harms local economies and firms that otherwise could benefit from foreign investments, and damages the image of the host country as a welcoming investment destination (Feng, 2009; Graham & Marchick, 2006). From the transaction cost theory (Williamson, 1975, 1985) and internalization theory (Buckley & Casson, 1976) perspective, lack of clarity in inward FDI policy will increase the transaction cost resulting from the external uncertainty, i.e., “the unpredictability of the entrant’s external environment” (Anderson & Gatignon, 1986), thus reducing the locational advantages of a country as an FDI destination (Dunning, 1998, 2000). However, despite these negative consequences, it is an unfortunate fact that most countries’ FDI policies are vague and ambiguous, particularly when it comes to national security.

From an international law perspective, Esplugues (2018) observes that, in general, many countries lack clear information on the national systems designed to regulate inward FDI, and only a few provide systematic information about their national security-related FDI review process. Furthermore, he points out that “the feeling of excessive vagueness in their designation and of too much discretion and obscurity in their implementation is becoming more widespread” (p. 252). Consider some of the most popular FDI destinations for example. The Committee on Foreign Investment in the United States (CFIUS) was established in 1975 to evaluate all FDI proposals on national security grounds. Esplugues adds that “no definition of national security has ever been provided and no clear guidance on how it should be understood has been given.... It seems to have been deliberately left open to interpretation by the executive...(and)... the final understanding of what constitutes a threat to national security is largely left to executive discretion” (p. 279).

Hasnat (2015) makes similar observations that “the current US foreign investment review process is minimally transparent and discretionary only.” According to Hasnat, “CFIUS’s mandate is not well defined, there is no clear-cut definition of national security to guide the Committee or the parties to a transaction, economic security is now a component of the national security, and the process has become heavily politicized” (p. 194). In practice, “each member of CFIUS...is allowed to apply the

definition of national security that is consistent with [the] representative agency's own perspectives and interests on national security" (p. 192). The Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) further expands the concept of national security, giving CFIUS a 'vaguer' mandate to maintain US technological supremacy (Zimmerman, 2019). It also has an expanded jurisdiction to cover transactions beyond mergers, acquisitions, and takeovers to include other types of investment such as minority investments and real estate transactions (Mir et al., 2019).

Similarly, in Canada, the "national security" concept is not well defined. FDI into Canada is governed by the Investment Canada Act of 1985 (ICA) and related guidelines. Although the Guidelines of 2016 on the national security evaluation of FDI proposals provide some guidance on factors to be taken into account when assessing proposed investments (e.g., the potential effects of the investment on the transfer of sensitive technology or know-how outside of Canada, the potential impact of the investment on Canada's international interests, including foreign relationships), these are drafted in general terms. Further, "no reference is made by the Guidelines to the relative weight of each of these factors, and no explanation of how they will actually be considered in the context of the national security review is provided" (Esplugues, 2018, p. 342). With specific reference to state-owned enterprises (SOEs), the Guidelines embody a broad notion of an SOE, defining it as an enterprise that is owned, or influenced directly or indirectly, by a foreign government. This provides the government with 'sweeping powers' to determine the control and influence that a foreign state may have on the firm and whether they should be subjected to review by the ICA. For instance, in the case of China where the government has strong powers, all firms could fall into this SOE category (Woo, 2014).

Another interesting case is the UK, a major destination for foreign investment and the top destination in Europe (Ernst & Young, 2019). It may surprise some that it has no domestic legal framework that specifically regulates inward FDI; namely, no specific system regarding how to evaluate FDI on national security grounds (Esplugues, 2018; Potter, 2019). Foreign acquisitions of UK businesses are subject to review from a competition law standpoint, either under the UK merger control regime (i.e., the Enterprise Act 2002) or the EU merger control regime (i.e., EU Merger Regulation). The British

government can intervene in any merger and acquisition case when deemed appropriate via the act of the Secretary of State. However, due to limited guidance, the interpretation of national security is broad, and ultimately has to be determined on a case-by-case basis (Esplugues, 2018). Following the white paper *National Security and Investment: A Consultation on Proposed Legislative Reforms* published in July 2018, the UK government is currently finalizing *The National Security and Investment Bill*, which is due to be published in late 2020 (Ross, Morales, & Donaldson, 2020). The government claims that the reforms aim to create “clear and focused powers within a predictable and transparent process” (www.gov.uk, 2018); however, to what extent this can be realized remains to be seen.

The situation in developing countries takes on a similar look. For instance, Russia addresses FDI-related national security concerns with its review mechanism, the Strategic Investment Law, but this does not establish any specific criteria for assessment (Wehrle & Pohl, 2016). The Law also provides the option for the Russian Prime Minister at his/her own discretion to consider any transaction as ‘strategic’ and subject to review if he/she believes it poses a national security threat (Rudomino et al., 2019). In China, the review mechanism is governed by various examples of legislation, including the Circular of 2011, the National Security Law (2015), and the Draft Foreign Investment Law (2015). The Circular assesses the impact of the transactions on aspects such as the domestic production capacity, national economic growth, ‘basic social living order,’ and R&D capacity. However, as Esplugues (2018, p. 318) observed, the wording shows that “the review is not limited to national security grounds in a narrow sense,” but is more related to “the much broader idea of China’s economic stability and social order – and that can encompass almost all kinds of industries and operations,” thus giving an enormous degree of autonomy to the administration evaluating a specific transaction proposal. Furthermore, it is observed that later legislation such as the Draft Foreign Investment Law and the Circular of 2015 have included more national security grounds on which prospective FDI should be reviewed, such as impacts on national cultural security, public morality, and national network security. “The list is seemingly heuristic and written in broad and vague terms,

imitating to some extent the position maintained in the US by CFIUS,” Esplugues (2018, p. 325) commented.

Thus, policy ambiguity and the trend toward more ambiguity seem to be widespread. In a review of investment policies related to national security in 54 countries, an OECD working paper (Wehrle & Pohl, 2016) found that not only was the meaning of national security defined differently in various countries, implying a wide variety of policy approaches to this issue, but, more importantly, “policies generally tend to cover broader areas of the economy while becoming simultaneously more flexible.” The paper suggests that while there may be more investment regulation related to national security policy, whether this has led to “greater regulatory depth and greater clarity and predictability for investors, is less certain, given the trends towards greater flexibility” (p. 7). In the case of international investment agreements such as Bilateral Investment Treaties (BITs), most provisions tend to “have an explicitly self-judging character” and allow the state to decide what is necessary to protect its national security (OECD, 2007, p. 94). For instance, provisions in some BITs drafted by the US have included the expression “which it considers necessary,” thus making the clause “explicitly self-judging” (Esplugues, 2018, p. 153).

The various definitions and criteria of national security and countries’ different policies point to the complexity of this issue. From an international business perspective, the national security concern originates from a number of threats potentially associated with FDI: the dominance of supply, the transfer of technology, and the engagement in espionage (Moran, 2017; Moran & Oldenski, 2013). First, some argue that foreign governments and MNCs could use FDI to gain a foothold in strategically important industries (Feng, 2009), posing potential threats to national economies if these firms monopolize the industries, denying or manipulating domestic firm access to outputs (Hasnat, 2015). Second, some fear that FDI could result in the transfer of technology/expertise to a foreign entity or government, which could deploy it against the host country’s national interests (Esplugues, 2018). Third, FDI could possibly provide a means for sabotage (Feng, 2009) by allowing foreign firms access to local companies’ systems “to monitor, conduct surveillance, or place destructive

malware within those systems” (Moran, 2017, p. 5). Furthermore, perceived threats posed by competing ideologies and value systems are also seen as falling under the umbrella of national security, as indicated in the case of China. This is particularly relevant to SOEs as they tend to be endowed with a broader range of commercial, social, political, or even ideological objectives (Okhmatovskiy, 2010), and they may act as an instrument for ideology transfer to achieve political objectives for their home countries (Cuervo-Cazurra et al., 2014; Clegg et al., 2018). Theoretically, FDI that poses such national security threats is, of course, unwelcome and could be blocked by host-country governments. However, in practice, a fundamental question for host-country governments is: what kind of foreign investment should be considered a national security risk? To answer this, I find it necessary to clarify what is “national security.”

The intersubjectivity of national security and its implications

In international relations, national security traditionally has a narrow meaning. “A nation has security,” Walter Lippmann (1943) wrote, “when it does not have to sacrifice its legitimate interests to avoid war, and is able, if challenged, to maintain them by war” (p. 5). Similarly, Lasswell (1950) suggested, “the distinctive meaning of national security means freedom from foreign dictation” (p. 79). Thus, military threats from foreign states have traditionally been considered the main national security concern. However, the nature and meaning of security have been subjected to debate, and recent decades have witnessed a “broadening” of its agenda to include non-security concerns (Williams, 2003). Economic, environmental, health, gender, and cultural issues that conventionally have not been security issues, are now often encompassed under national security (Williams, 2003), including energy and environment (Boas, 2015; von Lucke, 2018), health issues (e.g., HIV/AIDS) (McInnes & Rushton, 2013; Youde, 2018), religion (Mavelli, 2013), cyber-space (Hansen & Nissenbaum, 2009; Lacy & Prince, 2018), and migration (Boswell, 2007; Léonard, 2010; also consider US president Donald Trump's claim in early 2019 that he needed \$6.7bn in order to build the wall as a matter of national security).

The increasing use of security language as a tool to prioritize unconventional security issues is based on the premise that security is important and thus deserves national prominence and financial support (Hudson, 2009). According to Buzan et al. (1998, p. 21), security threats have a special nature, which “justifies the use of extraordinary measures to handle them.” Thus, by framing something as a security issue, hierarchical conditions are created, where “security issues are dramatized and presented as supreme priorities of the state or the actor in question” (Karyotis & Patrikios, 2010, p. 44). Hence, what kind of issues can be considered national security issues? In his seminal paper, Wolfers (1952) considered national security “as an ambiguous symbol.” He stated:

[W]hen political formulas such as “national interest” or “national security” gain popularity they need to be scrutinized with particular care. They may not mean the same thing to different people. They may not have any precise meaning at all. Thus, while appearing to offer guidance and a basis for broad consensus they may be permitting everyone to label whatever policy he favors with an attractive and possibly deceptive name. (p. 481)

Wæver, along with Buzan and de Wilde, further developed Wolfers’ ideas in their securitization theory (Wæver, 1995; Buzan et al., 1998). Securitization theory states that “when a securitizing actor uses a rhetoric of existential threat and thereby takes an issue out of what under those conditions is ‘normal politics,’ we have a case of securitization” (Buzan et al., 1998, pp. 24–25). Thus, security issues do not necessarily reflect objective reality; rather, they arise from leaders’ efforts to describe and shape the world, and transform social reality (Balzacq, Leonard & Ruzicka, 2015). Thus, a key insight from securitization theory is that security is not an objective condition, but the outcome of a specific social process; that is, issues are socially constructed through speech acts (Williams, 2003). As Wæver (1995) notes,

What then is security? With the help of language theory, we can regard “security” as a speech act. In this usage, security is not of interest as a sign that refers to something more real; the utterance itself is the act. By saying it, something is done (as in betting, giving a promise, naming a ship). By uttering “security” a state-representative moves a particular

development into a specific area, and thereby claims a special right to use whatever means are necessary to block it. (p. 550)

The intersubjective nature of national security has important implications for understanding FDI policies. While host-country governments always claim to balance being friendly and open to foreign investment and protecting national security, the decision as to whether certain foreign investments really constitute a national security threat, and, therefore, should be blocked, is never straightforward. Rather, the decision is a highly politicized process and is the outcome of a power struggle. In this commentary, I suggest one way to understand the ambiguity of FDI policy is to see it as something intentionally constructed to leave room for power struggles, either between nations, or between actors within one nation, so they can pursue their political and commercial agenda.

Power has long been an important backdrop for understanding relations between nations (Strange, 1987; Wight, 1977). In his seminal work, Waltz (1979) considered the international political system as a “self-help system” (p. 118), where different nations “seek to ensure their survival” (p. 91). Nations, however, “are differently placed by their power,” which is “estimated by comparing the capabilities” against each other (pp. 97–98). Thus, when nations feel that their survival is threatened by another nation gaining greater economic power, they will take action “toward the creation of balances of power” (p. 118). This might include “internal efforts,” such as “moves to increase economic capability to increase military strength, to develop clever strategies,” or “external efforts,” such as “moves to strengthen and enlarge one’s own alliance or to weaken and shrink an opposing one” (p. 118). To Waltz, therefore, international politics is driven by a balance-of-power mechanism and characterized by recurrent rebalancing (Nedal & Nexon, 2019).

One of the mechanisms, then, is to achieve balance through FDI policy. As Lenihan (2018) demonstrates, host-country governments can intervene in mergers and acquisitions by foreign investors on national security grounds in an effort to preserve or enhance domestic economic capability or military strength. As such, Lenihan (2018) argues, government intervention can be

understood as a tool of statecraft to balance the economic and military power of other states through non-military means. To implement this balancing act, an ambiguous FDI policy is an excellent means to facilitate such efforts, given the subjective nature of national security, and the often highly complex and fast changing relations between nations. Meaning, the kind of foreign investment that should be considered a threat to national security is fundamentally open for discussion and may be contingent upon the current international situation. Powerful actors, such as senior politicians, could become securitizing actors with an aim to question or block certain foreign investments on national security grounds. In this sense, a policy with broad wording and vagueness becomes an important prerequisite for these powerful actors to engage in the FDI securitization process when necessary. As such, the processes of screening and FDI securitization become power struggles, where various actors exercise their power to designate specific issues as security threats, and to deal with these as they wish (Balzacq et al., 2015). It is worth noting that such securitization efforts may not be purely driven by protecting national interest and achieving balance between nations; actors may also engage in the securitization of FDI to pursue their personal interest and agendas. For instance, against the backdrop of the surge of populism globally (Devinney & Hartwell, 2020; Rodrik, 2018), politicians may exploit the populist backlash against international trade and investment, and portray certain foreign investments as a national security threat in order to win electoral support from voters.

US president Donald Trump's 'cold war' and 'tech war' with China, which includes classifying Huawei and ZTE as national security threats and cutting them out of the US market, for example, has been considered by many as a strategy to help him win re-election (e.g. Cockburn, 2020; Moak, 2020). It is also important to note that, although anyone can become a securitizing actor and attempt to securitize FDI, not all actors are equally powerful; it is those political and business elites who have the power to define what a security issue is and what it is not, and to gain control over it (Wæver, 1995). Therefore, given the various interests and stakes in this matter, we can expect a great deal of negotiations, contestation, compromise, and counter-actions among political and business elites during this process of securitization. For instance, the business elites who lose the battle may adopt various tactics to circumvent the negative effects of FDI restrictions, such as engaging in complex and opaque financial engineering.

The introduction of power into our discussion and the conceptualization of policy ambiguity as intentional leeway for power struggles between different actors provides us with an alternative perspective for viewing the complexity of FDI policy. The US backlash against German investment in the 1930s and Japanese investment in the 1980s is widely recognized as the outcome of the rising power in these countries being considered a military threat, in the case of Germany, and an economic threat, in the case of Japan, to US national security (Waltz, 1979; Graham & Marchick, 2006; Lenihan, 2018). Graham and Marchick (2006) argue that similar sentiments are harbored toward China and Chinese investments because the country “could one day challenge the United States in economic might” (p. 94). An excellent example is the US’s recent war against Chinese telecom giant Huawei. While Huawei is vilified on national security grounds, Trump’s claim that it could be part of the China-USA trade deal (BBC, 2019) has caused suspicion that the backlash against the company is not about national security *per se*; rather, it is more concerned with the 5G race and, in general, the technology and economic race between China and the US (Ball, 2019; Reardon, 2019; Schulze, 2019). The fact that US key ally Germany resisted US pressure to ban Huawei (Seligman, 2019), and that the UK first resisted banning the company but recently changed its mind and decided to do so (Satariano et al., 2020) further highlights the subjective nature of national security. It also demonstrates how countries will weigh their commercial and political interest with the foreign investors’ home country and seek to achieve a power balance when assessing any national security threat associated with FDI. In fact, the war against Huawei is supported by the Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) in the US, which, law scholars commonly agree, was “born out of the nexus of increased fear regarding China’s growing strategic and economic clout and the potential loss of American technology supremacy” (Zimmerman, 2019, p. 1269), and thus was “clearly directed at China” (Boyd, 2019, p. 108; Barrington, 2019). In this sense, the US’s concern about threats to national security from Chinese FDI can be best understood as reflecting “a creeping angst about the nation’s deteriorating competitive advantage, a fear that if America’s best technology companies are not kept under lock and key, China will seize them and then use them against US” (Boyd, 2019, p. 109). It can be understood that the motive for the CFIUS-led FDI screening regime

blocking Huawei and other Chinese high-tech firms is to protect US technological supremacy and maintain the nation's relative power (Zimmerman, 2019).

Closing remarks

I would like to conclude this commentary by highlighting a couple of points. First, in this article, I offer a possible perspective for looking at the prevailing trend of ambiguity around inward FDI policy. This is by no means the only explanation for this phenomenon. Witt's (2019) analysis on deglobalization using theories of liberalism and realism, for instance, offers an alternative perspective. From the perspective of liberalism, payoffs from international economic cooperation change over time, and "interests supporting globalization may weaken as a consequence." Thus countries opt out of economic interdependence, leading to the fact that "growing numbers of Chinese foreign direct investment projects [are] blocked in Western nations on [the] grounds of national security" (2019, p. 1062). Interestingly, the theory of realism discussed by Witt strongly echoes the power relations perspective I advocate in this article, as it suggests that MNCs' activities potentially affect the distribution of power among states, and FDI policy that aims at regulating the activities of MNCs reflects such power struggles.

Secondly, Cuervo-Cazurra's (2018) article focused on state-owned MNCs from emerging markets. I acknowledge the fact that state-owned MNCs may become an easier target for scrutiny on the grounds of national security due to their unique features. Besides, some high-profile cases about the US blocking Chinese FDI on the grounds of national security may give people the wrong impression that it is all about the US and China. However, I would like to stress that the ideas discussed in this commentary also apply to other countries and other types of MNCs. This commentary highlights the intersubjective nature of national security and various actors' intentions to engage in power struggles and pursue political and commercial agendas. My review of the practices in several major FDI destinations, in both developed and developing countries, points to the prevailing ambiguity and obscurity of FDI policies when concerned with national security.

Empirically, regarding ownership, not only SEOs but also private Chinese technology companies have been subjected to national security investigations. One is the Beijing Kunlun Tech Co., which bought the gay dating app Grindr through two separate deals between 2016 and 2018, and was later told by CFIUS to sell the app (O'Donnell, Baker, & Wang, 2019; Morris, 2019); the other is ByteDance, which is forced to sell or spin off its U.S. business for its hugely successful social app TikTok by Donald Trump's executive order in August 2020 which claims ByteDance 'threatens to impair the national security if the United States' (Rourke & Kuo, 2020; Kolodny, 2020). Regarding the targeted country of origin, it is observed that FDI from China, Russia, and the Middle East has typically faced strict scrutiny by the US; however, this is increasingly happening to investments from Europe and Israel as well (Esplugues, 2018). A rather surprising case concerned German chipmaker Infineon Technologies' proposed takeover of US-based semiconductor maker Wolfspeed, which was blocked in 2017, with the CFIUS citing that the deal was a risk to national security. This prompted Smith (2017) to ask: "Is the U.S. now stopping allies from investing here" and "does the United States already consider Germany as much of an adversary as China?" Regarding the host countries, as I review earlier, the US is certainly not the only country that blocks FDI on the grounds of national security; rather, having a vague FDI policy in place and using it as a mechanism to engage in the securitization of FDI to support political and commercial agendas seems to be a widespread phenomenon. The British government, for instance, has issued intervention notices and reviewed a number of foreign takeovers on the grounds of national security in recent years, including Hytera Communications' acquisition of Sepura in 2017, Gardner Aerospace's acquisition of Northern Aerospace in 2018, the Connect Bidco/Inmarsat merger in 2019, and the AI Convoy Bidco/Cobham merger in 2019. The white paper *National Security and Investment: A Consultation on Proposed Legislative Reforms* published in July 2018 demonstrates the British government's efforts to overhaul its capacity to scrutinize and intervene in FDI on the grounds of national security. It expects that there will be around 200 notifications each year, and around half of them will be subject to a full national security assessment.

Thirdly, I would like to emphasize that the purpose of this commentary is not to advocate whether host-country governments should establish clearly defined, rule-based policies; rather, it is to explain why ambiguity and obscurity have become key features of FDI policies for most countries when concerned with national security. However, to trigger and facilitate further discussion on this matter, I would like to state my position. I agree with Cuervo-Cazurra that FDI policy should be clearly defined to avoid political interference, and I also support necessary screening mechanisms to assess the potential positive and negative impacts of inward FDI on the host country's society. This should be based on some fundamental principles of international trade and investment systems, such as the World Trade Organization's principles of trade without discrimination, and promoting fair competition, and the OECD's 2008 guidelines on FDI policy such as non-discrimination, transparency, and predictability. However, as this commentary suggests, FDI policy is one of the mechanisms for nations to achieve a balance of power by allowing various actors to engage in the process of securitization of FDI. Therefore, in practice, a clearly defined FDI policy and rule-based screening regime will be difficult to find. Instead, my opinion is that against the backdrop of rising nationalism around the world and the complex geopolitics among nations, we will expect to see more 'rules' regulating FDI (in terms of quantity but not clarity), more industries and sectors becoming 'strategic,' more FDI posing a 'risk' to host countries, and more prospective deals blocked on the grounds of 'national security.' This trend is also expected to extend to the outward FDI policy, that is, a national security review process might be introduced in more countries in order to prevent strategic assets and technologies being transferred to another nation, particularly those deemed as competitors. At present, both the USA and China have introduced such measures that assess certain outward FDI policies for their national security implications (OECD, 2018). China's State Council, for instance, introduced new rules in 2017 that classified OFDI into three categories, encouraged, restricted, and prohibited, with the latter category including "any technology, process or product whose export is prohibited" and "any other OFDI that impairs or may damage China's national interest or national security" (Wang & Gao, 2019, p. 12).

This leads me to the final point regarding my concerns about the increasing use of security language in international business and FDI policy making. Firstly, from the perspective of securitization theory, a key concern here is how we can determine that certain ‘national security’ risks advocated by certain actors are a legitimate concern. Researchers have expressed their worries that national security has been used to hide the true motivation of economic protectionism (Feng, 2009; Jackson, 2013). While economies and security have long been viewed as largely separate elements of national interest (de Brouwer, 2019), the emerging new international economic order has witnessed the changing relationship between them, and “states are increasingly relying on claims of national security in order to avoid the application of international trade and to limit or oust judicial review,” making it difficult to disaggregate motivations of protection and protectionism (Roberts, Moraes, & Ferguson, 2019, p. 660). It appears that the intersubjective nature of national security has led to abusive use of security language to mask economic protectionism. Related to this is my reflection on the future of the term ‘national security.’ If we accept that security is a speech act, then how powerful can such ‘speech’ be if it is frequently used by states to engage in a form of economic protectionism? Or as one reviewer of this paper put it, what discursive benefits would there still be if ‘national security’ is so frequently referred to?

My second concern is related to states’ capability of intervening in FDI on national security grounds as part of political games and power play. From the perspective of balance-of-power theory, FDI policy and related intervention can function as a tool for states to balance the economic and military powers of other states, and this balancing act is embedded in highly complex international relations between nations. Expectedly, a country’s FDI policy is, on the one hand, based on the states’ perception and calculations of gains and losses from forming particular relations with certain nations, and, on the other hand, it can be influenced and pressured by other nations. Donald Trump’s recent attempt to force other countries to follow the USA’s ban on Huawei and the different response from countries such as the UK, Australia, and Germany vividly illustrate this point (Hamilton, 2020; Seligman, 2019; Bade, 2020). A key issue here is: how can we separate legitimate security concerns

from those caused by political pressure? Furthermore, if as Winston Churchill famously stated, “we have no lasting friends, no lasting enemies, only lasting interests,” then how can states navigate this complex, ever changing network of power relations between nations, and formulate FDI policy that can protect their long-term national interest? I hope my commentary will prompt further discussion on this topic, and that future research can offer us answers to these questions.

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