

Introduction to the Special Issue: China and New Challenges to International Economic Law

Abstract: This brief introduction outlines the broad context and key issues to be explored in the special issue titled “China and New Challenges to International Economic Law.” It demonstrates that, with the rise of China, the normative premises and substantive rules of international economic law have undergone significant changes. However, the shape of future international economic rules remains heavily contested.

Keywords: China, U.S. Trade Policy, U.S.–China Competition, International Economic Law

The Changing Landscape of International Economic Law

Since World War II, the liberal international economic order (LIEO) supported by major Western powers has been a fundamental cornerstone of the liberal international order. The ideational dimension of the LIEO has changed from the original embedded liberalism to a neoliberal project since the late 1970s. The neoliberal dimension was then formalized and technicalised in the World Trade Organization (WTO) jurisprudence [7], in international arbitration based on investment treaties [18], and in international financial institutions such as the International Monetary Fund and the World Bank [19]. Today, the popularity of unfettered markets has declined dramatically. Around the world, economists, policymakers, and ordinary citizens have increasingly come to see that neoliberalism has reached its limits. The changing dynamics have called into question the legitimacy of global economic architecture. Accordingly, both the normative premises and substantive rules of international economic law have undergone drastic changes. These changes include, *inter alia*, the transformation of the guiding philosophy of international economic law from economic interdependence to economic de-risking; the shift of the style of settlement of international economic disputes from judicialization to “de-judicialization”; the normalization of unilateralism in international economic regulation; the securitization of international economic relationships; the return of industrial policy to redraw the boundary between the government and market; and the death of multilateralism and the rise of value-based regionalism [4].

Take the U.S. trade policy as an example. US trade policy since World War II has generally sought to advance US economic growth and competitiveness by reducing international trade barriers and promoting an open, transparent, and non-discriminatory rules-based trading system. With a huge consumer market and a slew of competitive multinational companies, trade liberalization was believed to deliver enormous economic benefits to the United States, including lower consumer prices, the creation of markets for exporters, stronger diplomatic alliances, enhanced soft power, and increased international influence [8]. However, the US trade policy has undergone a foundational shift over the past decade. Upon taking office in 2017, the Trump

administration initiated a trade war with China and other countries, crippled the WTO dispute settlement system, and launched a revolution in international trade policy that, in many respects, repudiated the free trade consensus that had prevailed from 1948 to 2016 [17, p. 708]. Having adopted “Trumpism with a human face”, the Biden administration kept most of Trump’s trade policy in place [9]. In particular, the Biden Administration argued that the neoliberal trade policies have undermined the socioeconomic foundations of strong and resilient democracies and that it is unable to meet the contemporary challenges the United States is facing today: an industrial base being hollowed out, accelerating climate crisis and the urgent need for a just and efficient energy transition, rising income inequality, and a new environment defined by geopolitical and security competition [20].

Maintaining his firm commitment to American First Trade policy, President Trump has doubled down on his previous approach to trade since taking office in January 2025. Using tariffs as a central policy tool, the Trump 2.0 trade agenda has implemented a series of tariffs to achieve various economic and non-trade-related policy objectives [2]. In particular, President Trump ordered a top-to-bottom review of U.S. trade and economic policy on his first day in office and requested the Secretary of Commerce, the United States Trade Representative, and the Secretary of the Treasury to prepare a unified report with policy recommendations on 1 April 2025 with respect to the U.S. trade deficit, unfair trade practices of foreign governments, currency manipulation and misalignment, discriminatory tax policies, current and future U.S. trade agreements, trade remedy laws, export controls, and outbound investment policies, among other related policies [24]. Moreover, on February 13, 2025, President Trump signed the “Reciprocal Trade and Tariffs” presidential memorandum, which aims to counter non-reciprocal trading arrangements with trading partners by determining the equivalent of a reciprocal tariff for each foreign trading partner [25]. Although the original plan was to apply reciprocal tariffs to all US trading partners, a group of countries that have higher tariffs on American products and run large trade surpluses with the United States will be hit the hardest [21]. Trump’s trade policy has created enormous uncertainty and dimmed the outlook for the global economy. It is widely acknowledged that Trump’s tariffs are likely to lead to higher inflation, higher unemployment, and slower economic growth [15].

The China Question

The rise of China has arguably had a greater impact on contemporary world politics than any other development in recent decades. China is currently the world’s second-largest economy, the largest manufacturer and trader in goods, the second-largest trader in services, a leading recipient of foreign direct investment flows, and the top trading partner of over 120 countries and regions. On its current trajectory, many analysts predict that China will surpass the U.S. as the world’s largest economy well before the middle of the century [11, pp. 205-206]. China’s rapid ascent to superpower status—economically, politically, militarily, and, to some extent, culturally—has sparked

considerable speculation about whether it will seek to revise the current rules-based international order to better reflect its power and status. Some observers argue that China has already emerged as a revisionist power, intent on reshaping international relations and the rules governing them, particularly within East Asia. Others view China's efforts as part of a broader ambition to replace or fundamentally alter international law and governance globally [15]. Since there is little precedent for a great power rising within a normative framework not of its own creation without substantially altering or revolutionizing that framework to reflect its values and interests, some observers have predicted that a new Cold War is inevitable, driven by the inadequacies of international institutions to manage China's rise and prevent superpower conflict [6].

The China-US rivalry is a key factor underlying the changing landscape of international economic law. The 2017 National Security Strategy released by the first Trump Administration described China as a "strategic competitor" and a "revisionist power" posing a challenge to U.S. power and interests [22, p. 27]. The 2022 National Security Strategy, issued by the Biden Administration, concluded that China is the only competitor with both the intent and the capability to reshape the international order [23]. The Presidential Memorandum "American First Policy" addresses U.S. trade relations with China, identifying it as the single largest source of America's large and persistent trade deficit and a unique economic challenge. Trump specifically directs the Administration to conduct a review of the bilateral relationship with China to identify and respond to unfair trade practices, assess China's compliance with the Phase One U.S.-China Trade deal, and evaluate the recent legislative proposals related to China's Permanent Normal Trade Relations status [24].

From the U.S. perspective, the competition between the United States and China is both global and multifaceted, across economics, technology, diplomacy, development, security, and global governance. Take China's economic model as an example. While it is one thing to seek to draw boundaries around neoliberalism-informed international trade, investment, and financial rules to ensure that they do not become a mechanism for the global projection and entrenchment of a single form of state-market relations, it is another thing to suggest, as the U.S. did, that China's economic model may be difficult to reconcile with the rule-based LIEO [26].

Despite more than four decades of market-oriented reforms and twenty years of WTO membership, China's economic model remains fundamentally distinct from both command economies and free market economies in its structuring of political and economic power. Although market reforms have led to a rapid expansion of the private sector, the Chinese government continues to exercise extensive direct and indirect control over resource allocation through instruments such as government ownership, control of key economic actors, and government directives [3]. It is now widely acknowledged that the competition of liberal capitalism and the China model, with the United States and China as their leading example, will shape the global economy's future.

Exploring China and New Challenges to International Economic Law: The Contributions of the Special Issue

While some long-standing issues, such as the rise of Chinese state-owned enterprises, China's Belt and Road Initiative (BRI), and the soaring outbound foreign investment, have been extensively explored in the literature, some of the new developments in China, such as China's green industrial policy, the development of the Greater Bay Area (GBA) encompassing Hong Kong, Macao, and the nine adjacent municipalities in Guangdong province in southern China, and U.S.-China sanctions war, remain underexplored. This special issue aims to shed light on these crucial issues and examine their interplay with international economic law. This special issue has seven articles. Each article addresses an emerging issue of international economic law that has not yet been extensively explored in existing literature.

Joshua Andresen's paper examines the "sanctions war" between China and the United States, the world's two largest economic superpowers. In the era of great power rivalry, unilateral economic sanctions are a staple feature of international economic law. However, the lawfulness of unilateral economic sanctions and how the increasingly intensified U.S.-China mutual sanctions will develop are unsettled issues in international law. Joshua has made two important arguments. First, while some commentators, mainly from the global south, denounced unilateral economic sanctions as a violation of international law because they are either prohibited by the UN Charter or inconsistent with the principle of non-intervention, he argued that there is nothing in the UN Charter specifying the exclusive purview of the Security Council to impose economic sanctions. Nor is there a general prohibition against states doing so unilaterally. This observation is consistent with the general agreement shared by most Western scholars. The more controversial claim Joshua made is that secondary sanctions may also appear lawful as a general matter of international law. The international law scholarship on this point appears to be divided, as some argue that certain secondary sanctions may cross the threshold of an intervention into other states' sovereignty and thus constitute an abuse of rights [16]. Given the deep coupling of the US and Chinese economies, Joshua concluded that neither state could insulate itself from sanctions or flex its strongest sanctions muscles against the other. He pointed out that the US and China have tremendous domestic and global incentives to find common ground and work constructively together. Nevertheless, he warned that the increasing use of sanctions by great powers would entrench and normalize unilateral sanctions as a fundamental tool of national security and foreign relations, with profound implications for the future of the liberal international order.

Xiaofeng Li and Ming Du's paper aims to unpack China's green industrial policy and examine its implications for international trade law. China's industrial landscape has undergone significant evolution in recent years. The expansion of China's green industry, represented by new energy vehicles, solar panels, and lithium batteries, has presented both opportunities and challenges for China's trading partners. On the one

hand, China's green surge boasts the highest quality and the lowest production costs. Other countries can benefit from these advantages and achieve their green transition goals by importing China's green products [27]. From this perspective, China plays a pivotal role in the global green transformation. On the other hand, China's dominance in green energy supply chains, from critical minerals to manufacturing assembly lines, presents economic and security challenges from the perspective of its trading partners. For one, it is alleged that China's centralized, top-down green industrial policy facilitated the swift scale-up of its green energy industry through massive subsidies and credit incentives. This has led to unfair trade practices, persistent overproduction, and excess supply, saturating global markets and crippling international competitors. Another reason is that the reliance on Chinese clean energy supply chains and the influx of affordable Chinese green energy products are perceived as an economic security risk. In response to China's green industrial policy, other countries have launched their own green industrial policies and adopted various trade-restrictive measures on China's renewable energy products as a critical part of their rebalancing efforts. Li and Du's legal analysis of the EU's recent anti-subsidy investigation into electric vehicle (EV) imports from China revealed that the EU has become a norm entrepreneur in exploring the resilience of WTO rules and applying trade remedy laws innovatively against China's industrial policy. However, they argued that applying market-oriented WTO rules to China is somewhat awkward, given that extensive governmental intervention in China is the norm rather than the exception. This, in turn, raises the question of how much litigation is sufficient, considering the scale of the problem, and whether litigation can ultimately solve the issue.

Qingjiang Kong's paper focuses on legal harmonization in the GBA. The development of the GBA was accorded key strategic planning status in China's overall development blueprint. Unlike other regional development plans, which do not involve the complexities of juxtaposing diverse legal systems, the GBA development strategy operates within a unique institutional framework of "One Country, Two Systems, Three Jurisdictions," with each jurisdiction having its own political and economic systems and developed body of laws and institutions. Therefore, the unique challenge that the GBA presents to policymakers is how heterogeneous regulatory frameworks in three different jurisdictions within a single sovereign state can be coordinated to facilitate cross-border transactions while respecting the distinct legal traditions of the region. Kong explained that earlier works favored an "inter-regional conflict of law" approach, which unifies the conflict of law rules in the region for the purpose of determining the applicable law in cross-border commercial transactions and then resorts to judicial assistance from other jurisdictions, particularly in relation to the mutual recognition of arbitral awards and court judgments. Kong rejected this approach as inadequate and argued for a model law approach as a more effective method to facilitate the convergence of legal rules and practices in the GBA. He further explored the feasibility of the model law approach and suggested that the more sophisticated and advanced Hong Kong law could serve as a basis for such a model law. Unifying substantive commercial laws across three jurisdictions may sound ambitious, given that the

development of the GBA must comply with the constitutional principle of “One Country, Two Systems.” On close inspection, Kong’s proposal is quite modest, as he deems such model laws to be only “soft law”. If they are adopted, the existing legal framework of each jurisdiction must be strictly adhered to.

The securitization of international economic relations is a distinguishing feature of international economic law in the era of great power rivalry. Joel Slawotsky’s paper aims to decipher the explosive re-conceptualization of national security by both the US and China, as well as the potential implications of the expansion of national security exceptions in international economic law for the international economic order. Joel carefully traced how the concept of national security in the US has transformed from defense against military attack, terrorism, or possibly economic collapse to encompassing threats to a fusion of interrelated spheres of national strength, including economic, technological, and ideological power. Similarly, China has adopted the concept of “a holistic view of national security,” currently encompassing sixteen types of security interests deemed essential to China’s sovereignty and development. As Joel pointed out, although some reconceptualization of national security is sensible and essential, it also triggers a slippery slope risk, as nothing stops a state from claiming any trade and investment transaction posing a national security threat. The transformation of the national security concept has also dramatically increased the proportion of trade and investment restrictive measures invoking national security exceptions as justification. Without proper control of its potential abuse, an expansive conceptualization of national security would put the stability of the international economic world order at serious risk. States and corporations regularly file challenges to measures based on national security concerns. Joel has suggested that producers and investors may also file economic disparagement claims if they are recklessly or maliciously designated as a national security threat and sustained economic loss.

The US dollar has dominated the global financial system since the end of World War II. Wei Shen examines China’s efforts to create a Renminbi-centric financial system that balances the US dollar zone. Wei argues that China’s emerging strategy is to shift from a piggybacking approach to setting up global or regional institutions to mirror the current multilateral global institutional framework. Key examples include the New Development Bank and a contingent reserve arrangement established by China and other BRICS countries, the China-led Asian Infrastructure Investment Bank, which competes with the Asian Development Bank, the envisioned Development Bank of the Shanghai Cooperation Organization, and other financial institutions associated with the BRI. The new development banks represent China's assertive role in challenging the U.S.-dominated multilateral financial governance regimes in development funding and global infrastructure projects. They also hold the potential for a future “renminbi zone” to take shape. Wei predicts that, while the Renminbi is unlikely to challenge the US dollar’s dominance as a global reserve currency in the immediate future, the international monetary system is becoming multipolar, with the Renminbi gaining prominence as a reserve and transaction currency.

Chunping Busch focused on the legal liability regime of credit rating agencies (CRAs) in international financial law. CRAs have played an important role as information intermediaries, filling the information asymmetrical gap for market participants. However, CRAs have historically not been held liable for their involvement in financial crises over the last 40 years due to weak legal frameworks regulating and supervising CRAs' activities in both the U.S. and the EU. Following the 2007-2008 financial crisis, the U.S., the EU, and China initiated reforms aimed at enhancing the accountability of CRAs. In particular, the recent reforms have provided a civil liability regime, enabling claimants to sue CRAs for damages if they failed to fulfill the due diligence requirement. Chunping carefully reviewed the civil liability regimes for CRAs in the US, EU, and China, respectively, and how the relevant legal criteria were applied in practice. After having identified the relative strengths and weaknesses of different regulatory models, Chunping argues that the EU model, in which claimants must establish a reasonable reliance and satisfy the burden of proof to establish the CRAs' infringement committed with intention or gross negligence, provides a balanced regulatory model between protecting investors and adequately disciplining CRAs. She calls for improving the current civil liability regime in the U.S. and China by adopting the EU model.

The rise of China and its broader implications for international politics are the most pressing issues of our time. Tom Harper's contribution aims to unpack the Chinese vision of global governance, as well as its implications for the existing international economic order. Tom believes that the conventional portrayal of China as primarily an economic and military challenger to the US overlooks the broader challenge that China poses, as Chinese foreign policy has been informed by a largely different set of historical precedents and possesses a strategic culture that bears little resemblance to that of previous revisionist powers. Tracing the Chinese vision of global governance as expressed through Chinese-led international initiatives such as the BRI, the Chinese economic model of state capitalism, and Chinese foreign policy discourse such as the "China Dream," Tom argues that the wider challenge posed by China lies in China's assault on many of the underpinning norms of the current international order, China's provision of an alternative vision to the established international order, and the appeal of such a vision to the global south.

Taken together, the articles in this special issue have highlighted several key themes that underlie China and the evolving landscape of international economic law. First, both international economic law theories and norms are under stress. Take, for instance, the securitization of international economic relationships. Globalisation and economic interdependence were traditionally viewed through a benign lens. The dominant view was that economic interdependence, underpinned by international economic law, incentivized the relevant actors to continue cooperating, thereby achieving economic growth and exerting a pacifying effect on world politics [12, pp. 23-24]. However, as Joel and Joshua have pointed out, the United States has increasingly viewed its relations with China as a situation rife with possibilities for weaponized interdependence and has

made more frequent use of tariffs, sanctions, export controls, licensing denials, investment screening, divestment orders, and similar measures [1, pp. 1-3]. Leaving behind its old defensive posture, China has also taken proactive and forceful actions in escalating the country's tit-for-tat trade war with the United States, purportedly for national security reasons. The proliferation of national security reviews has a profound impact on international economic law. If national security is conceptualized as a fusion of economic, ideological, and technological supremacy, or where all matters are seen through a security prism, how can one draw the line between the protection of legitimate security concerns and impermissible protectionism in practice? As Roberts warned, without proper control of its potential abuse, an expansive conceptualization of national security can "eat the heart out of the old international economic world order," which was largely based on economic efficiency and interdependence, and move international economic norms to security-oriented self-reliance and self-sufficiency [14].

Second, the rise of China has posed some novel challenges to international economic law. For example, as Xiaofeng and Ming argued, China's dominance in green energy supply chains presents a significant challenge to other countries, such as the EU. On the one hand, the EU's reliance on Chinese clean energy supply chains and the influx of affordable Chinese green energy products are perceived as an economic and security risk to the EU's strategic autonomy. In response, the EU has actively utilized trade remedy laws to reduce its dependency on Chinese supply chains and mitigate market distortions resulting from China's industrial policy. However, active use of trade remedy laws is a double-edged sword as it may delay the EU's green transition given China's significant advantages in the renewable energy sector. Relatedly, the limited ability of WTO rules to tackle China's industrial policies is well known. Similarly, as Wei Shen illustrated, China has embarked on building its own set of regional and international institutions. While these new institutions and programs have granted China agenda-setting and convening power, they may diverge from the standards and values upheld by existing international institutions.

Finally, the shape of future international economic rules remains heavily contested. For example, the United States has long criticized China's use of subsidies, industrial policy, and restrictions on foreign investment. However, China's success in electric vehicles and clean technology did not stem from liberalizing economic policies, but rather from state interventions in the market. When trade liberalization no longer appears to serve U.S. strategic interests, Washington's economic policy has shifted toward tariffs, protectionism, subsidies, investment restrictions, and measures aimed at boosting domestic production. Given the massive state intervention in the economy and its potential impact on the world economy, some observers argued that the U.S. is behaving more like China [5]. However, it is not yet clear whether the United States will copy China's playbook, as Trump has recently threatened to repeal subsidies granted to the U.S. semiconductor industry [10]. It is fair to say that international economic law is in a state of flux. We are still waiting for a reformed version of international economic law after neoliberalism.

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