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Investing In... 2026

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Introduction

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Contributed by: G. J. Ligelis Jr., **Cravath, Swaine & Moore LLP**

Cravath, Swaine & Moore LLP has been known as one of the premier US law firms for two centuries. The firm advises companies on their most critical needs, including across the full spectrum of corporate transactions, encompassing mergers, acquisitions, divestitures, spin-offs and joint ventures, as well as securities offerings in the global debt and equity markets, bank financings, restructuring and bankruptcy matters, and shareholder activism defence. Both US and international clients rely on the firm's leadership and expertise in their most transformative corporate matters and high-stakes litigation, many of which involve multiple jurisdictions across diverse industries. The firm's hallmark is its ability to bring together expertise across disciplines, delivering an integrated and collaborative approach to clients on their most significant matters.

Contributing Editor

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Global Overview

The benefits of globalisation have been touted for decades now. For the developed world, globalisation can bring access to new markets, solutions for optimising supply chains, connection with a global talent pool and diversification of revenues. For the developing world, globalisation can provide critical capital investment, importation of cutting-edge technology and expertise, and boosts to local employment and the economy at large.

However, the past decade has also shone a light on some of the costs of globalisation, and the tide appears to be turning on the post-Cold War order erected on the back of globalisation. In recent years, businesses with a web of suppliers across the globe have become exposed to the fickle effects of shifting tax regimes, unpredictable supply chains, trade and actual wars, and global health crises.

Countries that offshored large portions of their manufacturing base have been faced with divisive social consequences at home, arising from disempowered and unemployed segments of the population. Governments that have provided open access to foreign investment in critical industries have found key assets in the hands of geopolitical rivals or businesses with unknown or opaque ties to foreign governments or state-owned enterprises.

Developing nations have learned the hard way that the tap of foreign investment can be shut off as quickly as it is turned on – with dire consequences for currencies, capital accounts and economies.

Nonetheless, while businesses may ensure more local supply redundancies and governments may erect barriers to entry for geopolitical foes, capital is likely to continue to follow its inexorable path to profitable investment. Navigating this complex and precarious environment for foreign direct investment (FDI) will only increase the demand for sound legal, financial, tax and operational advice for businesses that choose to look abroad for expansion, ideas and talent.

As one of the most direct proxies for globalisation, FDI has followed a similar rocky path. In 2024, when excluding certain conduit countries, global FDI flows decreased by 11% to USD1,493 billion, according to the UN Conference on Trade and Development. In 2024, the decline was more pronounced in greenfield investments than in cross-border mergers and acquisitions (M&A). Cross-border M&A increased by 14% in 2024 to reach USD443 billion, but remained below the average of the past decade. Greenfield FDI announcements (which reflect future investment plans) rose 3% in 2024, mainly in technologically and politically strategic sectors, such as data centres, semiconductors, energy and advanced manufacturing, but total value declined by 5% compared to 2023.

Global FDI flows in the first quarter of 2025 reached USD408 billion, which was 15% lower than in the first quarter of 2024 and 19% below the first quarter of 2023. While inflation and interest rates have come down from peak levels, constant geopolitical crises and increasingly protectionist domestic politics continue to negatively impact global FDI flows in countries around the world.

Throughout 2024, the USA was both the largest source of outbound FDI flows and the largest destination for inbound FDI flows. The US market continues to lead the global recovery and remain a few steps ahead of its peers in the developing world while continuing to tackle inflation and lower interest rates.

Introduction to the Guide

As a brief introduction to the content of this Chambers Global Practice Guide, Investing In... 2026, the purpose of each country-specific chapter is to provide the reader with an understanding of the key legal issues that arise from investing in the subject country and to serve as a reference point for the key factors and considerations that should be evaluated prior to making a foreign investment in that country.

The Guide generally adopts the OECD definition of FDI for the types of investments that are addressed, which is an investment that reflects the objective of establishing a lasting interest (ie, a long-term relationship with a significant degree of influence on management) by an enterprise residing in one jurisdiction in an enterprise that resides in another jurisdiction. This includes transactions such as mergers and acquisitions, formation of partnerships and joint ventures and significant minority investments.

Since other resources effectively cover the key considerations for owning or operating a business in various countries (see the Chambers Global Practice Guide, Doing Business In... 2025), this Guide focuses on those types of investment transactions and not the establishment and operation of new greenfield businesses in the subject country.

Key Developments

Over the course of the last year, FDI flows have been buffeted by three key developments:

- geopolitical tensions;
- the return of industrial policy, tariffs and protectionism; and
- the continued expansion of national security review regimes and other national interest-driven policies.

Geopolitical tensions

In the wake of the severe disruption caused by the COVID-19 pandemic that affected every corner of the world, a seemingly endless cascade of geopolitical crises has continued to buffet and shape the flows of trade and investment. As decades of globalisation worked to gradually knit economies in vastly different geographies and stages of economic development together, the shocks of these crises continue to tear at those bonds as countries and companies alike seek to align themselves with more secure and familiar trading partners.

Since Hamas' attack on Israel in October 2023, humanitarian, security and geopolitical crises continue to unfold as part of the ensuing war in Gaza. With escalations in the conflict between Israel and Hezbollah in Lebanon (albeit subject to the ceasefire reached in November 2024) and the bombing of Hamas leadership in Qatar, as well as direct missile attacks between Israel and Iran, and Israel and the USA bombing Iran's nuclear facilities, the risks of an expanded conflict in the region remain high. However, hope has begun to emerge for a more peaceful future following the ceasefire between Israel and Hamas in October 2025.

Russia's war in Ukraine, which commenced in February 2022, along with Russia's escalating threats to neighbouring European countries through incursions into NATO airspace and the USA's subsequent sanctions on major Russian oil companies, continues to affect global energy markets, impacting oil, gas and electricity prices around the world. European countries that decoupled from Russia continue to seek alternatives to cheap Russian gas, pivoting to exports of liquified natural gas from the USA, among other sources.

Meanwhile, in 2025, tensions between the USA and China continued to affect their bilateral relationship, as the two global powers settled into a high-stakes relationship of strategic competition on a global scale. The risk of a military confrontation in the South China Sea, the East China Sea or elsewhere regularly makes headlines, forcing businesses to consider how to disentangle supply chains, consumer markets and investments in the region should a full-blown crisis erupt.

Against the backdrop of multiple international crises and rising geopolitical tensions, firms and policymakers have been responding with strategies to make supply chains less vulnerable to geopolitical tensions by moving production to trusted countries. According to the IMF, over the past decade, FDI flows have been increasingly concentrated in geopolitically aligned countries, especially in strategic sectors, such as semiconductors, in an effort to make supply chains less vulnerable to geopolitical tensions.

If such tensions continue to intensify and countries further diverge along geopolitical fault lines, FDI flows may become even more concentrated within blocs of aligned countries centred around the USA and China. Partly in response to these tensions and US trade policies, 2024 and 2025 saw the BRICS expand into the "BRICS Plus", with the addition of five new member states and ten additional partners, along with other new BRICS applicants and invitees. It remains to be seen how FDI fragmentation between US-centred and China-centred geopolitical blocs will impact economies that remain unaligned with either camp, particularly in emerging and developing economies such as India and Latin America. For example, in October

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2025, the Trump administration announced the USA would provide USD20 billion of support for Argentina in an effort to preserve an ideological ally in the region.

The return of industrial policy and protectionism

Several high-profile pieces of legislation and rulemaking in the USA and the EU from recent years reflect a global resurgence of industrial policy. The impact on FDI is palpable as supporters of industrial policy or even outright protectionism regain influence in developed economies and chart the course of advancement in developing economies.

Although significant elements have been rescinded, terminated, paused or delayed by the second Trump administration, the implementation of 2022's major, stimulative US legislation, the CHIPs and Science Act, the Infrastructure Investment and Jobs Act and the Inflation Reduction Act, set the stage for increased industrial protectionism and has driven calls for responses to this stimulus from other nations. The second Trump administration has built upon these tools of trade restrictions, government subsidies and targeted regulation by taking direct equity stakes in certain critical companies, obtaining "golden shares" or governance rights in others and steering ownership of other companies into friendlier hands, all in an effort to strengthen existing manufacturing in the USA and "reshore" or "friendshore" production elsewhere.

Similar industrial policies have been enacted around the world, such as China's "Made in China 2025" strategy or India's "Make in India" strategy. The EU has also responded in kind, ranging from the adoption of proposals for a European Green Deal to the European Council's approval of the European Chips Act to bolster semiconductor production in direct response to the US Act of the same name to a push for a "Made in Europe" industrial strategy. These developments demonstrate that industrial policy is here to stay in the current market environment and will become an increasingly important factor in country- and industry-specific FDI.

Moreover, while the costs and benefits of international trade were once the subject of debate primarily between economists and policy specialists, the second Trump administration has made international trade a core part of its geopolitical strategy. The administration has significantly increased tariffs on imports into the USA, imposing substantial new tariffs against Canada, Mexico, and China since February 2025 and virtually every other country worldwide as part of the "Liberation Day" tariffs announced in April 2025.

The dust continues to settle as the size and scale of tariffs fluctuate and the USA renegotiates the United States–Mexico–Canada Agreement and negotiates other trade deals with foreign nations largely on a country-by-country basis. However, these tariffs, as well as responses from China and the rest of the world, have had and will continue to have a highly significant impact on FDI.

National security restrictions

Against the backdrop of these tensions and political headwinds, governments around the world have been re-evaluating their regimes for reviewing and approving inbound FDI, which have become more proactive, broadly applicable and widespread in recent years.

In the US, the passage of the Foreign Investment Risk Review Modernisation Act in 2018 and its implementation expanded the scope of transactions subject to review, required certain mandatory filings for the first time and shifted the focus to transactions involving critical technologies, critical infrastructure and sensitive personal data.

In the UK, the National Security and Investment Act became law on 29 April 2021 and came into effect at the start of 2022. The Act implemented a new regime for reviewing FDI in the post-Brexit world. Across Europe, new or revamped FDI review procedures have been implemented in the Netherlands, Belgium, Denmark, Luxembourg, Slovakia, Sweden, Estonia, Bulgaria, Romania and Ireland, among others. On top of FDI regimes, the European Commission's Foreign Subsidies Regulation, under which transactions involving parties that have received "distortive foreign subsidies" from their home countries are subject to screening and review, came into effect in July 2023.

In addition, in the USA, heightened scrutiny of inbound investment has also expanded to outbound investment. On 28 October 2024, the US Treasury Department issued a final rule to implement a new outbound investment security programme, which took effect on 2 January 2025. This rule prevents US persons from engaging in certain outbound transactions with persons from China involving certain technologies and products relating to artificial intelligence, semiconductors and quantum technologies and imposes new notification and disclosure requirements for other investments.

Much of this focus has been driven by fear of investment to and from China. Accordingly, the impact on inbound Chinese investment around the world has been sudden and severe, with Chinese investment in the USA dropping to levels not seen since the 2008–09 financial crisis. Importantly, the net cast by these more expansive and proactive FDI review regimes reaches beyond just China, and governments view them as a tool not only to protect national security but also to further national interests and the well-being of their citizens. Going forward, businesses around the world will need to proactively evaluate the applicability of these regimes and legislation and effectively navigate their review in order to successfully achieve their FDI objectives.

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