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# **FREE BUT SECURE TRADE: PRIORITIES IN SUPPORT OF NATIONAL SECURITY**

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**Franklin D. Kramer**



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# I. Introduction

In an era of increasing global fragmentation and acute security competition, it will be, as Treasury Secretary Janet Yellen has stated, “increasingly difficult to separate economic issues from broader considerations of national interest, including national security.”<sup>1</sup> This report focuses on that interaction of economics and national security with recommendations to achieve the “free but secure trade” that Secretary Yellen has identified as an objective.<sup>2</sup> The goal is to assure that adversaries cannot “use their market position in key raw materials, technologies, or products to have the power to disrupt our economy or exercise unwanted geopolitical leverage.”<sup>3</sup>

The report has two parts, discussing: institutional actions to enhance free but secure trade and investment including establishing resilient international markets and supply chains; and securing resilient domestic markets by establishing limitations on trade and investment to assure protection from predatory Russian and Chinese behavior.

The discussion below briefly reviews the changes in the international order that have led to this enhanced economic-national security interaction and then analyzes specific requirements for the implementation of a strategy of free but secure trade. Key recommendations include:

## International Cooperation

- Expand the US-European Union Trade and Technology Council—or establish an overarching parallel forum—

to include as additional members Australia, Canada, Japan, the Republic of Korea, and the United Kingdom.

- Accelerate and expand the Indo-Pacific Economic Framework with climate/energy and supply chain resilience as immediate areas of focus and by adding, in addition to the Asian member countries, selective countries in the Western Hemisphere bordering the Pacific Ocean.
- Establish a “Critical Minerals Financing Initiative.”

## Economic Limitations

- Establish long-term sanctions and restrictive economic measures against Russia as a consequence of the significant military and geopolitical threat it presents.
- Establish an internationally coordinated approach focused on China including:
  - Limitations to assure the resilience of supply chains for the defense/intelligence complex and key critical infrastructure sectors.
  - Tariffs and other limitations to offset China’s use of subsidies and other unfair trade practices.
  - Government support for key industries to incentivize moving operations from China.<sup>4</sup>

1 “Remarks by Secretary of the Treasury Janet L. Yellen on Way Forward for the Global Economy,” Department of the Treasury, Press Release, April 13, 2022, <https://home.treasury.gov/news/press-releases/jy0714>.

2 “Remarks by Secretary of the Treasury Janet L. Yellen.”

3 “Remarks by Secretary of the Treasury Janet L. Yellen.”

4 The Department of Defense reached essentially the same conclusion in focusing on the defense industrial base: “DoD is building domestic capacity, cooperating with allies and partners, and safeguarding against adversarial influence to build capabilities that can defend the nation’s democratic values and the rules-based order on which global prosperity relies.” See Department of Defense, *Securing Defense-Critical Supply Chains*, 2022, 5, <https://media.defense.gov/2022/Feb/24/2002944158/-1/-1/1/DOD-EO-14017-REPORT-SECURING-DEFENSE-CRITICAL-SUPPLY-CHAINS.PDF>.

## II. The Changed Economic Order

As Secretary Yellen has stated, national security considerations have taken an increasingly critical role in international trade and investment. As a result, a variety of limits have been imposed by the United States and like-minded countries on the international economic order. China has become a country of concern to the democratic advanced economies for security, economic, and human rights reasons, all of which have led to various restrictions in trading relationships. Other countries, most prominently Iran and the Democratic People's Republic of Korea, have been under significant long-term economic restrictions. Most recently, Russia's full-scale invasion of Ukraine has led to an accelerated effort by the United States and other leading democracies to utilize sanctions and comparable measures to significantly decouple Russia from Western markets—actions that go well beyond what had been put in place as a result of the 2014 Russian invasion of Crimea.

At the same time as these international efforts have been undertaken, the US administration has initiated a series of actions to enhance the domestic economy, focusing on the resilience of key industrial bases. These include, according to the administration's recent report on supply chains, "assessments of and strategies to strengthen supply chains"<sup>5</sup> for the following six industrial sectors:

- Energy industrial base.
- Transportation industrial base.
- Production and distribution of agricultural commodities and food products.
- Public health and biological preparedness industrial base.
- Information and communications technology (ICT) industrial base.
- Defense industrial base.

Congress has supported these significant "onshoring" actions. The recently enacted and bipartisan Infrastructure and Jobs Law, for example, includes "investments in

clean energy technology supply chains [to] allow America to make the energy technologies of the future right here at home."<sup>6</sup> The America Creating Opportunities for Manufacturing Pre-Eminence in Technology and Economic Strength (America COMPETES) Act of 2022—expected to be enacted later this year—likewise would provide very substantial domestically directed funding intended to:

accelerate U.S. production of critical semiconductor chips, [and] strengthen the supply chain to make more goods in America, . . . including: . . . \$52 billion for CHIPS for America Act which will incentivize private-sector investments . . . in semiconductor fabrication [and the] Strengthening the Supply Chain & American Manufacturing [Act] [which] [a]uthorizes \$45 billion to improve our nation's supply chains . . . [by] ensuring that more of these goods are made right here in the United States.<sup>7</sup>

In short, onshoring is a new and very real factor with consequences for enhancing the domestic economy including the resilience needed for national security.

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**Onshoring is a new and very real factor . . . [but] [o]nshoring alone is not . . . sufficient in establishing resilient markets and economies to achieve national security**

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Onshoring alone is not, however, sufficient in establishing resilient markets and economies to achieve national security. As important as domestic production is, "free but secure trade" is not only a desirable but also a necessary objective. International trade—variously described as "ally-

5 White House, *Executive Order on America's Supply Chains: A Year of Action and Progress*, 2022, 3, <https://www.whitehouse.gov/wp-content/uploads/2022/02/Capstone-Report-Biden.pdf>.

6 "DOE Fact Sheet: The Bipartisan Infrastructure Deal Will Deliver for American Workers, Families and Usher in the Clean Energy Future," Department of Energy (website), November 9, 2021, <https://www.energy.gov/articles/doe-fact-sheet-bipartisan-infrastructure-deal-will-deliver-american-workers-families-and-0>. The fact sheet states that the infrastructure law includes more than \$7 billion in the supply chain for batteries; \$1.5 billion for clean hydrogen manufacturing and loans for projects including \$21.5 billion for clean energy demonstration and research hubs; \$8 billion for clean hydrogen; more than \$10 billion for carbon capture, direct air capture and industrial emission reduction; and \$2.5 billion for advanced nuclear funding.

7 America COMPETES Act, H.R. 7178, 116th Cong. (2022), <https://www.speaker.gov/sites/speaker.house.gov/files/America%20COMPETES%20Act%20of%202022%20HR%204521.pdf>. The full name of the CHIPS Act is the Creating Helpful Incentives to Produce Semiconductors for America Act.

shoring” or “friend-shoring”—is often critical to assuring the key elements of resilient supply chains necessary for national security.<sup>8</sup>

The administration has recognized this, and in October 2021, President Biden hosted what was called a Summit on Global Supply Chain Resilience with the EU and fourteen countries to:

foster greater international cooperation on near-term supply chain disruptions and chart a course to strengthen and diversify the entire supply chain ecosystem over the long term—from raw materials, intermediate and finished goods, manufacturing, to shipping, logistics, warehousing, and distribution.<sup>9</sup>

As might be expected, the summit participants included allied partners—Australia, Canada, Germany, Italy, Japan, Republic of Korea, Spain, and the United Kingdom as well as the EU.<sup>10</sup> Yet the summit reached more broadly than just allies, including the Democratic Republic of the Congo, India, Indonesia, Mexico, and Singapore.

As the inclusion of the latter group of countries implies, an effective set of trading and investment relationships with such countries and, more broadly, throughout Africa, Asia, and Latin America is very much in the interests of the

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## A free but secure trade framework will rely on two key pillars: secure engagement among the democratic advanced economies and with reliable partners, and limitations on trade and investment with Russia and China

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United States and the other democratic advanced economies for both economic and national security reasons.

The discussion below builds on those existing activities described above with recommendations for key priorities to enhance and achieve the free but secure trade required for national security. A free but secure trade framework will rely on two key pillars: secure engagement among the democratic advanced economies and with reliable partners, and limitations on trade and investment with Russia and China.

<sup>8</sup> “Remarks by Secretary of the Treasury Janet L. Yellen.”

<sup>9</sup> White House, “FACT SHEET: Summit on Global Supply Chain Resilience to Address Near-Term Bottlenecks and Tackle Long-Term Challenges,” Briefing Room Statement, October 31, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/31/fact-sheet-summit-on-global-supply-chain-resilience-to-address-near-term-bottlenecks-and-tackle-long-term-challenges/>.

<sup>10</sup> That reflects the reality that some of the important economic activities for the United States are the trading and investment relationships with the advanced democratic nations. As a recent analysis of the US-EU trade and investment relationships shows for trade: “If we annualize those figures to estimate total trade in goods and services of the EU for 2021, we find that EU27-China trade in goods and services likely totaled \$782 billion in 2021, while EU27-U.S. trade was \$1.1 trillion—42% higher than EU27-China trade. In short, if you look at overall trade flows and not just one kind of flow, it is clear that the largest trading partner for the EU is actually the United States, and the largest trading partner for the United States is the EU, as it has been for decades.” See Daniel A. Hamilton and Joseph P. Quinlan, *The Transatlantic Economy*, Foreign Policy Institute, Johns Hopkins University School of Advanced International Studies, Transatlantic Leadership Network, the American Chamber of Commerce to the European Union, and the US Chamber of Commerce, 2022, 39, [https://www.uschamber.com/assets/documents/TE2022\\_Report\\_LR.pdf](https://www.uschamber.com/assets/documents/TE2022_Report_LR.pdf).

### III. Implementing Free but Secure Trade

**F**ree but secure trade is critical to an effective combined economic and national security strategy. The objective is to build a coordinated domestic and international system able to withstand supply chain shocks of a magnitude as those which have been generated, on the one hand, by the pandemic and, on the other, by dependencies on adversarial countries that could cause negative consequences arising from geopolitical impacts.<sup>11</sup>

#### A. International Cooperation

Free but secure trade between and among the democratic advanced economies and, on a more selective basis, with reliable partners will be substantially enhanced by expanding the membership of the US-EU Trade and Technology Council, implementing the Indo-Pacific Economic Framework on a multivector basis, and developing a Critical Minerals Financing Initiative.

**1) Expand the US-EU Trade and Technology Council:** The US-EU Trade and Technology Council (TTC) should be expanded—or an overarching parallel forum should be created—to include as additional members Australia, Canada, Japan, the Republic of Korea, and the United Kingdom.

The rationale for expanding the TTC is straightforward. The US-EU relationship does not encompass key nations that are significantly engaged on critical geopolitical and economic issues. Several examples help make the point. Canada, Japan, and the United Kingdom are substantial economies and members of the Group of Seven (G7). Japan is a leading provider of infrastructure funding to other Asian countries, alone exceeding the funding provided by China.<sup>12</sup> Australia, the United Kingdom, and the

United States have recently entered into the so-called AUKUS agreement that includes the development of advanced technologies.<sup>13</sup> The Republic of Korea is one of the leading providers of information technology including semiconductors.<sup>14</sup> Meanwhile, the response to the Russian invasion of Ukraine has included but gone far beyond US-EU coordination.

The TTC's goal of coordinating and aligning allies' "approaches to key global technology, economic, and trade issues . . . basing policies on shared democratic values"<sup>15</sup> will be better met with the inclusion of these five democratic advanced economies, as is clear from even a summary review of its ten working groups—ranging from climate/clean technology to supply chains to export controls.<sup>16</sup> Every one of these issues are better met with a fully coordinated approach among the democratic advanced economies, rather than with limited participants. To be sure, there are some tariff and regulatory trade issues that will need to be dealt with on a bilateral US-EU basis, but to meet the very significant challenges posed by Russia and China (as well as global energy/climate and health concerns) will require the continued coordinated engagement of the democratic advanced economies.

**2) Accelerate and Expand the Indo-Pacific Economic Framework:** The Indo-Pacific Economic Framework (IPEF) has the opportunity to significantly enhance progress in critical areas requiring international cooperation if it is implemented through a broad and accelerated process. In particular, IPEF could provide the basis for important efforts on climate/energy and supply chain resilience.

The IPEF was rolled out in May 2022 during President Biden's visit to Japan, with the United States plus twelve

11 Franklin D. Kramer, *Effective Resilience: Lessons from the Pandemic and Requirements for Key Critical Infrastructures*, Atlantic Council, October 2020, 1, <https://www.atlanticcouncil.org/wp-content/uploads/2020/10/Effective-Resilience-Latest.pdf>.

12 "Although China's financial reach overseas attracts enormous attention," observed *The Economist*, "when it comes to infrastructure in South-East Asia, Japan is still very much the leader. . . . In total, it has \$259bn invested in unfinished projects in Indonesia, Malaysia, the Philippines, Thailand and Vietnam, according to Fitch Solutions, a data provider, compared with China's \$157bn. Both figures have declined since 2019, as the COVID-19 pandemic has deterred greenfield infrastructure investment, but Japan's lead has widened a bit." See "A Glimpse into Japan's Understated Financial Heft in South-East Asia," *Economist*, August 16, 2021, <https://www.economist.com/finance-and-economics/2021/08/14/a-glimpse-into-japans-understated-financial-heft-in-south-east-asia>.

13 White House, "FACT SHEET: Implementation of the Australia-United Kingdom-United States Partnership (AUKUS)," April 5, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/05/fact-sheet-implementation-of-the-australia-united-kingdom-united-states-partnership-aukus/>.

14 Sebastian Moss, "South Korea to Spend \$451 Billion on Becoming a Semiconductor Manufacturing Giant," Data Center Dynamics, DCD (website), May 14, 2021, <https://www.datacenterdynamics.com/en/news/south-korea-to-spend-451-billion-to-become-semiconductor-manufacturing-giant/>.

15 White House, "U.S.-EU Trade and Technology Council Inaugural Joint Statement," Briefing Room Release, September 29, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/29/u-s-eu-trade-and-technology-council-inaugural-joint-statement/>.

16 Those groups are technology standards cooperation; climate and clean tech; secure supply chains, including semiconductors; information and communications technology and services; data governance and technology platforms; misuse of technology threatening security and human rights; export controls; investment screening; promoting small/medium-sized enterprises' access to and use of digital tools; and global trade challenges (including discussions on cooperation toward nonmarket economies). See White House, "U.S.-EU Trade and Technology Council Inaugural Joint Statement."



additional participating countries.<sup>17</sup> The White House identified “four key pillars” which it described as “Connected Economy” with a focus on rules of the road for the digital economy, “Resilient Economy” with a focus on supply chains, “Clean Economy” with a focus on clean energy, decarbonization and infrastructure, and “Fair Economy” with a focus on tax, anti-money laundering, and anti-bribery regimes.<sup>18</sup> Organizing the IPEF with these four pillars is, of course, a necessary and valuable step. However, the key will be the actual implementation of each of the substantive areas. Several prompt steps can be taken to ensure that the IPEF is effectively implemented.

First, the IPEF should have a broader though still selective membership including not only the twelve Asian countries but also countries in the Western Hemisphere bordering the Pacific Ocean. As Matthew Goodman and Aidan Arasasingham have pointed out, “Canada, Mexico, Peru, and Chile . . . are CPTPP and APEC members and have been constructive participants in regional economic affairs,”<sup>19</sup> referring to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and Asia-Pacific Economic Cooperation. The United States has indicated that IPEF is an “open platform” and “other countries could . . . join.”<sup>20</sup> Expanding IPEF membership will allow for more effective results in substantive arenas—especially climate/energy and supply chain resilience—through coordination of actions.

Second, IPEF should promptly utilize its flexible structure, which allows countries to participate in some portions of the framework but not all—as several of its elements deserve immediate effort. As described in a Congressional Research Service brief quoting a USTR official, “Countries will have to sign up to all of the components within a module, but will not have to participate in all modules.”<sup>21</sup> The White House briefing on the IPEF similarly underscored that;

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Of the identified [IPEF] pillars, “clean energy, decarbonization and infrastructure” and “resilience” of supply chains are of regional and global importance

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we will not wait until all of IPEF is complete to roll [a particular element] out and move forward on it. So different elements of this could end up moving at different speeds, even as all of the pieces will end up fitting into a larger integrated framework.<sup>22</sup>

Of the identified pillars, “clean energy, decarbonization and infrastructure” and “resilience” of supply chains are of regional and global importance.

Without trying to design the precise contours of a particular module, multiple developing countries in the region have substantial infrastructure requirements while several of the developed IPEF-member countries including Japan and the United States have major efforts that support infrastructure development. However, in addition to supporting classic infrastructure development, those efforts could have high value for decarbonization if directed also to the renewable energy and hydrogen sectors. Such an approach would build on ongoing activities and the natural strengths of the potential participants. Simply by way of example, Canada and Chile are each focused on hydrogen production,<sup>23</sup> and the Republic of Korea is supporting hydrogen production efforts in Indonesia.<sup>24</sup> More generally, Malaysia similarly has a government-directed approach to

17 White House, “FACT SHEET: In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity,” Briefing Room Statement, May 23, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/fact-sheet-in-asia-president-biden-and-a-dozen-indo-pacific-partners-launch-the-indo-pacific-economic-framework-for-prosperity/>

18 Id.

19 Matthew Goodman and Aidan Arasasingham, “Regional Perspectives on the Indo-Pacific Economic Framework,” Center for Strategic and International Studies, CSIS Brief, April 2022, <https://www.csis.org/analysis/regional-perspectives-indo-pacific-economic-framework>.

20 White House, “on-the-Record Press Call on the Launch of the Indo-Pacific economic framework,” Briefing Room Press briefings, May 23, 2022, <https://www.whitehouse.gov/briefing-room/press-briefings/2022/05/23/on-the-record-press-call-on-the-launch-of-the-indo-pacific-economic-framework/>

21 Brock R. Williams, Mark E. Manyin, and Rachel F. Fefer, “Biden Administration Plans for an Indo-Pacific Economic Framework,” Congressional Research Service, updated February 25, 2022, <https://crsreports.congress.gov/product/pdf/IN/IN11814>. This is a common-sense recognition that, as Mathew Goodman and Aidan Arasasingham have described, substantive interests on the part of the nations of the Indo-Pacific generally overlap to include climate/energy, digital trade, infrastructure, and health, but not all nations have equal priorities among these issues. See Goodman and Arasasingham, “Regional Perspectives on the Indo-Pacific Economic Framework.”

22 White House, “on-the-Record Press Call on the Launch of the Indo-Pacific economic framework,” Briefing Room Press briefings, May 23, 2022, <https://www.whitehouse.gov/briefing-room/press-briefings/2022/05/23/on-the-record-press-call-on-the-launch-of-the-indo-pacific-economic-framework/>.

23 Natural Resources Canada, *Hydrogen Strategy for Canada*, December 2020, [https://www.nrcan.gc.ca/sites/nrcan/files/environment/hydrogen/NRCan\\_Hydrogen-Strategy-Canada-na-en-v3.pdf](https://www.nrcan.gc.ca/sites/nrcan/files/environment/hydrogen/NRCan_Hydrogen-Strategy-Canada-na-en-v3.pdf); and Catherine Osborne, “Chile Bets Big on Green Hydrogen,” *Foreign Policy*, April 22, 2022, <https://foreignpolicy.com/2022/04/22/chile-green-hydrogen-clean-energy-industry-investment-climate-change/>.

24 Choi Seung-jin, Kang In-seon, and Minu Kim, “GGGI, Samsung, Hyundai to Join \$1.2 bn Green Hydrogen Project in Indonesia,” *Pulse by Maeil Business News Korea* (English news website), March 17, 2022, <https://pulsenews.co.kr/view.php?year=2022&no=244609>.

renewable energy.<sup>25</sup> Renewable energy will, of course, be critical to achieving global climate goals and hydrogen will be an important factor as a fuel and in industrial processes such as steel production. Coordinating and supporting national efforts through IPEF will increase the ability of the participating nations to make the best use of their capabilities in support of these goals.

Similarly, IPEF can be an important factor for supply chain resilience, which is particularly critical for, among other arenas, the information technology sector and electric vehicle production. Vietnam, for example, offers prospects for increased semiconductor production,<sup>26</sup> as well as computer assembly.<sup>27</sup> Malaysia has substantial private-sector investment being undertaken in the semiconductor sector and has initiated cooperation with the United States.<sup>28</sup> Chile is a major source of lithium, which is a critical mineral for batteries, as discussed below in the section on a Critical Minerals Financing Initiative. The White House has stated that IPEF will look to “mapping critical mineral supply chains” and to “coordinating on diversification efforts” so early focus in these arenas should be consistent with the objectives of the effort.<sup>29</sup>

In sum, accelerating and expanding the Indo-Pacific Economic Framework as an umbrella approach that can promptly focus on both of climate/energy and decarbonization and of supply chain resilience, utilizing its plurilateral structural approach,<sup>30</sup> would meet with the realities of the engaged and potentially interested nations and the regional and global requirements for each of these areas.

**3) Develop a Critical Minerals Financing Initiative:** The United States should develop a multilateral initiative that would undertake to finance the resourcing of critical minerals requirements for defense and national security needs and for the economy as a whole. Membership should include the United States, the EU, Australia, Canada, Japan,

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## The United States should develop a multilateral initiative . . . to finance the resourcing of critical mineral requirements for national security . . . and . . . the economy

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the Republic of Korea, and the United Kingdom. A combined effort would provide a mechanism to coordinate interactions with key producing countries as well as funding support for private-sector entities that would undertake the actual mining and processing. Such an effort should be combined with actions to support environmentally sound mining and processing efforts including the multilateral Energy Resource Governance Initiative.<sup>31</sup> Finally, a coordinated effort would also allow for support to riskier but potentially highly important efforts such as deep-sea mining for critical materials.<sup>32</sup>

Critical materials, including rare earths, lithium, cobalt, and nickel, are key for both the development of emerging and advanced technologies and for specific defense and security requirements. The demand is expected to increase significantly, as described here by the Biden administration:

As the world transitions to a clean energy economy, global demand for these critical minerals is set to skyrocket by 400-600 percent over the next several decades, and, for minerals such as lithium and graphite used in electric vehicle (EV) batteries, demand will increase by even more—as much as 4,000 percent. The U.S. is increasingly dependent on

25 An OECD report notes that “the government now intends to raise the share of electricity produced by renewables to 31% at the latest by 2025.” See OECD, *OECD Economic Surveys: Malaysia 2021* (Paris: OECD Publishing, 2021), Executive Summary, <https://doi.org/10.1787/cc9499dd-en>.

26 “Vietnam’s Semiconductor Industry Sees US\$6.16bil Potential,” Voice of ASEAN, December 17, 2021, <https://voiceofasean.com/business/vietnam-semiconductor-industry-sees-us6-16bil-potential/>.

27 Angelica Oung, “Computer Assemblers to Leave China: MIC,” *Taipei Times*, September 20, 2020, <https://www.taipeitimes.com/News/biz/archives/2020/09/28/2003744187>.

28 Scott Foster, “Big Chip and Tech Investment Pouring into Malaysia,” *Asia Times*, December 23, 2021, <https://asiatimes.com/2021/12/big-chip-and-tech-investment-pouring-into-malaysia/>.

29 White House, “FACT SHEET: In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity,”

30 Secretary Yellen stated that the United States “should also consider building a network of plurilateral trade arrangements.” See “Remarks by Secretary of the Treasury Janet L. Yellen.”

31 Department of State, “Energy Resource Governance Initiative (ERGI),” Bureau of Energy Resources, Fact Sheet, June 2019, <https://www.state.gov/wp-content/uploads/2019/06/Energy-Resource-Governance-Initiative-ERGI-Fact-Sheet.pdf>. An Atlantic Council report described ERGI as a “US State Department vehicle to help resource-endowed countries strengthen governance and production to bolster global mineral supply. ERGI—which also includes Australia, Botswana, Peru, Argentina, Brazil, the DRC, Namibia, the Philippines, and Zambia—promises to provide a solid foundation for dialogue between established mineral economies like the United States and Canada and developing countries seeking to grow their minerals sectors in line with best-in-class governance standards.” See Reed Blakemore, Paddy Ryan, and Randolph Bell, *The United States, Canada, and the Minerals Challenge*, Atlantic Council, March 2022, 9, <https://www.atlanticcouncil.org/wp-content/uploads/2022/03/The-United-States-Canada-and-the-Minerals-Challenge.pdf>.

32 “Deep-Sea Mining Could Help Meet Demand for Critical Minerals, but Also Comes with Serious Obstacles,” Government Accountability Office (website), December 16, 2021, <https://www.gao.gov/blog/deep-sea-mining-could-help-meet-demand-critical-minerals%2C-also-comes-serious-obstacles>.

foreign sources for many of the processed versions of these minerals. Globally, China controls most of the market for processing and refining for cobalt, lithium, rare earths and other critical minerals.<sup>33</sup>

The precise amounts needed for future markets are necessarily uncertain yet substantial. For example, “at least 30 times as much lithium, nickel and other key minerals may be required by the electric car industry by 2040 to meet global climate targets,” according to CarbonBrief.<sup>34</sup>

While defense sector needs are not expected to grow to that extent, the Department of Defense has underscored that the nation “must ensure a domestic supply of the critical materials essential to U.S. defense programs, especially key munitions,” with the particular concern that the United States “depends heavily on foreign sources for critical chemicals in its weapon systems.”<sup>35</sup> Defense dependency, notes a former US Army engineer officer in an American Security Project (ASP) post, is exacerbated by China’s role in key mineral supply chains:

There are many weaknesses in the critical mineral supply chain, but U.S. import reliance on China presents one of the most immense risks. Currently, the [United States] imports over half of its minerals, with China supplying 80% of those imports. China controls approximately 55% of the global rare earth mining capability and 85% of rare earth findings as of 2020. Additionally, China’s processing capability is five times greater than the combined global capacity for producing rare earth minerals, giving China a competitive advantage regarding low costs and infrastructure.<sup>36</sup>

Lithium and cobalt are critical minerals for DOD purposes<sup>37</sup>—and China plays a large role in refining both. According to a White House report, China refines 60 percent and 80 percent, respectively, of global lithium and cobalt supplies.<sup>38</sup> Therefore, establishing resilient supply chains for critical materials is important for not just the economy but to national defense and national security.

As a general matter, the challenges are not with respect to the adequacy of overall resources but rather the need is to establish adequate mining and processing capabilities. As a recent Atlantic Council report describes, that will include dealing with a variety of issues including enabling innovation, undertaking governmental investments, streamlining regulations, and assuring sustainability.<sup>39</sup> The United States has undertaken initial steps toward meeting these challenges such as through the US-Canada Critical Minerals Working Group,<sup>40</sup> President Biden’s convening of the supply chain summit noted above, and contracts entered into by the Department of Defense for the mining and production of rare earths.<sup>41</sup> However, establishing the requisite resilience for current and future requirements for critical minerals will necessitate significant international efforts including coordination with allies and key partners.

There is support for such a coordinated international effort from the private sector. A US Chamber of Commerce report notes that the energy transition requires both adoption and scaling up of production of cobalt, copper, lithium, nickel, and rare earths, and sizes up the challenge:

Global mining firms may have to raise production of these minerals by 500% in the next decade to meet climate goals, yet investment in mines has dropped

- 33 White House, “FACT SHEET: Securing a Made in America Supply Chain for Critical Minerals,” February 22, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/22/fact-sheet-securing-a-made-in-america-supply-chain-for-critical-minerals/>. The International Energy Agency (IEA) similarly has stated that the “shift to a clean energy system is set to drive a huge increase in the requirements for these minerals, meaning that the energy sector is emerging as a major force in mineral markets.” See IEA, *The Role of Critical Minerals in Clean Energy Transitions*, 2021, Executive Summary, <https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions/executive-summary>. The IEA document describes the demand: “Solar photovoltaic (PV) plants, wind farms and electric vehicles (EVs) generally require more minerals to build than their fossil fuel-based counterparts. A typical electric car requires six times the mineral inputs of a conventional car and an onshore wind plant requires nine times more mineral resources than a gas-fired plant. Since 2010 the average amount of minerals needed for a new unit of power generation capacity has increased by 50% as the share of renewables in new investment has risen.”
- 34 Josh Gabbatiss, “IEA: Mineral Supplies for Electric Cars ‘Must Increase 30-fold’ to Meet Climate Goals,” CarbonBrief, May 5, 2021, <https://www.carbonbrief.org/iea-mineral-supplies-for-electric-cars-must-increase-30-fold-to-meet-climate-goals>.
- 35 Department of Defense, *State of Competition within the Defense Industrial Base*, DOD Report, February 2022, 22, <https://media.defense.gov/2022/Feb/15/2002939087/-1/-1/STATE-OF-COMPETITION-WITHIN-THE-DEFENSE-INDUSTRIAL-BASE.PDF>.
- 36 Jeremy Dasilva, “Securing the Critical Mineral Supply Chain is Vital to the Future of the U.S. Military,” American Security Project (website), October 20, 2021, <https://www.americansecurityproject.org/securing-the-critical-mineral-supply-chain-is-vital-to-the-future-of-the-us-military/>.
- 37 Dasilva, “Securing the Critical Mineral Supply Chain.”
- 38 White House, *Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth*, June 2021, 7, <https://www.whitehouse.gov/wp-content/uploads/2021/06/100-day-supply-chain-review-report.pdf>.
- 39 Blakemore, Ryan, and Bell, *The United States, Canada, and the Minerals Challenge*, 10-13.
- 40 Department of State, “United States and Canada Forge Ahead on Critical Minerals Cooperation,” Media Note, Office of the Spokesperson, July 31, 2021, <https://www.state.gov/united-states-and-canada-forge-ahead-on-critical-minerals-cooperation/>.
- 41 Department of Defense, “DOD Announces Rare Earth Element Award to Strengthen Domestic Industrial Base,” Press Release, February 1, 2021, <https://www.defense.gov/News/Releases/Release/Article/2488672/dod-announces-rare-earth-element-award-to-strengthen-domestic-industrial-base/>; and “DOD Awards \$35 Million to MP Materials to Build U.S. Heavy Rare Earth Separation Capacity,” Press Release, February 22, 2022, <https://www.defense.gov/News/Releases/Release/Article/2488672/dod-announces-rare-earth-element-award-to-strengthen-domestic-industrial-base/>.

sharply over the past five years. The U.S. and the EU must work together—and with other countries such as Australia, Brazil, Canada, and Vietnam that are home to ample mineral resources—to ensure supply meets demand.<sup>42</sup>

The US has the authorities needed to engage in such a critical minerals financing initiative. The Department of Defense supply chain review stated that multiple US agencies can “support the sustainable production and processing of critical minerals and other materials” by allies and partners:

The Export-Import Bank of the United States (EXIM) should provide loans or loan guarantees to support the export of U.S. mining equipment and engineering services. The U.S. International Development Finance Corporation (DFC) is uniquely positioned to invest in bankable projects in the strategic and critical materials sector in emerging markets with its debt, equity and political risk insurance products, and should pursue such opportunities.<sup>43</sup>

Moreover, US financing efforts can be complemented by the quite substantial financing mechanisms of the EU and Japan,<sup>44</sup> as well as others. In sum, such an international critical minerals financing initiative can effectively meet societal as well as defense and national security requirements for critical minerals.<sup>45</sup>

## B. Limitations

**1. Russia:** As a consequence of its invasion of Ukraine, Russia is a country under broadscale sanctions affecting trade and investment. As of this writing, there is no clarity as to what will happen in the Russia-Ukraine war including whether there will be successful negotiations or other consequential results. Before the invasion, sanctions against Russia were threatened as a means of deterrence to protect Ukraine; the invasion has generated much broader

concerns about the entirety of relationships with Russia. As a result, and regardless of the outcome with respect to Ukraine, the United States and the democratic advanced economies should assure that significant sanctions and restrictive economic measures are applied against Russia over the long term.

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The reasons for recommending . . . long-term strictures [against Russia] are geopolitical, beginning with a decided military emphasis . . . [as] Russia [is] now . . . an “acute threat”

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The reasons for recommending such long-term strictures are geopolitical, beginning with a decided military emphasis. Russia has now been described by the Department of Defense as an “acute threat.”<sup>46</sup> NATO has moved forces to its eastern areas and plans to increase its capabilities there to deter or, if required, effectively defend against a Russian attack on member states.<sup>47</sup> The current sanctions and any future actions need to be evaluated in this context of a significant military threat. Moreover, Russia has long utilized hybrid means including disinformation and economic subversion, so that the limitations on Russia should also be designed to blunt the effectiveness of such actions.

The overall goals of the United States and its allies should therefore be to take actions to reduce economic dependencies on Russia; restrict the growth of key areas of Russia’s economy to limit its capacity to modernize and make more effective its military; and limit its efforts at

42 US Chamber of Commerce, “U.S.-EU Trade and Technology Council: Recommendations for Working Group 3—Secure Supply Chains,” January 2022, 2, <https://www.uschamber.com/assets/documents/U.S.-Chamber-Comments-on-TTC-Working-Group-3-Supply-Chain-Security.pdf>.

43 White House, *Building Resilient Supply Chains*, 202.

44 An EU report indicates its aid for trade “provides preferential treatment to 126 countries . . . and in 2019, the last year for which full data are available, the EU and EU Member States’ commitments amounted to EUR 17.9 billion.” See *EU Aid for Trade: Progress Report 2021* (Luxembourg: Publication Office of the European Union, 2021), [https://ec.europa.eu/international-partnerships/system/files/eu-aid-for-trade-progress-report-2021\\_en.pdf](https://ec.europa.eu/international-partnerships/system/files/eu-aid-for-trade-progress-report-2021_en.pdf). Regarding Japan, see *Economist*, “A Glimpse into Japan’s Understated Financial Heft.”

45 There are multiple other supply chain challenges and options for greater resilience. In the pharmaceutical arena, advanced manufacturing technologies could lead to the manufacturing of active pharmaceutical ingredients in the United States; see, e.g., *Hearings on Securing the US Drug Supply Chain Before the US House Committee on Energy and Commerce’s Subcommittee on Oversight and Investigations*, 116th Cong., (Janet Woodcock, MD, Director, Center for Drug Evaluation and Research, Food and Drug Administration, Department of Health and Human Services), <https://www.congress.gov/116/meeting/house/110317/witnesses/HHRG-116-IF02-Wstate-WoodcockMDM-20191210.pdf>; and Daniel S. Hamilton, “Enhancing Resilience in Pharmaceutical Supply Chains,” Transatlantic Leadership Network, Policy Brief, March 2022, <https://www.transatlantic.org/wp-content/uploads/2022/03/TTC-supply-chains-pharmaceuticals-January-2022.pdf>.

46 Department of Defense, “The Department of Defense Releases the President’s Fiscal Year 2023 Defense Budget,” News Release, March 28, 2022, <https://www.defense.gov/News/Releases/Release/Article/2980014/the-department-of-defense-releases-the-presidents-fiscal-year-2023-defense-budg/>.

47 NATO Secretary General Jens Stoltenberg, Remarks as Delivered at a Press Conference Previewing the Extraordinary Summit of NATO Heads of State and Government, NATO Press Release, March 23, 2022, [https://www.nato.int/cps/en/natohq/opinions\\_193610.htm](https://www.nato.int/cps/en/natohq/opinions_193610.htm).

influence through economic and informational means. In light of these geopolitical requirements, the following significant constraints, several of which were proposed by Brian O’Toole and Daniel Fried,<sup>48</sup> should be undertaken:

- Export controls on trade and investment should be continued for the energy sector and dual-use items, and should be further expanded and investments prohibited as necessary to include all sectors, firms, and capabilities that provide significant support to Russian military capabilities.
- Energy trade should be ended as promptly as possible with a planned end date and in the interim significantly reduced, with full blocking sanctions as an end goal.
- In addition to energy sanctions, state-owned companies and companies close to the Russian leadership or controlled by sanctioned individuals should be subject to full blocking sanctions.
- Controls over banking and other financial transactions should continue including barring participation in markets for Russian debt, denying borrowing privileges at multinational financial institutions, and barring transactions with Russian banks.
- Russian investments and financial transactions above an agreed minimum should be prohibited, existing investments of sanctioned persons and entities seized (if required, under a new legal regime, as has now been proposed for the United States<sup>49</sup>), and enhanced efforts against money laundering should be undertaken.<sup>50</sup>
- Individual participation (including board membership, employment, or consultancies) in or with sanctioned Russian firms or entities should be prohibited.
- “Full blocking sanctions on Russian elites and their family members”<sup>51</sup> as imposed by the Biden administration, should be continued.
- Russian foreign exchange that has been frozen should be redirected to a “Ukraine Reconstruction Fund” (as proposed in a US bill,<sup>52</sup> with comparable legislation undertaken for other countries).<sup>53</sup>

In sum, while the confrontation with Russia is evolving, with much changing on even a day-to-day basis, the United States and its allies now face a heightened prospect of a military conflict with Russia and a likely long-term highly adversarial relationship. As a result, trade and investment in the sectors and with the entities described above should generally be proscribed.<sup>54</sup>

A related issue, particularly for the United States, is whether to impose secondary sanctions on countries that undercut existing or future sanctions against Russia. The United States certainly appears to be contemplating secondary sanctions. Treasury Secretary Yellen, in the recent speech noted above, had a message for those who have not voluntarily severed business relationships with Russia:

Let me now say a few words to those countries who are currently sitting on the fence, perhaps seeing an opportunity to gain by preserving their relationship with Russia and backfilling the void left

48 Brian O’Toole and Daniel Fried, “What’s Left to Sanction in Russia?,” *New Atlanticist* (blog), Atlantic Council, March 9, 2022, <https://www.atlanticcouncil.org/blogs/new-atlanticist/whats-left-to-sanction-in-russia-wallets-stocks-and-foreign-investments/>.

49 White House, “FACT SHEET: President Biden’s Comprehensive Proposal to Hold Russian Oligarchs and Elites Accountable,” Briefing Room, Statements and Releases, April 28, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/28/fact-sheet-president-bidens-comprehensive-proposal-to-hold-russian-oligarchs-accountable/>; and Katherine Pompilio, “Biden Administration Releases Plan to Seize Russian Assets,” *Lawfare* (blog), Lawfare Institute in Cooperation with the Brookings Institution, April 29, 2022, <https://www.lawfareblog.com/biden-administration-releases-plan-seize-russian-assets>.

50 Vijay Dewan, “U.S. Banks Must Work Together to Fight Putin’s Money Laundering,” *Fortune*, March 22, 2022, <https://fortune.com/2022/03/22/us-banks-must-work-together-fight-putin-money-laundering-sanctions-evasion-fincen-ukraine-invasion-oligarchs-corruption-magnitsky-russia-finance-vijay-dewan/>; and Anders Åslund and Julia Friedlander, *Defending the United States against Russian Dark Money*, Atlantic Council, November 17, 2020, <https://www.atlanticcouncil.org/in-depth-research-reports/report/defending-the-united-states-against-russian-dark-money/>.

51 White House, “FACT SHEET: United States, G7 and EU Impose Severe and Immediate Costs on Russia,” Briefing Room, April 06, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/04/06/fact-sheet-united-states-g7-and-eu-impose-severe-and-immediate-costs-on-russia/>.

52 White House, “FACT SHEET: President Biden’s Comprehensive Proposal to Hold Russian Oligarchs and Elites Accountable.”

53 An issue that could arise in the context of a negotiated settlement between Ukraine and Russia is a demand for the lifting of sanctions. Any such considerations are, of course, inherently speculative, including the nature of a hypothetical settlement. Nonetheless, because of the significant and long-term nature of the Russian threat, sanctions should generally be maintained along the lines described above, though there might be some areas of exception such as the export of food products. According to a recent NPR *Morning Edition* interview by Steve Inskeep and report quoting Secretary of State Antony Blinken, these US sanctions are “not designed to be permanent” and could “go away” if Russian behavior changed; however, a Russian pullback would have to be “in effect, irreversible [so that] this can’t happen again, that Russia won’t pick up and do exactly what it’s doing in a year or two years or three years.” See “Blinken Sets a Standard for Lifting Sanctions: An ‘Irreversible’ Russian Withdrawal,” NPR, March 16, 2022, <https://www.npr.org/2022/03/16/1086835380/blinken-sets-a-standard-for-lifting-sanctions-an-irreversible-russian-withdrawal>.

54 The existing sanctions have been imposed separately by the United States, the EU, and by other Western countries including Australia, Canada, Japan, the Republic of Korea, and the United Kingdom. While certain of the specifics differ, the actual applied sanctions are generally in accord. There are several areas, particularly with respect to European energy purchases from Russia, where full agreement has not been achieved. Yet the differences appear mainly ones of timing, and however these short-term issues are resolved, medium- and longer-term sanctions and comparable limitations should be established.

by others. . . . And let's be clear, the unified coalition of sanctioning countries will not be indifferent to actions that undermine the sanctions we've put in place.<sup>55</sup>

As Secretary Yellen's speech implies, without action on secondary sanctions, not all significant international trade will be ended with Russia. In light of a relationship between China and Russia that has "no limits,"<sup>56</sup> and in the absence of secondary sanctions, China, for example, would likely prefer to continue and perhaps even increase Sino-Russian trade. Similarly, as Colum Lynch wrote in *Foreign Policy*:

Key countries in Africa and Asia, including South Africa and India, have trod carefully, seeking to maintain good relations with Russia and the United States while underscoring the need to respect Ukraine's sovereignty. Some 35 countries, including many from Africa, abstained on a U.N. General Assembly resolution denouncing Russia's aggression. No African countries have imposed sanctions on Russia, which has emerged in recent years as the world's largest exporter of arms to Africa.<sup>57</sup>

There are a variety of reasons for such decisions differing among various countries including long-standing relations with Russia, ideological compatibility, the importance of trade (e.g., food and armaments), common interests particularly in the energy markets, historical aversion to multilateral sanctions, equation of the Ukraine invasion with actions by the United States and allied nations in Iraq and Libya, for example, and historic animus arising from colonialism. As the foregoing suggests, the imposition of secondary sanctions could have consequential negative effects on relationships between the United States and numerous countries throughout the world.

Since the United States does have discretion as to whether and how to undertake secondary sanctions,<sup>58</sup> there are reasons to take a measured approach and to make sure that imposing secondary sanctions will not do more harm than they would accomplish.<sup>59</sup> While difficult to evaluate in the abstract, it may be that selective application of secondary sanctions will be an appropriate approach. The failure of a country to impose sanctions does not, in itself, imply

an unwillingness to undertake other valuable interactions with the United States and/or other allied countries. The confrontation with Russia is very likely to be a long-term one, and, while highly consequential, it will not be the only objective of US and allied foreign policies. As the confrontation plays out, keeping in mind that full set of objectives, balancing those, and making choices will be necessary for a successful foreign policy.

**2. China:** Despite its importance to the United States and other democratic advanced economies for trade and investment, China is nonetheless under current and potentially increasing Western restrictions. In broad terms, the restrictions are being undertaken because of a combination of China's generally anti-Western posture, its unfair economic practices and human rights violations, and the prospect of future conflict over Taiwan.

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## The Department of Defense has described China as the "pacing challenge," and trade with China must take account of the national security concerns which that description implies.

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The Department of Defense has described China as the "pacing challenge,"<sup>60</sup> and trade with China must take account of the national security concerns which that description implies. China is already subject to a variety of limitations established by the United States, as noted in a *Foreign Policy* article:

Congress has passed a slew of China-related bills. Among other actions, legislators have reformed inbound investment screening, forced the delisting of Chinese stocks that do not comply with U.S. accounting practices, expanded requirements for the U.S. Defense Department to list Chinese

55 "Remarks by Secretary of the Treasury Janet L. Yellen."

56 Chris Buckley and Steven Lee Myers, "In Beijing, Olympic Spectacle and Global Power Games," *New York Times*, February 4, 2022, <https://www.nytimes.com/2022/02/04/world/asia/olympics-beijing-xi-putin.html>.

57 Colum Lynch, "The West Is with Ukraine. The Rest, Not So Much," *Foreign Policy*, March 30, 2022, <https://foreignpolicy.com/2022/03/30/west-ukraine-russia-tensions-africa-asia-middle-east/>.

58 See Press Trust of India, "US Has Not Yet Made Decision on Sanctions to India under CATSAA: Blinken," *Business Standard*, April 12, 2022, [https://www.business-standard.com/article/current-affairs/us-has-not-yet-made-decision-on-sanctions-to-india-under-catsaa-blinken-122041200369\\_1.html](https://www.business-standard.com/article/current-affairs/us-has-not-yet-made-decision-on-sanctions-to-india-under-catsaa-blinken-122041200369_1.html). CATSAA stands for Countering America's Adversaries through Sanctions Act.

59 One approach might be to agree to a schedule of decreases that would allow developing alternatives to substitute for trade with Russia. That may be a good option in some instances, but not likely for all.

60 Department of Defense, "The Department of Defense Releases the President's Fiscal Year 2023 Defense Budget."

companies assisting the People's Liberation Army, strengthened sanctions authorities in response to atrocities in Xinjiang and repression in Hong Kong, presumed that all goods produced in Xinjiang are made with forced labor (and thus banned as imports), and prohibited the federal purchase of Chinese telecommunications equipment.<sup>61</sup>

Most other democratic advanced economies have taken some, but more limited steps. The EU, for example, has a countersubsidy initiative and a cybersecurity toolbox, both affecting China but neither specifically mentioning it by name.<sup>62</sup>

A more comprehensive and coordinated policy toward China would be highly valuable,<sup>63</sup> and should include the six key elements described below.<sup>64</sup>

First, China should be excluded from providing products and components for the defense and intelligence industrial bases of the democratic advanced economies. Illustrative of the risks that could affect the functionality of defense and intelligence capabilities, a recent Department of Defense report stated that “procuring measurably secure microelectronics sources [e.g., semiconductors, transistors, diodes] is challenged by the potential for China, or countries under the influence of China, to tamper with or insert malicious functionality into microelectronics products.”<sup>65</sup>

While the importance of excluding China from the defense and intelligence bases is simple to state, achieving it in reality is a substantial task to be accomplished over time as multiple supply chains that support end-use products have significant entanglements with China.<sup>66</sup> To establish supply chains that are not dependent on China will require actions well beyond defense markets as defense requirements are for the most part a smaller portion of overall markets. Coordinating such efforts with allies will be important, and

cooperative efforts should be undertaken to share financial burdens and avoid undesirable duplication.

Second, the use of Chinese software should be prohibited for key critical infrastructures. As the SolarWinds and Hafnium cyberattacks demonstrated, software presents a significant cyber threat vector.<sup>67</sup> To reduce such risks, at a minimum, China should be excluded from providing software to the critical infrastructures most relevant to defense mission assurance. Those would include:

- Energy: the electric grid and pipelines.
- Transportation: air, rail, and ports.
- Water.
- The defense industrial base.

Additionally, to avoid disruption through supply cutoffs, key critical infrastructures should have suppliers beyond China for both components and end-use products. In the short and medium term, a “China plus one” approach would significantly reduce risks—and over the longer term, Chinese items should not be included in supply chains for key critical infrastructures.

Third, Chinese telecommunications and information technology systems that significantly increase the risks of espionage or disruption should not be utilized. Major efforts have been made with respect to excluding Chinese 5G technology, especially with regard to capabilities provided by Huawei Technologies Co. Ltd., and similar actions should be undertaken regarding databases and wide area networks that are based in China or involve Chinese operations.

Fourth, mechanisms including tariffs and quotas should be established to offset China's use of subsidies and other unfair market practices. This is an issue of long-standing

61 Eric Sayers and Ivan Kanapathy, “America Is Showering China With New Restrictions,” *Foreign Policy*, February 15, 2022, <https://foreignpolicy.com/2022/02/15/us-china-economic-financial-decoupling-controls-restrictions-sanctions/>.

62 European Commission, “Foreign Subsidies,” May 5, 2021, [https://ec.europa.eu/competition-policy/international/foreign-subsidies\\_en](https://ec.europa.eu/competition-policy/international/foreign-subsidies_en); “The EU Agency for Cybersecurity Endorses the EU Toolbox for 5G Security,” European Union Agency for Cybersecurity (ENISA), January 30, 2020, <https://www.enisa.europa.eu/news/enisa-news/5g>; and Marcin Szczepeński, “Distortive Foreign Subsidies Regulation,” European Parliament, Briefing, EU Legislation in Progress, March 2022, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690700/EPRS\\_BRI\(2021\)690700\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/690700/EPRS_BRI(2021)690700_EN.pdf).

63 See the recommendation for a Transatlantic Coordinating Council on China in Franklin D. Kramer, “Priorities for a Transatlantic China Strategy,” Atlantic Council, Issue Brief, November 30, 2020, <https://www.atlanticcouncil.org/wp-content/uploads/2020/11/PRIORITIES-FOR-A-TRANSATLANTIC-CHINA-STRATEGY-IB.pdf>.

64 See Franklin D. Kramer, “Economic Challenges,” Section A of “Areas of Lesser Initial Convergence,” in *The China Plan: A Transatlantic Blueprint*, Hans Binnendijk and Sarah Kirchberger, lead authors, Atlantic Council, March 2021, <https://www.atlanticcouncil.org/wp-content/uploads/2021/03/The-China-Plan-A-Transatlantic-Blueprint.pdf>; and Franklin D. Kramer, *Managed Competition: Meeting China's Challenge in a Multivector World*, December 2019, <https://www.atlanticcouncil.org/wp-content/uploads/2019/12/Meeting-Chinas-Challenges-Report-WEB.pdf>.

65 Department of Defense, *Securing Defense-Critical Supply Chains*, 35.

66 For example, with respect to advanced batteries and the supporting supply chain of key minerals and materials, a DOD report states: “By far the largest challenge for securing the supply of lithium batteries for DOD is the power of China's industrial base. China dominates the global advanced battery supply chain, including lithium hydroxide (94 percent), cells (76 percent), electrolyte (76 percent), lithium carbonate (70 percent), anodes (65 percent), and cathodes (53 percent).” See Department of Defense, *Securing Defense-Critical Supply Chains*, 19.

67 Charlie Osborne, “Everything You Need to Know About the Microsoft Exchange Server Hack,” *ZDNet*, April 19, 2021, <https://www.zdnet.com/article/everything-you-need-to-know-about-microsoft-exchange-server-hack/>.

concern to the United States and to its allies,<sup>68</sup> and one that was underscored in the digital arena by Huawei’s ability to undercut competitor pricing by more than 50 percent.<sup>69</sup> As noted, the EU has initiated an anti-subsidy mechanism that is currently working its way through the legislative system, though its benefit in the face of China’s state-driven economic system is yet to be determined. The United States has yet to establish an effective framework, though the multiplicity of trade statutes does give the president substantial authorities. However, as US Trade Representative Katherine Tai has testified, “To ensure that our industries remain competitive, we must develop new domestic tools targeted at defending our economic interests. . . .”<sup>70</sup> Consultation on this issue—and agreement to act in concert—by the democratic advanced economies should be a matter of high priority since, as Tai has stated, “our ability to defend against unfair [People’s Republic of China] economic practices requires that market economies act in concert to confront policies and practices that are fundamentally at odds with the modern global trading system.”<sup>71</sup>

Fifth, the United States and its allies need to review significant foreign direct investment and/or financial flows to China to sectors and firms that support China’s military-civil fusion approach. The likely soon-to-be enacted America COMPETES Act will authorize review of transactions that transfer to China (or any “country of concern”) capabilities or ownership that “could result in an unacceptable risk to a national critical capability.”<sup>72</sup> It is far too early to tell how

this statute would be implemented after passage, but, as a general matter, it would give the federal government much greater authority over investment by US companies in China and should be directed to the issues presented by China’s military-civil fusion doctrine. It would likewise be valuable for other democratic advanced economies to adopt comparable legislation, and the United States should work with others to that end.

Sixth, to encourage the transfer of key manufacturing and research and development activities from China to preferred alternative countries, government funding streams and tax incentives should be established and/or expanded. In addition, higher tax and/or tariff rates should be evaluated for such activities that continue in China. Japan has taken certain steps to that end,<sup>73</sup> and the COMPETES Act authorizes funding for such actions.<sup>74</sup> Other countries should establish similar models and coordinated efforts should be undertaken to accomplish such transitions.

Finally, despite the limitations described above, not all transactions with China need to be barred or limited. For many sectors, as is currently the case, the democratic advanced economies “should seek to establish generally open trade for commercial products and services to commercial users, but subject to the caveat that access to [their] . . . markets should depend on generally comparable access to China’s domestic market.”<sup>75</sup>

68 European Commission, “Proposal for a Regulation of the European Parliament and of the Council on Foreign Subsidies Distorting the Internal Market,” May 5, 2021, [https://ec.europa.eu/competition/international/overview/proposal\\_for\\_regulation.pdf](https://ec.europa.eu/competition/international/overview/proposal_for_regulation.pdf).

69 Ellen Nakashima, “U.S. Pushes Hard for a Ban on Huawei in Europe, but the Firm’s 5G Prices Are Nearly Irresistible,” *Washington Post*, May 20, 2019, [https://www.washingtonpost.com/world/national-security/for-huawei-the-5g-play-is-in-europe--and-the-us-is-pushing-hard-for-a-ban-there/2019/05/28/582a8ff6-78d4-11e9-b7ae-390de4259661\\_story.html](https://www.washingtonpost.com/world/national-security/for-huawei-the-5g-play-is-in-europe--and-the-us-is-pushing-hard-for-a-ban-there/2019/05/28/582a8ff6-78d4-11e9-b7ae-390de4259661_story.html).

70 *Hearing Before the House Ways and Means Committee on Trade Policy Agenda* (Ambassador Katherine Tai, US Trade Representative), 117th Cong., 3, <https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/2022TradePolicyAgendaHearingWrittenTestimony.pdf>.

71 *Hearing Before the House Ways and Means Committee on Trade Policy Agenda*.

72 Venable LLP, “A CFIUS-Type Review for Overseas Investment? Beware the Outbound Investment Review Framework Proposed in the COMPETES Act,” JD Supra (website), February 18, 2022, <https://www.jdsupra.com/legalnews/a-cfius-type-review-for-overseas-9974345/>. CFIUS stands for Committee on Foreign Investment in the United States.

73 Simon Denyer, “Japan Helps 87 Companies to Break from China After Pandemic Exposed Overreliance,” *Washington Post*, July 21, 2020, [https://www.washingtonpost.com/world/asia\\_pacific/japan-helps-87-companies-to-exit-china-after-pandemic-exposed-overreliance/2020/07/21/4889abd2-cb2f-11ea-99b0-8426e26d203b\\_story.html](https://www.washingtonpost.com/world/asia_pacific/japan-helps-87-companies-to-exit-china-after-pandemic-exposed-overreliance/2020/07/21/4889abd2-cb2f-11ea-99b0-8426e26d203b_story.html).

74 Under the proposed act, funding would be available for a company to “relocate a manufacturing facility out of countries of concern, including countries that pose a significant economic or national security threat to the United States.” See America COMPETES Act of 2022, H.R. 7178.

75 Kramer, “Economic Challenges,” 57.



## IV. Conclusion

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**F**ree but secure trade is a critical requirement for national security. Coordinated efforts to enhance international cooperation and to establish appropriate limitations on trade and investment with Russia and China will generate the free but secure trade that is necessary.

## About the Author

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**Franklin D. Kramer** is a distinguished fellow and board director of the Atlantic Council. Mr. Kramer has served as a senior political appointee in two administrations, including as assistant secretary of defense for international security affairs. At the Department of Defense, Mr. Kramer was in charge of the formulation and implementation of international defense and political-military policy, with worldwide responsibilities including NATO and Europe, the Middle East, Asia, Africa, and Latin America.

In the non-profit world, Mr. Kramer has been a senior fellow at CNA; chairman of the board of the World Affairs Council of Washington, DC; a distinguished research fellow at the Center for Technology and National Security Policy of the National Defense University; and an adjunct professor at the Elliott School of International Affairs, George Washington University. Mr. Kramer's areas of focus include defense, both conventional and hybrid; NATO and Russia; cyber including resilience and international cyber issues; irregular conflict and counterinsurgency; innovation and national security; and China, including managing competition, military power, and China-Taiwan-US relations.

Mr. Kramer has written extensively; in addition to the current report, his publications include on global defense challenges, *Transformative Priorities for National Defense* and *Deterrence Assurance: Why NATO Needs a Plan for the Indo-Pacific Region*; on NATO and Russia, *Defending Ukraine: US must offer military support not just economic threats*, *NATO Priorities after the Brussels Summit*, *Meeting the Russian Hybrid Challenge*; and *Meeting the Russian Conventional Challenge*; on China, *Priorities for a Transatlantic China Strategy*, *Managed Competition: Meeting China's Challenge in a Multi-vector World*, and *The China Plan: A Transatlantic Blueprint for Strategic Competition* (chapters on economics and on "one-world" cooperation); on cyber and resilience, *We Need a Cybersecurity Paradigm Change*, *Cybersecurity for Small and Medium Enterprises and Academia*, *NATO Needs Continuous Responses in Cyberspace*, *Effective Resilience and National Strategy: Lessons from the Pandemic and Requirements for Key Critical Infrastructures*, *Cybersecurity: Changing the Model*, *Cyber and Deterrence: The Military-Civil Nexus in High-End Conflict*, and *Cyber, Extended Deterrence, and NATO*; on innovation and technology, *Innovation, Leadership, and National Security*; and on counterinsurgency, *Civil Power in Irregular Conflict* (principal editor and co-author of the policy chapter) and *Irregular Conflict, the Department of Defense and International Security Reform*.



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