EXAMINING CHINA'S COERCIVE ECONOMIC TACTICS
COMMITTEE ON RULES

TO: RULES COMMITTEE MEMBERS
FROM: RULES COMMITTEE MAJORITY AND MINORITY STAFF

On Wednesday, May 10, 2023, at 2:00 P.M. ET, the Committee on Rules will hold a hearing entitled, *Examining China's Coercive Economic Tactics*, to explore how the People's Republic of China (PRC) utilizes economic coercion to achieve their goals, discuss what tools are available to combat this approach, and what should Congress do going forward.

Background

For decades, the PRC has used economic coercion, applying political or economic pressure, against foreign countries it sees as going against China's ideals.[1] They will apply their coercion in a way designed for maximum effect whether against a foreign nation or a private corporation. China has effectively weaponized the targeted use of trade restrictions, sanctions, embargoes, and boycotts to either incentivize or deter behavior. That has made it exceedingly difficult for any single entity to respond, but there are avenues worth exploring to ensure China plays by the rules and does not exert undue influence.

It would be unrealistic, however, to think that China will not respond to attempts to circumvent these practices. The PRC is continuously adapting its model and remains insistent on aligning global interests with its own. China's one-party system allows the government to play a pivotal role on a global scale and easily depart from trade norms to achieve their goals.

The United States has attempted to alleviate such actions in the past. This has included reducing dependence on Chinese controlled supply chains and restricting access to U.S. markets and capital, including through the use of tariffs. It is important to explore what solutions can be effective in combating China's aggressive actions, as the PRC has proven they will continue to play by their own rules.

Goals for the Hearing:

Discuss How China Employs Economic Coercion.

The PRC has engaged in coercion through various outlets for decades to create pressure on trading partners, directly on foreign countries, on NGOs, and even private corporations[1]. This can have a varying effect on the economy and political landscape for both the United States and its allies such as Japan or Korea. It is important to understand the human impact as well. How does China infringe upon an individual's rights to achieve their political goals.

[1] https://www.rand.org/pubs/perspectives/PEA796-1.html

Better Understand Future Threats to the United States.

Whether threats take the form of a direct domestic impact through the suspension of agricultural imports, or continued coercion of U.S. allies, it is important to understand where the PRC may look to target next. Only then can the U.S. take a proactive approach to crafting necessary responses.

Examine Existing and New Legislative Tools.

Explore what tools the Executive branch currently has at its disposal and if they are sufficient to respond to economic coercion. Additionally, engage in discussion on what would be the most effective legislative response from Congress. Is it better to enact policies focused on deterrence, whether by providing relief to the target of coercion or directly retaliating and harming an aggressor, or should Congress focus on the resiliency of supply chains and goods on which China depends

Witnesses:

Victor Cha, *Senior Vice President for Asia and Korea Chair, Center for Strategic and International Studies*

Dr. Cha was appointed in 2021 by the Biden administration to serve on the Defense Policy Board in an advisory role to the secretary of defense. Formerly, he served on the National Security Council, where he was responsible primarily for Japan, the Korean peninsula, Australia/New Zealand, and Pacific Island nation affairs. Dr. Cha was also the deputy head of delegation for the United States at the Six Party Talks in Beijing and received two outstanding service commendations during his tenure at the NSC.

Jamil Jaffer, *Founder and Executive Director, National Security Institute*

Mr. Jaffer served as an Associate Counsel to President Bush, handling Defense Department, State Department, and intelligence community matters, and serving as one of the White House Counsel's primary representatives to the National Security Council Deputies Committee. He has focused on international policy, defense, cyber, intelligence, and homeland security.

Derek Scissors, *Senior Fellow, American Enterprise Insitute*

Dr. Scissors since 2008, in a series of papers, has been chronicling the end of pro-market reforms in China and the resulting slide toward economic stagnation. He focuses on the Chinese and Indian economies and on US economic relations with Asia. He is concurrently the chief economist of the China Beige Book.

Yaqiu Wang, *Senior China Researcher, Human Rights Watch*

Ms. Wang has worked on issues including internet censorship, freedom of expression, protection of civil society and human rights defenders, and women's rights in China. She has also written extensively on the Chinese government's role in undermining human rights globally.

MEMORANDUM May 2, 2023

To: U.S. House of Representatives Rules Committee
Attention: Eric Shepard and Caitlin R. Hodgkins

From: Karen M. Sutter, Specialist in Asian Trade and Finance, ksutter@crs.loc.gov, 7-8638 Caitlin Campbell, Analyst in Asian Affairs, ccampbell@crs.loc.gov, 7-1987

Subject: **China's Use of Economic Coercion**

This memorandum responds to your request for information about the use of economic coercion by the government of the People's Republic of China's (PRC or China). Information in this memorandum may be used in other CRS products. Your confidentiality as a requestor will be maintained in any case. Please feel free to contact the authors if you require additional information.

China's Approach to Economic Coercion

The PRC government since reopening to foreign trade and investment in the 1980s has regularly used economic coercion against countries, companies, and individuals to realize its economic and political goals. The PRC government tightly controls access to capital, trade, investment, technology, and research opportunities, which, in turn, allows it to calibrate incentives that can be offered and retracted to create pressure on foreign firms, governments, and other actors to adhere to China's commercial and political demands. China's coercion involves both the offer and withdrawal of access to its market, the application of commercial pressures to achieve certain outcomes—such as the transfer of technology or other terms of trade and investment deals—and the use of other economic levers that China controls, such as the approval of global merger and acquisition (M&A) deals, to pressure or incentivize certain behavior.

China has used *ad hoc* trade restrictions and brinkmanship to commercially and politically pressure trading partners, to deter foreign countries, nongovernmental organizations, and companies from actions that the government views as inimical to its economic and political interests, and to take action against those entities deemed to have challenged those interests. This pressure or action may take the form of (real or threatened) trade restrictions (on either imports or exports), popular boycott campaigns, restrictions on Chinese outbound tourism, suspension of contracts, or the imposition of restrictions in China and other costs ostensibly related to regulations. China's overseas trade and investment policies are developing vertically integrated supply chains that build China's influence with countries around the world and enhance its ability to use market access and trade controls to pressure or incentivize behavior. Since 2020, the PRC government is also increasingly using formal sanctions, and countersanctions—

including measures targeting certain foreign officials and academic researchers, and institutes—in an effort to stifle criticism of its policies and advance its geopolitical and economic goals.[2]

China's demonstrated willingness to break global trade rules and norms, apply economic pressures, and engage in tit-for-tat economic brinkmanship allows it to influence key players and impose terms favorable to China if the United States and other countries do not impose consequences, costs, or countermeasures. China's ability to coerce others depends on the perceived importance of access to China's market and the extent to which countries and/or firms are willing to backfill the target of China's coercion. Some experts argue that the United States should use existing multilateral rules and organizations, such as the World Trade Organization (WTO) and the International Monetary Fund (IMF) to counter China.[3] Others posit that a more robust bilateral economic toolkit similar to what the United States has used in the past, including during the Cold War period, is warranted.[4] Furthermore, some experts say that the United States should establish new ways to work with allies and partners to push back on China.[5]

China's Coercion of Companies

China uses economic coercion to advance its economic and industrial goals and to set commercial terms, including forcing technology transfer, setting technology licensing terms, and advocating for its objectives through pressure on the domestic and foreign business communities.[6] While many U.S. firms have strong interests in open trade and investment channels with China, China's behind-the-scenes pressure can sometimes make it difficult to discern to what extent a U.S. company's representation of its economic and business interests in China also may be shaped by undisclosed PRC pressures, demands, or threats, issued directly or through PRC companies and business partners.[7] Certain provisions in China's new national security and trade measures give the PRC government additional levers that can be used in both visible and private ways to pressure foreign companies to adhere to certain commercial or political requirements. In certain instances, the threat of potential action could potentially be as powerful as the imposition of costs. The PRC government is leveraging U.S. technology companies' need for its approval of global merger and acquisition deals, for example, to set specific market terms and, in some instances, direct the sale of particular businesses to advantage particular PRC firms. In one 2020 example, China used its antitrust purview to complicate Applied Material's bid for Kokusai Electric and NVidia's bid for Japan's SoftBank-controlled ARM, a semiconductor technology firm.[8]

[22] For a more detailed discussion of these approaches and a CRS-compiled list of instances of PRC economic coercion, see CRS Report R46915, *China's Recent Trade Measures and Countermeasures: Issues for Congress*, by Karen M. Sutter.

[3] Jennifer Hillman, "The Best Way to Address China's Unfair Policies and Practices is Through a Big, Bold, Multilateral Case at the WTO," Testimony Before the U.S.-China Economic and Security Review Commission, June 8, 2018.

[4] Robert D. Blackwill and Jennifer M. Harris, *War by Other Means: Geoeconomics and Statecraft*, Harvard University Press, 2017.

[5] Bonnie Glaser, Testimony to the Congressional-Executive Commission on China on "How China Uses Economic Coercion to Silence Critics and Achieve its Political Aims Globally" December 7, 2021; Peter Harrell, Elizabeth Rosenberg, and Edoardo Saravalle, "China's Use of Economic Coercive Measures," CNAS, June 11, 2018.

[6] "Findings of the Investigation into China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation Under Section 301 of the Trade Act of 1974," Office of the U.S. Trade Representative, March 22, 2018.

[7] "China Urges U.S. Companies to Lobby Washington on Trade," CBS News, July 12, 2018; Jeanne Whalen, "China Hawks Encounter Powerful Opponent: U.S. Companies," *The Washington Post,* October 12, 2020.

[8] "Applied Materials Terminates $2.2 Billion Deal for Japan's Kokusai Electric," *Reuters*, March 29, 2021; "Nvidia's Acquisition of ARM Throws Company into Tech Spat Between U.S. and China," *Reuters,* September 14, 2020; Ryan McMorrow and Richard Waters, "Nvidia Asks Chinese Regulators to Approve $40bn Arm Deal," *The Financial Times*, June 8, 2021.

PRC government pressure on U.S. companies appears to be affecting open and informed U.S. public discourse about U.S. concerns and policy options with regard to China by discouraging industry executives from speaking out about concerns about China because of fears of PRC reprisal. In November 2021, Reuters reported that the PRC Embassy in Washington had sent letters to U.S. companies pressing executives to urge Members of Congress to alter or drop specific bills that seek to enhance U.S. competitiveness. According to Reuters, the letters warned U.S. executives that their companies would risk losing market share or revenue in China if the legislation were to be passed and become law.[9] In August 2021, Senator Mark Warner said that several industry witnesses declined to testify at the U.S. Senate's Select Committee on Intelligence's open hearing on China because of fears of retribution by China.[10] In October 2021, Representative Brad Sherman said during a House Financial Services subcommittee hearing on China that several financial industry representatives had withdrawn their original commitment to testify because of fear of backlash from China.[11] In its August 2021 petition to the Department of Commerce to investigate potential circumvention of U.S. antidumping/countervailing duty orders, an industry coalition of U.S. solar manufacturers requested that it not be required to disclose its member firms because they could face "retaliation and other forms of harm" given the PRC government's control over global solar supply chains.[12] In November 2021, the Department of Commerce responded that the association would have to disclose its members in order for their petition to be considered.[13] In 2023, PRC authorities have raided the offices of several U.S. firms and initiated a cybersecurity probe against U.S. firm Micron Technology in retaliation for U.S. policies that tighten controls on semiconductor technology exports to China.[14]

China's Coercion of Selected Governments

The PRC government also uses *ad hoc* trade restrictions to commercially and politically pressure its major trading partners, to deter foreign countries, nongovernmental organizations, and companies from actions that the government views as inimical to its political interests, and to take action against those entities deemed to have violated those interests. This pressure or action may take the form of (real or threatened) trade restrictions (on either imports or exports), popular boycott campaigns, restrictions on China's outbound tourism, suspension of contracts, or the imposition of restrictions in China and other costs ostensibly related to regulations. The PRC also appears to impose unilateral economic sanctions, and countersanctions on foreign persons—including measures targeting certain foreign parliamentarians and academic researchers, and institutes—in an effort to stifle criticism of its policies and advance its geopolitical goals.

China has also demonstrated trade brinkmanship. The PRC government countered each round of U.S. tariffs that the U.S. Trade Representative (USTR) imposed on Chinese imports under Section 301 of the Trade Act of 1974 between 2018 and 2020, targeting sectors such as agriculture in an effort to pressure

[9] Michael Martina, "Chinese Embassy Lobbies U.S. Business to Oppose China Bills," *Reuters*, November 15, 2021.

[10] U.S. Senate Select Committee on Intelligence, Open Hearing on Beijing's Long Arm: Threats to U.S. National Security, August 4, 2021.

[11] U.S. House Committee on Financial Services, Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, Hearing, "Taking Stock of China, Inc.: Examining Risks to Investors and the U.S. Posed by Foreign Issuers in U.S. Markets," October 26, 2021.

[12] Letters to the U.S. Secretary of Commerce from Wiley, Counsel to the American Solar Manufacturers Against Chinese Circumvention, August 16, 2021 and October 13, 2021.

[13] Letter from the Director, Office IV, AD/CVD Operations to Wiley, November 10, 2021.

[14] Lingling Wei, "China Ratchets Up Pressure on Foreign Companies," *The Wall Street Journal*, April 28, 2023.

Washington to lift U.S. tariffs.[15] The uptick in China's economic pressure on trading partners is amplifying ongoing concerns about PRC trade practices and industrial policies more broadly, and prompting policy discussions about supply chain diversification away from China, developing alternative markets for global production, and the need for collective trade action among like-minded countries.[16]

After China joined the World Trade Organization (WTO) in 2001, its commitments may have constrained its ability and inclination to discriminate in direct and obvious ways through the raising of tariffs, for example. China's alleged economic coercive and retaliatory measures instead were more informal, indirect, or not officially articulated, providing China's government flexibility in their application and plausible deniability. More recently, China has become more active and direct in its demands and related economic coercion and trade brinkmanship, demonstrating a potential willingness to jeopardize economic ties with major trading partners.[17] While WTO members can and do challenge China on certain practices that may violate its WTO obligations through WTO dispute settlement, some analysts assess that this process may be inadequate, given the growing frequency of China's actions. China has also used the WTO to challenge other countries' efforts to challenge China's actions. It can take two to three years for a dispute process to run its course, allowing China time to impose pressure before being potentially disciplined.[18]

In November 2020, China's Embassy in Canberra provided Australian media with a document demanding that the Australian government retract its actions that criticized China's policies and sought to restrict certain PRC investment, research, and political influence in Australia. China then imposed tariffs and other trade restrictions on Australian exports to China—including barley, coal, cotton, lobster, meat, and timber—when the government refused to submit to China's demands.[19] In May 2021, China announced it was canceling its economic dialogue with Australia—the last meeting held in 2017—in response to the Australian government's decision to review and potentially unwind certain PRC port investments for national security concerns.[20]

In addition, China imposed trade restrictions on certain Canadian agricultural exports, and PRC authorities held in custody—arguably in an arbitrary manner—two Canadian citizens (Michael Kovrig and Michael Spavor) between December 2018 and September 2021 in apparent retaliation for the Canadian government's arrest of Huawei's Chief Financial Officer Meng Wanzhou.[21] Ahead of a Canadian court's decision on whether to extradite Meng to the United States, in August 2021 the Dandong Intermediate People's Court in northeastern Liaoning province sentenced one of the Canadian citizens,

[15] In 2018, the USTR under Section 301 of the Trade Act of 1974 (19 U.S.C. §2411) concluded that China engages in forced technology transfer, cyber-enabled theft of U.S. IP and trade secrets, discriminatory and nonmarket licensing practices, and state-funded strategic acquisitions of U.S. assets. See CRS In Focus IF12125, *U.S.-China Phase One Trade Deal*, by Karen M. Sutter.

[16] Lucy Fisher, "Downing Street Plans New 5G Club of Democracies," *The Daily Times*, May 29, 2020; Jonas Parello-Plesner, "An 'Economic Article 5' to Counter China," *The Wall Street Journal*, February 11, 2021; "Australia, Japan and India Form Supply Chain Initiative to Counter China," *Bloomberg News*, April 28, 2021; "G7 Foreign and Development Ministers' Equitable Access and Collaboration Statement," London, May 5, 2021.

[17] Jonathan Kearsley, Eryk Bagshaw, and Anthony Galloway, "If You Make China the Enemy, China Will Be the Enemy': Beijing's Fresh Threat to Australia," *The Sydney Morning Herald*, November 18, 2020.

[18] Jacob M. Schlesinger, "How China Swallowed the WTO," *The Wall Street Journal*, November 1, 2017; Jikon Lai, "*Australia's WTO Complaint: What's the Point?*," *The Diplomat*, January 5, 2021.

[19] Ibid. Saheli Roy Choudhury, "Here's a List of the Australian Exports Hit by Restrictions in China," *CNBC*, December 17, 2020.

[20] Gabriel Crossley and Kristy Needham, "China Suspends Economic Dialogue with Australia as Relations Curdle," *Reuters*, May 6, 2021.

[21] Christian Shepherd, "Two Canadians Held in China Over Arrest of Huawei CFO Go on Trial," *Financial Times*, March 19, 2021.

Michael Spavor, to 11 years in prison on espionage charges.[22] In September 2021, the U.S. government negotiated a deferred prosecution agreement (DPA) with Meng. The agreement involved Meng confirming the main points in the U.S. government's case against Huawei and, in exchange, ended her extradition proceedings in Canada.[23] The Canadian government's release of Meng prompted the PRC government to then release the two Canadians, Kovrig and Spavor.[24] In 2021, China pressured the United Kingdom (UK)-headquartered bank HSBC over its role in providing evidence in support of U.S. government charges against Huawei.[25] Following a decision by Sweden's courts to uphold a ban on Huawei's participation in the country's 5G telecommunications market because of national security concerns, China Mobile Ltd., a PRC government-owned wireless carrier, retaliated by reducing Sweden headquartered Ericsson's share in its August 2021 5G equipment tender from 11% in 2020 to 1.9%.[26]

More recently China has imposed a *de facto* trade boycott on Lithuania for upgrading its commercial ties with Taiwan, and on Taiwan for recent visits with U.S. congressional leaders.[27] During French President Emmanuel Macron's visit to China in April 2023, the PRC's approval of an agreement to purchase 60 aircraft (a combination of single aisle A320s and wide-bodied A330s) appeared contingent on a *quid pro quo* arrangement under which China required Airbus to open a second production facility in China.[28]

China's Expanding Economic Coercion Toolkit

China also sharpened its coercion capabilities and ability to determine economic and political outcomes through new trade measures that attempt to create parity with the United States—by mirroring certain U.S. authorities and practices in areas such as export controls, foreign investment review, antitrust, and sanctions—even though the PRC government arguably already has broad authorities in these areas.[29] Since early 2020, the PRC government has adopted a set of interrelated laws and measures that seek to enhance its control over a wide range of commercial activity, within and outside of China. The PRC, for example, has adopted a new law on export controls and related technology catalogues, new measures on the security review of foreign investment, measures to create and operationalize a list of "unreliable entities," "blocking measures," and a related anti-sanctions law, all of which seek to broadly limit the extraterritorial applications of U.S. and other foreign laws and policies of concern to China.[30] The PRC

[22] Eva Xiao, "China Sentences Canadian Citizen to 11 Years for Espionage in Case at Heart of Diplomatic Standoff," *The Wall Street Journal*, August 11, 2021.

[23] The DPA involved the United States Attorney's Office for the Eastern District of New York, the Counterintelligence and Export Control Section of the Justice Department's National Security Division, and the Money Laundering and Asset Recovery Section of the Justice Department's Criminal Division. See "Huawei CFO Wanzhou Meng Admits to Misleading Global Financial Institution," Department of Justice, U.S. Attorney's Office, Eastern District of New York, September 24, 2021.

[24] Ian Austen, "China Frees 2 Jailed Canadians after the U.S. Agrees to Release a Huawei Executive," *The New York Times*, September 24, 2021.

[25] "Huawei Takes HSBC to UK Court for Docs in Extradition Fight," *Associated Press*, February 12, 2021.

[26] Stu Woo, "Beijing Shuns Ericsson, Nokia as the West Curbs Huawei," *The Wall Street Journal*, August 3, 2021.

[27] Konstantinas Andrijauskas, "An Analysis of China's Economic Coercion Against Lithuania," Council on Foreign Relations, May 12, 2022; Laura He, "China hits Taiwan with trade restrictions after Pelosi visit," *CNN*, August 3, 2022; "China probe into Taiwan trade barriers politically motivated," *Focus Taiwan*, April 13, 2023.

[28] "Joint Declaration between the French Republic and the People's Republic of China," April 7, 2023; "Airbus and China aviation industry sign next phase in partnership," Airbus press release, April 6, 2023; Terril Yue Jones, Julien Ponthus, "China signs deal to buy 60 Airbus planes," *Reuters*, April 25, 2023.

[29] For a discussion of these new measures, see CRS Report R46915, *China's Recent Trade Measures and Countermeasures: Issues for Congress*, by Karen M. Sutter.

[30] China's Ministry of Commerce, "MOFCOM Order No. 4 of 2020 on Provisions of the Unreliable Entity List," September 19, 2020; China's Ministry of Commerce, MOFCOM Order No. 1 of 2021 on Rules on Counteracting Unjustified Extraterritorial Application of Foreign Legislation and Other Measures," January 9, 2021.

also has drafted regulations that seek to enhance its control over critical materials such as rare earth elements (REEs), as well as data and scientific research.[31] These measures signal the government's growing assertiveness in advancing and aligning China's national economic security tools to seek global economic, technology, and military leadership, and relatedly, control of core technologies and global supply chains. China's measures include extraterritorial reach and aim at countering trade and national security policy tools and actions that the United States and other governments have applied toward China, such as sanctions, export controls, and foreign investment review. China's measures pressure U.S. and other firms to abide by China's policies and laws in ways that contravene or seek to work around U.S. authorities. Many of the measures provide for retaliation and codify the PRC government's propensity for trade retaliation and brinkmanship and the use of economic coercive measures to advance its economic and political objectives, often arguably in violation of global trade rules and norms.[32]

While some aspects of China's laws and regulatory mechanisms might look similar to those in the United States, in practice the two countries apply these trade tools differently and in ways that highlight core differences in the operating conditions and tenets of the economic and legal systems in the United States and China. A key distinction involves the role of the state—the PRC government, the Communist Party of China (CPC), and the People's Liberation Army (PLA)—in China's economy and business ecosystem, which blurs lines between China's government authorities and business operations. The PRC is directly involved in advancing China's national economic development and related industrial policy goals and in promoting national corporate champions, sometimes setting commercial terms and influencing corporate decision-making.[33] This overlap between government and business interests has become increasingly blurred since 2006 as the PRC government has reenergized the role of industrial planning and state financing, sought to advance its goals through commercial actors, and enhanced its influence in firms.[34]

The PRC government frequently distorts the commonly accepted premise and use of trade tools by other governments because of how it applies these tools to seek particular advantages for China's industry and national champions.[35] The PRC government is not an independent or impartial market regulator, and has direct financial and policy interests in the market segments and companies in which it invests and favors. China uses an interplay of trade and investment protections combined with targeted market openings to pressure foreign firms to transfer technology and advanced production capabilities to China and Chinese

[31] Sofia Baruzzi, "China Tightens Control Over Management of Rare Earths," China Briefing, Dezan Shira and Associates, February 25, 2021; China's State Council "Scientific Data Management Measures," March 17, 2018; Data Security Law of the People's Republic of China, June 10, 2021.

[32] See CRS Report R46915, *China's Recent Trade Measures and Countermeasures: Issues for Congress*, by Karen M. Sutter.

[33] Mark Wu, "The 'China, Inc.' Challenge to Global Trade Governance," *Harvard International Law Journal*, Vol. 57, (2016): 1001-1063.

[34] Cong Cao, Richard P. Suttmeier, and Denis Fred Simon, "China's 15-Year Science and Technology Plan," *Physics Today*, December 2006; *The National Medium- and Long-Term Program for Science and Technology Development (2006- 2020)*, State Council of the People's Republic of China; Barry Naughton, *The Rise of China's Industrial Policy 1978 to 2020*, Universidad Nacional Autonoma de Mexico, 2021 (See Chapters 4 and 5); Ngor Luong,

Zachary Arnold, and Ben Murphy, "Understanding Chinese Government Guidance Funds: An Analysis of Chinese-Language Sources," Center for Security and Emerging Technology, March 2021; Yifei Gong, Peiyue Li, and Ziqiao Shen, "Research on Operating Efficiency of Government Industry Guidance Funds," *Theoretical Economics Letters,* February 2020; Jennifer Hughes, "China's Communist Party Writes Itself Into Company Law," R*euters*, August 14, 2017; Scott Livingston, "The Chinese Communist Party Targets the Private Sector," CSIS, October 2020; Christopher Balding and Donald Clarke, "Who Owns Huawei?;" April 19, 2017.

[35] China's national champions are firms that have a dominant or leadership position in China's market and receive certain government support, preferences, and market protections. They are not always formally depicted as such but in certain instances they are identified to play particular roles in China's economic and industrial policy plans. U.S. Chamber of Commerce, "Competing Interests in China's Competition Law Enforcement: China's Anti-Monopoly Law Application and the Role of Industrial Policy," August 2014.

entities.[36] Increasingly, China is also turning to data controls as well as IP regulation, technical standards, procurement, and antitrust tools to advance these interests and pressure foreign firms. The PRC government also enjoys informal influence in setting market conditions and corporate-level terms.[37] Unlike the United States, in which the legal and regulatory system aims to protect individual rights, including from government interference, the regulatory and legal system in China is oriented toward protecting and advancing the interests of the state.[38] The CPC has strong levers of influence among its top firms and controls the court system in China, making it difficult for U.S. companies to seek redress in China. China's state support for its companies in U.S. legal proceedings also disadvantages U.S. firms if this role, and the broader asymmetries in the U.S. and China economic and legal systems, is not acknowledged and addressed.[39]

Implications for the United States and U.S. Allies

PRC economic coercion has national security implications for the United States and its allies and partners. China has shown it can constrain or influence other governments' national security decisions by leveraging its control of key items, including those with military applications. As the dominant processor of rare earth elements (REE)—crucial inputs in electronics and U.S. weapons systems—China can disrupt supplies used by the U.S. defense industry. China showed this capability in 2010, when during a territorial skirmish with Japan over the contested Senkaku Islands in the East China Sea, Beijing restricted REE exports to Japan.[40] PRC leaders have also exploited its economic interconnectedness with Taiwan to coerce Taiwan's government and people to behave in ways favorable to Beijing. While China is ramping up its capabilities to wage an armed conflict over Taiwan, PRC leaders would prefer to use less costly and less violent measures—including economic statecraft—to achieve control of the island. Economic coercion against Taiwan contributes to what some experts refer to as the "ongoing everyday reality" of a PRC "strategy of coercion without violence to seek to wear down the will of the Taiwan people."[41] In peacetime, these tactics have included targeted export bans and import restrictions on Taiwan products to harm Taiwan's economy, and financial inducements to draw Taiwan professionals to work in China's

[36] James McGregor, "China's Drive for 'Indigenous Innovation': A Web of Industrial Policies," U.S. Chamber of Commerce and APCO Worldwide, July 2010.

[37] Jeremie Waterman and Tami Overby, "China's Approval Process for Inbound Foreign Direct Investment: Impact on Market Access, National Treatment and Transparency," U.S. Chamber of Commerce, November 11, 2012.

[38] Pittman P. Potter, "The Chinese Legal System: Continuing Commitment to the Primacy of State Power," *The China Quarterly*, February 12, 2009; Jamie P. Horsley, "Party Leadership and Rule of Law in the Xi Jinping Era: What Does an Ascendant Chinese Communist Party Mean for China's Legal Development?," The Brookings Institution, September 2019; Moritz Rudolf, "Xi Jinping Thought on the Rule of Law: New Substance in the Conflict of Systems with China," Stiftung Wissenschaft und Politik, SWP Comment, April 2021.

[39] The opacity of China's system can make it hard to secure evidence, prolong litigation, and impose significant costs on U.S. investors asserting their rights. State backing and support for Chinese firms in U.S. courts could create potential asymmetric advantages in their resources over U.S. counterparts. Even when a U.S. entity is directed and controlled by an SOE parent, it has proven difficult (but not impossible) to legally establish connectivity. See CRS In Focus IF11803, *U.S. Capital Markets and China: Issues for Congress*, by Michael D. Sutherland and Karen M. Sutter; Jamie P. Horsley, "Party Leadership and Rule of Law in the Xi Jinping Era: What Does an Ascendant Chinese Communist Party Mean for China's Legal Development?," Global China Report, The Brookings Institution, September 2019.

[40] James Jay Carafano, "Rare Earths Supply Chains and Confrontation with China," Heritage Foundation, March 22, 2023.

[41] Ryan Hass, Bonnie Glaser, and Richard Bush, *U.S.-Taiwan Relations: Will China's Challenge Lead to a Crisis?* (Washington, DC: Brookings Institution Press, 2023), p. 4.

strategic industries, such as semiconductors.[42] In a wartime or a "gray zone" context, the PRC could ramp up or expand its use of economic coercion in an attempt to compel Taiwan to capitulate to its demands.[43]

China's use of economic coercion creates potential PRC vulnerabilities to the extent that foreign firms or countries counter or coordinate responses, and resist the incentives or pressures that China introduces. In its growing use of economic coercion, China may be taking for granted the capacity of the system to absorb its rule breaking over time and the capacity for industries or countries to develop effective constraints or countermeasures. China may be vulnerable should other countries increase barriers to PRC firms or organize supply chains, trade, investment, technology, and research ties in ways that prioritize or prefer other countries, or shift away from or directly exclude China. At a tactical level, China's appetite for brinkmanship is escalatory and could lead China to overreach or overreact in ways that could undermine its interests should other countries respond to its economic coercion in similar fashion.

Since 2018, the U.S. government has undertaken several actions that seek to address China's practices of concern including its use of economic coercion. Some actions have sought to reduce U.S. dependencies on China's market and PRC-controlled supply chains and restrict—in certain instances or for certain actors—China's ability to access the U.S. market, capital, and technology. These actions have included the imposition of tariffs on PRC imports under Section 301 of the Trade Act of 1974 (19 U.S.C. §2411), absent resolution of key U.S. concerns over certain PRC trade practices; enactment of the Better Utilization of Investments Leading to Development Act of 2018 (P.L. 115-254)—that established the new Development Finance Corporation—and reauthorization of the U.S.-Export Import Bank to offer alternatives to PRC global projects; the launch of new supply chain initiatives with U.S. allies and partners (e.g., the Infrastructure Technology Assistance Network, the Transaction Advisory Fund, and the Blue Dot Network); the enactment of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P.L. 115-232) that strengthened U.S. export control and foreign investment review authorities; and the issuance of new restrictions on PRC military-tied firms that required delisting these firms from U.S exchanges.[44] The United States and allied governments have enacted policies to diversify away from China in semiconductors and electric vehicles.[45] The European Union has adopted an anti-coercion instrument to support member states subject to PRC coercion.[46] The U.S. government has provided financial support for Lithuania in response to PRC coercion.[47] Australia and the EU have brought WTO cases against China for *ad hoc* trade measures.[48] To date, there has not been an enactment of measures that impose direct economic or other costs on China for its behavior.

Possible Hearing Questions

Responding to China's use of economic coercion likely requires sustained U.S. policy focus, bureaucratic agility, and political resolve to be effective. Long-standing and emerging patterns of China's economic

[42] Russell Hsiao, "China Ramps Up Economic Coercion on Taiwan Ahead of 2024 Elections," *Global Taiwan Brief*, vol. 8, no. 8 (April 19, 2023); Lawrence Chung, "Fines of Taiwan's Far Eastern Group Fan Fears of More Retaliation by Beijing over Political Donations," *South China Morning Post*, November 24, 2021.

[43] Bradley Martin et al., *Implications of a Coercive Quarantine of Taiwan by the People's Republic of China*, RAND, 2022.

[44] See CRS In Focus IF11284, *U.S.-China Trade Relations*, by Karen M. Sutter.

[45] "Executive Order on America's Supply Chains," E.O. 14017, February 24, 2021; CHIPS and Science Act of 2022 (P.L. 117-167); Inflation Reduction Act of 2022 (P.L. 117-169).

[46] "Trade: political agreement on the anti-coercion instrument," European Council, March 28, 2023.

[47] Peter Landers, "China's Economic Coercion Needs Congressional Response, Ambassador Says," *The Wall Street Journal*, March 27, 2023; "EXIM Delegation Meets with Lithuania's Ministry of Economy and Innovation," Export-Import Bank of the United States, January 31, 2022.

[48] "Summary of Australia's involvement in disputes currently before the World Trade Organization," Government of Australia; "EU requests two WTO panels against China: trade restrictions on Lithuania and high-tech patents," European Commission, December 7, 2022.

and trade behavior show that the United States should expect and be prepared at both a strategic and tactical level to counter China's measures and countermeasures as U.S. officials seek to work with allies and partners to address the concerns posed by China's behavior. Possible questions in this regard include:

- What has the U.S. approach to China's coercion been so far? To what extent are U.S. policy approaches and tools sufficient? To what extent is the U.S. government making full use of its policy tools to address PRC coercion? What further actions could the U.S. government take? How agile and effective is the U.S. government in its response to China's coercive measures?
- How does China's use of economic coercion affect U.S. policies and authorities? What existing laws and authorities could address these challenges? What gaps exist where legislation is needed? To what extent should Congress enhance enforcement provisions to counter China's pressures? Should Congress consider an anti-coercion instrument like the EU or other actions to counter China's economic coercion by imposing economic and other costs on China?
- How is the United States working with allies and like-minded countries to enforce and shape new global trade rules, initiate new arrangements, and act jointly to impose consequences and counter specific Chinese trade policies, actions, and behaviors of mutual concern?
- How should Congress address the formal and informal levers of control that PRC authorities have over U.S. firms? Should firms be required to disclose when they are subject to pressure or benefit from China's coercive measures? To what extent should the United States restrict firms from participating in or benefitting from China's coercive measures? Should firms share China's M&A approval terms with U.S. authorities?
- What is the level of U.S. risk exposure to China's potential economic coercion? To what extent are the United States and U.S. allies sufficiently diversified and prepared for PRC coercion scenarios?