



CENTER FOR
THE STUDY OF
DEMOCRACY

Forging the Shield

National Economic Security Policies in
an Era of Global Uncertainty

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Economic security has moved to the forefront of national policy agendas across the globe. Some of the world's most developed economies, such as the United States, Germany, France and Japan led a wave of amendments updating and tightening their screening mechanisms for foreign investors and pushing for similar changes among their allies in G7. With the return of global power competition, the European Union released a strategy for economic security followed by a comprehensive trade, investment, and research package. This step is further evidence of the importance of integrating economic security as a component to the broader national security agenda.

The present report lays out leading practices in the implementation of foreign direct investment screening mechanisms as a component of national security strategies through the European Union's three Ps framework of promoting, protecting, and partnering.

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LIST OF ABBREVIATIONS

AI	Artificial Intelligence
ASEAN	Association of Southeast Asian Nations
AUKUS	Trilateral Security Partnership between Australia, the United Kingdom, and the United States
AWG	Außenwirtschaftsgesetz (Foreign Trade and Payments Act, Germany)
AWV	Außenwirtschaftsverordnung (Foreign Trade and Payments Ordinance, Germany)
BRICS	Brazil – Russia – India – China – South Africa
BTI	Bureau Toetsing Investeren (Investment Review Office, The Netherlands)
CFIUS	Committee on Foreign Investment in the United States
CHIPS	Creating Helpful Incentives to Produce Semiconductors
CMF	Code Monétaire et Financier (Monetary and Financial Code, France)
CPTPP	Comprehensive and Progressive Agreement for Trans-Pacific Partnership
DSIS	Defense and Security Industrial Strategy (United Kingdom)
EEA	European Economic Area
EESS	European Economic Security Strategy
EFTA	European Free Trade Association
EU	European Union
FDI	Foreign Direct Investment
FTZ	Free Trade Pilot Zone
OECD	Organization for Economic Co-operation and Development
NSIA	National Security and Investment Act (United Kingdom)
R&D	Research and Development
RIC	Russia – India – China
STEM	Science, Technology, Engineering and Mathematics
UK	United Kingdom
US	United States

INTEGRATED SECURITY

In recent years, a growing number of states and regional blocks have become aware of the importance of the **economy as a component of broader national security** – a concept labelled as **integrated security**.¹ In particular, the European Union (EU) and the United States (US), responding to challenges highlighted by the Covid-19 pandemic, the Russian invasion of Ukraine and China's economic bullying, have championed economic security strategies as a vital component in national security in recent years.² The economy influences national security, "forming principles and specific features of the society functioning inside the country, and determines the country's geopolitical state on international scale".³ At the same time it also influences national security by "shaping the functioning of the society internally, as well as by influencing the broader geopolitical place of a country internationally".⁴ A more detailed understanding of the concept of integrated security, or the understanding of economic security as a component of general national security, may be found in the Czech Republic's *National Security Strategy*: "Czechia's security and defense capability must be underpinned by economically strong, technologically advanced, and innovative defense and security industries, engaging in diversified international cooperation with reliable partners. The production capacities and capabilities (including access to raw materials and technologies) must be strong enough to keep our core defense and security structures supplied in times of peace as well as in crisis and conflict".⁵

The importance of economic security, though receiving renewed attention lately, is not an entirely new phenomenon and measures such as foreign direct investment (FDI) screening has long been considered important in protecting domestic industries. FDI screening mechanisms refer to procedures "assessing, investigating, authorizing, conditioning, prohibiting or unwinding FDI on grounds of security or public order". The terms security and public order are often used in this context yet are seldom defined, allowing considerable room for interpretation.⁶ These measures have long been applied in states such as Canada, Australia and the US. For example, the former's Investment Canada Act of 1985 has ensured that Canada scores

¹ Tran, H., *How Germany's Security Strategy Incorporates Economic Resilience*, Washington DC: The Atlantic Council, 18 September 2023.

² Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022; Guazzini, V., Leskova, A. and Meloni, M., *The Evolution of FDI Screening Mechanisms – Key Trends and Features*, UNCTAD Investment Policy Monitor, February 2023(25), pp. 1-17.

³ Gryshova, I., Kyzym, M., Hubarieva I., Khaustova, V., Livinskyi, A. and Koroshenko, M., *Assessment of the EU and Ukraine Economic Security and Its Influence on Their Sustainable Economic Development*, Sustainability, Volume 12, Issue 18, 17 September 2020, p. 2.

⁴ Retter, L., Frinking, E.J., Hoorens, S., Lynch, A., Nederveen, F. and Phillips, W.D., *Relationships Between the Economy and National Security: Analysis and Considerations for Economic Security Policy in the Netherlands*, Santa Monica: RAND Corporation, p. 4.

⁵ Czech Republic, *Security Strategy of the Czech Republic*, 29 June 2023, p. 10.

⁶ Modrall, J., *EU Regulation on Foreign Direct Investment Screening*, Norton Rose Fulbright, January 2022

consistently higher than their G7 counterparts on FDI restrictiveness.⁷ The Committee on Foreign Investment in the United States (CFIUS) operates under the Defense Production Act of 1950, and Australia's Foreign Investment Review Board has been screening investments since 1975.⁸ Japan's screening mechanism has operated since 1949.

Within Europe, **France and Germany have some of the most mature FDI screening mechanisms in place**, with both having some form of mechanism in place since the sixties. The latter updated their mechanism in 2004 whilst France did so in 2006. The remit of France's Code Monétaire et Financier (Monetary and Financial Code, CMF) is "to protect [France's] national interests against detrimental foreign takeovers of French companies of strategic importance, which encompasses public order, public safety, and the national defense interests of France" (Art. L. 151-3 of the CMF).⁹ Though this update was originally enacted in efforts to protect the French dairy company Danone from a takeover by PepsiCo, it has since strengthened these mechanisms significantly and has recently demonstrated its willingness to use them in some high-profile cases.¹⁰ In Germany, a controversial and hostile takeover of robotics supplier Kuka by China's Midea prompted a national discussion regarding implications of such takeovers on the security and the public order of Germany.¹¹ German FDI screening is now incorporated into a wider strategy of maintaining economic security.

Elsewhere, other states have also recently come to the realization of the necessity for such screening mechanisms. In 2011, China established its own national security review system which appears to be modelled on the United States' CFIUS approach: a two-tiered review process and interagency review body. Indeed, it is generally believed that these organizations were established in response to the United States' increased blocking of Chinese takeovers of on the grounds of national security.¹² India now requires government approval for foreign investments from any country sharing a land border with it, and both Japan and Australia updated their FDI screening mechanisms in 2022.¹³

However, the recent challenges have served as a wake-up call to the international community, highlighting the **limitations of over-reliance on FDI screening mechanisms as a sole means to protect national economies**

⁷ Blais-Morisset, P. and Rao, S., *Understanding Canada's Performance on the OECD's FDI Regulatory Restrictiveness Index*, Ottawa: Government of Canada, Office of the Chief Economist, June 2023.

⁸ Bauerle Danzman, S. and Meunier, S., *The Big Screen: Mapping the Diffusion of Foreign Investment Screening Mechanisms*, Rochester: Social Science Research Network, 28 August 2021.

⁹ Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 569

¹⁰ Bauerle Danzman, S. and Meunier, S., *The Big Screen: Mapping the Diffusion of Foreign Investment Screening Mechanisms*, Rochester: Social Science Research Network, 28 August 2021, p. 1; Leali, G., *France Shields Carrefour from Takeover in Food Security Battle*, Politico, 15 January 2021.

¹¹ Deutsche Welle, *Kuka Takeover Approved*, 17 August 2016.

¹² Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 575.

¹³ Murakami, S. and Rinke, A., *Germany, Japan Seek Cooperation on Economic Security amid Supply Chain Strains*, Reuters, 18 March 2023; Maity, S., *Foreign Direct Investment Reviews 2021: India*, White & Case: Insights, 20 December 2021; Smith, S.A., *Japan Turns Its Attention to Economic Security*, New York: Council on Foreign Relations, 16 May 2022.

from corrosive capital.¹⁴ This concept, coined by the Center for International Private Enterprise, may be defined as referring to “the dynamic by which local actors in positions of power are co-opted, ending up working in the interests of foreign investors and of their own pockets while damaging the state coffers and the wider public”.¹⁵ As Europe’s open societies are proving unable to compete with the state-subsidized companies of China and Russia, the EU has responded to the changing nature of the risks and has become the first major economy to outline a strategy for economic security.¹⁶ This strategy comes hot off the heels of the EU’s FDI Screening Regulation, and reflects a broader shift towards economic security concerns in general. The EU’s three Ps of policy strands summarize the *European Economic Security Strategy (EESS)*: promoting, protecting, and partnering. Before examining where such broader economic security – national defense policies have been adopted, attention is turned towards a more thorough understanding the EU’s new EESS and the movement towards its implementation.

¹⁴ Prelec, T., *The Vicious Circle of Corrosive Capital, Authoritarian Tendencies and State Capture in the Western Balkans*, Journal of Regional Security, Volume 15, Issue 2, 31 May 2020.

¹⁵ Vladimirov, M., Kovačević, M., Mirjačić, M., Novaković, I., Štiplija, N., Nuredinovska, E. and Dimiskova, S., *Russian Economic Footprint in the Western Balkans. Corruption and State Capture Risks*, Sofia: Center for the Study of Democracy, 25 July 2018.

¹⁶ European Commission, *President von der Leyen Presents the European Economic Security Strategy and the Revised Multiannual EU Budget*, press release, 20 June 2023; Deutsche Welle, *Kuka Takeover Approved*, 17 August 2016.

THE EU'S STRATEGY FOR ECONOMIC SECURITY

In March 2019, the EU adopted Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union (FDI Screening Regulation), which came into force in October of that year. Though the regulation stopped short of an EU-wide FDI mechanism, it does facilitate the coordination between FDI reviews as well as establishes a minimum standard for FDI screening for Member States.¹⁷ According to the European Commission, the aims of the regulation are to attain:

- harmonization of Member States' national FDI review regimes;
- cooperation between Member States and between them and the European Commission in screening FDI; and
- European Commission's competence in FDI screening by issuing non-binding opinions.¹⁸

Despite individual **Member States remaining largely autonomous in their approach to dealing with FDI**, the **European Commission may review and release recommendations** to a Member State should a takeover potentially "affect projects of the Union interests on grounds of security and public order", though these recommendations are non-binding.¹⁹ By the time Covid-19 restrictions were relaxing, over half of all EU Member States had some form of national-level FDI screening in place, with a further seven in the process of establishing one.²⁰ According to the European Commission, as of 2022 all but two Member States have either implemented or were in the process of implementing FDI screening mechanisms,²¹ and as of October 2023, the number of EU Member States with a screening mechanism has grown to 21 with more on the way.²²

Once again, however, reliance on **FDI screening alone has come to be understood as insufficient**. Based on this understanding, the EU, inspired by certain Member States (particularly Germany), has expanded their financial

¹⁷ Bauerle Danzman, S. and Meunier, S., *The Big Screen: Mapping the Diffusion of Foreign Investment Screening Mechanisms*, Rochester: Social Science Research Network, 28 August 2021.

¹⁸ Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 562.

¹⁹ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022; Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 563.

²⁰ Guazzini, V., Leskova, A. and Meloni, M., *The Evolution of FDI Screening Mechanisms – key trends and features*, UNCTAD Investment Policy Monitor, February 2023(25), pp. 1-17.

²¹ European Commission, *EU Investment Screening and Export Control Rules Effectively Safeguard EU Security*, press release, 2 September 2022.

²² European Commission, *EU Foreign Investment Screening and Export Controls Help Underpin European Security*, press release, 19 October 2023.

controls for economic security.²³ Firstly, the *FDI Screening Regulation* was updated, building up the “operational structure for the regulation, for example by clarifying procedures and notification processes for foreign investments”.²⁴ Secondly, in December 2022, the EU adopted a new instrument that assists in combatting **unfair competition** from the aforementioned companies benefitting from large state subsidies based outside the EU – *Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market (Foreign Subsidies Regulation)*. This instrument flags proposed transactions where “revenue of the EU targeted enterprise exceeds €500 million (\$500 million), and the financial contribution by the foreign entity exceeds €50 million (\$50 million)”.²⁵

In the year prior, the EU also proposed a new **anti-coercion instrument** to deter economic bullying as well as expansions to *Regulation (EU) 2021/821 of the European Parliament and of the Council of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items (Dual-Use Regulation)*.²⁶ The former proposal's stated aims are: “to deter countries from restricting or threatening to restrict trade or investment to bring about a change of policy in the EU in areas such as climate change, taxation or food safety. The anti-coercion instrument is designed to de-escalate and induce discontinuation of specific coercive measures through dialogue as a first step [...] The aim is to preserve the EU and the Member States' legitimate right to make policy choices and decisions and prevent serious interference in the sovereignty of the EU or its Member States”.²⁷

Though dialogue is suggested as a first step, the Commission also makes vague reference to the toolkit having additional teeth to address the many forms of economic intimidation, such as restrictions on trade, suspension on tariff concessions, or the blocking of FDI. Regarding the latter regulation, the *Dual-Use Regulation*, which replaces *Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items*, introduces new controls for the export, transfer, brokering, and transit of dual-use items (sensitive goods, services, software, and technology that can be used for both civil and military purposes). The significant updates provided by this regulation are:

- New controls for cybersurveillance items;
- Strengthened public security and human rights controls;
- Revised definitions of exporter and broker;

²³ Cheng, L. K. H., Whitten, G. W. and Hua, J., *The national security argument for protection of domestic industries*, Hong Kong: Pan Sutong Shanghai-Hong Kong Economic Policy Research Institute, July 2019.

²⁴ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

²⁵ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

²⁶ Steinberg, F. and Benson, E., *Evaluating Europe's Economic Security Strategy*, Washington DC: Center for Strategic and International Studies, 13 July 2023.

²⁷ European Commission, *EU Strengthens Protection against Economic Coercion*, press release, 8 December 2021.

- Expanded brokering controls;
- New controls on technical assistance;
- New export authorizations;
- Enhanced compliance obligations; and
- Reinforced enforcement actions.²⁸

Next to these two 2021 updates, the *Critical Raw Materials Act* seeks to “ensure secure and sustainable supply of critical raw materials for Europe’s industry and significantly lower the EU’s dependency on imports from single country suppliers”.²⁹ Again, the war in Ukraine highlighted Europe’s dependency on Russian gas, which led to fears of a severe winter of discontent due to energy shortages and subsequent increased costs. This simultaneously highlighted the reliance on third countries for critical raw materials, such as China, which supplies 97 per cent of the EU’s magnesium supply and of the rare earths used for permanent magnets, Turkey providing of 98 per cent of the bloc’s borate needs, and the Democratic Republic of Congo responsible for the supply of a substantial amount of the EU’s cobalt needs.³⁰ Though a comprehensive discussion of all EU economic security measures is beyond the scope of the current report, the above digression has demonstrated the increased focus of the EU on the threats posed by revisionist states and their corrosive capital. These several toolkits and regulations are incorporated into the EU’s broader EESS, adopted on 20 June 2023 through a joint communication of the European Commission and the High Representative.

The EESS set out a three-pronged approach:

- **Promoting** the EU’s competitiveness, by strengthening the Single Market, supporting a strong and resilient economy, investing in skills and fostering the EU’s research, technological and industrial base;
- **Protecting** the EU’s economic security through a range of existing policies and tools, and consideration of new ones to address possible gaps (to be done in a proportionate and precise way that limits any negative unintended spill-over effects on the European and global economy); and
- **Partnering** with the broadest possible range of partners to strengthen economic security, including through furthering and finalizing trade agreements, reinforcing other partnerships, strengthening the international rules-based economic order and multilateral institutions, such as the World Trade Organization, and investing in sustainable development through Global Gateway.

²⁸ Covington, *An Overview of the Recast EU Dual Use Regulation*, 21 September 2021; Sidley Austin LLP, *New European Union Dual-Use Regulation Enters Into Force*, 9 September 2021.

²⁹ European Commission, *European Critical Raw Materials Act*, Luxembourg: Publications Office of the European Union, 16 March 2023.

³⁰ European Commission, *European Critical Raw Materials Act*, Luxembourg: Publications Office of the European Union, 16 March 2023.

The EESS proposed a thorough assessment of risks to economic security in four areas: the resilience of supply chains, including energy security; physical and cyber security of critical infrastructure; technology security and technology leakage; and weaponization of economic dependencies or economic coercion.

The adoption of the EESS may become a turning point in the policy approach to addressing economic security. Previously, most countries around the world, with the notable exception of Japan, followed the United States' practice of pursuing an economic security agenda without an explicitly written strategy. Some countries like Germany and the United Kingdom have clear economic security agendas shown in their national security or government review documents. Others like France and Italy have still not developed national economic security agendas, and Canada does not have either an economic or national security strategy. This may change after the adoption of the EESS, as EU Member States are expected to be implicated by the European Commission's approach sooner or later.³¹

On 24 January 2024 the European Commission adopted a **comprehensive trade, investment and research package as part** of the roll-out of the EESS.

The package consists of five elements:

- **Legislative proposal for the revision of the EU's *FDI Screening Regulation* to improve its effectiveness and efficiency.** Acknowledging the EU's benefits from investments from third countries, the Commission remains concerned that certain investments might present a security risk. The proposed new regulation builds on the evaluation of current investment screening system and aims to improve it by ensuring that all Member States have a screening mechanism in place, harmonizing national rules to make cooperation more effective and efficient, covering transactions where the investor is established in the EU but is ultimately controlled by people or entities from non-EU countries, establishing a minimum sectoral scope where all Member States are required to screen transactions.
- **White Paper launching a process to identify potential security risks linked to EU investment in third countries (outbound investment).** Based on the understanding that when EU companies invest in advanced technologies in third countries, there is a risk that these technologies could get into the hands of certain countries who may use them to enhance their military and intelligence capabilities undermining international peace and security, the Commission proposes a series of steps to gather data and evidence on those potential risks and ultimately decide if and how any further policy response should be formulated.
- **White Paper on how to make EU controls more effective for export of goods with civilian and military use (dual-use goods), in the interest of upholding international security and safeguarding EU security interests in the context of growing geopolitical tensions.** Acknowledging the risk that EU goods and technologies with both civilian and military

³¹ Benson E. and Mouradian, C., *How do the United States and its partners approach economic security?*, Washington DC: Center for Strategic and International Studies, 8 November 2023.

uses may get into the wrong hands, highlighted by geo-political tensions in general and Russia's war of aggression against Ukraine in particular, the Commission launches a discussion on the current EU export control system and sets out actions to address some of the existing gaps including, among others, alternative approaches to introduce uniform EU controls for those items that have been agreed with partners at multilateral level (even if they could not be formally adopted due to the blockage of the multilateral decision-making process by certain countries), improved coordination on new national control lists of dual-use items before they are adopted by individual Member States, and accelerated evaluation of the *Dual-Use Regulation*.

- **White Paper on enhancing support for research and development involving technologies with dual-use potential.** Based on the understanding that many technologies that are critical for the EU's economic security and strategic autonomy have a dual-use potential, the Commission invites public authorities, civil society, industry and academia to a comprehensive dialogue based on three: going further based on the current set-up exclusively focusing on either civil (through Horizon Europe) or defense applications (through the European Defense Program); removing the exclusive focus on civil applications in selected parts of the successor program to Horizon Europe; or creating a dedicated instrument with a specific focus on research and development with a dual-use potential.
- **A proposal for a Council Recommendation on enhancing research security.** Acknowledging the risks related to the international nature of scientific research (sharing sensitive knowledge and technology, which can jeopardize European and national security if channeled to military purposes, improper influence on EU academic education and research by or from other states, use of technologies to suppress or undermine fundamental values) the Commission proposes a recommendation offering more clarity, guidance and support, presenting principles for responsible internationalization, recommending practical safeguarding measures, and outlining support actions at EU level.³²

The EESS and the recent trade, investment and research package associated with it represent an important step forward for the EU, who until that point, had not significantly linked economic issues to foreign policy and national security, and moved towards integrated security. The measures and toolkits described above merely represent the beginnings of the fine-tuning of Europe's economic policy kit, which had lagged behind states like the US, China, Russia, Japan or even India, where link between foreign economic policy and geopolitics has always been explicit.³³ That changed when the EU became one of the first major economies to publish such a comprehensive economic security strategy in June 2023. That being said, the EESS paves the way for the adoption of concrete measures attempting to outline the categories of economic threats to the EU and identify how these risks

³² European Commission, *Commission Proposes New Initiatives to Strengthen Economic Security*, press release, 24 January 2024.

³³ Steinberg, F. and Benson, E., *Evaluating Europe's Economic Security Strategy*, Washington DC: Center for Strategic and International Studies, 13 July 2023.

are going to be handled.³⁴ By examining the three Ps that encapsulate the EU's EESS, a comprehensive understanding of success elsewhere may be provided. By doing so, one may grasp the importance of economic security as a component of wider national security, and the need to avoid over-reliance on FDI screening mechanisms alone.

³⁴ European Commission, *President von der Leyen Presents the European Economic Security Strategy and the Revised Multiannual EU Budget*, press release, 20 June 2023; Steinberg, F. and Benson, E., *Evaluating Europe's Economic Security Strategy*, Washington DC: Center for Strategic and International Studies, 13 July 2023.

PROMOTING COMPETITIVENESS

One of the fundamental principles enshrined within the EESS is the promotion of the competitiveness of EU industry, which could be done through “strengthening the Single Market, supporting a strong and resilient economy, investing in skills and fostering the EU’s research, technological and industrial base”.³⁵ Indeed, “strong growth and productivity are a necessary, if not sufficient, condition for effective self-determination”, and the EU came to the realization that economic security begins at home.³⁶ Historically, as a result of over-attention to export-markets (and subsequent neglect of domestic ones), Europe has lost significant leads in manufacturing to third-countries: “Consider also how Europe lost its lead in photovoltaic manufacturing in the 2000s [...] Consumer subsidies accelerated photovoltaic installations in Europe, but China outbid Europe’s manufacturers. Less attention is paid to the second phase. As EU governments cut subsidies and imposed tariffs on Chinese photovoltaic imports, Europe’s solar power growth flatlined. China picked up the slack, overtaking Europe in solar photovoltaic installations around 2013. By 2020, it had 253 gigawatts of solar energy capacity installed, more than 50 per cent above Europe’s level”.³⁷

However, examples elsewhere in the world have provided the EU with the potential results offered by prioritizing both domestic demand and domestic industry. In the US, the success of Biden’s Inflation Reduction Act stems not from dissuading imports, but from disseminating the belief that the US possesses an “imminent, huge and profitable market for green technologies”. In China, its growth strategy has long been export-led. Though China had utilized their domestic markets in important sectors as a growth motor before they formalized a doctrine of dual circulation.³⁸ Thus, elsewhere in the world, promotion of domestic industries is viewed as an essential component and a necessary pre-condition to a wider economic security strategy. By examining some examples, one may see the necessity of this promotion as a component for any state or regional block.

However, the EU itself also offers an example at how such competitiveness may be promoted. The EU’s Horizon Europe program pledges nearly €100 billion between 2021-2027 to fund scientific research and innovation activities within the community and with partnering nations. Horizon has been linked to the broader economic security strategy, as it contributes to the EU’s strategic autonomy and its technological leadership and competitiveness. Together with InvestEU, these mechanisms aim to help the EU achieve global leadership in future technologies such as electric batteries and hydrogen.

³⁵ European Commission, President von der Leyen Presents the European Economic Security Strategy and the Revised Multiannual EU Budget, press release, 20 June 2023.

³⁶ Sandbu, M., *The EU Must Realise that Economic Security Begins at Home*, Financial Times, 2 July 2023.

³⁷ Sandbu, M., *The EU Must Realise that Economic Security Begins at Home*, Financial Times, 2 July 2023.

³⁸ Sandbu, M., *The EU Must Realise that Economic Security Begins at Home*, Financial Times, 2 July 2023.

The EU's *Chips Act* similarly provides funding for research and development, particularly towards chip design and manufacturing for semiconductors.³⁹ Beyond funding research and development (R&D) though, the European Commission also makes recommendations to individual Member States on how best to deal with structural policies to stimulate competition in product markets and improve the business environment. This is facilitated through Articles 121 and 148 of the *Treaty on the Functioning of the European Union*.

The promotion of domestic industry as a means of national security can perhaps be traced as far back to the writings of Adam Smith or the young United States protecting itself from the British hegemon.⁴⁰ **Indeed, all of the contemporary Great Powers have some method of promoting their domestic industries as a matter of national security.** In the United States, adopting the notions that economic security starts at home, the Trump administration declared the imposition of a 25 per cent tariff on steel and a 10 per cent tariff on aluminum from key exporting economies, such as China, Canada, Mexico, and controversially, the EU. Citing the 1962 US Trade Expansion Act, the move was framed as a national security concern, despite only around three per cent of US steel going towards National Defense and Homeland Security that year (19 U.S. Code § 1862 'Safeguarding National Security'). Contradicting their own actions, the Trump administration condemned China's economic aggression, and "the alleged mis-behavior has been observed in many other countries (including the US) during [China's] economic and technological catch up".⁴¹ This is particularly true of their efforts to promote their domestic industry, as evidenced by the National Security Strategy adopted in 2017: "Economic challenges at home demand that we understand economic prosperity as a pillar of national security [...] The administration is dedicated to rejuvenating the US economy, unleashing the potential of all Americans, and restoring confidence in our free market system. Promoting American prosperity makes America more secure and advances American influence in the world".⁴²

One more recent example of this promotion of the competitiveness of domestic industry comes in the form of the *CHIPS and Science Bill* adopted in 2022. The full title offers insight into its relevance to the current discussion: Creating Helpful Incentives to Produce Semiconductors (CHIPS). Mirroring his European counterparts, President Biden has made clear his focus on the United States' economic security. For Biden, the promotion of the domestic semiconductor industry is a central component to drawing the US off reliance on China and combatting their growing dominance. This is also evident by the colloquial title for the bill, *The China Competition Act*.⁴³ This bill is composed of two bipartisan bills, the CHIPS for America Act and the

³⁹ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

⁴⁰ Cheng, L. K. H., Whitten, G. W. and Hua, J., *The National Security Argument for Protection of Domestic Industries*, Hong Kong: Pan Sutong Shanghai-Hong Kong Economic Policy Research Institute, July 2019; Zettelmeyer, J., *The Return of Economic Nationalism in Germany*, Washington DC: Peterson Institute for International Economics, 26 March 2019.

⁴¹ Cheng, L. K. H., Whitten, G. W. and Hua, J., *The National Security Argument for Protection of Domestic Industries*, Hong Kong: Pan Sutong Shanghai-Hong Kong Economic Policy Research Institute, July 2019.

⁴² United States, *National Security Strategy of the United States of America*, December 2017, p. 18.

⁴³ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

Endless Frontier Act. The latter is primarily designed to promote high-tech government research and development that will be central to the United States' national security through significant funding. The CHIPS for America Act aimed to bring semiconductor manufacturing back to the US – and away from China. Together, the CHIPS and Science Act pledged roughly \$280 billion worth of funding to promote the United States' competitiveness. However, this act also comes with guardrails, simultaneously intended at promoting the United States' competitiveness and limiting China's. The US government then expressed concerns that China may be benefitting from the capital funding aimed at promoting US semiconductor R&D. In response, the CHIPS and Science Act prevents companies from investing in Chinese semiconductor manufacturing for ten years if they have received funding from the US government. Moreover, recipients are barred from "significant transactions [...] involving the material expansion of semiconductor manufacturing capacity in the People's Republic of China".⁴⁴ Other proposals meant to compliment the act involved setting flexible limits on the sizes and power of chips that may be produced in China, suggesting that older legacy chips that are often used in consumer goods may be produced in China. The US also has comprehensive mechanisms relating to protecting themselves as well as partnering with other states as a means to achieve economic security, which in turn shall further guarantee national security.

Historically, **Japan** has maintained extremely strict control over the workings of its economy. Famously, its policies of *sakoku*, meaning locked country, defined its isolationist practices that forbade trade relations with other countries (though the Chinese and Dutch were briefly tolerated at stages). Following industrialization, though the restrictions on international trade were relaxed, the same cannot be said for the state control over the economy. As Samuels outlines in his book *Rich Nation, Strong Army*, it has historically been common Japanese state practice to nurture private producers by paying more than the open market price. The examples of Japanese steel production between 1919-1934 and ship production both provide fitting illustrations. As the title suggests, Japan has long viewed the relationship between the economy and national security as intertwined (*shokusan kōgyō*).⁴⁵ This can perhaps explain why it has had FDI screening in place since 1949. Furthermore, Japan has even been ahead of the curve with their awareness of the importance of integrated security. In 1980, the Ohira Report – named for the head of government at the time – suggested Japan adopt a comprehensive security strategy (*sogo anzen hoshō*) that included economic, food and energy security considerations.⁴⁶

More recently, in 2020, Japan updated its own National Security Secretariat by adding a new economic department. Though Japan appears to have always considered the importance of where national security and the economy intersect, the issue has taken on new levels of urgency today, particularly *vis-à-vis* growing Chinese influence in the region.⁴⁷ The establishment of

⁴⁴ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

⁴⁵ Samuels, R.J., *Rich Nation, Strong Army: National Security and the Technological Transformation of Japan*, New York: Cornell University Press, 1994, pp. 37, 73 and 86.

⁴⁶ Satake, T., *Economics Key to Japan's New Security Strategy*, Asia Times, 3 January 2023.

⁴⁷ Togashi, M., *Japan's Economic Security and the Role of the Private Sector*, Washington DC: Center for Strategic and International Studies, 28 August 2020.

the post of Minister for Economic Security by Prime Minister Kishida in 2021 is testament to the degree of urgency. Yet Japan's historic approach is still felt in their nurturance of their national economy, an approach that the EU could learn a lot from. Over the years, "Japan has proven to be an important reference point for Europe when considering ideas, formats and best practices".⁴⁸ Although postwar Japan shifted its focus away from military industries towards commercial ones, the historical focus on dual-use technologies have continued to inform their economy, and is partly the reason why Japan's private sector was responsible for 78 per cent of total national R&D in 2017, the highest percentage of all G7 countries.⁴⁹ Also, the interdiffusion that saw military related R&D assisted companies in building a stronger base in commercial technology. To further support their private sector, and thus the economy as a whole (and further again, their national security), Japan realized its *Integrated Innovation Strategy 2022*. With this strategy, the Japanese government announced its three pillared plan to find solutions to social problems and ensuring safety and security.

These pillars are:

- **Strengthening research capabilities and developing human resources.** Utilizing a 10-trillion-yen University Endowment Fund, long-term support will be provided to realize world-class research universities that generate outstanding results and foster talented individuals who can lead society. Inquisitive minds and critical thinking, essential for the age of rapid technological innovation, will be cultivated via efforts such as enhancing Science, Technology, Engineering and Mathematics (STEM) education.
- **Strategic promotion of advanced and emerging technology.** R&D in a wide range of technologies that can bring about transformational change, such as artificial intelligence (AI) and quantum technology, will be advanced strategically to accelerate their practical application.
- **Creation of an innovation ecosystem.** By reinforcing initiatives for the advancement of the venture capital market, a stronger mechanism for the continuous birth and growth of startups that lead to innovation will be developed. In addition, public-private R&D investment will be expanded through measures such as R&D tax incentives and the Japanese *Small Business Innovation Research Program*.⁵⁰

The issue of economic security is also positioned in Japan's *National Security Strategy* released in December 2022. The strategy identifies the threats as some nations "not sharing universal values, are making attempts to revise the existing international order" and are "gaining superiorities over those states that have defended academic freedom and market economy principles". In other words, according to some observers, the strategy recognizes that an international order in which China and

⁴⁸ Duchâtel, M., *Technology Transfers: The Case for an EU-Japan-US Cooperation Framework*, Paris: Institut Montaigne, March 2022, p. 8.

⁴⁹ Togashi, M., *Japan's Economic Security and the Role of the Private Sector*, Washington DC: Center for Strategic and International Studies, 28 August 2020.

⁵⁰ Kizuna, *Integrated Innovation Strategy 2022: Making Great Strides Toward Society 5.0*, 30 June 2022.

other authoritarian states become dominant is a threat.⁵¹

The *National Security Strategy* identifies as areas of economic security “supply chain vulnerabilities, growing threats to critical infrastructure, and the struggle for control over advanced technologies”. According to the document, to establish economic security Japan needs to have strategic autonomy to avoid succumbing to economic coercion from other countries and strengthen strategic indispensability to make the country less susceptible to pressure from other countries through its one-of-a-kind technologies and capabilities, including by strengthening supply chains, protecting critical infrastructure, and strengthening control over technology leaks and transfers.⁵²

Though its *Act on the Promotion of National Security through Integrated Economic Measures (Act No. 43 of 2022)*, the Japanese government announced additional strategies to promote its critical domestic industries. Though the key pillars of this act shall be discussed in further below, one of the pillars is highly relevant to the current discussion of promoting one’s economy as a manner to achieve national security – promotion of key technologies by public and private sectors (Articles 60 to 64). In October 2022, the Japanese government had identified twenty technological sectors – designated critical technologies – that are to receive government support for research and development. The designated critical technologies identified are:

- biotechnology;
- medical and public health technology;
- artificial intelligence and machine learning;
- advanced computing;
- microprocessor and semiconductor technology;
- data science, analysis, storage, and management;
- advanced engineering and manufacturing technology;
- robotics;
- quantum information science;
- advanced surveillance, positioning, and sensing technology;
- neurocomputing and brain interface technology;
- advanced energy and energy storage technology;
- advanced information, communication, and networking technology;

⁵¹ Suzuki, K., *Understanding Japan’s approach to economic security*, Washington DC: Stimson, 10 February 2023.

⁵² Suzuki, K., *Understanding Japan’s approach to economic security*, Washington DC: Stimson, 10 February 2023.

- cyber security;
- space technology;
- marine technology;
- transportation technology;
- hypersonics;
- chemical, biological, radiation, and nuclear technology; and
- advanced materials science.⁵³

Should R&D in one of these designated critical technologies be expected to yield significant benefits to Japan and its citizens, the Prime Minister may choose to devote funds to a company engaging in such R&D through the *Promotion of Science, Technology and Innovation Act*.⁵⁴ The government also announced their intention to draft a *Basic Guideline for Research and Development of Designated Critical Technologies* that will assist companies in gaining necessary information and funding for R&D.⁵⁵

As well as this basic guideline, the *Act on the Promotion of National Security through Integrated Economic Measures* outlined the government's plans to establish a public-private cooperation council to coordinate each project. Complimenting this council is the Research Institute for Technological Studies, whose establishment plans were also included in the law. The aim of this institute was to "carry out international surveys in each field of technology and make recommendations to the government for Japan's sci-tech strategy [...] the institute will provide the Japanese government with the analyses it requires for strategic decision-making on sci-tech policy and will be under obligation to protect sensitive information".⁵⁶ It is believed to be Japan's answer to the US's RAND corporation. Furthermore, Japan's *Key and Advanced Technology R&D through Cross Community Collaboration Program (K Program)* promotes the country's strategic technologies, simultaneously encouraging its economy's competitiveness, through promoting "research, development, and application of advanced key technologies vital to maintaining Japan's position in the international community over the long term".⁵⁷ The *K Program* is administered by the Council for the Promotion of Economic Security and the Council for Science, Technology, and Innovation. It acts as the funding mechanism to support designated critical technologies projects under the *Act on the Promotion of National Security through Integrated Economic Measures*.

⁵³ Suzuki, K., *How Will the Economic Security Law Change Japan's Sci-Tech Policy?*, Tokyo: The Tokyo Foundation for Policy Research, 9 May 2023.

⁵⁴ Nakagawa, J., Matsumoto, T., Bushimata, R. and Goto, D., *Overview of Economic Security Legislation in Japan*, Mondaq, 28 April 2022.

⁵⁵ Suzuki, K., *How Will the Economic Security Law Change Japan's Sci-Tech Policy?*, Tokyo: The Tokyo Foundation for Policy Research, 9 May 2023.

⁵⁶ Suzuki, K., *How Will the Economic Security Law Change Japan's Sci-Tech Policy?*, Tokyo: The Tokyo Foundation for Policy Research, 9 May 2023.

⁵⁷ Suzuki, K., *How Will the Economic Security Law Change Japan's Sci-Tech Policy?*, Tokyo: The Tokyo Foundation for Policy Research, 9 May 2023.

The inclusion of these **plans to promote its critical industries demonstrates Japan's understanding of a strong domestic economy as a prerequisite for national security**. Yet Japan is acutely aware that simply promoting is not enough, and should be treated as just one component in the broader economic strategy. As we shall see below, Japan also devotes considerable attention to protecting itself and partnering with others as a method to achieve economic security.

In **Germany**, the National Industry Strategy 2030, released in 2019, promoted three main proposals aimed at improving the country's economy, with two others aimed at protecting it:

- attempting to further raise the German share of manufacturing;
- restricting non-EU imports of intermediate goods;
- promoting national champions in Germany and the European Union;
- preventing some foreign takeovers and;
- ramping up state support for certain technologies.⁵⁸

This national strategy release demonstrates Germany's commitment to promoting its **economy as a component of its wider national security strategy**. One of the assumptions underpinning this strategy is the belief that Germany's industry failures are, at least in part, due to its companies lacking scale or industrial support compared to their Japanese or American counterparts.⁵⁹ In response to this and other similar concerns, Germany announced its use of three main tools: subsidies, direct state participation in companies, and a reform of competition policy at the EU level. As a "global manufacturing powerhouse and world-leading exporter, Germany has for decades been held to be firmly committed to open markets and resolutely opposed to state intervention".⁶⁰

⁵⁸ Zettelmeyer, J., *The Return of Economic Nationalism in Germany*, Washington DC: Peterson Institute for International Economics, 26 March 2019, p. 2.

⁵⁹ Zettelmeyer, J., *The Return of Economic Nationalism in Germany*, Washington DC: Peterson Institute for International Economics, 26 March 2019, p. 2.

⁶⁰ Germann, J., *Global Rivalries, Corporate Interests and Germany's 'National Industrial Strategy 2030'*, Review of International Political Economy, Volume 30, Issue 5, 14 October 2022.

PROTECTING OURSELVES

The European Economic Security Strategy seeks to make the EU more assertive in its use of **existing tools to protect itself from economic risks** while considering the **implementation of new ones, such as those regulating outbound investment** – similar to the bill recently enacted in the US.⁶¹ Other commentators would agree with President von der Leyen’s assessment. The EU has long been considered a champion of liberalized free-trade, with open markets and free movements of capital. However, the EU was forced to wake up from its liberal dream and to start taking economic security more seriously following the three horsemen of Covid-19, China’s rise and Russia’s war in Ukraine – the frontlines of which are only some 2,000 km from Brussels.⁶² Prompted by the increased moves towards economic protection domestically in several Member States, in particular France and Germany, the EU followed suit.⁶³ This example of the smaller sub-section (e.g., Germany) driving a larger mechanism/organization (the EU) is reflective of the development of the increasingly popular understanding of economic security as a component of national security. FDI screening mechanisms, now merely one sub-component, in many ways drove the rise of integrated security.⁶⁴ Thus, in this section focusing on measures protecting national economies, FDI measures shall feature prominently. Once again, by examining where measures aimed at protecting have been successfully employed elsewhere, one may understand the benefits of adopting such mechanisms as part of a wider economic security-national security strategy.

Within the European Union, as of 2022, all but two Member States have either implemented or were in the process of implementing FDI screening mechanisms.⁶⁵ One year later, in October 2023, the European Commission noted that the “number of EU Member States with a screening mechanism has grown from 11 to 21 since the EU’s FDI screening regulation came into force, with more on the way”.⁶⁶ Though the EU itself was led by its Member States’ actions, the adoption of the *FDI Screening Regulation* spurred its other members to follow suit – strengthening the economic bloc as a whole. Not only has FDI screening proven to be insufficient to providing European economic security alone, but the EU still lacks a pan-EU screening mechanism, meaning

⁶¹ Benson, E. and Allen, G.C., *A New National Security Instrument: The Executive Order on Outbound Investment*, Washington DC: Center for Strategic and International Studies, 10 August 2023; European Commission, *President von der Leyen Presents the European Economic Security Strategy and the Revised Multiannual EU Budget*, press release, 20 June 2023.

⁶² Steinberg, F. and Benson, E., *Evaluating Europe’s Economic Security Strategy*, Washington DC: Center for Strategic and International Studies, 13 July 2023; Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, *The Journal of World Investment & Trade*, Volume 22, Issue 4, 16 August 2021; *The Economist*, *The EU is Finally Rebooting the Enlargement Machine*, 28 September 2023.

⁶³ Bauerle Danzman, S. and Meunier, S., *The Big Screen: Mapping the Diffusion of Foreign Investment Screening Mechanisms*, Rochester: Social Science Research Network, 28 August 2021.

⁶⁴ Tran, H., *How Germany’s Security Strategy Incorporates Economic Resilience*, Washington DC: The Atlantic Council, 18 September 2023.

⁶⁵ European Commission, *EU Investment Screening and Export Control Rules Effectively Safeguard EU Security*, press release, 2 September 2022.

⁶⁶ European Commission, *EU Foreign Investment Screening and Export Controls Help Underpin European Security*, press release, 19 October 2023.

considerable variance in the policies of each individual state.⁶⁷ Therefore, as done above, some the policies of certain states must be examined individually.

The EU has complimented its *FDI Screening Regulation* with a number of successive acts aimed at further protecting itself from the effects of coercive capital. Most of these, such as the *Dual-Use Regulation Act* (2021), *Regulation of Foreign Subsidies* (2021), *Anti-Coercion Act* (2021) and *Critical Raw Materials Act* (2023) have been touched on above. However, individual Member States' economic security strategies may offer useful guidance as to how these protection measures are integral aspects to national security in general. Following this discussion, attention to third countries, both within and outside of Europe, should also be turned.

Germany has one of the most mature systems for protecting its national economy in the EU. In 2003, Germany first began restricting foreign acquisitions of German companies, though these were limited to the military sector and were actually aimed at reducing US takeovers (in the defense manufacturing sector). The next year, Germany established its modern FDI screening mechanism, though its *Außenwirtschaftsgesetz* (*Foreign Trade and Payments Act, AWG*), which had existed since 1961. Today, Germany's legal basis for its screening mechanisms is still provided by the AWG, as well as the *Außenwirtschaftsverordnung* (*Foreign Trade and Payments Ordinance, AWW*).

Germany has historically been China's closest trading partner of all EU member states. "From 1987 to 2017, the aggregate stock of German FDI in China reached \$29.72 billion, which positions Germany ninth among countries/regions and first among EU Member States investing in China. Meanwhile, in 2017, recorded Chinese FDI in Germany was €1.8 billion. From 2000 to 2017, the aggregate stock of Chinese FDI in Germany was €20.6 billion, which puts Germany second only to the United Kingdom (UK) as the largest destination of Chinese FDI in the EU".⁶⁸

It has become relatively in-vogue of late to examine Germany's attempts to bring Russia back to the fold through trade.⁶⁹ However, the "hearty appetites" of Chinese investors has begun to make headlines in the German press, and the aforementioned case of Kuka robotics seemed a bridge too far for the Germans.⁷⁰ Indeed, **Germany breaks with the EU in their national security strategy by naming who these mechanisms are aimed at:** "China is trying in various ways to remold the existing rules-based international order, is asserting a regionally dominant position with even more rigor, acting time and again counter to our interests and values [...] Regional stability and international security are being put under increasing pressure and human

⁶⁷ Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 563.

⁶⁸ Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 571.

⁶⁹ Benson, E., *Economic Security Is Driving U.S. Policy. Why That Is and What to Expect*, New York: Barron's, 16 August 2023.

⁷⁰ Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 575.; Deutsche Welle, *Kuka Takeover Approved*, 17 August 2016.

rights are being disregarded. China makes deliberate use of its economic clout to achieve political goals”.⁷¹

Yet as opposed to the sheer scale of Chinese investment in their economy, it was the sectoral distribution of these acquisitions that worried the Germans.⁷² Such concerns are reflected in Germany’s contemporary investment screening mechanisms.

The provisions for investment screening are primarily set out in the *Außenwirtschaftsgesetz* (*Foreign Trade and Payments Act*, AWG) – particularly Sections 4, 5, 13, 14a and 15.⁷³ These are also elaborated on in the *Außenwirtschaftsverordnung* (*Foreign Trade and Payments Ordinance*, AWV). In 2009, the 13th amendment to the AWG expanded the scope of the FDI screening to all sectors by investors from non-EU or European Free Trade Association (EFTA) states, citing public order and security interests. The *Foreign Trade and Payments Act of 6 June 2013* stipulated that legal transactions could be restricted to guarantee public order or security “within the meaning of Articles 36, 52(1) and Article 65(1) of TFEU”.⁷⁴ In 2017, the 9th amendment to the AWV substantially toughened the screening regime, widening the scope and establishing stricter review procedures. Many commentators hypothesize that this amendment was aimed at providing stronger investment control protecting advanced German technologies from non-EU/EFTA investors following the Kuka case.⁷⁵ To this end, in 2018 the 12th amendment to the AWV was passed, which lowered the threshold of percentage of voting rights share acquisition that triggered review, from 25 per cent down to 10 per cent in certain sectors (*Table 1*).

The AWV describes both the **cross-sectoral screening procedure** (Sections 55-59) and the **sector-specific screening procedure** (Sections 60-62): “Cross-sectoral screening covers acquisitions where a non-EU resident gains direct or indirect control of at least 25% of the voting rights in a German company. If the German company is active in a sector that is particularly relevant to the security of the country, this threshold is set at 10% of the voting rights (Sections 55a(1) no. 1-7 of the AWV, for example for operators of critical infrastructure, the media and the healthcare sector) or at 20 per cent of the voting rights (Sections 55a(1) no. 8-27, particularly for emerging technologies such as semiconductors, AI, additive manufacturing and quantum technology). Sector-specific screening covers all acquisitions where a foreigner – including persons and/or companies from other EU Member States or EFTA countries –

⁷¹ Germany, Federal Government, *National Security Strategy: Robust. Resilient. Sustainable. Integrated Security for Germany*, 5 July 2023, p. 23.

⁷² Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 572.

⁷³ Germany, Federal Ministry of Economic Affairs and Climate Action, *FAQ on investment screening under the Foreign Trade and Payments Act (AWG) and the Foreign Trade and Payments Ordinance (AWV)*, 6 July 2021.

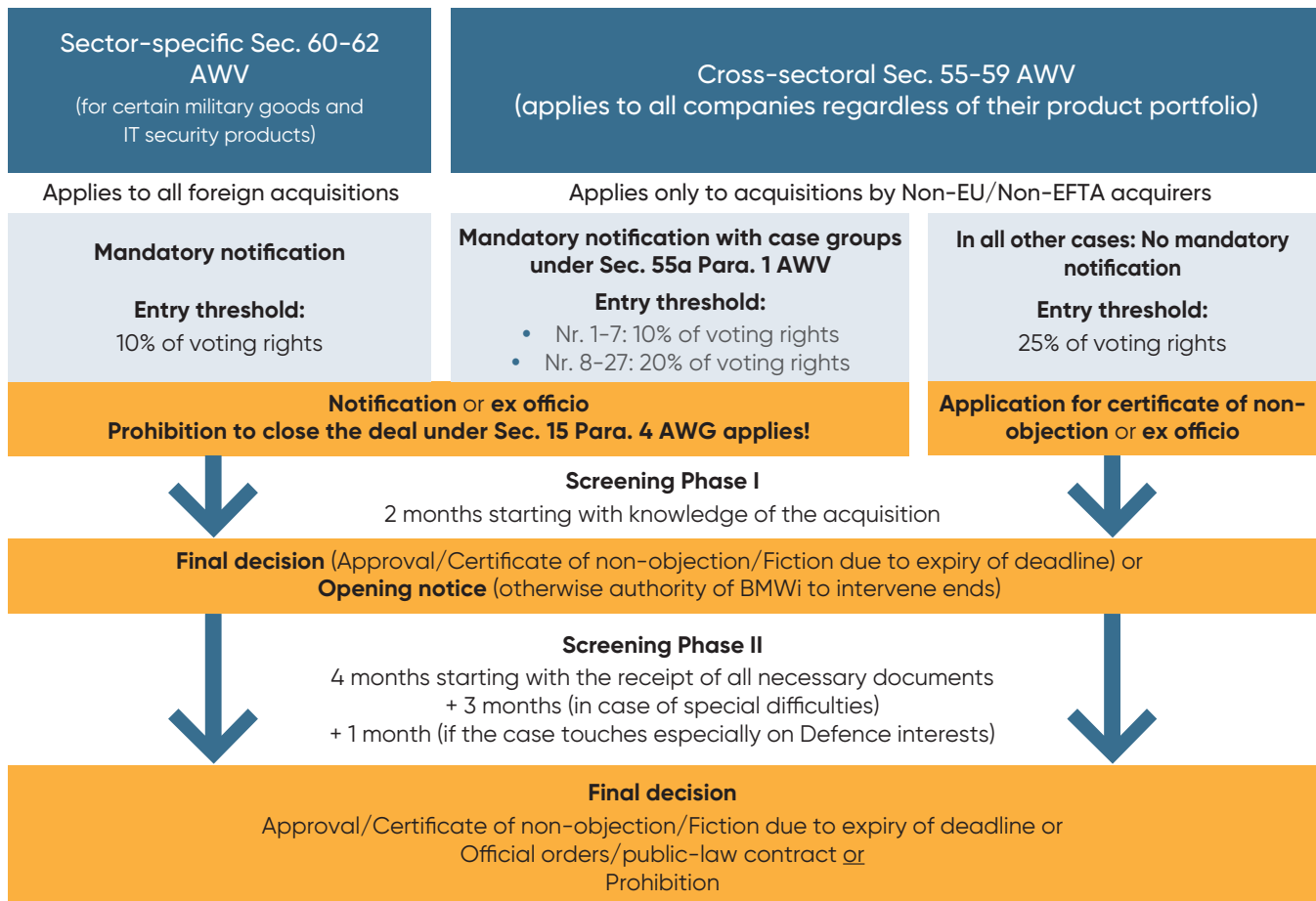
⁷⁴ Germany, *Foreign Trade and Payments Act of 6 June 2013*, Federal Law Gazette I, p. 1482, § 4(1)4; Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, pp. 569-570.

⁷⁵ Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021.

gains direct or indirect control of at least 10 per cent of the voting rights in a German company producing goods which are listed exhaustively in Section 60 of the AWV, particularly certain military equipment”.⁷⁶

Combined, the AWG and AWV provide Germany with **significant tools towards protecting their economies from corrosive capital and other forms of negative FDI** (*Figure 1*).

Figure 1. German investment screening mechanism



Source: Federal Ministry of Economic Affairs and Climate Action of Germany, 2023.⁷⁷

German lawmakers expressed particular concern over the sectoral spread of foreign investment in their economy, as opposed to the scale. Thus, in recent years, the German government has outlined specific sectors of concern and significantly lowered the threshold for which FDI would trigger notification in each sector. There are two mechanisms, and three instances for their use.

⁷⁶ Germany, Federal Ministry of Economic Affairs and Climate Action, *FAQ on investment screening under the Foreign Trade and Payments Act (AWG) and the Foreign Trade and Payments Ordinance (AWV)*, 6 July 2021.

⁷⁷ Germany, Federal Ministry of Economic Affairs and Climate Action, *Investment Screening*, 2023.

The **sector specific investment control** concerns any non-German investor interested in acquiring over 10 per cent of voting rights shares in high-interest sectors such as military goods or IT security. In this case, notification of the proposal must be sent to the Federal Ministry of Economic Affairs and Climate Action. The ministry has two months from this time to decide to investigate the deal. If no investigation is launched, the project is deemed as approved. However, if it decides that the deal may endanger the security interests of the Federal Republic, they may launch an investigation and require more information. When received, the Federal Ministry of Economic Affairs and Climate Action has four months to decide whether to approve or object to the proposed investment (and in certain circumstances, this can be extended by one-three months). Regardless of these stated deadlines for investigation, the ministry also has the right to open an investigation up to five years after the purchase agreement.

The cross sectoral controls for investment by non-EU/EFTA investors are split into two thresholds, with a third limit requiring no mandatory notification ([Table 1](#)). Investment that would see the acquisition of 10 per cent of voting rights shares in certain sectors, or 20 per cent in a wider range of sectors, trigger this mandatory notification process – which applies to all companies regardless of their product portfolio.⁷⁸ Breaking the 10 or 20 per cent threshold in a company dealing with one of these sectors as a third country investor triggers the same process as the sector specific controls. In all other cases, no mandatory notification is required, though the planned investors may notify the government of the transaction voluntarily. Though the German government does not publicly disclose any information regarding the FDI screening process in detail, it did reveal that the number of screening cases has increased in the last years, from 78 cases in 2018 to 306 in 2021.

⁷⁸ Germany, Federal Ministry of Economic Affairs and Climate Action, *Investment Screening*, 2023.

Table 1: Sectors of the German industry that trigger mandatory notification and review by the cross-sectoral mechanism⁷⁹

Threshold set at 10%	Threshold set at 20%		
Critical infrastructure operators	Satellite operators	Cyber security	Raw materials as described by the EU's critical raw materials list
Software for critical infrastructure, IT or telecommunications	AI technologies	Semiconductors and optoelectronics	Details of employees working in security-sensitive sectors
Telecommunications and surveillance	Automated driving and flying	Specific in vitro diagnostics	Data networks
Cloud computing services, relating to critical infrastructure	Robotics with specialized qualities and abilities (nano and micro)	Air and space carrier industries	Farming over 10,000 hectares
State communication infrastructure	Essential pharmaceuticals	Nuclear technology	Smart meter gateways
Media and news outlets	Certain medical products	Quantum tech	Patent-protected goods
Telematics infrastructure			

Source: Federal Ministry of Economic Affairs and Climate Action of Germany, 2023.⁸⁰

The continuous stream of amendments to both the AWG and AWV reflect not just Germany's constant tightening of FDI scrutiny, but Europe's as well.⁸¹ Though the amendments have facilitated the review of significantly more acquisitions of German targets, the Federal Government has not rested on its laurels and claimed victory over China's investors. Instead, **Germany has incorporated these protection mechanisms as a component of its wider national security strategy**, promoting the **concept of integrated security** within Europe.⁸² This concept refers to the combination of foreign, domestic, and most relevantly, economic concerns. In June 2023, Germany released their National Security Strategy outlining the three pillars that encompass this integrated security:

- Robust Defense: fostering a new strategic culture with commitments to high military spending, aiming for deterrence not disarmament;
- Resilience: reducing economic dependencies on rivals and deterring and defeating cyber-attacks;

⁷⁹ Acquisition of 10% of voting rights shares in companies dealing with sectors listed on the left-hand side row trigger this notification, whilst acquisition of 20% of such shares for the companies dealing with the sectors on the middle and right rows will trigger the same.

⁸⁰ Germany, Federal Ministry of Economic Affairs and Climate Action, *Investment Screening*, 2023.

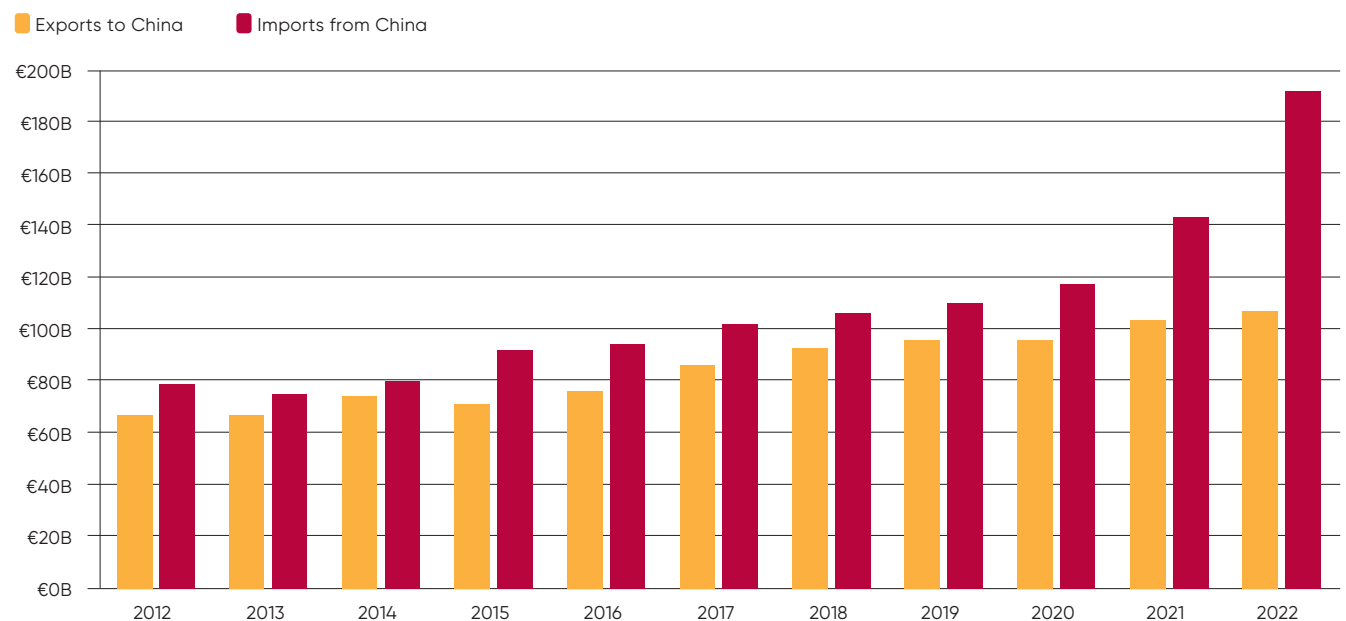
⁸¹ Murach, J.O. and Hille, A., *Germany Tightens Foreign Direct Investment Screening: More Deals Notifiable as of May 2021*, New York: Willkie Farr & Gallagher LLP, 18 May 2021.

⁸² Tran, H., *How Germany's Security Strategy Incorporates Economic Resilience*, Washington DC: The Atlantic Council, 18 September 2023.

- Sustainability: addressing climate change as well as food and energy crises.⁸³

Despite being generally welcomed in Europe, coinciding with the EU's own outline for integrated security through their EESS, combining economic and national security has proven difficult in Germany, and some believe Germany's slow start demonstrates the difficulty in achieving integrated security.⁸⁴ Even more difficult is mobilizing popular support from the general public.⁸⁵ To borrow their example, "Mercedes-Benz Chief Executive Officer Ola Källenius said that abandoning China is unthinkable for German industry – perhaps an understandable statement as China accounts for nearly 40 per cent of the company's total car sales", and he is not alone in this sentiment.⁸⁶ Although this line of argument has been heard frequently in Germany in the last years, both in response to developments with FDI screening mechanisms and the more recent *National Security Strategy*, so far these concerns appear to be excessive.

Figure 2: No Zeithenwende in Trade, German trade with China, 2012–2022



Source: Federal Statistical Office of Germany (Statistisches Bundesamt), 2023.

⁸³ Germany, Federal Government, *National Security Strategy: Robust. Resilient. Sustainable. Integrated Security for Germany*, 5 July 2023; Tran, H., *How Germany's security strategy incorporates economic resilience*, Washington DC: The Atlantic Council, 18 September 2023.

⁸⁴ Tran, H., *How Germany's security strategy incorporates economic resilience*, Washington DC: The Atlantic Council, 18 September 2023.

⁸⁵ Tran, H., *How Germany's security strategy incorporates economic resilience*, Washington DC: The Atlantic Council, 18 September 2023.

⁸⁶ Tran, H., *How Germany's security strategy incorporates economic resilience*, Washington DC: The Atlantic Council, 18 September 2023.

German trade with China has not only appeared to prove unimpeded by the increased FDI screening mechanisms, but has actually increased (*Figure 2*).⁸⁷ Both exports to and imports from China have reached their highest points in a decade, specifically between 2021-2022 with trade increasing by 21 per cent. A report by the Kiel Institute also suggests that Germany is far less dependent on China than the figures suggest, and the latter “is also of only minor importance in the area of end products consumed in Germany”.⁸⁸ There is a very small number of German products that depend directly or indirectly on China, and the vast majority of these needs come from German sources. Though these are positive indicators, more efforts are needed to completely secure supply chains, and completely protect their economy, as per the EESS recommendations.

The hesitancy of the Mercedes-Benz Chief Executive Officer is paralleled amongst the EU Member States more broadly vis á vis the EESS. The more developed and larger economies of the EU, such as Germany, Italy and the Netherlands, have expressed their dissatisfaction with an EU-wide all-embracing de-risking approach on par with the United States.⁸⁹ Among the most vocal of these hesitant states has been **France**. These states have argued that the responsibility for economic security resides not in Brussels, but in Berlin, Rome, the Hague and each Member States respective capital.⁹⁰ It is perhaps unsurprising that France, with its own **FDI screening mechanisms in place since the sixties**, has taken this stance. France’s FDI screening regime is set out in their CMF, and their stated goal is “to protect (France’s) national interests against detrimental foreign takeovers of French companies of strategic importance, which encompasses public order, public safety, and the national defense interests of France” (Article L. 151-3 of the CMF).⁹¹ Also paralleling the contemporary trends, France has recently made increased actions towards integrating such mechanisms as part of their wider national security strategies.

France closely followed behind Germany in the early 2000s by updating their FDI screening mechanisms. Also like Germany, France has continued to develop these mechanisms over the last two decades, **widening the scope of transactions under potential review and the number of industrial sectors considered sensitive**.⁹² Indeed, France even has its own version of the German Kuka case, whereby the government utilized recently updated FDI tools to protect its retail giant Carrefour from takeover by a Canadian company – citing food security.⁹³ The new mechanisms employed to block the

⁸⁷ Tran, H., *How Germany’s Security Strategy Incorporates Economic Resilience*, Washington DC: The Atlantic Council, 18 September 2023.

⁸⁸ Kiel Institute for the World Economy, *German Economy’s Dependence on China: Critical for Individual Products*, 15 February 2023.

⁸⁹ Tran, H., *How Germany’s Security Strategy Incorporates Economic Resilience*, Washington DC: The Atlantic Council, 18 September 2023.

⁹⁰ Leali, G. and Haeck, P., *France Finally Warms Up to the Dutch in Economic Security Push*, Politico, 11 April 2023.

⁹¹ Bian, C., *Foreign Direct Investment Screening and National Security: Reducing Regulatory Hurdles to Investors Through Induced Reciprocity*, The Journal of World Investment & Trade, Volume 22, Issue 4, 16 August 2021, p. 569.

⁹² Bauerle Danzman, S. and Meunier, S., *The Big Screen: Mapping the Diffusion of Foreign Investment Screening Mechanisms*, Rochester: Social Science Research Network, 28 August 2021, p. 4.

⁹³ Leali, G., *France Shields Carrefour from Takeover in Food Security Battle*, Politico, 15 January 2021.

Canadians were enacted in 2019, whereby the French fully adopted the EU's FDI Screening Regulation and amended their own.⁹⁴

France's approach to protecting itself from corrosive capital, as described by the EESS, does offer interesting parallels to their German counterparts in a number of ways. Firstly, and perhaps most notable of all, France does not have the same cause for concern regarding investments from China (or other revisionist states for that manner). Whereas Chinese investment in Germany was rather dominant, the Chinese appeared comparatively uninterested in France – who were not even China's second biggest trading partner in the EU (which was historically the UK, prior to Brexit).⁹⁵ Instead, most of France's foreign investors are generally fellow Western countries: the US, Canada and Switzerland from outside the EU, and Germany, Luxemburg and the UK from within (again, prior to Brexit). Despite this, France maintains its comprehensive FDI screening mechanisms. Pinsent Mason's advisory page on FDI in France separates their mechanisms into two: regulated investments and regulated activities.

According to Article R. 151-2 of the CMF, **foreign investment** will be regarded as regulated under the following circumstances:

- The planned acquisition, directly or indirectly, of a controlling stake as described by Article L. 233-3 of the Code de Commerce; this applies to share capital and voting rights of a company that has registered offices in the country, known as **share deal**.
- The planned acquisition of part or all of a branch of activity (branche d'activité) of a company that has its registered office in France, known as **asset deal**.
- The crossing of the 25 per cent threshold of voting rights shares of a company registered in France – the **threshold crossing**. However, this threshold crossing regulation does not apply to citizens of an EU or European Economic Area (EEA) Member State "that entered into a convention to fight against fraud and to deal with tax avoidance with France and residing in such EU or EEA Member State, or an entity of which all the members of the chain of control, within the meaning of Article R. 151-1 II of the CMF, are governed by the law of an EU or EEA Member State or possess an EU or EEA Member State nationality and are residing in an EU or EEA Member State."⁹⁶ Only citizens from third countries, such as the US or China, are considered foreign investors in this regard.

Furthermore, as described by Article R. 151-7 of the CMF, **FDI controls also do not apply** when:

- the planned investment is between entities that belong to the same group (i.e., entities of which at least 50 per cent of the share capital or the voting rights is directly or indirectly held by the same parent company);

⁹⁴ Bauerle Danzman, S. and Meunier, S., *The Big Screen: Mapping the Diffusion of Foreign Investment Screening Mechanisms*, Rochester: Social Science Research Network, 28 August 2021, p. 4.

⁹⁵ Pinsent Masons, *Foreign Direct Investment in France*, Pinsent Masons Out-Law Guide, 1 March 2022.

⁹⁶ Pinsent Masons, *Foreign Direct Investment in France*, Pinsent Masons Out-Law Guide, 1 March 2022.

- the foreign investor crosses the 25 per cent threshold of a transaction already approved by the Ministry of Economy under the regulation; or
- the foreign investor carries out a share deal on an entity on which it has previously carried out a threshold crossing that was duly authorized by the Ministry of Economy under the regulation, provided that such share deal is notified by the foreign investor to the Ministry of Economy (in that case, unless the Ministry of Economy lodges an objection on that share deal, it shall be deemed to have approved that share deal at the end of a 30-day term as of the notification of that share deal).⁹⁷

Similar to the German FDI screening tools, and indeed those of most other mature economies, France too regulates FDI based on sensitive sectors. These are known as **regulated activities**. According the Article L. 151-3 of the CMF, any proposed investment requires the prior approval of the Ministry of Economy should the plan relate to:

- a public authority activity; or
- activities that are likely to affect public order, public safety or national defense or, activities of research, production or sale of weapons, ammunitions, gunpowder or explosive materials.⁹⁸

Currently, the list of regulated activities includes:

- production or sale of weapons and other military use products;
- gambling activities;
- activities involving the use of pathogens or toxic materials;
- data systems security;
- cryptology activities;
- any means of telecommunication detection and interception;
- private security activities;
- activities by companies holding national defense information (secrets);
- activities by companies who have entered into a study or supply agreement with the French Ministry of Defense;
- public health;
- food security and agricultural produce;
- written and digital press;
- research and development activities, particularly in critical technology

⁹⁷ Pinsent Masons, *Foreign Direct Investment in France*, Pinsent Masons Out-Law Guide, 1 March 2022.

⁹⁸ Pinsent Masons, *Foreign Direct Investment in France*, Pinsent Masons Out-Law Guide, 1 March 2022.

fields (these include energy storage, biotechnologies, AI and renewable energy);

- other activities that are critical to the protection of France's national interests, in relation to: (a) energy supply, (b) water supply; (c) transport networks and services, (d) telecommunications networks; (e) activities deemed vital within the meaning of the French Code de la Défense, and (f) public health protection.⁹⁹

Should an FDI transaction involve one of these listed activities and involve a regulated investment, the Ministry of Economy must be notified and may either accept or reject the proposed investment following a review. They may also impose certain conditions, which may be rejected by the investors and the transaction cancelled. In the event that a transaction meeting the requirements for notification has been completed without compliance or authorization, the Ministry of Economy shall intervene. A fifteen-day notification is provided to the investor requesting an explanation. Following this, the Ministry of Economy may request the investors to amend or undo their investment or comply with certain conditions. As well as the regulated activities list, the French also require prior authorization be granted from the Ministry of Economy to foreign investors proposing to **acquire or sell a company or real estate property whereby the value of the transaction would exceed €15 million**. Investors must notify the Bank of France (*Banque de France*) within twenty days of the completion of the deal, for statistical records.

Should a foreign investor (considered so by their status as a citizen of a state outside the EU or EEA, i.e., a third country) fail to obtain authorization from the Ministry of Economy when required, obtain authorization fraudulently or fail to comply with the Ministry of Economy's conditions, the Ministry of Economy can use a series of penalties, as per Article R. 151-14 of the CMF. The Ministry of Economy may charge a foreign investor the maximum amount of the following, whatever is higher:

- twice the amount of the unauthorized investment;
- 10 per cent of the annual turnover (excluding taxes of the target company);
- €5 million for a legal entity or €1 million for an individual.¹⁰⁰

Moreover, in the event of an investment going ahead without the granting of the Ministry of Economy's authorization, and requests for comment have been ignored following the fifteen-day notice period, the Ministry of Economy has the option to charge the planned investors up to €50,000 a day fine.

France maintains significant degrees of secrecy surrounding their economic security procedures. Moreover, a recent reform (enacted on 1 April 2020) now prohibits comparison between 2019 and 2020 data. What they do reveal is that the main regulated activities were related to: (a) defense and security (31.5 per

⁹⁹ Pinsent Masons, *Foreign Direct Investment in France*, Pinsent Masons Out-Law Guide, 1 March 2022.

¹⁰⁰ Pinsent Masons, *Foreign Direct Investment in France*, Pinsent Masons Out-Law Guide, 1 March 2022.

cent); (b) sectors other than defense (50.5 per cent); and (c) a mix of the two (18 per cent).

In addition to that, the **French economy does not appear significantly impacted by the adoption of such increased protectionist measures**. France's economy actually saw their strongest growth in over half a century in 2021, at seven per cent.¹⁰¹ Other commentators have explicitly stated that Macron's continued job security is solely due to France's economic security.

Accompanying the EU's three Ps was a proposal to carry out a thorough assessment of risks associated to economic security. These risks were also listed as some of the reasoning behind the focus on integrated security in the form of the EESS. The risks are as follows:

- risks to the resilience of supply chains, including energy security;
- risks to physical and cyber security of critical infrastructure;
- risks related to technology security and technology leakage; and
- risks of weaponization of economic dependencies or economic coercion.¹⁰²

Following a brief reading of this list, and even a quick scan of the French mechanisms to protect their economy, one may begin to understand why the French had previously vocalized their beliefs that power of economic protection should remain in Paris (and other respective national capitals). In a speech in the Hague a week after meeting with Mark Rutte in April 2023, the French President conceded that **threats to the economic security of the EU are increasing** and urged **cooperation and coordination with other G7 economies**.¹⁰³ He also stated his intentions to try and define a comprehensive economic security doctrine for the EU. This speech marked a significant change of hearts for Paris, who previously denounced attempts from Brussels to unify Europe's FDI screening.¹⁰⁴ Thus, as signified by this speech, France too has come to realize the benefits of an integrated security strategy. An integrated country strategy report by the United States Department of State sums up France's current thinking vis-à-vis economic security well: "While the conflict in Ukraine has placed an emphasis on our common economic values as we work together to stabilize markets, France itself has at times promoted market protective measures in the name of greater European economic sovereignty, particularly in the digital sector. Nonetheless, France is a valuable partner in addressing global supply chain disruptions and seeks to collaborate with the United States to ensure firms are treated on equal footing".¹⁰⁵

¹⁰¹ Thomas, L., *French 2021 Economic Growth Strongest in 52 years at 7 per cent*, Reuters, 28 January 2022.

¹⁰² European Commission, *President von der Leyen Presents the European Economic Security Strategy and the Revised Multiannual EU Budget*, press release, 20 June 2023.

¹⁰³ Leali, G. and Haeck, P., *France Finally Warms Up to the Dutch in Economic Security Push*, Politico, 11 April 2023.

¹⁰⁴ Macron, E., *Speech at the Nexus Institute, The Hague*, 11 April 2023.

¹⁰⁵ United States, Department of State, *Integrated Country Strategy: France*, 1 June 2022, p. 2.

As one of the most FDI friendly states in the world, and one with an extremely interconnected economy, it is no surprise that the **Netherlands** have also been leaders on the concept of integrated security, and have long been aware of the risks described by the European Commission. The connection between economic security and broader national security has received serious attention in the Netherlands since their National Security Strategy of 2007. This was elaborated in 2013 with their International Security Strategy, which “emphasized the interconnectedness of the Dutch economy with internal and external threats (including EU and global threats) and risks, and the potentially large impact of economic events on the country’s stability, welfare and security”.¹⁰⁶ In their *Integrated International Security Strategy 2018-2022* of March 2018, the government further stressed the increased international interdependencies within Dutch national security. In this same year, the Dutch listed threats to vital economic process as one of the six most pressing threats to the country.

The Dutch, similar to their French and German neighbors, also have a **comprehensive screening mechanism for foreign direct investments**. In fact, they appear to have taken significant inspiration for their screening models from these two countries. They have also fully implemented the EU’s *FDI Screening Regulation*.¹⁰⁷

In June 2023, the Netherlands enacted the *Investments, Mergers and Acquisitions Security Screening Act*, commonly known as the *Vifo Act*, which updated their national screening mechanism and established a dedicated screening agency – the Bureau Toetsing Investeren (Investment Review Office, BTI). The BTI, a cross-sectoral screening regime, acts in a similar manner to France’s CMF and Germany’s AWG/AWV. Companies that operate in specific sectors, such as those that handle sensitive technology or who carry out processes vital to society, must report changes in the company’s structure to the BTI. As the website of the Dutch government states: “A security check is mandatory for investments, mergers, and acquisitions that may pose a risk to national security. This security check will be in place for two types of companies in the Netherlands: (1) suppliers of critical processes, and (2) companies that have sensitive technologies”.¹⁰⁸

Following notification, the BTI will assess the risk posed to national security interests of the Netherlands by the planned acquisition, and if “such a risk is detected, the BTI may set conditions for the investment or even prohibit the investment”.¹⁰⁹ The term critical process has developed into a form of buzzword in the Netherlands since the early 2000s, replacing risks posed to critical

¹⁰⁶ Retter, L., Frinking, E.J., Hoorens, S., Lynch, A., Nederveen, F. and Phillips, W.D., *Relationships Between the Economy and National Security: Analysis and Considerations for Economic Security Policy in the Netherlands*, Santa Monica: RAND Corporation, 2020.

¹⁰⁷ For a comprehensive review of the development of Dutch investment screening protocols, see Retter, L., Frinking, E.J., Hoorens, S., Lynch, A., Nederveen, F. and Phillips, W.D., *Relationships Between the Economy and National Security: Analysis and Considerations for Economic Security Policy in the Netherlands*, Santa Monica: RAND Corporation, 2020.

¹⁰⁸ The Netherlands, Netherlands Enterprise Agency, *Government Checks Investments That Might Pose a Risk to National Security*, June 2023.

¹⁰⁹ The Netherlands, Netherlands Enterprise Agency, *Government Checks Investments That Might Pose a Risk to National Security*, June 2023.

infrastructure as the popular terminology.¹¹⁰ Critical processes are defined as “those processes that could result in severe social disruption in the event of their failure or disruption. Such processes may include production processes of specific products that are vital to society (for example agricultural products or certain chemicals), the distribution of commodities (for example electricity or drinking water) or the provision of vital services (for example healthcare or emergency services). But they may also include more fundamental processes that are vital for the orderly functioning of society, such as public decision-making or democratic processes (for example elections)”.¹¹¹

Similar to the French model, failure to notify the BTI may also result in a significant fine (€900,000), and the BTI may block transactions on the grounds of threats to the public interest (this is also triggered when an acquisition of voting rights shares passed a threshold of 30 per cent). The BTI also has a time limitation for deciding to open investigations into foreign acquisitions, but has the right to stop the clock in case of requiring more formal investigations. Where this differs from the French and German models, however, is that these laws apply to all investors – regardless of the nationality. In this vein, the Dutch **generally refer to direct investment as opposed to FDI, as domestic investment is treated the same**. This *Vifo Act* mechanism operates in cooperation with a *Telecommunications Act* which comprehensively addresses foreign investments in media and telecom companies. This mechanism is triggered with the acquisition of 30 per cent or more of controlling shares.

The Netherlands have long been at the forefront of Europe in their understanding of integrated security.¹¹² This is evident in their most recent *Security Strategy*, which makes reference to integrated security around thirty times in almost as many pages.¹¹³ The document immediately recognizes the “various socio-economic and demographic factors can affect the extent to which everyone in society is actually capable of resisting threats and displaying resilience”, and demonstrated its continued commitment to economic security as one of the three key national security interests.¹¹⁴

¹¹⁰ Retter, L., Frinking, E.J., Hoorens, S., Lynch, A., Nederveen, F. and Phillips, W.D., *Relationships Between the Economy and National Security: Analysis and Considerations for Economic Security Policy in the Netherlands*, Santa Monica: RAND Corporation, 2020.

¹¹¹ Retter, L., Frinking, E.J., Hoorens, S., Lynch, A., Nederveen, F. and Phillips, W.D., *Relationships Between the Economy and National Security: Analysis and Considerations for Economic Security Policy in the Netherlands*, Santa Monica: RAND Corporation, 2020, p. 4.

¹¹² Retter, L., Frinking, E.J., Hoorens, S., Lynch, A., Nederveen, F. and Phillips, W.D., *Relationships Between the Economy and National Security: Analysis and Considerations for Economic Security Policy in the Netherlands*, Santa Monica: RAND Corporation, 2020.

¹¹³ The Netherlands, Government of the Netherlands, *Security Strategy for the Kingdom of the Netherlands*, 3 April 2023.

¹¹⁴ The Netherlands, Government of the Netherlands, *Security Strategy for the Kingdom of the Netherlands*, 3 April 2023, p. 5.

Figure 3: Main components of the Dutch security strategy



Source: Government of the Kingdom of the Netherlands, 2023.¹¹⁵

The importance of integrated security to the Netherlands is clearly visible (*Figure 3*). In the center lay the **six key national security interests** – of which **economic security is one**. On the outer rim lies the threats to national security. These threats are perhaps more telling of all as to the Netherlands focus on economic protection measures as part of a wider national security strategy. Several of these threats: economic threats, threat to critical infrastructure, cyber threats, unwanted foreign influence and interference, and even organized subversive crime can be said to strongly relate to the EU's risk list of economic security.¹¹⁶

Another EU country that has benefitted greatly from foreign direct investment is the **Republic of Ireland**. Yet in contrast to the other states described thus far in this section, Ireland had no FDI screening mechanism in place

¹¹⁵ The Netherlands, Government of the Netherlands, *The Security Strategy in Short*, 3 April 2023, p. 8.

¹¹⁶ European Commission, *President von der Leyen Presents the European Economic Security Strategy and the Revised Multiannual EU Budget*, press release, 20 June 2023.

prior to the EU's *FDI Screening Regulation*.¹¹⁷ Quite the opposite, in fact, as the Irish government's budget for 2022 actually contained "some exciting initiatives for boosting FDI" whilst their Industrial Development Agency's 2021-2022 strategic plan outlines its aims to increase FDI in the Emerald Isle's more rural locations – as opposed to attempting to control FDI like much of Europe. However, Ireland has slowly began to take their own economic security seriously.

Through the *Screening of Third Country Transactions Bill* Ireland gave full effect to the EU's *FDI Screening Regulation*. As the name suggests, the bill is primarily aimed at regulating foreign investment from third countries (outside the EU/EEA), for the first time. Ireland has now even gone beyond the recommendations outlined in the EU's *FDI Screening Regulation*, and has since **implemented a number of amendments widening the scope of transactions reviewed**. The bill now covers all transactions which result in a change in control or all or part of interests of companies that operate in Ireland. Similar to the other EU countries described above, there are a number of circumstances in which notification to the Minister for Enterprise, Trade and Employment becomes mandatory:

- A third-country investor or someone with significant connections to such: (1) acquires control of a state asset; (2) changes the percentage of shares or voting rights it holds with an undertaking in the state from: (a) 25 per cent or less to more than 25 per cent; or (b) 50 per cent or less to more than 50 per cent. The bill provides that an undertaking shall be regarded as being in the State where it is constituted or otherwise governed by the laws of the State, or has its principal place of business in the State.
- The proposed transaction relates to or impacts one or more relevant matters. These relevant matters are similar to the sensitive sectors described in German or French FDI mechanism provisions and Article 4(1) of the EU's *FDI Screening Regulation*. Irelands include: (a) critical infrastructure, including energy, transport, water, health, communications, media, data processing or storage, aerospace, defense, electoral or financial infrastructure and sensitive facilities, including the land/real estate used crucial for the use of such infrastructure; (b) critical technologies and dual use items, including AI, robotics, semiconductors, cybersecurity, aerospace, defense, energy storage, quantum and nuclear technologies, nanotechnologies and biotechnologies; (c) supply of critical inputs, including energy or raw materials, as well as food security; (d) access to sensitive information, including personal data or the ability to control such information; and (e) the freedom and pluralism of the media.
- The proposed transaction is worth more than the limits set by the Minister for Enterprise, Trade and Employment. A €2 million limit is set in the absence of specification for one natural person or corporate body over a period of twelve months. This is aimed at combatting several smaller transactions amounting to the €2 million limit over a longer period.¹¹⁸

¹¹⁷ Bauerle Danzman, S. and Meunier, S., *The Big Screen: Mapping the Diffusion of Foreign Investment Screening Mechanisms*, Rochester: Social Science Research Network, 28 August 2021.

¹¹⁸ Arthur Cox LLP, *An Overview of the Proposed Foreign Investment Screening Regime in Ireland*, 23 March 2023.

Even if a proposed transaction by a foreign investor does not meet the criteria triggering an automatic notification, the Minister for Enterprise, Trade and Employment has the right to call-in **transactions for review if they feel the transaction may affect Ireland's national security interests**. The minister has this right to review up to 15 months following the completion of the transaction where notification is not automatically required, or up to five years for transactions that are notifiable. For transactions that meet these criteria for requiring notification, the Minister for Enterprise, Trade and Employment must be notified at least ten days prior to the completion of the transaction. Additionally, the notification of the transaction must include the following details:

- details of the parties;
- the ownership structure of the parties to the transaction, including information on persons participating in the capital of the undertaking, the names of the natural persons who own the parties (in the case of bodies corporate) and persons exercising control over the parties;
- details of the transaction, including projected date, approximate value, funding and source of funds;
- information on the products, services and business operations of the parties to the transaction;
- the nature of the economic activities carried out in Ireland by the parties to the transaction and the EU Member States where the parties carry out economic activities;
- the state or territory under whose laws the parties are constituted, registered, or otherwise organized;
- the annual turnover and total number of employees of each party; and
- details of any sanctions or restrictive financial measures imposed on the parties by the EU.¹¹⁹

Should the parties fail to notify in this timeframe, the transaction may be deemed as being the subject of a negative screening decision, and is considered a criminal offence. Thus, the parties may be subject to penalties. **Failure to comply with the provisions of the Bill may result in fines of up to €4 million and/or a term of imprisonment of up to five years**. Though Ireland has now begun to implement basic measures at protecting its national economy, moving slowly towards a comprehensive integrated security strategy, it took the Emerald Isle's policy-makers too long to consider the "national security risks when they transformed the Irish economy into a high-value node in semiconductor production, the platform economy and financial services" – three of the most vigorously disputed economic battleground sectors in today's

¹¹⁹ Arthur Cox LLP, *An Overview of the Proposed Foreign Investment Screening Regime in Ireland*, 23 March 2023.

climate.¹²⁰ Ireland's economic reliance on these sectors, coupled with their gross neglect of their armed services, have led revisionist states to identify Ireland as the weak link in the Euro-Atlantic security apparatus.¹²¹

Ireland is waking up to the risks posed by coercive capital. Attempts have been made to highlight the state's vulnerabilities with the public, and the Taoiseach recently stated his belief that Ireland needed to learn from "other European and international partners" on their cross-government institutions for security.¹²² The Taoiseach also acknowledged the **changing nature of security** and the **need for a strategy integrating economic, cyber and conventional threats**. However, as demonstrated by the debates surrounding the Consultative Forums held in Ireland during the summer of 2023, the Irish public view any attempts to discuss security as violations of their neutral identity. The forums were largely aimed at building deeper understanding of the threats faced by the State, and the links to, and between, its foreign, security and defense policy with the Irish public.¹²³ A comprehensive security strategy, incorporating economic security, has yet to be forthcoming. It has been missing in action, lost in the works for four years now.¹²⁴ It is a positive sign that Ireland's policy-makers are "most certainly thinking about these problems, but they do not have the resources or the institutions that they need to fit them into a coherent long-term strategy for economic security".¹²⁵

An alternative approach both to engaging the public and to security in general was chosen by the **Czech Republic**. Czechia offers a useful illustrative case, and particularly its contrast to Ireland. Both EU Member States have highly-developed economies specializing in high-tech, service and agricultural industries, and both introduced FDI screening mechanisms following the EU's *FDI Screening Regulation* in an effort to protect their national economies. However, the Czech Republic's approach to security significantly differs from Ireland. Czechia is acutely aware of **the risks posed by Russia**, and the many different forms these risks come in. Czechia is also of **great interest to investors from Russia and Belorussia**. Informed by their history and geopolitical location, Czechia cannot be as complacent when it comes to their security – who have benefitted from their location on the European periphery shielded by a larger neighbor.¹²⁶ As stated in the *Security Strategy of the Czech Republic*, "Russia acts deliberately against Czechia's political, economic, and social stability. It poses a fundamental threat to our security [...] Czechia must

¹²⁰ Farrell, H., *American Influence: Ireland Must Focus on Economic Security as Arena of Vulnerability*, The Irish Times, 2 September 2023.

¹²¹ Landsbergis, G., *Europe Must Confront Russia's Imperialist Creep*, Washington DC: Centre for European Policy Analysis, 23 June 2021; McNamara, E.M., *Ireland, NATO and "the Return of Geopolitics" in Europe*, in: Carroll, J., O'Neill, M.G., Williams, M. (Eds.), *The EU, Irish Defence Forces and Contemporary Security*, Palgrave Macmillan, Cham, p. 374; Tonra, B., *Security, Defence and Neutrality: The Irish Dilemma*, in: Tonra, B., Kennedy, M., Doyle, J. and Dorr, N., (Eds.), *Irish Foreign Policy* (pp. 221-241), Dublin: Gill and MacMillan, April 2012.

¹²² Varadkar, L., *Departmental Strategies: Dáil Éireann debate*, Dáil Éireann, 28 April 2023.

¹²³ Ireland, Department of Foreign Affairs, *Terms of Reference: Consultative Forum on International Security Policy June 2023*, 30 May 2023.

¹²⁴ O'Connor, N., *Missing in Action: Ireland's National Security Strategy Has Been in the Works Since 2019*, The Journal, 12 August 2023.

¹²⁵ Farrell, H., *American Influence: Ireland Must Focus on Economic Security as Arena of Vulnerability*, The Irish Times, 2 September 2023.

¹²⁶ Tonra, B., *The Europeanisation of National Foreign Policy: Dutch, Danish and Irish Foreign Policy in the European Union*, New York: Routledge, 2001, p. 105.

be able to withstand hostile influences in the cyber, information, economic, and intelligence spheres”.¹²⁷

As Czech Prime Minister Petr Fiala acknowledges, their **national security strategy is rather unique in that it names the sources of the threats**, similar to Germany’s concerns regarding China. However, it is not just Russia that the Czech Republic voices concerns about, as “China calls into question the international order [...] Russia and China share the same interest – to weaken the influence and unity of democratic countries. This systemic competition is of a long-term nature”.¹²⁸

The Czech Republic is an export-orientated market economy, and is **ranked first in central and eastern European countries in terms of FDI stock** and per capita inflow. The Czech Republic introduced its new FDI screening mechanism, in line with the EU’s *FDI Screening Regulation*, through the *Foreign Investments Screening Act (Act No. 34/2021 Coll.)*. The act, coming into effect 1 May 2021, was one of many tools Czechia adopted to protect its national economy. It is also similar to the Dutch and Irish mechanisms that stem from the EU’s *FDI Screening Regulation*. The authority to pass or block proposed investments lays with the Ministry of Industry and Trade, who must be notified in advance of certain acquisitions. The particular acquisitions of concern are from foreign investors (from outside the EU) who aim to gain effective control of a Czech target (acquisition of a stake of at least 10 per cent of voting rights in the target). Mandatory notification and approval are required in the following specified industries:

- manufacturing, research or development of management of military equipment;
- critical infrastructure, such as energy, gas, heat, water, food, healthcare, transportation, emergency services, financial markets and public administration;
- critical information infrastructure and cybersecurity; and
- development and production of dual-use products software and technology.¹²⁹

Mandatory notification is also required when proposed investments involve the acquisition of control of print, television or radio media. Similar to the Irish model, the Ministry of Industry and Trade must receive the details within a given time frame, and holds the right to issue penalties if not. They may also block transactions should they threaten Czech national security interests. In the twelve months following the implementation of the act, the Ministry of Industry and Trade revealed that it had dealt with 389 notifications from foreign investors, though none of these transactions were rejected.

¹²⁷ Czech Republic, Government of the Czech Republic, *Security Strategy of the Czech Republic*, 29 June 2023, p. 6.

¹²⁸ Czech Republic, Government of the Czech Republic, *Security Strategy of the Czech Republic*, 29 June 2023, p. 6.

¹²⁹ Dubecká, D. and Bereš, J., *Czech Republic FDI Screening Rules: Their Implementation and Evolving Practice*, London: International Bar Association, 31 March 2022.

The incorporation of this FDI mechanism into the wider national security strategy is illustrative of Czechia's approach to integrated security. In the case of a notification prompting investigation, the Ministry of Industry and Trade collects all relevant information and forwards it to other departments with vested interests in the national security strategy, such as the Police, Ministry of Defense, Ministry of Foreign Affairs, Ministry of the Interior, Czech National Bank, or the intelligence service to obtain their opinions. Only if all these parties conclude that the transaction poses no threat to Czech national interests is the transaction approved.¹³⁰

Though the Czech government realizes that “one of the crucial tools is a mechanism for screening foreign investors who want to invest in our strategic industries”, it is just one of many tools.¹³¹ The Czech Republic also recognizes the **importance of the construction and operation of new energy sources and reducing the dependencies of unsecure suppliers needed for critical infrastructure** as a component to energy security. Unsurprisingly, in the present geopolitical climate, particular attention is given to ensuring safe and affordable supplies of oil, gas and other relevant commodities. In a rare veiled criticism of Russia (they are mostly frank regarding their threats), the Czech government states the need to “avoid situations where a dominant supplier has the opportunity to gain direct leverage over our economy [...] just by hiking up the prices of important energy feedstock, even if the supply itself remains physically secure”.¹³² To avoid such situations, the Czech government states the other tools at their disposal that best guarantee their economic security, and thus their national security, are free trade agreements and alternative arrangements for trade with credible partners. These shall be discussed further below. Following the introduction of these measures aimed at protecting their domestic economies from economic risks, foreign investment in the Czech Republic did decrease between 2021-2022, by a significant 38.3 per cent.¹³³ However, these losses are expected to stem more from the Covid-19 pandemic and Russia's war rather than the implementation of their screening mechanisms. Their total inflow of FDI remains among the highest in Central Europe.

In the **United Kingdom**, the *National Security and Investment Act (NSIA)* came into force on the 4 January 2022, which was labelled as biggest shake-up of the UK's national security regime for 20 years by the government.¹³⁴ Though the UK's ministers had the ability to intervene in certain foreign-led takeover proposals under the *Enterprise Act 2002*, the NSIA greatly expanded these powers, creating a **separate legal framework for investment screening** and an **Investment Security Unit** to review proposed transactions and replace

¹³⁰ Dubecká, D. and Bereš, J., *Czech Republic FDI Screening Rules: Their Implementation and Evolving Practice*, London: International Bar Association, 31 March 2022.

¹³¹ Czech Republic, *Government of the Czech Republic, Security Strategy of the Czech Republic*, 29 June 2023, p. 23.

¹³² Czech Republic, *Government of the Czech Republic, Security Strategy of the Czech Republic*, 29 June 2023, p. 24.

¹³³ Lloyds Bank, *Foreign Direct Investment (FDI) in the Czech Republic*, 2023.

¹³⁴ Davis, R., *UK Government Extends Powers to Intervene in Foreign Takeovers*, The Guardian, 4 January 2022.

the Competition and Market Authority.¹³⁵ As the name of the Act suggests, the mechanisms adopted are primarily aimed at protecting the UK's national security, starting with its economy. The Investment Security Unit will prevent:

- interruption to goods and services on which the government or designated firms rely for core national security or military functions;
- interruption to critical national infrastructure or related supply chains of strategically important goods or services;
- prevention of adversaries from building their operational capabilities by acquiring sensitive technology or know-how from the UK.¹³⁶

Perhaps unsurprisingly, as a member of the EU until recently, Britain's NSIA shares several similarities with the screening mechanisms of other EU countries. Firstly, the act identifies 17 sectors of the economy deemed relevant to the UK's national security interests:

- advanced materials;
- critical suppliers to government;
- quantum technologies;
- advanced robotics;
- cryptographic authentication;
- satellite and space technologies;
- artificial intelligence;
- data infrastructure;
- suppliers to the emergency services;
- civil nuclear;
- defense;
- synthetic biology;
- communications;
- energy;
- transport;
- computing hardware; and

¹³⁵ Blanquart, J. and Whitten, R., *CFIUK: The United Kingdom Introduces a New Mechanism for Foreign Direct Investment Screening*, The National Law Review, 16 December 2020.

¹³⁶ United Kingdom, His Majesty's Government, *Integrated Review Refresh 2023: Responding to a More Contested and Volatile World*, 13 March 2023, p. 29.

- military and dual-use technologies.¹³⁷

Should the target company of an investor lay in one of these sectors, the investor must submit an electronic notification to the Investment Security Unit at the Department for Business, Energy and Industrial Strategy when certain trigger points are crossed. When acquisitions would take investors over the thresholds of 25, 50 and 75 per cent of shareholdings, voting rights or shares in capital or profits of companies that operate in the above sectors, the transactions are subject to notification. Once notification has been submitted, the Investment Security Unit has thirty days to confirm whether an enhanced investigation will be conducted by the government – and deals are considered suspended until approved. The government has a further thirty days to conduct this investigation, which may be extended by a further forty-five.¹³⁸ They may also coordinate their review with the Ministry of Defense. According to the Department for Business, Energy and Industrial Strategy, the **transactions most likely to be subject to a call-in notice** by the Secretary of State are those that:

- present risks in a sensitive sector of the economy (**target risk**),
- concern acquirer links and allegiances that are hostile to the UK (**acquirer risk**); and
- may increase control of a target business, such that there is greater risk of it being used to harm national security (**control risk**).¹³⁹

Following a call-in notice, the Secretary of State has the authority under the NSIA to impose conditions or block transactions altogether should they impact the national security interests of the UK. The Secretary of State will take the following into account when making their decision:

- disruptive or destructive actions: the ability to corrupt processes or systems;
- espionage: the ability to have unauthorized access to sensitive information; or
- inappropriate leverage: the ability to exploit an investment to influence the UK.¹⁴⁰

The Secretary of State can call-in transactions retroactively, both pre-closing and for six months post-closing of a transaction (or up to five years after closing if the Department for Business, Energy and Industrial Strategy

¹³⁷ Blanquart, J. and Whitten, R., *CFIUK: The United Kingdom Introduces a New Mechanism for Foreign Direct Investment Screening*, The National Law Review, 16 December 2020.

¹³⁸ Blanquart, J. and Whitten, R., *CFIUK: The United Kingdom Introduces a New Mechanism for Foreign Direct Investment Screening*, The National Law Review, 16 December 2020.

¹³⁹ Evans, S., Gardner, M., Thompson, M. and Higgins, D., *The UK's New Foreign Investment Screening Regime — What Dealmakers Need to Know*, Chicago: Kirkland & Ellis, 11 November 2021.

¹⁴⁰ Blanquart, J. and Whitten, R., *CFIUK: The United Kingdom Introduces a New Mechanism for Foreign Direct Investment Screening*, The National Law Review, 16 December 2020.

remains unaware of a transaction closing).¹⁴¹ The NSIA also grants the Department for Business, Energy and Industrial Strategy the power to issue call-in notices back to transactions completed in between the period since the bill was introduced to parliament and when it was enacted. The UK's NSIA facilitates the issuing of strict penalties for failure to comply. The penalty for the completion of a notifiable transaction is punishable by up to five years in prison as well as fines up to £10 million or 5 per cent of their total global turnover – whichever is higher.¹⁴² The NSIA is non-discriminatory, and applies to investors whatever their nationality. It is not aimed at tackling inbound foreign investment necessarily, but all transactions with the potential to hurt the UK's national security. UK-based investors are also required to notify.

Yet the implementation of the UK's NSIA represents just one mechanism they have adopted aimed at protecting their national security. PM Sunak made clear his priorities at the G7 summit over in May 2023: "China is engaged in a concerted and strategic economic contest. And when Russia weaponized Europe's energy supplies, it was a sign of what can happen when we rely too much on states who do not share our values [...] Our collective economic security matters now more than ever. By working together and avoiding competition between friends, we can lift our prosperity, innovate faster and out-compete autocratic states".¹⁴³

UK's national security strategy is complimented by several individual security strategies, such as the: *Critical Minerals Strategy*, a new *Semiconductor Strategy*, an *Economic Deterrence Initiative*, and the *Defense and Security Industrial Strategy (DSIS)*, for example.¹⁴⁴ The UK has one of the world's most developed integrated security strategies, in which economic security plays a significant part. The UK has recently launched their National Protective Security Authority, which operates under the opuses of MI5 and aims to provide expert advice to business, academics and other parties in order to bolster domestic economic security.¹⁴⁵ To further strengthen their economy, the UK is devoted to protecting their key supply chains and ensure security of supply. The Ministry of Defense will "continue to prioritize the mapping of its most critical supply chains [...] (and) will be aligned with the cross-government work on critical supply chains which is currently underway".¹⁴⁶ Furthermore, the DSIS also states that the Ministry of Defense will offer further guidance as well as investment fundings to businesses through their Access to Mentoring and Finance scheme. To complement their NSIA, the UK government's Ministry of Defense piloted a program aimed at increasing collaboration between the government and industries involved in classified

¹⁴¹ Evans, S., Gardner, M., Thompson, M. and Higgins, D., *The UK's New Foreign Investment Screening Regime — What Dealmakers Need to Know*, Chicago: Kirkland & Ellis, 11 November 2021.

¹⁴² Evans, S., Gardner, M., Thompson, M. and Higgins, D., *The UK's New Foreign Investment Screening Regime — What Dealmakers Need to Know*, Chicago: Kirkland & Ellis, 11 November 2021.

¹⁴³ United Kingdom, The Prime Minister's Office, *PM to Rally G7 on Protecting Economy from State Threats*, press release, 19 May 2023.

¹⁴⁴ United Kingdom, His Majesty's Government, *Integrated Review Refresh 2023: Responding to a More Contested and Volatile World*, 13 March 2023, p. 29.

¹⁴⁵ United Kingdom, The Prime Minister's Office, *PM to Rally G7 on Protecting Economy from State Threats*, press release, 19 May 2023.

¹⁴⁶ United Kingdom, His Majesty's Government, *Defence and Security Industrial Strategy*, 23 March 2021, p. 48.

research and development and the UK's intellectual property towards safeguarding them from external malign activity and influence. This would involve: "introducing a personnel security assurance process to be applied to defense supply chains – making sure companies have got the right policies and systems in place to spot warning signs and provide support to staff to avoid security breaches". It would be delivered under an expanded Cabinet Office-led *Transforming Government Security Program*.¹⁴⁷

Aware of the impact of Brexit on their industrial base, the DSIS also outlines the government's efforts to bridge this skill gap in a number of key sectors. Unusually for most countries, the UK governments efforts to bridge a STEM skills gap is coordinated in tandem with the Ministry of Defense. However, this speaks volumes as to how serious the UK has taken economic security in recent years.

As stated in the DSIS, the **shortages in some domestic industries** (in the defense and security sectors), from marine engineers to analysts in cyber security, have now become a **matter of national security**. The government has stated its intentions to communicate with industry leaders to identify areas with particular gaps, and "work together to identify gaps and tackle these skills challenges". The focus described here also mirrors the focus of the US's *Endless Frontier Act*, aimed at promoting the United States' high-tech industry sector. Some examples of the UK's approaches are:

- Ministry of Defense support to nuclear skills and innovation development, including the British Aerospace Systems Submarine Academy for Skills and Knowledge at Barrow-in-Furness;
- As part of *Tempest*, a dedicated STEM engagement team to inspire young people to be involved in the combat air industry; working closely with the Department for Business, Energy and Industrial Strategy, the Ministry of Defense has also launched a skills index to monitor the health of industrial and government skills critical to the delivery of future combat air systems;
- Department for Transport led analysis of skills for maritime;
- *Tomorrow's Engineer Code*, a commitment to work toward common goals to increase the diversity and number of young people entering engineering careers.¹⁴⁸

These efforts to increase the available work force for key industrial sectors are further supported by the *Enterprise Approach* project, which assists in promoting collaboration with industry across the Ministry of Defense, the *Pan-Defense Skills Framework*, which makes it easier for people to move between government and industry, and the *Engineering Skills Re-deployment Trial* (a part of the *Enterprise Approach*), which will involve "working with the aerospace industry to re-deploy skilled resources during the current economic

¹⁴⁷ United Kingdom, His Majesty's Government, *Defence and Security Industrial Strategy*, 23 March 2021, p. 49.

¹⁴⁸ United Kingdom, His Majesty's Government, *Defence and Security Industrial Strategy*, 23 March 2021, pp. 50-51.

downturn”.¹⁴⁹ Through the Defense Suppliers Forum, the Ministry of Defense also aims to tackle this skills shortage through developing existing activities, such as:

- Exploring the feasibility of a Defense Skills Passport, to enable free movement of skilled people across the enterprise in support of the wider *Enterprise Approach* goals;
- Engagement with universities and industry, including through Industry Advisory Boards, to ensure that the Ministry of Defense and the defense sector are working collaboratively to set a clear demand signal to academia around future skills needs;
- Supporting the *Women in Defense Charter*, with a commitment to a more gender balanced workforce to ensure we can make the most of the widest possible pool of skills and talent.¹⁵⁰

The *Security and Resilience Growth Partnership* also provides a dedicated workstream mixed with representatives from the government and the private security sector to develop the “current level of outreach and communication on security-related skills to the education system and identify initiatives”, that could be furthered. Outreach is another tool used to promote people into subjects relevant to defense and security, whilst the *Defense STEM and Youth Engagement Strategy* sends STEM-based volunteers to major industry skills events to gain traction with the youth.¹⁵¹ However, in the very next page of the DSIS, the government links these developments to the *Levelling Up* initiative, controversial for its lack of plans on how to actually deliver on their targets. It should be noted that Sunak’s willingness to axe such plans are the talk of many commentators in British news following his decision to cut the High Speed 2 leg to Manchester.¹⁵² Mr. Sunak also recently announced his intentions to significantly reduce the amount of civil service workers, who had already expressed concern regarding the increase of paperwork involved with NSIA.¹⁵³

As the DSIS reminds us, all these strategies and plans are aimed at complimenting the NSIA. A range of other mechanisms are geared towards achieving the greater goal of national security, starting with economic security. The Defense and Security Accelerator is a cross-government defense and security organization that seeks to first find, and then fund, innovation that would support the UK’s defense and security. This mechanism would assist its implementation into the security strategy quickly and effectively. According to the DSIS, the accelerator funded £130 million towards industry and academia projects between 2017-2021. The Defense Suppliers Forum

¹⁴⁹ United Kingdom, His Majesty’s Government, *Integrated Review Refresh 2023: Responding to a More Contested and Volatile World*, 13 March 2023, p. 50.

¹⁵⁰ United Kingdom, His Majesty’s Government, *Defence and Security Industrial Strategy*, 23 March 2021, p. 51.

¹⁵¹ United Kingdom, His Majesty’s Government, *Defence and Security Industrial Strategy*, 23 March 2021, p. 51.

¹⁵² Beckett, A., *Dogmatic, Desperate and Out of Ideas: Manchester was the Tories’ Last Hurrah*, The Guardian, 6 October 2023.

¹⁵³ The Guardian, *Tory Survival Plan Revealed: ‘We’re Losing and Messing it All Up. Let’s Attack the Civil Service’*, 4 October 2023.

Capability Management, International and Innovation working group performs a similar function, deepening understanding between the Ministry of Defense and industry regarding the UK's future capabilities for defense, future risks and how to develop innovation process to counter such risks. The National Security Technology and Innovation Exchange was established in 2020 with the goal of fueling a science, technology and innovation partnership across government branches, coordinating investment activities towards the achievement of national security science and technology outcomes. Their core functions include:

- strategic analysis of the national security community's R&D portfolio and capabilities;
- coordination of complementary plans and capabilities to facilitate partnerships on common areas of interest; and
- incentivizing co-creation and collaboration to drive development of new technologies and solutions.¹⁵⁴

The government's National Security Strategic Investment Fund enables national security departments to access dual-use technologies through equity funding. The Defense Suppliers Forum has provided the Ministry of Defense with the opportunity to pilot new Regional Defense and Security Clusters, which will also assist in collaboration, sharing of ideas and the development of innovative regional industrial capabilities. More recently, the UK also outlined its plans to grow its semiconductor industry through their *National Semiconductor Strategy* of 2023. As they state, these semiconductors are a vital component in all electrical devices, including those necessary for national security such as AI and telecommunications. Through this strategy, the UK outlined its plan to be in a world leading position in the semiconductor industry in the next twenty years, thus securing its own critical supply chain. As the state, the strategy has three main objectives:

- growing the domestic sector;
- mitigating the risk of supply chain disruptions; and
- protecting national security.¹⁵⁵

From these bullet points alone, one may see resemblance to the EU's 3Ps. Indeed, for the UK, their national security clearly starts with their strong economy and promoting its competitiveness. The UK has gone far beyond FDI screening as a means to achieving economic security. This is made apparent by their *Defense and Security Industrial Strategy* and their *Integrated Review Refresh*. The NSIA has been supported by numerous strategies aimed at both promoting their domestic economies competitiveness, protecting it, and as we shall see below, partnering.

¹⁵⁴ United Kingdom, His Majesty's Government, *Defence and Security Industrial Strategy*, 23 March 2021, p. 64.

¹⁵⁵ United Kingdom, Department for Science, Innovation and Technology, *National Semiconductor Strategy*, 19 May 2023.

Following from above, the **United States** have proven to be one of the world's most popular countries for partnering as a means for economic security.¹⁵⁶ This shall be elaborated on in the next section, though the United States' methods at protecting themselves are of interest to the current one too. As touched on above, the **US has long viewed a strong domestic economy as a prerequisite for national security** – perhaps dating back to the 1806-1807 and the adoption of the *Non-Importation Act* and the *Embargo Act*. The Trump administration implemented several acts echoing these early examples, and the Biden administration has also made clear his approach to national security that fuses “national security and social concerns into trade and investment policy”.¹⁵⁷ Like the Czech and German security strategies, the **US has made clear who the economic protection strategies are aimed at**. For example, the bill promoting domestic production of semiconductor technology is commonly known as the *China Competition Bill*.¹⁵⁸

Though the United States' inbound investment screening mechanism is not new, it has benefitted from these attempts to reach across the aisle of late. The CFIUS operates under the *Defense Production Act* of 1950, and is led by the Department of the Treasury. CFIUS acts as an interagency review body that screens FDI, and has the authority to elevate transactions to the president should they deem them a risk to national security. The president may then block said transactions. The CFIUS is similar to many of the mechanisms employed by the EU member states discussed above, whereby notification of a planned transaction is mainly voluntary but is mandatory when involving acquisition of “a substantial interest in certain US businesses and certain covered transactions that involve critical technologies”.¹⁵⁹ In 2018, it was updated by the *Foreign Investment Risk Review Modernization Act*, which gave CFIUS additional authority to review FDI.¹⁶⁰

CFIUS is complimented by another screening mechanism, one that was also updated in 2018. The *Export Control Reform Act*, is not geared towards screening inbound investment, however, but restricting the export of emerging and foundational technologies – particularly dual-use technologies that has potential for both civilian and military uses. This act served as an update to the existing *Export Administration Regulations*, though it also builds on the *International Emergency Economic Powers Act* of 1977 and the *Export Controls Act* of 1940. Under the *Export Administration Regulations*, the Bureau of Industry and Security had the authority to decide an export control classification number, determining the restrictions that are to apply to that transaction. Export controls in the United States “have focused primarily on restraining the ability of foreign adversaries to develop technology with cutting-edge military capabilities or to prevent the proliferation of nuclear and chemical

¹⁵⁶ Walt, S.M., *The Biden Administration Is Addicted to Partnerships*, Foreign Policy, 3 October 2023.

¹⁵⁷ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

¹⁵⁸ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

¹⁵⁹ United States Department of the Treasury, *CFIUS Overview*, 9 October 2023.

¹⁶⁰ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

weapons and their means of delivery”.¹⁶¹ At the time of its passing, the US already led the EU on restricting exports as a means towards national security, as Brussels historically viewed such responsibilities as the remit of individual Member States. Brussels was still reviewing this approach when the US passed the *Export Control Reform Act*.

The US further increased the gap with the EU on the subject when President Biden released an executive order on outbound investments – *Executive Order on Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern*. This executive order is somewhat of a groundbreaking development, the first tool of its kind. Yet others have long viewed this legislation as a conspicuous missing piece in the United States’ ability to constrict exports.¹⁶² Signed by President Biden on 9 August 2023, citing the IPEEA, the executive order directs the Treasury Department to establish a program to review outbound investment in certain critical sectors in response to a national emergency. The Treasury Department has stated that their new program would “consist of a mix of targeted prohibitions and mandatory notifications for investments in quantum technology, AI, and semiconductors”, with China, Hong Kong, and Macau cited as areas of particular concern.¹⁶³ The order is generally believed to be orientated at addressing concerns that capital funding from Silicon Valley was assisting the development of cutting-edge technology in China, particularly those with dual-uses. However, the bill received fierce backlash from Silicon Valley, and had to be seriously revised. Though this important missing piece has begun to be corrected, like other mechanisms it represented simply one of the many toolkits in the United States’ shed with the intention of protecting its economy, and thus national security. As we shall see, the US also heavily relies on partnering – or what Treasury Secretary Janet Yellen terms friend-shoring, especially in the Indo-Pacific region.¹⁶⁴

Canada is “one of the few countries that kept a formal systematic screening process of investments under national interest consideration in place; and the only one in the G7”, having done so since the *Investment Canada Act* of 1985.¹⁶⁵ Coincidentally, **Canada has the highest measure of FDI restrictiveness of all G7 economies** when using the Organization for Economic Co-operation and Development (OECD) FDI regulatory restrictiveness index.¹⁶⁶ Many foreign investors feel that the added burden of dealing with Canada’s FDI screening mechanism dissuades investors from potential transactions. Representatives from Canada’s domestic industries have similar emotions. However, under

¹⁶¹ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

¹⁶² Benson, E., *Economic Security Is Driving U.S. Policy. Why That Is and What to Expect*, New York: Barron’s, 16 August 2023; Benson, E. and Allen, G.C., *A New National Security Instrument: The Executive Order on Outbound Investment*, Washington DC: Center for Strategic and International Studies, 10 August 2023.

¹⁶³ Benson, E. and Allen, G.C., *A New National Security Instrument: The Executive Order on Outbound Investment*, Washington DC: Center for Strategic and International Studies, 10 August 2023.

¹⁶⁴ Benson, E., *Economic Security Is Driving U.S. Policy. Why That Is and What to Expect*, New York: Barron’s, 16 August 2023.

¹⁶⁵ Blais-Morisset, P. and Rao, S., *Understanding Canada’s performance on the OECD’s FDI Regulatory Restrictiveness Index*, Ottawa: Government of Canada, Office of the Chief Economist, June 2023, p. 6.

¹⁶⁶ Blais-Morisset, P. and Rao, S., *Understanding Canada’s performance on the OECD’s FDI Regulatory Restrictiveness Index*, Ottawa: Government of Canada, Office of the Chief Economist, June 2023, p. 6.

the *Investment Canada Act* only a small number of investors are required to undergo the process, and **Canada remains an attractive country as an FDI destination**.¹⁶⁷ By further discussion of Canada's measures aimed at protecting themselves and their economy, one may further understand this debate between promoting one's economy and protecting themselves.

The *Investment Canada Act* contains mechanisms for both net benefit and national security. Like most of the countries discussed thus far, the Canadian government has further updated these mechanisms over the last decade. Though they score highly on FDI restrictiveness, only net benefit screening is scored on this index – not national security screening. In brief, the former **review mechanism requires approval from the Canadian government before a transaction is closed**. This occurs in the event of a non-Canadian entity (not Canadian controlled) plans to directly or indirectly acquire an existing business in Canadian territory or establish a new one, unless it involves a cultural transaction. In the event of a transaction involving an entity from a nation with which Canada has a trade agreement, such as the EU, UK or US, the transaction must receive pre-closing approval from the Minister of Innovation, Science and Industry if the enterprise value of the business crosses the threshold of \$1.931 billion or more. In the event of a transaction involving an entity with which Canada does not have a trade agreement, the threshold is a lower \$1.287 billion or more. An indirect investment, on the other hand, does not require a net benefit review either on pre-closing or a post-closing transaction unless it involves a cultural business. These generally refer to media companies such as Netflix, Amazon or radio and print media companies. In the event of such a transaction, a mandatory review is required where a threshold of “\$5 million in book value of assets of the business for direct investments and \$50 million in book value of assets of the business for indirect investments” are passed.¹⁶⁸ This review is conducted by the Cultural Sector Investment Review, and may be approved by the Minister for Canadian Heritage (as per Part IV of the *Investment Canada Act*).

National security reviews are conducted exclusively by the Minister for Innovation, Science and Industry. According to Section 25.1 (Part IV.1) of the *Investment Canada Act*, proposed investments by non-Canadians may be subject to a national security review should they involve: the establishment of a new Canadian business or an entity carrying on operations in Canada; acquisitions of control of a Canadian business of any dollar value; and acquisitions of all or part of an entity carrying on operations in Canada.¹⁶⁹ The Minister for Innovation, Science and Industry, in consultation with the Minister of Public Safety and Emergency Preparedness, may refer the transaction to the Governor in Council should they feel they will be injurious to national security. In this event, the Investment Review Division of Innovation, Science and Economic Development acts as interface between the government and the parties to the transaction throughout the review process. Unlike the net-benefits mechanism, there is no financial threshold

¹⁶⁷ Blais-Morisset, P. and Rao, S., *Understanding Canada's performance on the OECD's FDI Regulatory Restrictiveness Index*, Ottawa: Government of Canada, Office of the Chief Economist, June 2023, p. 6.

¹⁶⁸ Rodal, S., Lally, M. and Kuzma, K., *Frequently Asked Questions Concerning the Investment Canada Act (ICA)*, Toronto: Osler, Hoskin & Harcourt LLP, 1 April 2023.

¹⁶⁹ Canada, Government of Canada, *Guidelines on the National Security Review of Investments*, 24 March 2021.

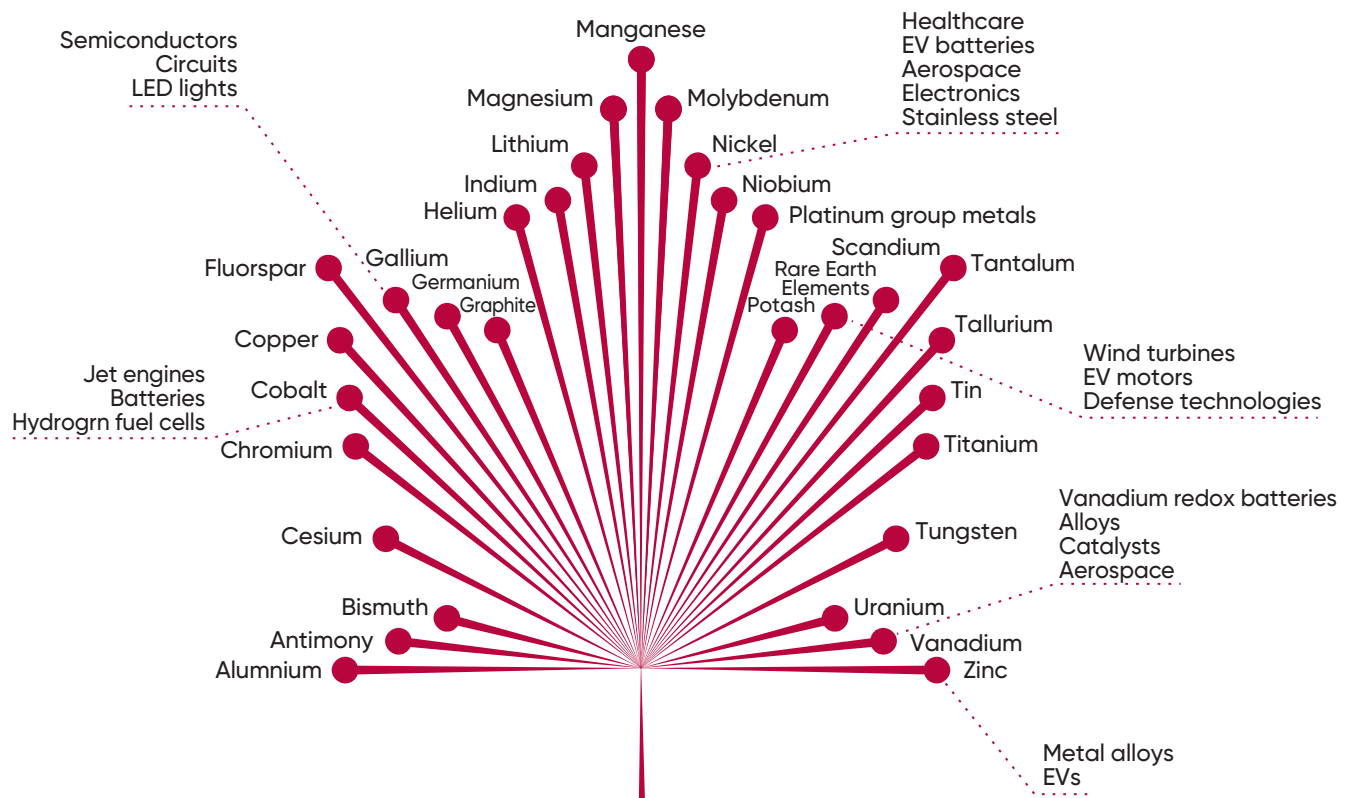
that triggers a review when crossed. Rather, the national security review is triggered when there is “reasonable grounds to believe that an investment by a non-Canadian could be injurious to national security”, for which there is no definition. Instead, the government has outlined what factors may be taken into account when making their decision on the transaction:

- potential effects of the investment on Canada’s defense capabilities and interests, including but not limited to the defense industrial base and defense establishments;
- potential effects of the investment on the transfer of sensitive technology or know-how outside of Canada, including consideration of whether the investment provides access to information not in the public domain related to the research, design or manufacture of sensitive technologies (sensitive technology areas include those that have military, intelligence or dual military/civilian applications);
- involvement in the research, manufacture or sale of goods/technology identified in Section 35 of the *Defense Production Act*;
- potential impact of the investment on the supply of critical goods and services to Canadians, or the supply of goods and services to the Government of Canada;
- potential impact of the investment on critical minerals and critical mineral supply chains with a reference for more information to the Government of Canada’s Critical Minerals List (*Figure 4*);
- potential impact of the investment on the security of Canada’s critical infrastructure (critical infrastructure refers to processes, systems, facilities, technologies, networks, assets and services essential to the health, safety, security or economic well-being of Canadians and the effective functioning of government);
- potential of the investment to enable foreign surveillance or espionage;
- potential of the investment to hinder current or future intelligence or law enforcement operations;
- potential impact of the investment on Canada’s international interests, including foreign relationships;
- potential of the investment to involve or facilitate the activities of illicit actors, such as terrorists, terrorist organizations, organized crime or corrupt foreign officials; and
- potential of the investment to enable access to sensitive personal data that could be leveraged to harm Canadian national security through its exploitation, including, but not limited to: (a) personally identifiable health or genetic (e.g., health conditions or genetic test results); (b) biometric (e.g., fingerprints); (c) financial (e.g., confidential account information, including expenditures and debt); (d) communications (e.g., private communications); (e) geolocation; or, (f) personal data concerning government officials,

including members of the military or intelligence community.¹⁷⁰

Like the US the Canadians are also concerned about the **transfer of sensitive technologies and know-how outside of Canada**, and especially to potentially adversary countries. Some of these sensitive technology areas include: advanced materials and manufacturing; advanced ocean technologies; advanced sensing and surveillance; advanced weapons; aerospace; artificial intelligence; biotechnology; energy generation, storage and transmission; medical technology; neurotechnology and human-machine integration; next generation computing and digital infrastructure; position, navigation and timing; quantum science; robotics and autonomous systems; and space technology.

Figure 4: Canada's critical minerals list



Source: Government of Canada, 2022.¹⁷¹

Having received a referral, the Governor in Council has the right to take all measures with respect to the investment to protect Canada's national security, including:

¹⁷⁰ Canada, Government of Canada, *Guidelines on the National Security Review of Investments*, 24 March 2021.

¹⁷¹ Canada, Government of Canada, *Critical Minerals: an Opportunity for Canada*, 18 August 2022.

- authorize the investment on condition that the non-Canadian investor gives any written undertakings considered necessary; or implement specified terms and conditions;
- disallow the investment; or,
- require the investor to divest control of the Canadian business or its investments in an entity.¹⁷²

Notably, these decisions can be made after the closing of a transaction. The national security review can take up to 200 days, or longer with all parties' consent, from the time that notification was sent from the investor. If the Governor of Council orders a national security review, a further 110 days may be utilized.

As evidenced by the numerous mentions, not to mention the title itself, **Canada has long viewed its FDI mechanisms as central to achieving overall national security.** However, it has continued to explore what further measures may be taken towards combatting the changing nature of risks. In a 2021 news release, the government of Canada announced plans to expand works to address economic security. It was announced that the Public Safety Canada's Economic Security Task Force would lead an interdepartmental policy review to explore what additional measures could be taken to further increase Canada's economic security. The Task Force communicated with "key stakeholders across Canada in a range of sectors, including academic and research organizations, business and professional associations, civil society organizations, and provinces, territories and municipalities" to both raise awareness and "look at ways to make Canada and Canadians more secure".¹⁷³

However, investors would perhaps not be overjoyed hearing the news of a Task Force that could potentially increase the amount of paperwork involved in investing in Canadian industry. Canadians too may worry as their FDI restrictiveness may rise further. Yet, such paperwork has not dissuaded investors much thus far. Canada's investors score well of the Kearney FDI confidence index, whilst the OECD acknowledges that their index merely represents the "restrictiveness of FDI policies in an economy, not the overall attractiveness of a country as an FDI destination." In fact, there is a weak negative correlation between the stock of FDI and the OECD restrictiveness index. Furthermore, the paperwork involved is rather limited, and there has only been one occasion since the *Investment Canada Act* came into force in 1985 that there was a formal block using the net benefit mechanism.¹⁷⁴ Canada thus provides a useful illustration at how to **simultaneously engage foreign investors and ensure their continued confidence whilst protecting their economic security.**

¹⁷² Canada, Government of Canada, *Guidelines on the National Security Review of Investments*, 24 March 2021.

¹⁷³ Canada, Government of Canada, *Government of Canada Expands Work to Address Economic-Based Threats to National Security*, press release, 27 May 2021.

¹⁷⁴ Blais-Morisset, P. and Rao, S., *Understanding Canada's Performance on the OECD's FDI Regulatory Restrictiveness Index*, Ottawa: Government of Canada, Office of the Chief Economist, June 2023, pp. 2 and 6.

Perhaps in response to growing tensions in the South China Sea, coupled with China's own efforts to weaponize its economy and to tightly control FDI, **Japan** has mirrored its neighbor's efforts and made attempts to update its own mechanisms towards economic security. Given Japan's pacifist nature, "Japan relies on economic policy tools to pursue its strategic goals, which have become more salient in light of US-China competition".¹⁷⁵ Though this pacifist nature has been recently tested amid plans to increase defensive capabilities, increased defense spending compliments the still-dominant focus on protecting their technology industry and their expertise.¹⁷⁶ **Though Japan has long understood the connection between the economy and national security, economic security (*keizai anpo*) has taken on a new level of urgency today.**¹⁷⁷ In 2020, they first used the term in their *Basic Policy of Economic and Financial Management and Reform 2020*, but it is now one of the primary policy agendas of the Kishida administration. To this end, on 25 February 2022, the cabinet approved the *Act on the Promotion of National Security through Integrated Economic Measures* (Act No. 43 of 2022), complimenting the *Integrated Innovation Strategy* of 2022. Later in 2022, the Japanese Diet also established Council of Experts on Economic Security Legislation, comprised of academics, business associates and industry leaders who make major decisions related to economic security. It is directed by the Minister of Economic Security.

The *Act on the Promotion of National Security through Integrated Economic Measures* cautiously avoids using the term "economic security". Instead, it declares as its purpose the promotion of economic measures aimed at ensuring national security. The act is based on four main pillars (*Figure 5*):

- **System ensuring stable supplies of critical materials.** The act establishes a system of support measures that aim to ensure stable supplies of materials that significantly affect the existence, ordinary lives and economic activities of the Japanese public. The government is authorized to formulate basic guidelines on ensuring stable supplies of specified critical materials, based on which the responsible ministers are authorized to formulate implementation policies to ensure stable supplies of such materials. Based on these guidelines and implementation plans, individuals and companies intending to secure stable supplies of such materials can prepare secure supply plans and if these plans are certified by the responsible ministers the respective individual or company becomes eligible for various support measures, including subsidies.
- **System ensuring stable provision of services using critical infrastructure.** The act provides a preliminary review system for the introduction of critical equipment into critical infrastructure or the entrustment of maintenance or management of critical equipment. Again, the government is authorized to formulate basic guidelines relating to ensuring the stable provision of specified social infrastructure services. Based on these guidelines the responsible ministers are authorized to designate

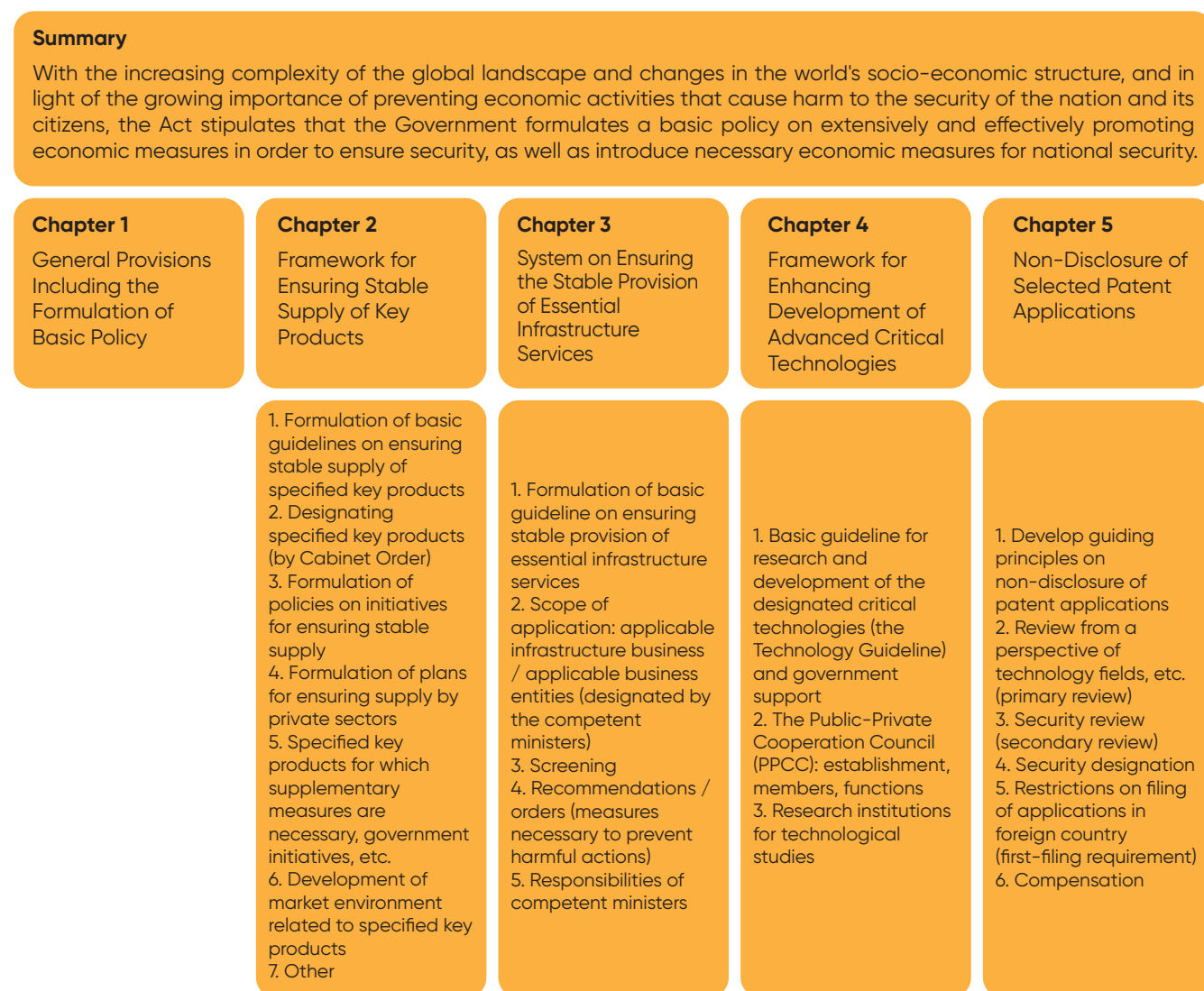
¹⁷⁵ Togashi, M., *Japan's Economic Security and the Role of the Private Sector*, Washington DC: Center for Strategic and International Studies, 28 August 2020.

¹⁷⁶ Kajimoto, T. and Yamaguchi, T., *Japan Unveils Record Budget in Boost to Military Spending*, Reuters, 23 December 2023.

¹⁷⁷ Togashi, M., *Japan's Economic Security and the Role of the Private Sector*, Washington DC: Center for Strategic and International Studies, 28 August 2020.

specified social infrastructure business operators, which in turn are obliged to seek and obtain the responsible ministers' approval before introducing specified critical equipment from other business operators or entrusting maintenance or management of critical equipment to other business operators.

Figure 5: Summary of the Japanese Act on the Promotion of National Security through Integrated Economic Measures



Source: Center for the Study of Democracy based on data from the Council on Foreign Relations.¹⁷⁸

- **System supporting the development of critical technologies.** The government is again authorized to formulate basic guidelines concerning promotion of the development of specified critical technologies and the appropriate use of outcomes. The responsible ministers are then required to appoint a council for each research project related to the development of such technologies whose main task is to determine how the research outcomes will be handled.

¹⁷⁸ Council on Foreign Relations, *Summary of Economic Security Promotion Act*, 2023.

- **Secret patent system.** The act introduces a system for designating certain inventions as secured inventions. Secured inventions are subject to several restrictions (including obligation to obtain permission before working the invention, prohibition of disclosure of details of the invention, prohibition of submission of patent applications in foreign countries, etc.), for which patent applicants are compensated by the government.¹⁷⁹

Japan has long taken **measures to promote its domestic industry as a method of achieving economic security** and has devoted significant efforts to partner with other states to strengthen their supply chains as secure their economy. The other factor mentioned in their *Act on the Promotion of National Security through Integrated Economic Measures* includes measures to protect themselves from foreign threats as a means of guaranteeing economic security, though the other two factors do so as well.

In an effort to protect their critical infrastructure, Japan introduced an **assessment system requiring business operators to gain approval prior to introducing critical facilities for key infrastructures** and as well as the **commissioning of maintenance and management of critical facilities**. The businesses that will be most affected by this system will be companies that operate a key infrastructure, supply specified critical facilities, or are responsible for the maintenance of such critical facilities.¹⁸⁰ In the event of a specified infrastructure operator either introducing a specified critical facility or outsourcing the maintenance and management of these facilities to a third-party, they are required to submit a plan for prior assessment to the competent minister. The businesses related to key infrastructures are:

- postal service;
- electricity;
- gas;
- cargo shipping;
- credit card businesses;
- operation of airports;
- aviation;
- operation of first-class railway businesses;
- oil refining and import;
- water supply;
- key broadcasting services;
- general cargo automobile transportation;

¹⁷⁹ Itabashi, K., Suetomi, J., Tatsuno, D., Matsumoto, I., Shinozaki, A., Ohara, M. and Hasegawa, T., *New Act on the promotion of Japan's economic security enacted*, Global Compliance News, 10 July 2022.

¹⁸⁰ Nakagawa, J., Matsumoto, T., Bushimata, R. and Goto, D., *Overview of Economic Security Legislation in Japan*, Mondaq, 28 April 2022.

- electric communications; and
- insurance and other finance-related businesses.¹⁸¹

Following submission of a plan, the relevant minister has thirty days to complete this review, though this may be extended to four months. During this time, the proposed transaction is suspended until approval is received. The minister may decide to block to proposed actions or issue conditions of the plan, in which case the parties have ten days to accept the revised proposal. If the minister receives no response, the proposal may be blocked or penalties may be applied.

This critical infrastructure screening tool is similar to how **Japan's foreign investment screening** mechanism operates, which too has received **several updates in recent years**, notably in 2020.¹⁸² According to the *Foreign Exchange and Foreign Trade Act (Law No. 228 of 1945)*, a foreign investor must give prior notification to the Japanese government should they propose to invest in an industry sector relating to Japan's national security, public order or another restricted industry. They also may be asked to provide a post-closing report in other investment circumstances. According to the law, an investor may be described as a foreign one if they: do not reside in Japan; are a company subject to a law other than the Japanese one (with their principal office outside of Japan); are a company where either a non-Japanese resident or resident company controls 50 per cent of controlling shares or more (or whereby the majority of its officers are non-Japanese); or are a Japanese entity believed to be working on behalf of a foreign investor. Should an entity fall into this foreign investor category, they must file a prior-transaction notification for government screening should their investment involve one of the following sectors:

- sensitive national security interests, public order or national economy (including manufacturing of weapons, aircraft, satellites, rockets, nuclear reactors, nuclear source material or nuclear fuel material, and development of programs within these sectors);
- advanced technology materials, machines, tools, and electronic devices (potential for dual-use applications);
- pharmaceuticals;
- mineral resources;
- electricity;
- gas;
- communications;
- broadcasting;

¹⁸¹ Nakagawa, J., Matsumoto, T., Bushimata, R. and Goto, D., *Overview of Economic Security Legislation in Japan*, Mondaq, 28 April 2022.

¹⁸² Nakagawa, J., Matsumoto, T., Bushimata, R. and Goto, D., *Overview of Economic Security Legislation in Japan*, Mondaq, 28 April 2022.

- transportation;
- biological drugs;
- agriculture;
- forestry;
- fishery; and
- oil sectors.

As well as these sector-specific restrictions, investors may also be subject to the compulsory notification mechanism if they are believed to be related to the State of Iran or if their home state is not one of 163 permitted countries. If the proposed investment meets these criteria, mandatory notification must be given to the Japanese Ministry of Finance and the ministry governing the relevant sector, which will be given through the Bank of Japan. Like other states, once notified the ministries will determine whether the proposed transaction represents a threat to Japan's national and public security, will disrupt public order or negatively affect the economy. The ministries have thirty days to make a decision on the transaction, during which time it is suspended. This can be extended up to four months if a more thorough investigation is warranted. For transactions that do not trigger a mandatory notification, investors must still send a post-closing report to the Bank of Japan within 45 days of the transaction closing. Failure to comply with these regulations may result in prison time of up to three years and/or a fine of up to ¥1 million, or three times as large as the amount of the investment – whichever is higher.

Though these mechanisms are not particularly unique when compared with those of most other states, when complimented by other mechanisms aimed at protecting themselves Japan demonstrates its commitment to integrated security. **Japan's patent controls are another such mechanism.** Japan has long struggled with controlling the leaking of their expertise to foreign countries, and like China, Canada and the US, has recently taken steps to control this leak.¹⁸³ Japan's inability to control its leaks has in the past prevented them from joining the Five Eyes intelligence sharing community. To correct this, Japan enacted a controversial law in 2014 which outlines stiff penalties for leaking defense or diplomatic-related secrets. However, until few years ago, Japan had failed to implement a legal framework managing sensitive data in the private sector. The fourth pillar of Japan's *Act on the Promotion of National Security through Integrated Economic Measures* is believed to correct this missing piece.

The non-disclosure of patent applications section of the act describes the creation of a system of withholding the publication of certain patent applications that, should they be released, may cause harm to the security of Japan and its citizens. Under the current law, patents are published for public viewing eighteen months after there are filed. However, in the interests of security, the act announced the implementation of certain measures to

¹⁸³ Togashi, M., *Japan's Economic Security and the Role of the Private Sector*, Washington DC: Center for Strategic and International Studies, 28 August 2020.

protect sensitive information included on patent documents, through the *Status of Consideration for the Commencement of Operation of the Non-Disclosure System for Patent Applications*. This mechanism particularly affects business dealing with the research and development of nuclear technologies, aircraft stealth equipment, hypersonic flight or the development of military weapons, but twenty-five sectors are included in total, with fifteen of these receiving special attention (unmanned weapons systems, drones, etc.). This mechanism operates as a two-stage examination system to evaluate whether an invention is subject to protection from publication or not.

- Examination 1 will determine whether these inventions fall into the category of specified technological areas. If the release of information included in the patent may pose a threat to Japan, it is subject to a second stage of examination. This first examination shall take three months. Should Japanese inventions fall into the category of specified technological areas, they may not be the subject of patent applications in other countries. Strict penalties may be applied for violators of this regulation.
- Examination 2 involves the consultation of several national agencies and external experts who determine the threat posed to Japan and its citizens by the release of the information included in the patent. This consultation is performed by the Expert Advisory Panel. Should the patent applicant receive notification that their patent is subject to the second examination, they have two weeks to decide whether to progress with the application process or to withdraw. During the time of the panel's deliberations, the application procedure and publication is suspended. After the examination, the panel provides the Prime Minister with their findings. He will determine whether the invention necessitates a protected designation and the potential adverse impact of its status as a protected invention from publication may have on the advancement of the industry.¹⁸⁴ Should the Prime Minister arrive at the opinion that the invention should be designated as subject to protection, the following restrictions will apply to the applicant: (1) restriction on withdrawal of the patent application; (2) restriction on the use of such invention by an unauthorized person; (3) prohibition of the disclosure of such invention; (4) implementation of approval systems for sharing the invention with other business operators; (5) obligation of appropriate management of such invention, and (6) prohibition of making an international patent application for such invention.¹⁸⁵

The protection period may be applied for up to two years, and affected parties may be compensated for potential losses. The terminology associated with this procedure clearly demonstrates the **concern Japan's lawmakers feel towards the threat posed by the loss of their technological expertise to potential adversaries**. The protection of its technological industry is one of many toolkits used by Japan to protect its economic security, as outlined by their Act on the Promotion of National Security through Integrated Economic Measures.

¹⁸⁴ Nakagawa, J., Matsumoto, T., Bushimata, R. and Goto, D., *Overview of Economic Security Legislation in Japan*, Mondaq, 28 April 2022.

¹⁸⁵ Nakagawa, J., Matsumoto, T., Bushimata, R. and Goto, D., *Overview of Economic Security Legislation in Japan*, Mondaq, 28 April 2022.

PARTNERING

Partnering signifies the reinforcing of partnerships on economic security, such as building trade and security relations, cooperating on research, and the diversification of supply chains.

Both **the US and the EU** have in recent years pursued the rapid development of their respective economic security approaches. In the case of several mechanisms, some of which were discussed earlier in this text, when either Washington or Brussels implements a new economic security mechanism, the other has responded in kind with a similar act. This trend reflects what some term the *Transatlantic Toolkit*,¹⁸⁶ and has also been mirrored by official agreements on economic security cooperation, particularly through the US-EU Trade and Technology Council. The council provides a “bilateral diplomatic framework dedicated to closer transatlantic cooperation on trade and technology related issues”, and is consisted of ten working groups each specializing on a specific area for cooperation.¹⁸⁷ For example, working group three focuses on securing supply chains, whilst seven works on export controls cooperation and working group eight on investment screening collaboration.

One of the first steps on the road to **increased economic security partnering between the US and the EU** is the removal of remaining red tape around trade and investment barriers, whilst working to avoid new ones. The removal of such barriers to trade serves to strengthen “the transatlantic marketplace to support decent jobs and economic opportunities”, which will in turn promote the resilience of each economy when facing economic coercion, the weaponization of economic dependencies, and non-market policies and practices.¹⁸⁸ In the contemporary international arena, a secure economy is understood as a necessary prerequisite for achieving overall national security. Such mutually beneficial trade has been elaborated on through the *Transatlantic Initiative on Sustainable Trade*, which facilitates the transfer of products and technologies that underpin the transition to a climate-neutral economy. Cooperation on climate goals and the transition to clean energy is also coordinated through the Joint Energy Security Task Force and US-EU Energy Council.¹⁸⁹

The **removal of trade barriers described is viewed not only a means to achieve the end of resilient economies**, much also as a way to **advance the transfer of knowledge on cutting edge research and development of technologies**. One large aspect to this sharing of knowledge relates to the use of AI, particularly through the US-EU Trade and Technology Council’s *Joint*

¹⁸⁶ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

¹⁸⁷ Benson, E., *Trade and Investment Controls: The Transatlantic Toolkit*, Washington DC: Center for Strategic and International Studies, 2 August 2022.

¹⁸⁸ United States, United States Mission to the European Union, *U.S. – E.U. Summit Joint Statement*, press release, 20 October 2023, Paragraph 22.

¹⁸⁹ United States, United States Mission to the European Union, *U.S. – E.U. Summit Joint Statement*, press release, 20 October 2023, Paragraph 24.

Roadmap on Trustworthy AI and Risk Management. In this field, the US and the EU commit to using AI “for public good, particularly in the areas of agriculture, extreme weather prediction, emergency management and response, electric grid optimization, and health and medical research”. The two partners have also stated their coordinated efforts in building a more secure cyberspace, “to protect consumers and business and decrease vulnerability to cyberattacks”.¹⁹⁰ President Biden has urged the EU to follow America’s lead on the outbound investment measure in order to maintain international security and stability, particularly on dual-use technology exports. Cooperation on this aspect of trade would serve to prevent “the leakage of sensitive emerging technologies [...] to destinations of concern that operate civil-military fusion strategies”.¹⁹¹

Another priority for these two partners is the **securing of supply chains, particularly those involving critical minerals**. The joint statement from the leaders of these two economies states their intention to work together to reduce dependency on adversary regimes and to avoid a semiconductor subsidy race from each other’s state support for domestic chip manufacturing. Moreover, the two partners have also created a joint early warning mechanism for disruptions to semiconductor supply chains, as well as a transparency mechanism for reciprocal sharing of information about public support.¹⁹²

The US and the EU have been more explicit in their stating of partnering with like-minded states as a means to achieve economic security, and it is made clear in their joint statement: “Foreign information manipulation and interference is a borderless threat that poses a risk to democratic values, processes, and stability. We will expand collaboration based on common principles, such as dedicated strategies, internal organizational structures, capacity, civil society and multilateral engagement. This cooperation should aim to support like-minded partners in countering foreign information manipulation and interference, including via US and EU coordinated activities, while safeguarding freedom of expression together with partner countries”.¹⁹³

Perhaps unsurprisingly, following Britain’s departure from the EU, the **UK has shifted its partnering focus across the Atlantic to the US**.

The *Atlantic Declaration*, heralded as “a new economic partnership for a new age, of a kind that has never been agreed before”, explicitly identifies the **risks posed by China and Russia’s coercive capital**, and the **protection provided by the US and UK’s partnering** against these forces.¹⁹⁴ As with the United States’ cooperation with the EU, their partnership with Britain also focuses on the reduction of barriers to trade, the securing of supply chains and closer cooperation on research and the defense industry. Regarding supply chains,

¹⁹⁰ United States, United States Mission to the European Union, *U.S. – E.U. Summit Joint Statement*, press release, 20 October 2023, Paragraphs 27–28.

¹⁹¹ United States, The White House, *Joint Statement by President Biden and President von der Leyen*, press release, 10 March 2023.

¹⁹² Baschuk, B. and Stolton, S., *US, EU to Boost Security Tools as G-7 Eyes Economic Coercion*, Bloomberg, 12 May 2023.

¹⁹³ United States, United States Mission to the European Union, *U.S. – E.U. Summit Joint Statement*, press release, 20 October 2023, Paragraph 33.

¹⁹⁴ Rigby, B., *Sunak and Biden Agree ‘Atlantic Declaration’ to Boost Economic Security*, Sky News, 8 June 2023.

the agreement focuses largely on the provision of critical materials necessary for electric car batteries and the transition to cleaner energy in general. Since the *Atlantic Declaration*, progress has been made towards a further critical minerals agreement which would see British-made electric vehicles count as tax credits for clean vehicles offered under US *Inflation Reduction Act*.¹⁹⁵ The two countries also cooperate with other partners through the *Minerals Security Partnership*, whereby governments coordinate their efforts on 15 projects that would secure critical materials, such as lithium and rare earths, needed to meet zero-carbon goals. Beyond electric cars, the British also share the Biden administration's concerns over semiconductors, as the two leaders seek to reduce dependence on Chinese supply. The US and UK's declaration also aims to shut Russia out of the global civil nuclear market through improving critical supply chains.¹⁹⁶

Under the *Atlantic Declaration*, **partnering on the supply of critical minerals has been complimented with increased cooperation in the defense industry**. Biden has recognized the potential benefits presented by the British arms-producing industry to US security, and has agreed to ask Congress to approve the UK as a domestic source under US defense procurement laws. This agreement builds upon the cooperation agreements these two countries already practice, such as through the *Trilateral Security Partnership between Australia, the United Kingdom, and the United States (AUKUS)* and their cooperation on emerging threats.¹⁹⁷ The two states have also agreed to work closely together on regulating AI, maintaining its use for the public good and prohibiting its use on automated weapon systems.

As well as their partnerships with the EU and the UK, the United States has also reiterated its commitment to increasing cooperation with its partners in the Indo-Pacific region as a means of achieving economic security.¹⁹⁸ Indeed, **Japan** – one of the United States' partners in this region – has recently undertaken a significant friend-shoring campaign of its own, part of its wider economic security strategy. Following the return of power politics in recent years, **Japan now finds itself facing threats on three fronts in its close vicinity, in the forms of North Korea, Russia and China**.¹⁹⁹ Facing these threats, it has sought numerous alliances in a renewed effort to increase its economic, and thus national, security. For example, Japan is signatory to just short of forty bilateral investment treaties, with states ranging from Angola to the United Arab Emirates. However, Japan has also signed bilateral investment treaties with states like Russia and China, who are stated adversaries. Thus, attention is here devoted instead to Japan's partnering for economic security.

Though partnering with like-minded states is not mentioned as one of the key pillars of Japan's *Act on the Promotion of National Security through Integrated Economic Measures*, the Kishida administration has devoted considerable

¹⁹⁵ Shakil, I., *US, UK Make Progress on Critical Minerals Agreement*, Reuters, 28 October 2023.

¹⁹⁶ Rigby, B., *Sunak and Biden Agree 'Atlantic Declaration' to Boost Economic Security*, Sky News, 8 June 2023.

¹⁹⁷ United Kingdom, Government of the United Kingdom, *UK and US Strengthen Security Cooperation over Emerging Threats*, press release, 10 June 2021.

¹⁹⁸ United States, United States Mission to the European Union, *U.S. – E.U. Summit Joint Statement*, press release, 20 October 2023, Paragraphs 10-11.

¹⁹⁹ Satake, T., *Economics Key to Japan's New Security Strategy*, Asia Times, 3 January 2023.

effort to **partnering as a means to secure critical supply chains** – the first of the four pillars. In particular, Japan has settled several agreements with the EU and individual EU Member States to this end. In 2019, the EU and Japan signed both the *Economic Partnership Agreement* and the *Strategic Partnership Agreement*, signifying the close ties shared by the two partners, and reflecting the EU's understanding of Japan as their closest partner in the Indo-Pacific region.²⁰⁰ Despite the focus on economic security being a relatively new development in the EU, both parties have long understood the risks posed to themselves by economic threats to the other: "There is a direct connection between European prosperity and Asian security. In light of the economic weight that Asia represents for the EU – and vice versa – peace and stability in Asia are a prerequisite for our prosperity. We will deepen economic diplomacy and scale up our security role in Asia."²⁰¹

Similar to the agreements arrived at between the US and the EU (and UK), the *Economic Partnership Agreement* signed between **Japan and the EU** too prioritizes the elimination of barriers to trade and custom duties, data protection, intellectual property rights, and sustainable development. In October 2023, the EU and Japan completed a deal on cross-border data flows, making online business easier, less costly and more efficient.²⁰² Once ratified, the deal will be included in the *Economic Partnership Agreement*. The four key priority areas for the *Strategic Partnership Agreement*, on the other hand, are: environment and energy; peace and security, new technologies and innovation; and social affairs and people-to-people exchanges. Furthermore, Japan and the EU established the *Digital Partnership* in May 2022, allowing for increased collaborative research on cutting edge technologies, regulatory dialogue, and the convergence of shared positions in international fora. The inaugural Japan–EU Digital Partnership Council was held in July 2023. During this summit, the EU and their Japanese counterparts signed a number of key agreements signifying both parties use of partnering as a means of achieving economic security, including *Memorandum of Cooperation to support secure and resilient submarine cable connectivity*, *Memorandum of Cooperation on semiconductors*, and *Administrative Arrangement on Cooperation in Critical Raw Materials Supply Chains*.

The former of these agreements, as the name suggests, outlines the plan of the two parties to mutually support the development of submarine cable connectivity via the Arctic, providing secure, reliable, and sustainable connectivity between Japan and the EU. The second memorandum facilitates greater cooperation on research and development, aimed at advancing skills for the semiconductor industry. The two partners have also pledged increased transparency in this industry and have established an early warning system for disruptions to supply chains. The latter agreement, concerning critical raw materials, relates to the EU's *Critical Raw Materials Act*, and is part of their wider effort to cooperate with like-minded countries to reduce reliance

²⁰⁰ Kirchner, E.J. and Dorussen, H., *New Horizons in EU–Japan Security Cooperation*, Asia Europe Journal, Volume 19, 2021.

²⁰¹ Kirchner, E.J. and Dorussen, H., *New Horizons in EU–Japan Security Cooperation*, Asia Europe Journal, Volume 19, 2021.

²⁰² Ngendakumana, P.E., *EU and Japan Reach Deal on Cross-Border Data Flow*, Politico, 28 October 2023.

on countries that do not share the same values.²⁰³ It was signed by the EU Commission and the Japan Organization for Metals and Energy Security, who are also invited to EU Raw Materials Week in November 2023. The respective co-chairs of the Digital Partnership Council are scheduled to meet again in 2024 to discuss further cooperation as well. Once again, the reasoning behind such partnering was made clear by the President of the European Commission Ursula von der Leyen: “Economic security is a common concern for Japan and the EU. We share similar dependencies, and we both need to de-risk our supply chains. One of our objectives is to reduce overreliance for products that are vital for our economies, like critical raw materials and semiconductors on a handful of suppliers – many of them based in China. I am very pleased that we have concluded cooperation arrangements on both topics. We have so much to gain by working together on this”.²⁰⁴

Yet Japan has also sought to partner with individual EU Member States directly as a means towards achieving economic security. In March 2023, German Chancellor Olaf Scholtz travelled to Tokyo in an effort to reduce German dependence on Chinese raw materials and learn from Japan’s raw material strategy.²⁰⁵ Prime Minister Kishida welcomed the suggestions of increased cooperation with Germany, aiming to boost collaboration “in strategic areas including mineral resources, semiconductors, and batteries, and share our best practices to counter risks in order to build a resilient supply chain that is safe and sustainable”.²⁰⁶ Japan has also signed a notable partnership agreement with Germany’s neighbor, the Netherlands. In June 2023, the Dutch and the Japanese governments signed the *Memorandum of Cooperation on Semiconductor Policies*, which provides increased cooperation on private and public semiconductor sectors, as well as related technologies such as photonics. These two nations, critical to the global chip supply chain, partnered together with their US allies to curb exports of semiconductors and semiconductor manufacturing equipment technology to China, though neither Japan nor the Netherlands explicitly stated China as the target of these controls. This partnership is believed to contribute to the US and their allies maintaining their competitive technological edge over China, preventing the leaking of advanced knowledge to an adversary. Again, as tensions increase in the South China Sea, Japan is also keen to maintain its technological edge – and uses this partnering with allies in tandem with its own efforts to promote the competitiveness of its economy. The agreement with the Netherlands compliments the subsidies the Japanese government provides to research and development within domestic industries, and perhaps can be understood as the other half of the same coin.²⁰⁷

²⁰³ European Commission, *European Critical Raw Materials Act*, Luxembourg: Publications Office of the European Union, 16 March 2023.

²⁰⁴ European Commission, *EU and Japan Boost Strategic Cooperation on Digital and on Critical Raw Materials Supply Chains*, press release, 13 July 2023.

²⁰⁵ Murakami, S. and Rinke, A., *Germany, Japan Seek Cooperation on Economic Security amid Supply Chain Strains*, Reuters, 18 March 2023.

²⁰⁶ Murakami, S. and Rinke, A., *Germany, Japan Seek Cooperation on Economic Security amid Supply Chain Strains*, Reuters, 18 March 2023.

²⁰⁷ Allen, C.A., Benson, E. and Putnam, M., *Japan and the Netherlands Announce Plans for New Export Controls on Semiconductor Equipment*, Washington DC: Center for Strategic and International Studies, 10 April 2023.

The *Hiroshima Accord*, published in May 2023, outlines the enhanced global strategic partnership between the **Japanese and British** governments. As with its partnering with the EU and its Member States, Japan's cooperation with the United Kingdom emphasizes the two countries shared beliefs and values, and states the need for the two partners to "stand shoulder to shoulder in tackling the unprecedented global challenges we now face, promoting security, resilience, and prosperity".²⁰⁸ Moreover, through the accord, the two state their commitment to a deeper partnership to tackle the challenges to economic security. For Japan and the UK, this involves: increased cooperation in the fields of AI, quantum technology and of course, semiconductors; the removal of trade barriers; and increased dialogue between both nation's ministries for trade and work together on climate change. More specific goals of the partnership are divided into three sections, with some examples of each offered below.

- Interoperable, resilient and cross-domain defense and security cooperation:
 - Realize the benefits of the landmark *Reciprocal Access Agreement* through an ambitious program of larger, more frequent, complex, and practical joint exercises and planning, including through the future deployment of the UK's Carrier Strike Group to the Indo-Pacific, and work to increase interoperability between the Japan Self-Defense Forces and the British Armed Forces. In doing so, the parties will enhance their bilateral activities to a higher level, with a view to the possible application of the Japan Self-Defense Forces' asset protection measure.
 - Establish a *UK-Japan Cyber Partnership* that will strengthen public-private partnerships, advance shared international interests and enhance cyber capabilities. The parties will strengthen the *Japan-UK Bilateral Consultations on Cyber Issues* to advance the full spectrum of cyber cooperation and further reinforce collaboration on promoting the rule of law in cyberspace, responding to emerging threats and enhancing capacity building efforts.
 - Commit to consult each other on important regional and global security issues and consider measures in response.
 - Reinforce the current defense governance structure, including through a new high level defense dialogue to ensure that the parties pursue all opportunities to strengthen defense cooperation.
- Economic prosperity and security underpinned by science, technology and innovation:
 - Launch a Department for Business and Trade – Ministry of Economy, Trade and Industry ministerial dialogue, further strengthening high level UK-Japan collaboration on strategic opportunities and challenges of mutual interest with the engagement of other relevant ministries, including the UK's Department for Energy Security and Net Zero and Department for Science, Innovation and Technology.

²⁰⁸ United Kingdom, The Prime Minister's Office, *The Hiroshima Accord*, 18 May 2023.

- Continue to partner closely on economic security issues, including through the *Economic Security Dialogue*. The parties will work together on issues such as supply chain resilience, including through the possibility of consulting each other when supply chain shocks occur, all forms of forced or coerced technology transfers and intellectual property theft, and export controls. The parties share concern for and are strongly opposed to economic coercion and non-market policies and practices which distort the level playing field, and commit to continue to work together to address such behaviors.
- Support progress of critical minerals cooperation in both countries through a memorandum of cooperation between relevant ministries concerning critical minerals by the end of the year. This memorandum of cooperation will cement ongoing collaboration on ensuring access to resilient and sustainable sources of critical minerals to bolster energy security and progress towards net zero through information-sharing, joint-investment and the importance of setting high environmental, social and governance standards.
- Use the upcoming *Semiconductor Partnership* to explore ambitious joint research and development collaboration across semiconductor technologies, capitalizing on the parties' respective strengths including in chip design, advanced packaging, compound semiconductors and advanced materials. The parties will also work together to improve semiconductor supply chain resilience, both through bilateral initiatives and international cooperation.
- Leading international efforts for global resilience:
 - Commit to holistically addressing energy security, the climate crisis, and geopolitical risks, accelerate the clean energy transition to net-zero greenhouse gas emissions by 2050 at the latest, and recognize the importance of promoting energy security and energy affordability. The parties will work together to accelerate the deployment of clean energy – particularly offshore wind and nuclear. The parties will share expertise and experience, collaborate on the setting of standards and regulation, and build business partnerships to accelerate the deployment of renewable energies in both countries and in third countries. The parties welcome the progress of cooperation endorsed by the newly announced *Renewable Energy Partnership*. The parties will also work together to develop, by the end of the year at the latest, the *Partnership for Resilient and Inclusive Supply-chain Enhancement* to empower low- and middle-income countries to play a bigger role in the supply chains of clean energy products.
 - Reaffirm determination to promote transparent and fair development finance practice and work together to strengthen collaboration between the respective development finance institutions and provide a positive investment offer to developing countries.
 - Continue to recognize the importance of working together to respond to the ongoing global food security crisis and to build more resilient,

sustainable and inclusive food systems. The parties will work together to drive forward responsible food and agriculture investment and trade, and drive forward shared priorities.²⁰⁹

Beyond Europe, Japan has sought to partner with the US for improving its economic, and thus national, security. The **United States' partnership with Japan** has been the cornerstone of their security policy in East Asia for the last number of decades, and their role in global security is only growing as the risks from China increase.²¹⁰ Though much of their partnership is primarily concerning hard power security cooperation, Japan and the US have both led the promotion of the concept of economic security in recent years. Their cooperation on this concept was made clear through the *US-Japan Competitiveness and Resilience (CoRe) Partnership* of April 2021, announced by President Biden and then Prime Minister Suga Yoshihide.

The key facets to the competitiveness and innovation aspect of the *CoRe Partnership* are:

- the digital economy;
- open radio access networks;
- cybersecurity and critical infrastructure resilience;
- collaboration in the Indo-Pacific;
- science and technology cooperation;
- civil space cooperation;
- cooperation for creating international standards;
- enhanced cooperation on export controls; and
- supply chain resilience, particularly relating to battery supply chains, semiconductor manufacturing and critical minerals.

In July 2022, a year after the *CoRe Partnership* was announced, the two partners held the first US-Japan Economic Policy Consultative Committee (Economic 2+2). Though the US and Japan had held 2+2 meetings for decades between the foreign and defense officials of the two countries, holding one with each states foreign policy representative and trade/economic representative was a first. Like their other economic security agreements, the focus of this meeting was on joint research and development of critical technologies – particularly semiconductors. The two states have since also partnered on investment screening, export controls and critical technology capability leakage through the Quad and the G7.²¹¹ They have agreed to be more transparent on national debt and to pool their complementarities in

²⁰⁹ United Kingdom, The Prime Minister's Office, *The Hiroshima Accord*, 18 May 2023.

²¹⁰ Maizland, L. and Cheng, N., *The U.S.-Japan Security Alliance*, New York: Council on Foreign Relations, 4 November 2021.

²¹¹ Rigby, B., *Sunak and Biden Agree 'Atlantic Declaration' to Boost Economic Security*, Sky News, 8 June 2023.

the semiconductor supply chains, with both Japanese and American firms benefitting from subsidies from their respective states. Partnering with the US in these several areas is a component of the wider Japanese goal of achieving economic security.

Australia presents an interesting case for the current discussion on partnering as a component of achieving economic security. Australia's growth is largely understood not as a side effect to the meteoric rise of its biggest trading partner – China.²¹² This relationship has come under strain of late, as democracies grow increasingly aware of the risks posed by economic coercion and, once again, as tensions grow in the Indo-Pacific region. Amidst these geopolitical tensions, Australia's approach to partnering warrants further discussion.

In 2021, Australia marked the 70th year of bilateral defense and security cooperation with the US and New Zealand through the *Australia, New Zealand, United States Security Treaty*. That same year, Australia and the US celebrated the signing of another security treaty, this time with the United Kingdom: AUKUS.²¹³ The nature of these two treaties predominately focuses on hard military resource cooperation, and the urgency with which economic security has been discussed elsewhere in the West has generally not been mirrored in Australia. As the Institute for Integrated Economics Research explains, there is a tendency in Australia to speak vaguely on the subject of economic security, with a “clear statement of risks, considered options and a coherent, integrated plan appear[ing] absent”.²¹⁴ Other commentators acknowledge this preoccupation with hard power military threats (and correspondingly, hard power response capabilities), and highlight Australian policy makers neglect of threats to economic security.²¹⁵ Indeed, a search of the Australian government's website would reveal that under their national security page, an economic security-related heading is not one of the eleven components of Australian national security. The concept is only referred to twice, and vaguely at that, in their 2023 *National Security Review*.

Evidence of Australia's approach to economic security partnering can be found instead in the US State Department's *Integrated Country Strategy Review*. In this document, the US government acknowledges the strong economic partnership between the two countries, making the US “by far Australia's most important economic partner”, who also assists in protecting Australia from the threats of China's economic coercion.²¹⁶ The Australian government too recognizes the importance of partnering with the US for Australia's interests: “Our alliance with the United States is central to Australia's approach to the Indo-Pacific. Without strong US political, economic and security engagement,

²¹² Murphy, J. and Leggatt, J., *China's Economy Is Faltering. Should We Be Worried?*, Forbes, 30 October 2023.

²¹³ United States, Department of State, *Integrated Country Strategy: Australia*, 21 March 2022; Walt, S.M., *The Biden Administration Is Addicted to Partnerships*, Foreign Policy, 3 October 2023.

²¹⁴ The Institute for Integrated Economics Research, *Australia's Economic Security: Is There a Problem?*, Australian Defence Magazine, 20 February 2019.

²¹⁵ Drysdale, P. and Armstrong, S., *Getting Australia's Strategic Choices Right*, East Asia Forum, 8 July 2018.

²¹⁶ United States, Department of State, *Integrated Country Strategy: Australia*, 21 March 2022, p. 4.

power is likely to shift more quickly in the region and it will be more difficult for Australia to achieve the levels of security and stability we seek”.²¹⁷

Indeed, the **US and Australia have long understood the importance of partnerships for economic security** (even if not expressly stated). For example, the *Australia-US Free Trade Agreement* has been in place since 2005, and the *Australia-US Defense Trade Cooperation Treaty* was signed in 2007, and has been in force since 2012. According to the Australian government, the main benefits of this partnership are:

- reduced delivery time for new defense projects;
- improved sustainment, by permitting transfers within the approved community without further Australian or US approvals;
- a more efficient way for US companies to share technical data with the Australian community without licenses;
- consistent compliance requirements across the Australian community; and
- avoidance of delays sometimes associated with the export licensing process.

The AUKUS partnership has significant elements relevant to economic security too. The three states have pledged to share knowledge and research on several cutting-edge technologies, such as AI, quantum tech and hypersonic missiles, pooling their resources and cutting research and development costs. Though AUKUS does focus on military capabilities, this partnership is expressly aimed at countering the growing influence of Chinese tech companies such as Huawei. The *Australia-United Kingdom Free Trade Agreement*, understood largely as a British response to their departure from the EU, also facilitates free trade between Australia and the UK – promoting both economies’ security and competitiveness. More recently, Australia joined the US-led *Indo-Pacific Economic Framework for Prosperity*, along with Vietnam, India, Indonesia, Japan, South Korea, Fiji, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Brunei Darussalam. In the summer of 2023, the Governments of Australia, Canada, Japan, New Zealand, the United Kingdom and the US issued a *Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices*. The declaration included a commitment to the rules-based multilateral trading system and increased international cooperation to maintain it, but this is largely seen as symbolic.

In another joint ministerial declaration, Australia demonstrated its commitment to **partnering with regional allies in the interest of promoting their economic security**. In October 2023, the fifth *Japan-Australia Ministerial Economic Dialogue* was held in Melbourne. The joint declaration issued recognized the importance of Australia and Japan’s *Special Strategic Partnership*, and “reaffirmed the importance of strengthened cooperation on economic security and enhanced resilience, including through robust

²¹⁷ Australia, Australian Government, *2017 Foreign Policy White Paper*, 23 November 2017.

economic architecture, trade diversification and supply chain resilience”.²¹⁸ More specifically, Australia pledged to continue to be a reliable supplier of resources and energy to Japan and the wider region, including through the Critical Minerals Partnership, and Japan support of Lynas was appreciated as key to reducing threats to supply chains. Australia has also upgraded the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area in efforts to further increase its industries competitiveness, strengthen supply chains and promote their economy.

As discussed above, the **Czech Republic’s** approach to the concept of economic security provides a useful example to demonstrate how a state may simultaneously take integrated security seriously, increase their national security, yet promote their economy and attract foreign investment. The Czech Republic also contributes to this by their approach to partnering. However, as a member of the EU, much of their economic partnering is beyond Prague’s control, and as such, is not necessarily noteworthy in its cooperation with other states in this regard. It is for another approach to partnering that the Czech Republic has been chosen as the last country to highlight in this section.

Seventy per cent of Czechia’s exports are to other EU Member States, and Germany, France, Poland and Slovakia are some of their most important partners for trade. Outside of the EU/EEA/EFTA, the United States are the Czech Republic’s largest export destination and third largest overall non-EU trading partner.²¹⁹ The importance of such economic partnering is made clear in the Czech Republic’s *Strategic Framework for 2030*,²²⁰ whereby **cooperation with other states is often stressed as a means to achieve sustainable development**. In his introductory words to the *Security Strategy of the Czech Republic*, Foreign Minister Jan Lipavský states the importance of alliances and partnerships, “which are necessary and priceless for a medium sized country like Czechia”.²²¹

The importance of partnering to the Czech Republic is also evident in their *Strategy for Cooperation with the Indo-Pacific*. As the title suggests, the Czech Republic has identified partnership with states in this region as a means to achieve its own economic security. The strategy cites the Indo-Pacific regions “significance in terms of economic growth and opportunities” and importance “for the functioning of multilateral trade and global supply chains, energy and raw materials security, and for creating innovations in sustainable development”.²²²

Regarding economic security, Czechia also calls upon its citizenry partners to assist in safeguarding energy security, to preserve and develop their strategic industries, promote the competitiveness of said industries internationally,

²¹⁸ Australia, Office of Minister for Trade and Tourism and Special Minister of State, *Australia-Japan Ministerial Economic Dialogue Joint Ministerial Statement*, press release, 8 October 2023.

²¹⁹ United States, Department of Commerce, *Czech Republic – Country Commercial Guide*, 8 September 2023.

²²⁰ Czech Republic, Government of the Czech Republic, *Strategic Framework Czech Republic 2030*, 19 April 2017.

²²¹ Czech Republic, Government of the Czech Republic, *Security Strategy of the Czech Republic*, 29 June 2023, p. 3.

²²² Czech Republic, Ministry of Foreign Affairs, *The Czech Republic’s Strategy for Cooperation with the Indo-Pacific: Closer than We Think*, 30 October 2022, p. 10.

and cooperate with the government in communication security, information security and cyber security. The civil society is also asked to support the government's plans to safeguard food security, environmental security, and help protect critical infrastructure. On their side, the Czech government has pledged to increase its cooperation with science institutions and others involved in research and development to promote competitiveness, and has also stated its willingness to release classified documents to build trust with their partners in the public – if in the national interest.²²³

This understanding of economic security partnering is perhaps stretching the definition slightly. Czechia's request for partnership was unique, however, and was worthy of highlighting. Of the many states reviewed, no other requested the public's cooperation quite so clearly in their national security strategies – if they had such documents at all. The Republic of Ireland's attempts to consult the public on the security risks facing the country (also critical to the West's security apparatus) were met with outrage and protest. The mere mention of defense was viewed as a violation of neutrality.²²⁴ In Czechia, however, the public are understood as equal partners with their government in achieving security.

Recognizing the interrelationship between economic and national security and promoting cooperative and multilateral strategies are key to successfully navigating the complex global environment and to strengthening national resilience to malign foreign influence.

The reviewed economic security policies employed by different countries showcase diverse approaches, highlighting the need for integrated economic security strategies that go beyond individual instruments. Engaging different stakeholders, including governments, businesses, and civil society, is crucial for fostering collective responsibility and promoting long-term economic resilience. Additionally, implementing a multi-pronged approach that combines various mechanisms, such as FDI screening, trade diversification, and technological innovation, is essential to effectively address contemporary economic security challenges.

²²³ Czech Republic, Government of the Czech Republic, *Strategic Framework Czech Republic 2030*, 19 April 2017; Czech Republic, Government of the Czech Republic (2023), *Security Strategy of the Czech Republic*, 29 June 2023, p. 24.

²²⁴ McNamara, E.M., *Ireland, NATO and "the Return of Geopolitics" in Europe*, in: Carroll, J., O'Neill, M.G., Williams, M. (Eds.), *The EU, Irish Defence Forces and Contemporary Security*, Palgrave Macmillan, Cham.

