

2022, but the treaty was still terminated.<sup>37</sup> In August 2023, Russian President Vladimir Putin signed a decree suspending provisions of nearly forty bilateral tax treaties, including one with the United States, due to “the commission of unfriendly actions by a number of foreign states.”<sup>38</sup>

*The United States Seeks to Counter China’s “Economic Coercion” Through Enhanced Cooperation and Coordination*

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The United States has for years criticized Chinese economic coercion.<sup>1</sup> In a series of statements made jointly with other states and the European Union earlier this year, the United States escalated its disapproval of Chinese actions (albeit indirectly) and announced cooperative measures to combat them. At the G7 Summit in Hiroshima in May,<sup>2</sup> the leaders noted the “disturbing rise in incidents of economic coercion that seek to exploit economic vulnerabilities and dependencies,” “express[ed] serious concern” regarding such coercion, and “call[ed] on all countries to refrain from its use.”<sup>3</sup> Shortly thereafter, the EU-U.S. Trade and Technology Council expressed the “concern” of the European Union and the United States “with the continued use of economic coercion.”<sup>4</sup> In early June, the governments of Australia, Canada, Japan, New Zealand, the United Kingdom, and the United States endorsed a Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices that “express[ed] . . . shared concern [regarding economic coercion] and affirm[ed] [a] commitment to enhance international cooperation in order to effectively deter and address” it.<sup>5</sup> A couple of weeks later, the European Commission and the EU High

<sup>37</sup> See Gabriela Baczyńska & Jan Strupczewski, *EU Strikes Deal with Hungary Over Ukraine Aid, Tax Plan, Recovery Funds*, REUTERS (Dec. 12, 2022), at <https://www.reuters.com/world/europe/eu-wrangles-with-hungary-over-ukraine-aid-tax-plan-billions-risk-2022-12-12>; Council Directive (EU) 2022/2523 (Dec. 14, 2022).

<sup>38</sup> See Указ Президента Российской Федерации от 08.08.2023 № 585 [Decree of the President of the Russian Federation of August 8, 2023 No. 585], at <http://publication.pravo.gov.ru/document/0001202308080005>.

<sup>1</sup> See, e.g., U.S. Dep’t of State Press Release, *The Administration’s Approach to the People’s Republic of China* (May 26, 2022), at <https://www.state.gov/the-administrations-approach-to-the-peoples-republic-of-china> [<https://perma.cc/FM3R-8N4Z>]; Kate Lyons, *US Secretary of State Warns Pacific Leaders About “Coercion” in Veiled Swipe at China*, GUARDIAN (June 1, 2021), at <https://www.theguardian.com/world/2021/jun/02/antony-blinken-warns-pacific-leaders-about-coercion-in-veiled-swipe-at-china>.

<sup>2</sup> The G7 includes Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States.

<sup>3</sup> G7 Leaders’ Statement on Economic Resilience and Economic Security (May 20, 2023), at [https://www.g7hiroshima.go.jp/documents/pdf/session5\\_01\\_en.pdf](https://www.g7hiroshima.go.jp/documents/pdf/session5_01_en.pdf) [<https://perma.cc/A7EA-N7GV>] [hereinafter G7 Leaders’ Statement]. The Leaders’ Statement built upon the trade ministers’ statements in September 2022 and April 2023. See G7 Trade Ministers’ Statement (Sept. 15, 2022), at <http://www.g7.utoronto.ca/trade/220915-statement.html> [<https://perma.cc/QR6R-HEK2>]; G7 Trade Ministers’ Statement (Apr. 4, 2023), at <https://www.mofa.go.jp/files/100487108.pdf> [<https://perma.cc/7G8S-EH8P>].

<sup>4</sup> Joint Statement EU-US Trade and Technology Council of 31 May 2023 in Lulea, Sweden (May 31, 2023), at [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_23\\_2992](https://ec.europa.eu/commission/presscorner/detail/en/statement_23_2992) [<https://perma.cc/2E3F-U2B8>] [hereinafter EU-U.S. Joint Statement].

<sup>5</sup> Joint Declaration Against Trade-Related Economic Coercion and Non-market Policies and Practices (June 9, 2023), at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/june/joint-declaration-against-trade-related-economic-coercion-and-non-market-policies-and-practices> [<https://perma.cc/4VV9-Q8YN>] [hereinafter Joint Declaration].

Representative for Foreign Affairs identified “weaponisation of economic dependencies or economic coercion” (a phrase also employed by the G7) as one of four “categories of risks to economic security” in the European Economic Security Strategy.<sup>6</sup> The EU is soon expected to adopt a regulation—an “Anti-Coercion Instrument” (ACI)—on “the protection of the Union and its Member States from economic coercion by third countries.”<sup>7</sup> These statements were all carefully worded to omit direct accusations against China (indeed, China went unnamed), to avoid assertions of legality and illegality, to implicitly delineate Chinese actions (improper) from those of the United States (permissible), and to obscure differences between the European Union’s broad understanding of economic coercion and the United States’ narrower construction.<sup>8</sup>

China leverages its economic power in various ways to express displeasure with, and alter the policies of, other states.<sup>9</sup> China restricted the export of rare-earth metals to Japan in a dispute over the East China Sea,<sup>10</sup> and it restricted imports of Philippine bananas over a contested shoal in the South China Sea.<sup>11</sup> China targeted South Korean retailer Lotte Group when the company leased one of its golf courses for the site the Terminal High Altitude Area Defense system (THAAD).<sup>12</sup> It issued tariffs on Australian barley, coal, and wine in response to the Australian prime minister’s call for an investigation into COVID’s origins.<sup>13</sup> China blocked Lithuanian imports when Taiwan was permitted to open a representative office there as “Taiwan” instead of “Taipei.”<sup>14</sup> China stopped buying Canadian canola oil after authorities arrested a Huawei Technologies executive.<sup>15</sup> It took actions this year against

<sup>6</sup> Joint Communication to the European Parliament, the European Council and the Council on “European Economic Security Strategy,” at 4 (June 20, 2023), at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023JC0020> [<https://perma.cc/393L-9UFK>].

<sup>7</sup> Letter Regarding “Proposal for a Regulation of the European Parliament and of the Council on the Protection of the Union and Its Member States from Economic Coercion by Third Countries” (June 14, 2023), at [https://www.europarl.europa.eu/RegData/commissions/inta/lcag/2023/06-19/INTA\\_LA\(2023\)003909\\_EN.pdf](https://www.europarl.europa.eu/RegData/commissions/inta/lcag/2023/06-19/INTA_LA(2023)003909_EN.pdf) [<https://perma.cc/4P8P-QV5J>] [hereinafter Anti-Coercion Instrument].

<sup>8</sup> These texts identify China implicitly, not directly. See, e.g., G7 Hiroshima Leaders’ Communiqué 35 (May 20, 2023), at [https://www.g7hiroshima.go.jp/documents/pdf/Leaders\\_Communique\\_01\\_en.pdf](https://www.g7hiroshima.go.jp/documents/pdf/Leaders_Communique_01_en.pdf) [<https://perma.cc/9R2Z-A34K>].

<sup>9</sup> For a recent review, see Matthew Reynolds & Matthew P. Goodman, *Deny, Deflect, Deter: Countering China’s Economic Coercion*, CSIS (Mar. 2023), at [https://csis-website-prod.s3.amazonaws.com/s3fs-public/2023-03/230321\\_Goodman\\_CounteringChina%27s\\_EconomicCoercion.pdf](https://csis-website-prod.s3.amazonaws.com/s3fs-public/2023-03/230321_Goodman_CounteringChina%27s_EconomicCoercion.pdf) [<https://perma.cc/2DC5-4DDY>].

<sup>10</sup> See Yuka Hayashi & James T. Areddy, *Japan Scrambles for Rare Earth*, WALL ST. J. (Oct. 15, 2010), at <https://www.wsj.com/articles/SB10001424052748704049904575553792429346772>.

<sup>11</sup> See Andrew Higgins, *In Philippines, Banana Growers Feel Effect of South China Sea Dispute*, WASH. POST (June 10, 2012), at [https://www.washingtonpost.com/world/asia\\_pacific/in-philippines-banana-growers-feel-effect-of-south-china-sea-dispute/2012/06/10/gJQA47WVTV\\_story.html](https://www.washingtonpost.com/world/asia_pacific/in-philippines-banana-growers-feel-effect-of-south-china-sea-dispute/2012/06/10/gJQA47WVTV_story.html).

<sup>12</sup> See Youkyung Lee & Christopher Bodeen, *THAAD’s Connection to Candy, Makeup and K-pop*, DEFENSENEWS (Mar. 20, 2017), at <https://www.defensenews.com/pentagon/2017/03/20/thaad-s-connection-to-candy-makeup-and-k-pop>.

<sup>13</sup> See Rhiannon Hoyle, *Squeezed by China’s Tariffs, Australian Farmers Cultivate New Markets*, WALL ST. J. (Feb. 25, 2021), at <https://www.wsj.com/articles/squeezed-by-chinas-tariffs-australian-farmers-cultivate-new-markets-11614249003>.

<sup>14</sup> See Nathaniel Taplin, *Lessons from Lithuania’s David-Goliath Clash with China*, WALL ST. J. (July 12, 2022), at <https://www.wsj.com/articles/lessons-from-lithuanias-david-goliath-clash-with-china-11657633482>.

<sup>15</sup> See Paul Vieira, *Canada Moves to Mitigate Fallout from China Canola Ban*, WALL ST. J. (May 1, 2019), at <https://www.wsj.com/articles/canada-moves-to-mitigate-fallout-from-china-canola-ban-11556727622>.

American companies—a cybersecurity review of Micron;<sup>16</sup> questioning Bain’s staff in Shanghai;<sup>17</sup> raiding the Beijing offices of the due-diligence firm Mintz Group and detaining its staff members<sup>18</sup>—in apparent response to U.S. restrictions on high-tech exports to China.

As it expressed serious concern with economic coercion, the G7 statement on “Economic Resilience and Economic Security” did not define the term. It described economic coercion’s consequences, stating that that it “undermines the functioning of and trust in the multilateral trading system” and “infringes upon the international order centered on respect for sovereignty and the rule of law, and ultimately undermines global security and stability.”<sup>19</sup> The statement then focused on measures to fight economic coercion. Domestically, the statement declared, G7 members “will use [their] existing tools, review their effectiveness and develop new ones as needed to deter and counter the use of coercive economic measures.”<sup>20</sup> Together, the leaders promised, their countries will launch the Coordination Platform on Economic Coercion “to increase [their] collective assessment, preparedness, deterrence and response.”<sup>21</sup> This new mechanism, they explained, “will [allow the G7 to] use early warning and rapid information sharing, regularly consult each other, collaboratively assess situations, explore coordinated responses, deter and, where appropriate, counter economic coercion, in accordance with our respective legal systems.”<sup>22</sup> In addition, the G7 members indicated that they will “support targeted states, economies and entities as a demonstration of solidarity and resolve to uphold the rule of law.”<sup>23</sup>

The absence of a definition of “economic coercion” from the G7 statement is explicable in light of the positions taken in the EU-U.S. Joint Statement and six-party Joint Declaration that followed. Those texts revealed a divide between the G7’s EU members and non-EU members. The Joint Declaration—signed by the G7’s four non-EU members and Australia and New Zealand—defined economic coercion narrowly as a combination of two elements: improper means (focusing on rule of law criteria) and improper goals (interfering with a government’s decision-making authority). Thus, the Declaration’s signatories stated that they “oppose[d] . . . trade-related economic coercion that uses, or uses the threat of, measures affecting trade and investment *in an abusive, arbitrary, or pretextual manner to pressure, induce or influence* a foreign government into taking, or not taking, a decision or action in order to achieve a strategic political or policy objective, or *prevent or interfere* with the foreign government’s exercise of its *legitimate sovereign rights or choices*.”<sup>24</sup> Trade-related coercion, the declaration explained, focusing on improper means, “is frequently

<sup>16</sup> See Shen Lu & Asa Fitch, *China Opens Cybersecurity Probe of Micron Amid Competition with U.S. Over Technology*, WALL ST. J. (Mar. 31, 2023), at <https://www.wsj.com/articles/china-opens-cybersecurity-probe-of-micron-amid-competition-with-u-s-over-technology-57698d0a>.

<sup>17</sup> See Dan Strumpf, *Bain’s Staff in Shanghai Questioned as China Targets Foreign Businesses*, WALL ST. J. (Apr. 27, 2023), at <https://www.wsj.com/articles/chinese-authorities-question-bain-staff-in-shanghai-e0bbf2fb>.

<sup>18</sup> See James T. Areddy, *Chinese Authorities Raid Office of U.S. Investigations Firm Mintz Group*, WALL ST. J. (May 24, 2023), at <https://www.wsj.com/articles/chinese-authorities-raid-office-of-u-s-investigations-firm-mintz-group-de818140>.

<sup>19</sup> G7 Leaders’ Statement, *supra* note 3, at 3.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Joint Declaration, *supra* note 5 (emphasis added).

disguised as a legitimate government regulatory or public policy measure unrelated to the strategic objective that it is intended to advance” and can “occur indirectly through government entrustment or direction given to state-owned, state-controlled, or private enterprises.”<sup>25</sup> The Declaration contrasted such improper means with government acts that, “in light of relevant international rules and norms[,] . . . are adopted and maintained in a transparent manner, in good faith, and for the purpose of a legitimate public policy objective.”<sup>26</sup> These appropriate measures, impliedly referring to U.S. economic actions, include “health and safety regulations, environmental regulations, trade remedies, national security measures and sanctions, and measures to protect the integrity and stability of financial systems and financial institutions from abuse.”<sup>27</sup> Accordingly, a United States Trade Representative official reportedly rejected any comparison between the China measures and those undertaken by the United States. “US sanctions,” the official said, “occurred in accordance with US laws and procedures, and in light of relevant rules and norms.”<sup>28</sup>

In contrast to the Joint Declaration, the EU-U.S. Joint Statement’s definition focused almost entirely on economic coercion’s improper goals and not on its improper means. According to the Statement, economic coercion “attempts to undermine other governments’ legitimate policy decisions through the use, or threat of use, of targeting of foreign firms and individuals to prevent or interfere with the foreign government’s exercise of its legitimate sovereign right or choices, such as through opaque regulatory and cybersecurity reviews.”<sup>29</sup> This focus on goals instead of means follows the approach to economic coercion taken by the draft EU Anti-Coercion Instrument.<sup>30</sup> That document defines economic coercion broadly as: “where a third country interferes in the legitimate sovereign choices of the Union or a Member State by seeking to prevent or obtain the cessation, modification or adoption of a particular act by the Union or a Member State by applying or threatening to apply measures affecting trade or investment.”<sup>31</sup> The United States, it seems, was willing to accede to the EU’s position on economic coercion within the particular framework of the EU-U.S. Trade and Technology Council statement but not in the G7 Leaders’ Statement. As a state that employs economic measures, the United States maintains a narrow definition of economic coercion that permits its actions, whereas the European Union, more often the victim of coercion, takes a broader view.

The signatories to the Joint Statement and the Joint Declaration agreed on the importance of taking measures to counter economic coercion. The Joint Declaration’s parties committed to “identify, prevent, deter, and address trade-related economic coercion and non-market policies and practices, including through multilateral institutions, such as the WTO” and to share “information, data and analysis concerning these policies and practices as well as

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Eric Martin, *US and Allies Condemn Economic Coercion in Declaration with Attention on China*, BLOOMBERG (June 9, 2023), at <https://www.bloomberglaw.com/document/RVYLWFDWRGG0> (paraphrasing the U.S. official).

<sup>29</sup> EU-U.S. Joint Statement, *supra* note 4.

<sup>30</sup> See Anti-Coercion Instrument, *supra* note 7.

<sup>31</sup> *Id.* Art. 2(1). Rule of law criteria are also absent from the list of considerations that are to be taken into account when determining the existence of economic coercion. See *id.* Art. 2(2).

exploring the development of new diplomatic and economic tools that support and reinforce the rules-based multilateral trading system in responding to these challenges.”<sup>32</sup> The Joint Statement’s signatories undertook to use the “G7 Coordination Platform on Economic Coercion, and to strengthen coordination with each other and other likeminded partners to improve our preparedness, resilience, deterrence, assessment and responses to economic coercion.”<sup>33</sup> “For that purpose,” the statement continued, “we intend to make full use of our respective tools to counter economic coercion. We will coordinate, as appropriate, to support targeted states, economies and entities as a demonstration of solidarity and resolve to uphold the rule of law.”<sup>34</sup>

China contends that the United States and its co-signers are hypocrites because the United States itself actively engages in economic coercion (or what China calls “coercive diplomacy”).<sup>35</sup> Following the G7 summit, a Chinese Foreign Ministry spokesperson commented: “[a]s for ‘economic coercion,’ the massive unilateral sanctions and acts of ‘decoupling’ and disrupting industrial and supply chains make the U.S. the real coercer that politicizes and weaponizes economic and trade relations. We urge the G7 not to become an accomplice in economic coercion.”<sup>36</sup> Responding to the Joint Declaration, Wang Wenbin, deputy director of information at the Foreign Ministry, said: “The statement is made by the US together with its Five Eyes allies and Japan, but every sentence in it reads like a description of the US itself.”<sup>37</sup> “As the US attempts to project its deplorable image onto others,” he continued, “the world gets a chance to see clearly what the US really is—a country that tramples on market economy principles and international trade rules.”<sup>38</sup> “We suggest,” he concluded, “the UK and the other countries use this statement as a checklist and call on the US to correct its economic coercion, unilateral sanctions, long-arm jurisdiction, and other non-market practices.”<sup>39</sup> “When national sovereignty and dignity [are] under coercion or violation,” Foreign Ministry Spokesperson Zhao Lijian said in response to statements made regarding Chinese economic coercion by Secretary of State Antony Blinken, “China responds with reasonable and lawful countermeasures to defend its legitimate rights and interests and uphold international equity and justice.”<sup>40</sup> He continued: “China never threatens other countries with force. We never form military coalition or export ideology. We never make provocations at others’ doorstep or reach our hands into others’ homes. We never wage trade wars or

<sup>32</sup> Joint Declaration, *supra* note 5.

<sup>33</sup> EU-U.S. Joint Statement, *supra* note 4.

<sup>34</sup> *Id.*

<sup>35</sup> See Ministry of Foreign Affairs of the People’s Republic of China Press Release, America’s Coercive Diplomacy and Its Harm (May 18, 2023), at [https://www.fmprc.gov.cn/eng/wjbxw/202305/t20230518\\_11079589.html](https://www.fmprc.gov.cn/eng/wjbxw/202305/t20230518_11079589.html) [<https://perma.cc/5MPM-5ZS6>].

<sup>36</sup> Ministry of Foreign Affairs of the People’s Republic of China Press Release, Foreign Ministry Spokesperson’s Remarks on G7 Hiroshima Summit’s Hying Up of China-Related Issues (May 20, 2023), at [https://www.fmprc.gov.cn/eng/xwfw\\_665399/s2510\\_665401/2535\\_665405/202305/t20230520\\_11080748.html](https://www.fmprc.gov.cn/eng/xwfw_665399/s2510_665401/2535_665405/202305/t20230520_11080748.html) [<https://perma.cc/S3ZA-SN8L>].

<sup>37</sup> *Chinese FM Lambastes US-Led Statement on “Economic Coercion,”* GLOB. TIMES (June 12, 2023), at <https://www.globaltimes.cn/page/202306/1292454.shtml>.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Ministry of Foreign Affairs of the People’s Republic of China Press Release, Foreign Ministry Spokesperson Zhao Lijian’s Regular Press Conference on June 6, 2022, at [https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/202206/t20220607\\_10699867.html](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/202206/t20220607_10699867.html) [<https://perma.cc/3YLD-UMML>].

groundlessly hobble foreign companies. And we never bully, sanction or carry out long-arm jurisdiction.”<sup>41</sup>

Legislation pending in the United States and the European Union reflect the different approaches of each to economic coercion. The EU’s Anti-Coercion Instrument, slated for enactment this year following a compromise between the Council and Parliament over the allocation of decision making between the Commission and the Council, focuses on the improper goal of interference in member state or EU decision making.<sup>42</sup> The ACI is intended to deter coercion, but it allows for the adoption of retaliatory measures, including: the imposition of customs duties; restrictions on the import and export of goods and services, intellectual property rights, and foreign direct investment; and limits on participation in public procurement.<sup>43</sup> In Congress, matching bipartisan bills introduced in the House and the Senate—the Countering Economic Coercion Act of 2023—focus on both means and goals, defining economic coercion as “actions, practices, or threats undertaken by a foreign adversary to unreasonably restrain, obstruct, or manipulate trade, foreign aid, investment, or commerce in an arbitrary, capricious, or non-transparent manner with the intention to cause economic harm to achieve strategic political objectives or influence sovereign political actions.”<sup>44</sup> The bills would “provide the president with specific tools to offer rapid economic support to foreign partners targeted by economic coercion and to punish perpetrators of economic coercion.”<sup>45</sup> “Countries like China and Russia are increasingly abusing their economic power to bully smaller countries and punish sovereign political decisions,” said Senator Chris Coons.<sup>46</sup> “This economic coercion,” he continued, “hurts these nations, threatens U.S. economic security, and undermines the democratic, rules-based international system that has underpinned decades of global growth.”<sup>47</sup> Both bills are currently in committee.

#### USE OF FORCE, ARMS CONTROL, AND NON-PROLIFERATION

##### *The United States Unveils Political Declaration on Responsible Military Use of Artificial Intelligence and Autonomy*

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For more than a decade, as the technology has become increasingly real, the substantial advantages and real dangers of artificial intelligence (AI)—“the ability of machines to perform tasks that would otherwise require human intelligence,” such as “recognizing patterns,

<sup>41</sup> *Id.*

<sup>42</sup> See Andy Bounds, *EU Agrees Trade Defence Tool Against China*, FIN. TIMES (Mar. 28, 2023), at <https://www.ft.com/content/6f77236e-3cd7-4d95-a5fd-f86b7769ae6e>.

<sup>43</sup> See Anti-Coercion Instrument, *supra* note 7, Annex 1.

<sup>44</sup> H.R. 1135, Sec. 3, 118th Cong., 1st Sess. (2023); S. 295, Sec. 3(2), 118th Cong., 1st Sess. (2023).

<sup>45</sup> Young, Coons Introduce Bill to Counter Economic Coercion of Allies and Partners (Feb. 8, 2023), at <https://www.young.senate.gov/newsroom/press-releases/young-coons-introduce-bill-to-counter-economic-coercion-of-allies-and-partners> [<https://perma.cc/3985-MJSU>] [hereinafter Young, Coons Introduce Bill]; see also Cole, Meeks, Bera Introduce the Countering Economic Coercion Act of 2023 (Feb. 23, 2023), at <https://cole.house.gov/media-center/press-releases/cole-meeks-bera-introduce-countering-economic-coercion-act-2023> [<https://perma.cc/L3FP-U6EL>].

<sup>46</sup> Young, Coons Introduce Bill, *supra* note 45.

<sup>47</sup> *Id.*