U.S. House Of Representatives Ways & Means Committee

Full Committee Hearing On "The U.S. Tax Code Subsidizing Green Corporate Handouts And The Chinese Communist Party"

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Remarks as prepared for delivery:

Chairman Smith, Ranking Member Neal, Members of the Committee: Thank you for the opportunity to testify today on this important topic of securing America's supply chains through oversight of tax policy.

My name is Drew Horn, and I am president and CEO of GreenMet, a private company working to develop American critical mineral and green energy supply chains, thereby reducing U.S. reliance on foreign adversaries. I am also a former U.S. Army Special Forces officer and a Marine officer who served this country for over 10 years in uniform. During my time as an officer, I successfully completed three combat deployments to Afghanistan as a Green Beret, and one to Iraq as a Marine. After my military service I had the privilege to serve as a senior policy executive at the Departments of Defense and Energy, the Office of the Vice President, and the Office of the Director of National Intelligence. Our GreenMet team is made up of decorated veterans, former public servants, and industry experts.

GreenMet was founded in 2021 to build substantial U.S. solutions with a technological advantage over U.S. adversaries that supports domestic production of premium products that are cost-efficient with full accountability and transparency. Our company is currently involved in multiple mineral resource projects that will strengthen domestic critical mineral supply chains.

GreenMet's focus is on developing the required infrastructure for sustainable and uninterruptable critical mineral supply chains to meet U.S. and North American energy and technology needs. We are a mission-driven team, serving as an important connection between Wall Street investment and U.S. Government decisionmakers during this essential time in U.S. industrial and energy and mineral resource policy.

Our team works to demonstrate that the U.S. has the ability to produce domestic energy in a cleaner and technologically superior way compared to foreign adversaries. America has a de facto tendency toward ESG (Environmental, Social, and Governance), given that our nation's 21st century mining and metalmaking practices are governed by the highest and best standards in the world. As we unleash our domestic energy production according to these standards, true sustainability and secure supply will follow.

Bolstering domestic critical mineral supply chains is vital for economic stability and national security. Our company mission is guided by Executive Order 13817, Executive Order 13953, and Executive Order 14017. These presidential orders acknowledge the imperative to build domestic production capabilities for materials critical to our defense industrial base, advanced energy systems, and our everyday consumer needs. By taking steps toward vertical integration of these supply chains, our nation minimizes risk of supply chain disruptions such as those we witnessed during the early months of the COVID-19 pandemic and Russia's invasion of Ukraine.

I am here today before a Committee that understands the deep connection between our domestic energy supply chains and our national security. The 2022 Inflation Reduction Act (IRA) signed by the President intended to invest in companies whose focus is domestic energy production and manufacturing to strengthen our energy security.[1]

We Must Close Loopholes in the IRA Policy Implementation

As we have seen in recent headlines, the agencies' execution of IRA has been incongruent with the intent of Congress in writing the law. The changes and expansions to Tax Credits in Sections 30, 45, and 48 of the IRS tax code aimed at securing domestic supply and incentivizing investors and suppliers to expand the domestic critical minerals and battery materials markets.[2] Yet, as of the submission of this testimony, small and large companies lack key guidance on what entities would qualify and what process would quantify the percentage of "applicable critical minerals."

Given that the U.S. Department of the Treasury (Treasury) is responsible for ensuring compliance with the IRA's full intent through its previous and future guidance, it is imperative Treasury close loopholes that currently enable Chinese companies to move operations to U.S. soil by partnering with U.S. companies. Such arrangements will create intense issues for the American energy industry regarding security of intellectual property or "IP", among other security issues.

I wish to highlight the section 30D Clean Vehicle Credit expansion as a prime example of a loophole. Treasury has announced guidance regarding the qualification of critical mineral requirements, highlighting the need for supply chain transparency and sourcing requirements.[3] However, as of this

[1] https://www.whitehouse.gov/briefing-room/speeches-remarks/2022/08/16/remarks-by-president-biden-at-signing-of-h-r-5376-the-inflation-reduction-act-of-2022/
[2] https://www.hklaw.com/en/insights/publications/2022/10/the-inflation-reduction-act-provisions-and-incentives-for-local
[3] https://www.irs.gov/newsroom/irs-issues-guidance-and-updates-frequently-asked-questions-related-to-the-new-clean-vehicle-critical-mineral-and-battery-components

week's hearing, stakeholders in the mineral industry are still waiting for Treasury guidance on what countries qualify as a "foreign entity of concern."

Nevertheless, I am pleased to see American companies responding to this 30D credit expansion by securing North American binding commitments to meet domestic mineral requirements by 2025. Industries such as American auto manufacturing will play a critical role in the use of domestically sourced critical and other minerals. Companies including General Motors (GM) have been very vocal and transparent in their support for policies within the IRA that incentivize domestic critical mineral production and requirements. As GM and other manufacturers look to Treasury for 30D guidance on compliance requirements, I urge Treasury to immediately seek clear guidance on definitions from subject matter experts (SMEs) who understand the state of the market. This required guidance will enable much needed incentives for companies and investors to participate in the domestic supply chain sooner rather than later.

Trade policy has become a focus of the IRA landscape. The EU and others reacted with outrage and countering legislation to the huge shift in global market incentives for U.S. investment as a result of the IRA and its investment in America's supply chains. Our nation saw responses like the EU's Critical Raw Materials Act. Also, Canada and Japan stepped up to solidify bilateral trade agreements with the U.S.

The U.S. does not have a free trade agreement with the Chinese Government, or the People's Republic of China (PRC). The unfortunate consequence of global realignment of investment incentives was that Chinese state-owned enterprises (SOEs) are taking advantage of U.S. tax credits by establishing Chinese subsidiaries on U.S. soil within U.S. supply chains. The clear and present example of this was when the massive Chinese tech company Contemporary Amperex Technology (CATL) announced after the IRA became law that it would build a new EV battery plant in Michigan in partnership with Ford Motor Co.

National Security Imperative in Creating Strong Industrial Policy

Domestic supply chains mean economic stability and are national security imperatives. The lack of secure and uninterruptible critical mineral supply chains is, in my professional opinion, the most significant national security threat that the United States and other friendly countries are facing thus far in the 21st century.

Nationwide, industry and financial leaders are finally waking up to the massive importance of the supply chain problem and the threat that it presents to America and our allies. JPMorgan Chase CEO Jamie Dimon recently warned in his annual letter to shareholders, by "using subsidies and its economic muscle to dominate batteries, rare earths, semiconductors, or EVs, [the PRC] could eventually imperil national security." Dimon stated the U.S. "cannot cede these important resources and capabilities to another country."[4]

[4] https://reports.jpmorganchase.com/investor-relations/2022/ar-ceo-letters.htm

Such a scenario is at our doorstep and will continue if we do not close these loopholes in IRA implementation.

In the true spirit of Executive Order 14017 (America's Supply Chains), I emphatically urge each federal agency and department to secure and diversify America's Supply Chains through continual IRA guidance. As the President declared, "more resilient supply chains are secure and diverse — facilitating greater domestic production, a range of supply, built-in redundancies, adequate stockpiles, safe and secure digital networks, and a world-class American manufacturing base and workforce."[5]

The bipartisan and bicameral congressional pushback on lack of Treasury guidance demonstrates incongruity of administration implementation compared to original congressional intent—with respect to IRA language. Without question, this is the most critical, truly bipartisan, and whole-of-industry impactful issue of our time.

Breaking Down the Chinese SOE Economy

I reiterate this undeniable point: the most consequential incongruity of the IRA implementation is that Chinese SOEs are able to take advantage of U.S. tax credits on U.S. soil within U.S. supply chains.

As I told reporters who asked about this issue, the PRC and CATL are essentially the same thing. There's really no separation.[6] It's just the nature of the way business is done in PRC, that the Chinese Communist Party (CCP) has influence and control over all of its state-owned companies.

Understanding the PRC market economy as it applies to critical minerals and metals can be broken down into hard subsidies, soft subsidies, and structural advantages over free markets.

The PRC deploys their own system of hard and soft subsidies in critical mineral supply chains. They apply value-added export taxes to finished magnets and added taxes for shipping mineral oxides, metals, or alloys. These hard subsidies create an incentive for Chinese companies to keep the supply chain for early-stage minerals in China and add a premium on trade in any mineral products.

Soft subsidies include Foreign Direct Investment (FDI) through the Belt & Road Initiative (BRI), reduced labor and environmental costs, and intellectual property and technology transfer.

Structural advantages of the PRC's critical mineral economy and larger energy systems include dominant SOEs and orchestrated coordination across the SOE ecosystem, all at the direction and

[5] https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/executive-order-on-americas-supply-chains/
[6] https://www.foxnews.com/politics/ccp-backed-tech-companies-poised-cash-in-bidens-climate-bill-national-security-experts-warn

discretion of the CCP. When a company like CATL takes any action, it is acting in lockstep with the CCP.

The PRC's mineral and metal producing sector is heavily dominated by SOEs. In 2015, the Congressional Research Service (CRS) reported Chinese government officials proposed that rare earth producers be merged into six firms: Boatang Group (Baotou Steel and Rare Earth), Chinalco (Chalco Rare Earth), Minmetals Rare Earth, Ganzho Group, Fujian Changting Jinlong Rare Earth Co., Ltd., and Guandong Rising Non Ferrous Metals.[7] In 2021, this consolidation was furthered by merging of China Minmetals Rare Earth Co. with two other state-owned giants, Chinalco Rare Earth and Metals Co and Ganzhou Rare Earth Group, to form a new group under the direct control of the central government.[8] Similar government-directed consolidations have occurred in Chinese iron and steel markets, as well as the aluminum sector.

Chinese SOEs are artificially supported and protected by CCP-state funding combined with practices that pit them against each other creating hypercompetitive productivity. This market scenario results in high efficiency, oversupply, and low prices. They then flood the market with cheap goods. This is the opposite of U.S. experiences with monopolies in our capitalist free market, where monopolies are inefficient and tend to undersupply goods to assure high prices.

When state-funded companies such as CATL are allowed to do business inside the U.S., we must assume PRC intelligence agencies are illegally collecting U.S. sensitive information, stealing intellectual property, and doing everything they can to continue their dominance in this sector. This is the major 21st century threat to our domestic manufacturing and industrial capabilities.

The PRC's offshoring of its battery manufacturing capacity to the U.S. is a direct extension of the BRI. This is but one example of a Trojan horse inserted into our nation's industrial and manufacturing sectors and our national policy development.

The many geopolitical advantages gained by the PRC's critical materials monopoly will be used to prevent any meaningful competition in downstream rare earth element production outside of the PRC's control. We already see evidence of this in the form of "Dragonbridge," a Chinese misinformation campaign launched against U.S. government-contracted rare earth project in Texas.[9]

The Role of Foreign Direct Investment (FDI) and Response of CFIUS

FDI is not a tool that is unique to the PRC. FDI occurs when an entity of one country obtains a lasting financial interest in and a degree of influence over the management of a business enterprise in another country. FDI is commonly defined as 10% or more of voting securities or equivalent interest.

[7] https://crsreports.congress.gov/product/pdf/R/R43864/6
[8] https://www.ft.com/content/4dc538e8-c53e-41df-82e3-b70a1c5bae0c
[9] https://www.defenseone.com/technology/2022/06/chinas-disinformation-warriors-may-be-coming-your-company/368791/

FDI can take the form of establishment of new operations ("greenfield investments"), the purchase of existing operations (through mergers and acquisitions), or the infusion of capital to existing operations. It is distinct from portfolio investment, for example, ownership of stocks, bonds, or other financial assets.

The evidence for increasing FDI is the extraordinary track record of approvals by the Committee on Foreign Investment in the U.S. (CFIUS). Reviews by CFIUS identify and address any consequent national security risks posed by potential foreign "control" of a U.S. business or creating undue "harm" within an economic sector such as mining or mineral processing or metallurgy. A CFIUS Risk Assessment considers three issues: 1) Threat posed by the foreign investment in terms of intent and capabilities. 2) Aspects of the business activity that pose vulnerabilities to national security, and 3) National security consequences if the vulnerabilities are exploited.

CFIUS decisions involving FDI in American critical mineral supply chains can have long-term economic and geopolitical implications. As CFIUS has resource and scope limitations, senior-level decision-making capabilities regarding mineral supply chain issues in the U.S. will usually be limited in their effectiveness.[10]

The PRC's modus operandi is to conceal its ownership or influence over U.S. companies and universities that present themselves as home-grown domestic entities dedicated to promoting U.S. commercial and national interests. In some instances, these companies or universities have filed for and were granted U.S. government funding, as in the case of routine DOE awards for critical mineral research.

For example, a federal grant was awarded to the company Microvast despite the company having documented ties to the CCP and operating primarily out of China.[11] The grant was part of the Infrastructure Investment and Jobs Act (IIJA), which aimed to secure America's domestic supply chains by being less reliant on the PRC for materials such as lithium-ion battery cells or critical minerals.

According to Reuters, over 200 companies competed for DOE grants under the IIJA last year, but only 20 companies were awarded, including CCP-backed Microvast.[12] In a press release the company describes itself as "a leading global provider of next-generation battery technologies for commercial and specialty vehicles."[13] In a December 14, 2021 Securities and Exchange Commission (SEC) filing the holding company of Microvast called Microvast Holdings Inc. stated, "We are a holding company, and we conduct all of our operations through our subsidiaries, and principally through our subsidiary in China."[14]

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[10] https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-overview

[11] https://finance.yahoo.com/news/microvast-200-million-us-grant-183147161.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuYmluZy5jb20v&guce_referrer_sig=AQAAAJ3fyb6mCxEsc4yKpYfDO80jbiZKyPuRL3HuNrYY6qvHRChHIAQK7YYBeY74EyHdM7GApEtTtAEH99UrPz5Qg6I0O46jh3axz9CtpKJ3_B4LPdRElaZSmFzS3p5g-Rvm-pGy1xuD-Y951kfhuElkQFxU598xu5TYCgtc-QIXSkrJ

[12] https://www.reuters.com/business/republican-lawmakers-criticize-us-grant-battery-company-with-china-ties-2022-12-07/

[13] https://ir.microvast.com/node/6966/html

[14] https://www.sec.gov/Archives/edgar/data/1760689/000121390021065178/fs12021a3_microvast.htm

The PRC will continue to rely on U.S. companies via FDI and voluntary compliance with CFIUS to manipulate the U.S. political system to maximize their economic advantage. Many SOEs are taking equity positions in resource companies abroad supported by CCP national policies. Elizabeth Economy reported in her article "By All Means Necessary" that nearly 40% of Chinese mining companies involved in foreign projects are state-owned.[15] No doubt this number has exponentially grown since that 2014 report. Strategic FDI is observable in the largest manufacturing companies in the world that require rare earth elements, other critical minerals, or critical material dependent components for their systems.

Maintaining a Balanced Understanding of Trade

In the short-term, the U.S. will need to engage with allies and free-trade partners to secure our mineral supply chains. The solidification of our free-trade partnerships, even with the current patchwork of agreements, ensures our continual collaboration with North American countries and observance of longstanding allies. Congress should be involved in ratifying such free-trade agreements with clear mandates for allied cooperation.

A recent report from Commerce Department on the imports of critical minerals highlighted the value of multilateral engagement on critical minerals which can help transition the U.S. and allies from reliance on a potential adversary and national security threats.[16] One ongoing bilateral engagement is the U.S.-Canada Joint Action Plan on Critical Minerals (2019). GreenMet recently participated in a panel at the Canadian Embassy to highlight continued U.S. collaboration on critical minerals and supply chains. Other multilateral agreements with G20 and QUAD countries can also facilitate efficient coordination on supply chain resiliency issues.

Defining foreign entities of concern in coordination with current national defense laws and other agency guidance like the U.S. Export-Import Bank (EXIM) and U.S. International Development Finance Corporation (DFC) will not preclude any continuation of U.S. trade. Under the Defense Production Act, Canada is considered a "domestic source" which shows the flexibility in U.S. policy to look beyond our borders for our critical needs especially in reducing the nation's reliance on foreign supply chains.[17]

Foreign entities of concern as a definition should include "covered nations" as defined in U.S. law.[18] Additionally, entities in other markets where covered nations have a controlling interest should be excluded from tax advantages. Such entities can include groups that receive "soft subsidies" from regimes such as PRC and the Russian Federation – including several countries receiving significant investment through the BRI and other FDI. This includes Democratic Republic of Congo and their Chinese affiliates as well as Belarus with their Russian affiliates.

[15] https://allchinareview.com/by-all-means-necessary-how-chinas-resource-quest-is-changing-the-world/
[16] https://www.bis.doc.gov/index.php/documents/section-232-investigations/3141-report-1/file
[17] https://www.businessdefense.gov/ai/dpat3/index.html
[18] 10 USC § 2533c(d)(2): The term "covered nation" means— (A) the Democratic People's Republic of North Korea; (B) the People's Republic of China; (C) the Russian Federation; and (D) the Islamic Republic of Iran

This definition of a foreign entity of concern already exists in U.S. law as guidance for rebuilding our defense industrial base and calling for the prohibition on acquisition of sensitive materials from non-allied foreign nations. The case for application of this definition to our domestic mineral supply chains is now. Our energy security must be viewed as national security.

In the global market, the PRC has disproportionate control over the upstream production and downstream processing of many critical minerals such as cobalt (65%), lithium (55%), copper (40%), nickel (35%), graphite (99%), synthetic graphite (78%), polysilicon (80%) as well as 92% of the global cathode capacity, 91% of global anode capacity, and virtually 100% of the rare earth market. When combined with the PRC's near 100% control over the production of EV grade high-temperature rare earth magnets, the PRC owns the EV space and most other technologies that are dependent on these critical materials.

Other elements and materials where the PRC is the global dominant supplier include aluminum (55%), antimony (84%), arsenic (61%), bismuth (70%), fluorspar (59%), gallium (96%), germanium (72%), indium (57%), manganese (93%), mercury (89%), vanadium (60%), tantalum (40%), and tungsten (83%). At any point, especially in light of recent sanctions threatened by the CCP, the PRC may limit global access by restricting trade to these and other critical minerals, all of which have the PRC as the dominant global producer or mineral processor and metal producer.

According to the 2023 U.S. Geological Survey (USGS) Mineral Commodity Summaries, the U.S. is over 50% import reliant for 51 minerals, which is up from 47 minerals in 2021. Furthermore, it is 100% reliant on imports for 15 minerals, 12 of which are listed on the USGS' 2022 Final List of Critical Minerals.[19] Of all the countries with which the U.S. trades, the PRC is the nation that we are most reliant on for critical mineral imports.
Therefore, trade policy will be key in decreasing our import reliance on foreign entities of concern. Successful trade policy is also key in identifying our friendly partners for defense purposes, diplomatic purposes, and economic stability.

Recovering Real Investment Solutions in Domestic Energy Production and Manufacturing

Existing tax credit policy lacks specificity at each step of the process in determining eligibility for receiving these new and expanded green energy tax credits. If we allow this policy to remain unchanged, we ignore the massive vulnerability for the PRC to exploit the current U.S. tax code on U.S. soil under the disguise of assisting U.S. industry when in reality, they are actively undermining U.S. industry. We are preventing the birth of legitimate U.S. alternatives in our nation's energy and critical mineral resources and the other economic sectors that rely heavily on them. This is a disastrous loophole that must be closed.

Strong industrial policy closes loopholes in economic subsidies. Closing loopholes by defining foreign entities of concern as non-allied foreign nations and other markets where covered nations

[19] https://pubs.usgs.gov/periodicals/mcs2023/mcs2023.pdf

have a controlling interest will strengthen the case for subsidies as strong incentives for the industry. Closing loopholes will de-risk domestic energy production for willing Wall Street investors and patriotic American companies looking to unleash American energy production again.

What our foreign adversaries have understood very effectively is that when they're able to control the lion's share of the critical mineral supply chain—even 80% of the key components — then they can affect legislation, find other political and economic loopholes, and in general maintain resource "supply chain control" where they have the ability to restrict supplies to the U.S. thus providing massive geopolitical leverage to our adversaries.

A portfolio of options exists inside the U.S. today that, if given even a small amount of time and government support, can organically grow with minimal foreign interference. We must control our own destiny, but the window of opportunity to rebuild domestic supply chains is closing if we don't take action now.

Thank you again for the opportunity to testify today. I look forward to your questions.