

**Testimony before the
United States Senate Committee on Finance**

Hearing on

“The Promise and Challenge of Strategic Trade Engagement in the Indo-Pacific Region”

Testimony by Kelly Ann Shaw

Partner

Hogan Lovells US LLP

March 15, 2022

Chairman Wyden, Ranking Member Crapo, distinguished Members of the Committee, thank you for the opportunity to discuss U.S. trade and economic engagement in the Indo-Pacific, the globe's most dynamic region. Prior to my current role in private practice, I was privileged to spend a decade in government service, negotiating with our trading partners throughout the Indo-Pacific. While I draw upon these experiences, the testimony I provide this morning is solely my own.

How we structure and nurture our economic relationships in Asia today will go far in determining whether the United States remains the world's leading economic power.

But the stakes are about more than just whether the United States will continue to be number one. Democracy itself is under threat—not just in Europe, but in Latin America, Africa, Asia, and the Pacific. The rise of autocracy and state capitalism threatens our economic values and freedoms every bit as much as the political freedoms that undergird successful democracies.

Historically, trade has been one of our most important tools for pushing back against authoritarianism. The United States led in creating a postwar global trading system that, for many years, helped drive U.S. jobs and growth and widen the circle of freedom and prosperity. Now, at a critical moment when democracy is under threat, we've retreated from our leadership role and abandoned our longstanding view that countries that trade together are less likely to go to war against each other.

Trade is a difficult issue for any democracy but rather than take the lead in defining a new approach for today's challenges—one that strengthens U.S. manufacturing, unleashes innovation, protects our workers, and advances our values abroad—the United States has given up saying anything at all. We've become mired in our own domestic politics.

Today, the United States has no meaningful offensive trade strategy. In no place is the current lack of strategy—this leadership vacuum—more dangerous to long-term U.S. strategic, economic, and commercial interests than in the Indo-Pacific.

The Indo-Pacific is our backyard, filled with military allies and important trading partners. Two-way trade with the region totals upward of \$1.75 trillion. But when it comes to our economic vision, the concept of a free and open "Indo-Pacific" has turned into something we say, rather than something we do.

This year, the largest trade agreement in history, the Regional Comprehensive Economic Partnership (RCEP), encompassing one-third of global GDP, 15 Indo-Pacific countries, 53% of the world's exports, and 2.3 billion people, entered into force with China—not the United States—at its helm. Moving forward, Beijing not Washington will have outsize influence in setting future standards and regulations for Asia and the Pacific. Lower tariffs, common rules of origin, and eased customs procedures will help China lock in regional supply chains at the expense of

American suppliers, attract new foreign investment, and expand its Belt and Road Initiative by strengthening transportation, energy, and communication links.

U.S. manufacturers, workers, and farmers all stand to lose from the deal. And if China manages to accede to the other major regional trading bloc, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the results for U.S. economic interests will be catastrophic.

Multilateralism will not save us. The World Trade Organization (WTO) is on the brink of irrelevance, after two decades of atrophy. Regionalism—and regional trade rules—are now King. Even before RCEP, more than 50 percent of global trade occurred outside of the WTO system through more than 300 bilateral and regional trade agreements. Seventy-five percent of the EU's trade, for example, is governed under these preferential agreements. The world is moving on without us.

The recently announced Indo-Pacific Economic Framework (IPEF) is a modest step in the right direction but risks turning into another failed exercise. Few details have been announced regarding participating countries, the scope of modular commitments, or how the project will be more robust than CPTPP without any significant trade components.

It is difficult to imagine IPEF having a meaningful impact on long-term U.S. economic interests without enforceable commitments on market access, rules of origin, technical barriers to trade (TBT), services, intellectual property, investment, or state-owned enterprises to name a few. A trade pillar focused exclusively on digital trade, forced labor, or trade facilitation is not enough to extract meaningful concessions from our trading partners or shape the region moving forward. Congress should push the Administration to broaden its ambition so that we are setting rules, not merely making suggestions.

To put a finer point on it, the optics alone of the U.S. negotiating an 11-page digital deal while China negotiates thousands of pages of commitments across all aspects of its trading relationship with the same set of countries would be demoralizing to our partners and of limited value to our broader interests.

Instead of starting from scratch, the United States should also seriously consider rejoining the CPTPP, and to do so quickly. Despite some of the deep fundamental flaws of its predecessor, the Trans-Pacific Partnership (TPP), many of the provisions in the original deal were groundbreaking. It would be straightforward enough for the United States to return to the negotiating table to harvest the provisions that work, jettison those that don't, and ultimately keep China out of the deal. The CPTPP countries would welcome us back.

To conclude, we need a trade strategy for the Indo-Pacific that works for Americans and for democracy—one that serves both our economic and commercial interests, as well as our strategic ones. Above all, we need to be bold.

The struggle now being waged by 44 million Ukrainians to defend their homeland is a reminder that the international system that was put in place in the aftermath of WWII requires attention in all its dimensions because economic freedom, liberal democracy, and respect for human rights are mutually reinforcing—and that we must fight for those values because our opponents are not resting in the fight against them.