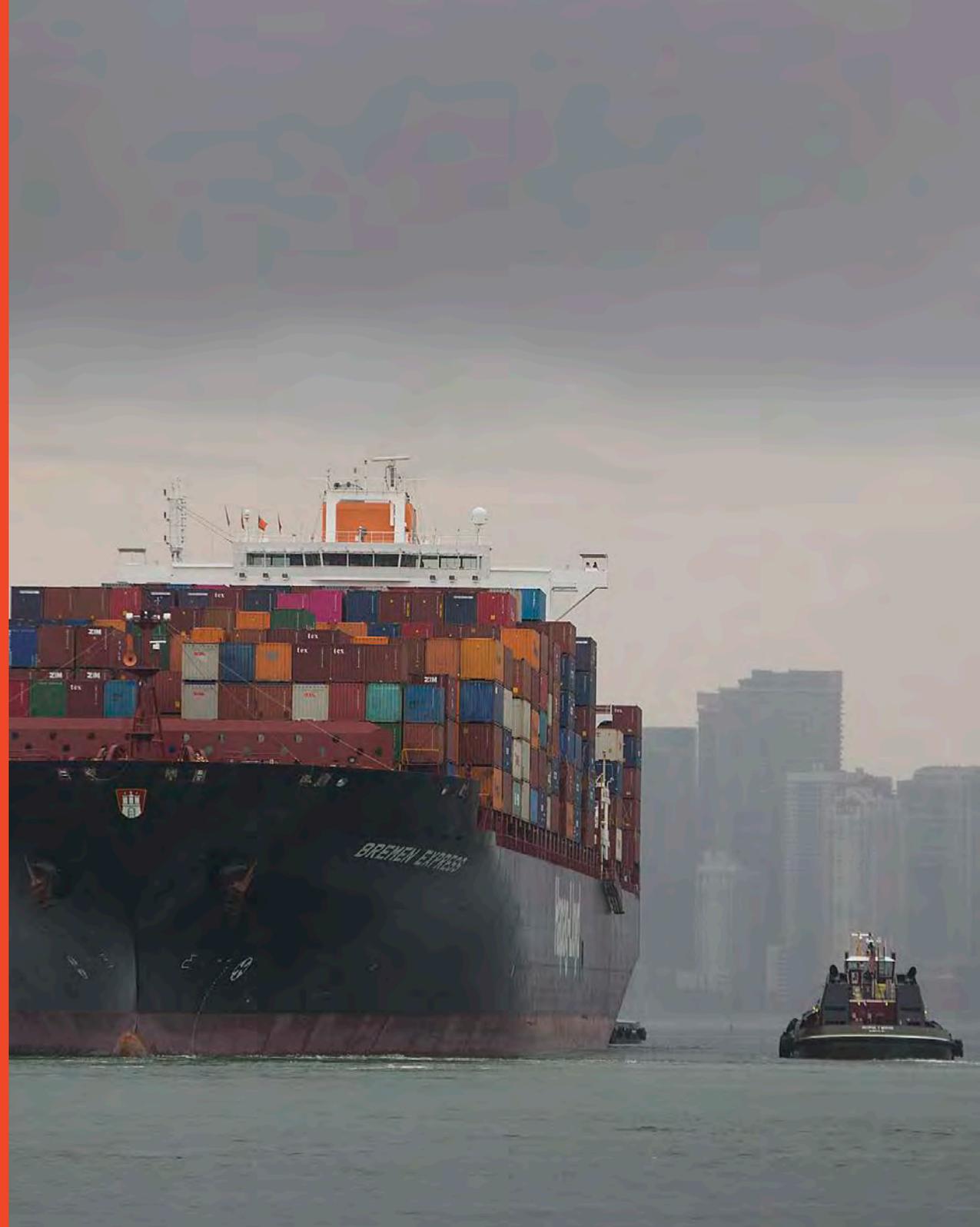


AVOID PROTECTIONISM TO MAXIMISE JOINT ECONOMIC OPPORTUNITIES

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Context and background

Australia needs to work with the United States to ensure that Australia's domestic policy objectives in areas such as manufacturing capability, supply chain security and digital platform regulation maximise joint economic opportunities and promote tax and investment certainty on a bilateral and multilateral basis. Australia should work within the context of existing and prospective trade agreements and multilateral negotiations to secure non-discriminatory approaches to these issues that reinforce the joint interest in a rules-based multilateral trading system.

The US and Australian governments have both announced efforts to examine manufacturing capability, the security of supply chains and critical goods. These efforts are potentially complementary and afford trading opportunities for Australia as a trusted ally and supplier. However, these efforts need to be harmonised to minimise the potential for unilateral and discriminatory approaches that could undermine the bilateral economic relationship and the international trading system.

Similarly, the Australian Government's taxation and regulation of digital platforms should leverage multilat-

eral negotiations in this space that avoid discriminatory treatment of foreign commercial interests in pursuing domestic policy objectives. The content deals between Australian media and US tech companies defused a potential irritant in the bilateral relationship. The focus of digital platform regulation should be minimising international tax and investment uncertainty. This is more likely to be achieved by working through multilateral mechanisms and extending the digital commerce provisions of existing and prospective bilateral and plurilateral trade agreements.

The Biden administration

Trade will not be an urgent priority for the administration relative to domestic issues. An early indication will be whether it seeks renewal of Trade Promotion Authority (TPA) from Congress when the current authority expires at the end of June 2021. If TPA is not sought or granted, trade negotiations will be downgraded in the administration's first term.

There is growing public support for foreign trade in the United States and a partisan realignment around trade and tariffs as a result of Trump's failed embrace of protectionism. However, the Democratic Congress is

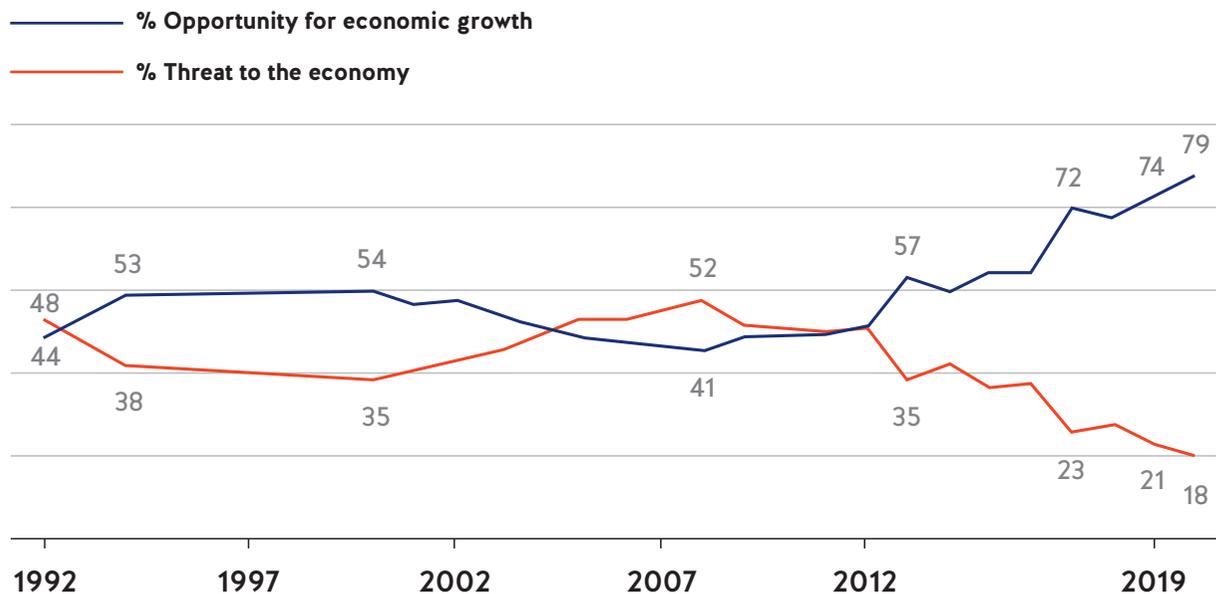
still sceptical of free trade and trade agreements and is well disposed to industry policy with a view to furthering domestic employment and economic recovery objectives.

These protectionist instincts have received a boost from concerns about national security and supply-chain resilience in the wake of the pandemic. Biden's pre-election trade policy consisted of a commitment to the onshoring of production of critical and strategic goods – currently the subject of a review. These concerns could become a fig-leaf for more traditional forms of protectionism.

THE FOCUS OF DIGITAL PLATFORM REGULATION SHOULD BE MINIMISING INTERNATIONAL TAX AND INVESTMENT UNCERTAINTY. THIS IS MORE LIKELY TO BE ACHIEVED BY WORKING THROUGH MULTILATERAL MECHANISMS AND EXTENDING THE DIGITAL COMMERCE PROVISIONS OF EXISTING AND PROSPECTIVE BILATERAL AND PLURILATERAL TRADE AGREEMENTS.

Figure 12. American's views of what foreign trade means for the United State

What do you think foreign trade means for America?
Do you see foreign trade more as an opportunity for economic growth through increased US exports or a threat to the economy from foreign imports?



Source: Lydia Saad, "Americans' Vanishing Fear of Foreign Trade" Gallup. 26 February 2020.
Available at: <https://news.gallup.com/poll/286730/americans-vanishing-fear-foreign-trade.aspx>

The Biden administration is reviewing Trump's tariffs, including the steel and aluminium tariffs from which Australia secured an exemption. The 'phase one' trade deal with China is also under review. The purchasing commitments made by China under the deal may have been a factor in the imposition of Chinese anti-dumping duties on Australian barley.^{15.1}

THERE IS ALREADY COOPERATION BETWEEN AUSTRALIA AND THE UNITED STATES IN RELATION TO CRITICAL MINERALS AND THE DEFENCE INDUSTRIAL BASE. BUT AN INWARDLY FOCUSED AND PROTECTIONIST US TRADE AND INDUSTRY POLICY HAS THE POTENTIAL TO DISCRIMINATE AGAINST AUSTRALIAN COMMERCIAL INTERESTS DIRECTLY, AS WELL AS WEIGH ON GLOBAL TRADE. THE AUSTRALIAN GOVERNMENT NEEDS TO HIGHLIGHT THE ECONOMIC OPPORTUNITY IN JOINT APPROACHES THAT EXPAND RATHER THAN LIMIT TRADE.

Katherine Tai, President Biden's nominee for US Trade Representative, has indicated that climate change will be a centrepiece of the administration's trade policies in support of the goal of net-zero emissions by 2050.

While the US Government has domestic anti-trust concerns about 'big tech,' the US Trade Representative can still be expected to champion the interests of US multinational corporations abroad where foreign governments enact measures that discriminate against US commercial and national interests.

Australian interests

There may be opportunities for Australia to capitalise on national security and supply chain concerns as a trusted ally and supplier in expanding the bilateral trade and investment relationship. There is already cooperation between Australia and the United States in relation to critical minerals^{15.2} and the defence industrial base. But an inwardly focused and protectionist US trade and industry policy has the potential to discriminate against Australian commercial interests directly, as well as weigh on global trade. The Australian Government needs to

highlight the economic opportunity in joint approaches that expand rather than limit trade.

The US efforts to address climate change at an international level, alongside those of the European Union, are likely to weigh on carbon-intensive exports, including those from Australia, such as thermal coal.

The Australian Government's proposed regulation and taxation of digital platforms attracted attention from the US Trade Representative under the Trump admin-

istration, who noted concerns about due process and investor protection under the Australia-US Free Trade Agreement,^{15.3} although competition policy is an explicit carve-out from the dispute resolution provisions of the agreement. The content deals between Australian media and US tech firms have provided a temporary fix. However, the issue underscores the importance of ensuring that domestic regulation is consistent with the principles of non-discrimination and serves to promote international tax and investment certainty.

Policy recommendations

- › **Australia should work with the United States to ensure that they harmonise efforts to promote manufacturing capability and the security of supply chains and critical goods.** This will maximise the joint economic opportunities available from these efforts and avoid unilateral measures that may undermine rather than reinforce the bilateral economic relationship.
- › **The Australian Government should seek to extend the digital commerce provisions of existing and prospective trade agreements and multilateral solutions to the regulation and taxation of digital platforms that promote international tax and investment certainty.**