

Imperatives of economic nature that have a negative impact on the legal provision of national security

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Abstract: The study represents the effort of applying neo-realism paradigm to the analysis of economic security factor in the system of national security and its legislative framing in various countries in regional view. Along with overall trends in global landscape of economic security, the cases of Pakistan, UK, USA, Australia, and China are considered. The article can serve as a methodological basis for subsequent scientific research in this area.

Keywords: *Economic security, Geoeconomics, Law, National security, Strategy.*

1. Introduction

The foundation of the country's peace and stability is national security. National security is a condition in which the state's independence, constitutional integrity, and territorial integrity, as well as the possibility of society's free development, welfare, and stability, are ensured. It is attained through concerted, deliberate actions undertaken by the State and society (Chin et al., 2023). International and national security law has become an increasingly significant topic of study in recent years due to the increased extent, intensity, and severity of challenges to nations' national security.

At the same time, the evolution of the creation, change, and development of legislation on national security suggests the importance of dividing the array of legislation into public and private, since the category of national security is based on taking into account not only the interests of the individual, society and public-legal entities, but also the scope of economic security, freedom of entrepreneurial and civil-legal relations (Aliexieienko et al. 2022; Kryshchanovych, S. 2022; Kryshchanovych, S. et al., 2023; Kryshchanovych, M. et al. 2022a, 2022b; Ramskyi et al., 2023). And in the conditions of a constant threat to the national security of the state from other states and international organizations, the division of legislation into public and private in the sphere of national security contributes to a detailed scientific analysis of problematic issues and the systematic improvement of an outwardly integral legislative array that requires individual doctrinally substantiated amendments.

In particular, very important, one of the defining elements of national security today is economic security, since the role of TNCs and other large business entities in the structure of the national security landscape is increasing, the mechanisms of ML/CFT are becoming more sophisticated and latent, geoeconomics and geopolitics are increasingly intertwined and their convergence occurs. Economic security became so important that the U.S. experts see it as one of three essential elements of integrative national security (see Figure 1).

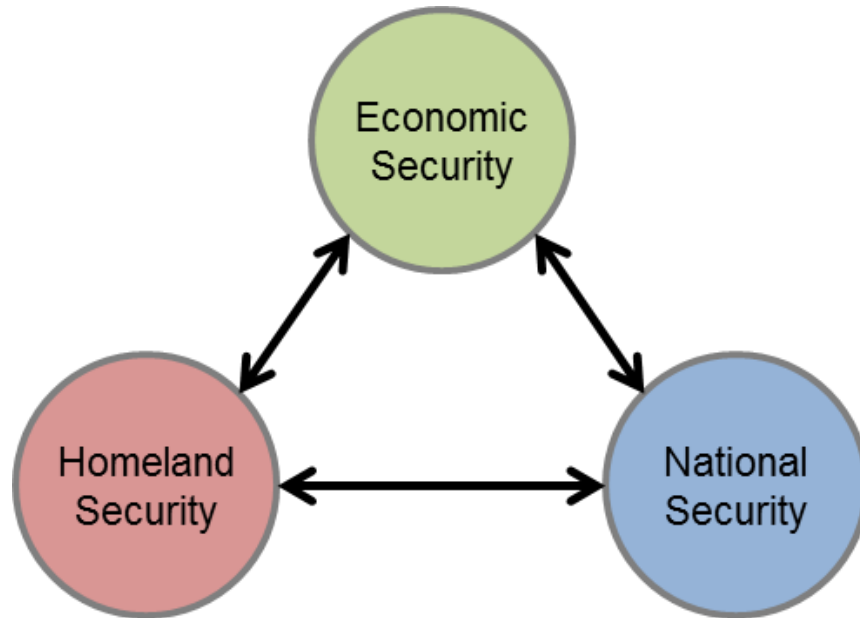


Figure 1.
Connection of security elements (Ballin et al., 2020).

In such conditions, economic imperatives clearly influence the legislative provision of national security, and the critical task of government bodies is to “acquire skills” for flexibility and speed of action in addressing challenges and threats to economic security within the integrative system of national security (Zayats et al., 2024).

2. Literature Review

The function of legislation in the area of national security is linked to the establishment of the prerequisites for the state’s complete operation in the contemporary international community as well as the requirement that any nation develop a new security paradigm that takes into consideration the state’s interests as well as the system of strategic priorities.

In the usual sense, security implies the physical survival and development of the state, the preservation and protection of its territorial integrity and sovereignty, the ability to adequately respond to potential and real external threats. At the same time, national security is understood as a special complex, multifaceted and constantly changing integrated system (Snow, 2019).

However, modern experts believe that national security is a kind of benchmark for the position of society, its stable development, the ability of society to withstand the impacts of all kinds of destructive factors, the ability to adapt to changing reality conditions, protecting and maintaining a high standard of living for the population.

The basis of “national security” is the trinity of relations between its main social subjects: state - society - individual. The functioning and subsequent modification of this system is determined by the influence of a significant number of specific circumstances, including geographical, historical, religious, psychological, political, cultural, demographic, informational, economic, ethnic, etc. (Jarmon, 2019).

Some scientists propose to distinguish between internal and external national security, which is inappropriate, since in modern realities, internal and external threats are closely intertwined by cause and effect relationships, and issues of information, economic, environmental or other security are almost impossible to attribute to only one area of activity.

The range of national security plan papers has increased along with the complexity of the global threat environment. For instance, Carter’s 1977 five-page (short) national security policy for the United States focused only on how to restrain the Soviet Union. Unclassified national security strategy

documents since 1987 reference an average of 52 countries across all regions, whereas classified national security strategy documents (those published before 1987) only referenced a small number of countries and regions, as Fig. 2 illustrates. The Biden administration published an interim National Security Strategy in March 2021, which was less thorough than a complete report, even before its whole national security staff was put together. In contrast, Biden's 2022 National Security Strategy references about twice as many nations as his 2021 interim advice, and it is similar in shape and regional scope to that of his predecessors.

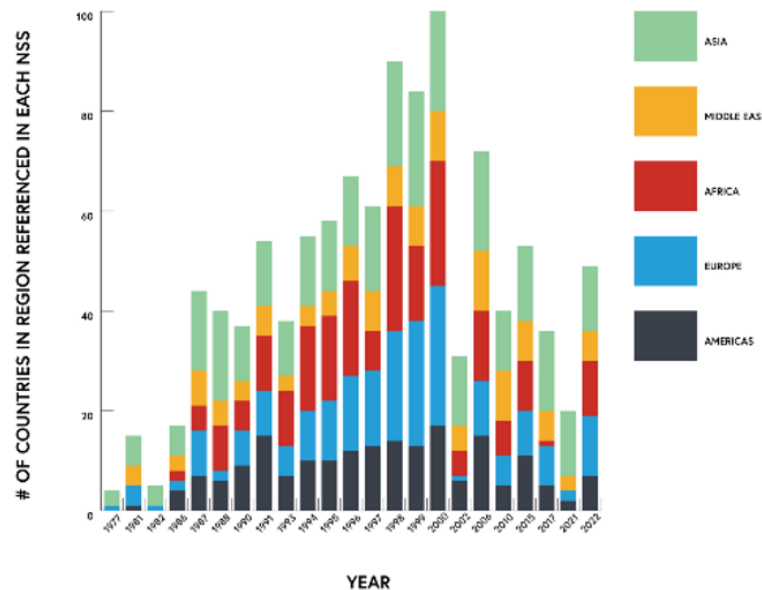


Figure 2. Number of countries referenced in national security strategies, 1977-2022 (Chin et al., 2023).

The emergence of new challenges, dangers, and threats, as well as the presence of problematic aspects of a theoretical and methodological nature and the legislative implementation of national security policy make it necessary to return to this area of research again and again, in the light of continuously changing realities.

3. Methods

In frames of neorealism paradigm in World Affairs studies, the methods of research implied general socio-philosophical principles and methods of cognition, widely used in the study of political and social processes, as well as general scientific approaches related to the features of the analysis of the subject of study. The study was based on dialectics and a systems approach, which allowed a comprehensive approach to the study of the relationship between national security and economic security, including in the field of legal provision. Elements of the historical method and the case study method were used.

4. Results

Throughout American history, there has been discussion on the role of law in managing national security. The argument about the relative weight of “interests” and “morality” in determining whether the United States should back France in its war with England may be traced back to a discussion between Hamilton and Jefferson in 1793. Jefferson argued that the 1778 Treaty of Alliance obligated the US to assist France and determined this to be the case. In response, Hamilton said that although there was no duty, the US did not have to compromise its “fundamental interests” (Moore, 1973).

The famous sea power strategist Alfred Thayer Mahan and the eminent American lawyer Elihu Root, who served as Secretary of State, helped to bring the dispute into sharper perspective around the turn of the century. The significance of arbitration and other third-party mechanisms for the resolution of international conflicts formed the basis of this second round. International arbitration should be used more often, according to Root and other jurists. Mahan argued that although the law had its uses, it was unable to address matters of national importance, such as the Monroe Doctrine (Snow, 2019).

Indeed, choices regarding national security must take a variety of factors into account. Initially, these consist of the following questions: What are the country's objectives? Are they attainable under the circumstances that need their pursuit? If yes, is their pursuit in the best interests of the country given their feasibility in terms of cost-benefit analysis? Are there existing better options that will accomplish the objectives at a more favorable ratio? And how can policies be justified and carried out most successfully after they have been selected?

Economic security is a component of national security that is just as vital as military security in the modern world of hybrid threats and "hybrid peace". Although the idea of economic security was first intended to be defensive, it has now been militarized to include an offensive component and has evolved into a geoeconomic instrument that allows countries to further their strategic objectives (Kryshtanovych, M. et al. 2023a-2023e, 2024a, 2024b).

The national security community mostly uses a military perspective to examine China's great power struggle. However, there is little doubt that the economic challenge poses a bigger danger to US interests and influence. China's increasing economic influence poses a challenge to the liberal, rules-based international order as well as to the economic interests of the United States and its allies.

As part of its SMA INSS/PRISM Speaker Series, the Strategic Multilayer Assessment (SMA) program of the U.S. Department of Defense (DoD) held a speaker series session with Dr. Edward Luttwak, a strategist and historian, on April 8, 2021. In his succinct introductory remarks, Dr. Luttwak said that China is among the few nations that actually practice geoeconomics, which he described as a combination of commerce, production, investments, and technology R&D. As long as a nation uses geoeconomics, Dr. Luttwak said, it is not essential for that nation to beat its enemies militarily. Alternatively, it can exert economic pressure by investing in or outproducing a sector of the economy that is dependent on a smaller or less developed nation. Encouragement of businesses in rival nations to export to them in order to make those businesses more reliant on their own home market is another example of offensive geoeconomics. This gives the importing nation the ability to abruptly shut off international businesses from their primary market, which will put more political pressure on the governments of those businesses. The Australian wine industry, which depends on China, and China's reliance on US-made ARM computer processors are two instances of this tactic in action. However, this geoeconomic strategy also makes the importing nation more susceptible to the possibility of losing access to a valuable resource. Thus, Luttwak highlighted that a key instrument for geoeconomics is raising the amount of money allocated to research and development in order to preserve technical advantages (Luttwak, 2022).

Increasingly more countries understand the importance of economic imperatives in national security.

Specifically, Pakistan's first National Security Policy (NSP) paper was adopted by the federal cabinet on December 28, 2021. Under the umbrella of "comprehensive national security", the Policy tackles a wide range of conventional and non-traditional security risks. The Policy expands the scope of national security by focusing on the fundamental principle that ensuring the "safety, security, dignity, and prosperity" of all citizens. This addresses a long-standing concern that Pakistan's approach has been too narrowly skewed in favor of hard security. Disregarding the classic argument between butter and conventional weapons, the Policy emphasizes the necessity of enhancing economic security in order to attain better results for traditional and human security. By defining economic security as a primary tenet, it highlights the geoeconomic paradigm as a means of fortifying the nation's economic might and enhancing its endeavors to tackle its geopolitical predicaments (Yusuf and Akhtar, 2023). This paper

examines the notion of geoeconomics within the framework of Pakistan, the expansion of the definition of national security, and the two key components - connection and development partnerships - that support the Policy's articulation and presentation of the concept of geoeconomics.

Authors from Australia (Channer and Edmonstone, 2024) assert that organizations and nations like the European Union and Japan have enacted explicit plans and passed economic security statutes in recent years. Famous US industrial policies, such as the Science Act and the CHIPS and Inflation Reduction Act (IRA), recognize the growing threats to economic security and demonstrate the US commitment to tackling them. These extraordinary measures to ensure economic security were prompted by changes in the global economy, which have affected Australia. These changes include a recession brought on by a pandemic, China's growing use of economic coercion, and supply chain disruptions. This has fueled continuing debates in Australia about what constitutes economic security, how to address obstacles to it, and how to respond to international initiatives.

The Australian government cannot agree upon what economic security entails or what issues it aims to resolve. The terms "economic security", "geoeconomics", "economic sovereignty", and "economic resilience" were frequently used interchangeably by the administration.

Additionally, there is no primary organization that deals with issues related to economic security. While efforts are being made to increase coordination within government, officials bring different and sometimes conflicting priorities and perspectives to the table. As a result, different agencies representing foreign affairs and trade, defense, industry, climate change, and energy have different perspectives on the challenge of economic security.

Senior Australian politicians and bureaucrats have started to articulate the growing difficulties associated with economic security. Australia's response is beginning to take shape through ministerial statements, new domestic policies, and initiatives (Channer and Edmonstone, 2024).

Growth, productivity, de-risking interdependence, supply chain resilience, decarbonization, alliance management, and political economy are just a few of Australia's many goals pertaining to economic security. Nevertheless, the country lacks the resources to support these goals concurrently, making it challenging to set priorities. Setting priorities for "offensive" and "defensive" economic security initiatives makes their task even more difficult. For instance, although the United States has pursued more offensive policies like industrial policy, export controls, and outward investment restrictions, the EU has concentrated on more defensive measures like investment screening and the protection of intellectual property (IP) and research. Because of this, lawmakers have a difficult time keeping national security laws appropriately updated to account for both new and growing aspects of economic security.

Australia is being forced to discuss which interests should prevail and how to balance its policy objectives due to the difficult trade-offs presented by challenges to economic security. Australia may be forced to make decisions due to economic security concerns when improvements in one sector might have negative effects in another. Discussions revealed several important trade-offs, such as developing vs mature economies, security vs prosperity, specialization vs industrialization, and protection vs collaboration (Scott, B., 2022).

It appears that Australia might gain by clarifying the relationship between economic security and national security as well as where economic security fits into its hierarchy of interests. In order to manage the trade-offs and risks associated with economic security policies, including their effects on the economy, society at large, and security, policymakers require a framework. Concurrently, in order to get social legitimacy to negotiate the trade-offs related to economic security, the government must initiate a national dialogue with the Australian people. Legislation writing in this field should, in fact, be supported by public hearings, public engagement, and the recruitment of industry and academic experts.

It should be also noted that the US government's attitude to markets is currently going through a "crossing of the Rubicon" moment. The United States has moved away from promoting free trade, unfettered resource flows, and little government interference of earlier decades, driven by both domestic and international policy concerns. What the Biden administration has dubbed a "new Washington consensus" or "Bidenomics" is the result of pushback against the US manufacturing sector's demise and

job losses, as well as worries about China's intellectual property theft, industry subsidies, and access to cutting-edge military technologies (Okpala, 2023).

According to the most recent research, Reeves (2024) asserts that the Biden administration is frequently charged with having an inadequate economic component to its Indo-Pacific strategy, a shortcoming that compels it to execute its regional foreign policy disproportionately through military actions, alliances, and engagements. This critique of US policy gained traction when the Trump administration decided to withdraw the US from the Trans-Pacific Partnership (TPP) agreement in 2017. It may be traced back to discussions around the Obama administration's "pivot to Asia". Particularly since 2016, the notion that Washington's economic "absence" from Asia poses a strategic risk has been accepted as fact in both academic literature on the area and American policy. However, a critical examination of the Biden administration's Indo-Pacific economic policy strategy reveals that this presumption is, at best, oversimplified and, at worst, completely incorrect. The belief that the Biden administration has not and is not utilizing economic measures to advance US interests in the Indo-Pacific is simply untrue, even while it is true that no US government since Obama has developed a comprehensive economic framework for participation in the area. In fact, since assuming office, President Biden has presided over a range of Indo-Pacific economic strategies that are both proactive and reactive, coercive and encouraging, and mutually reinforcing. More significantly, US national interests in the area have been advanced by the administration's initiatives, known as "Bidenomics in the Indo-Pacific", with major strategic governments who all support the strategy holistically (Reeves, 2024).

Bidenomics has far-reaching strategic ramifications for the United States in the Indo-Pacific, and the region has mixed feelings about it. Firstly, the strategy enhances US standing in the area, especially with governments in Northeast and Southeast Asia. Second, regional fears that the US depends too heavily on military action in Asia to carry out its foreign policy are allayed by Bidenomics in the Indo-Pacific. Thirdly, it facilitates deeper US integration in the area, especially with nations Washington considers to be key strategic allies. Fourth, Bidenomics in the Indo-Pacific region contributes to the development of business-to-business (B2B) relationships that strengthen G2G links and enhance public perceptions of US involvement in Asia (Reeves, 2024).

The invasion of Ukraine by Russia has shown the effectiveness of trade and economic sanctions in both containing and discouraging an enemy. Additionally, there is a growing recognition that an excessive reliance on one nation for energy, food, vital minerals, rare earth metals, and other essential components of supply chains poses a resilience risk for reasons related to national security. Thus, it is imperative that the UK adopt a strategic approach to supply security and consider its potential to employ economic sanctions as a reliable means of deterrent as well as deterrence by denial. This is the reason the Economic and Trade Security Commission was established in May 2024 by the British Foreign Policy Group. The goal of this new Commission is to provide a common understanding of how the notion of economic security is changing in relation to export restrictions, sanctions, vital supply networks, and other tools of economic power. The underlying tenet is that in order for the UK to implement a successful national economic security policy, there must be a transparent and substantive dialogue between the financial sector, industry, and government that addresses the security of the UK defense supply chain as well as the necessity of securing the country's economy against threats from adversaries and strategic rivals.

The Commission will investigate the obstacles that a broad spectrum of stakeholders must overcome to guarantee the successful execution of economic security in all of its facets, including economic deterrence and supply chain resilience, the National Security and Investment Act, and the pertinent components of the Integrated Review Refresh and any upcoming significant policy initiatives. In order to facilitate the efficient execution of economic security policies, it will build a fundamental knowledge of the data, funding, and security needs.

Despite differing views on the subject, analysts agree that geopolitics and geoeconomics are interwoven and overlap (Karimi, 2015). Naturally, then, national security laws should encompass both of

these domains in a synergistic manner, posing hitherto unheard-of difficulties for lawmakers. These difficulties are further exacerbated by the dynamic geopolitical and geoeconomic environment, as well as by the introduction of new ML/CFT tools and channels.

5. Discussion

Over the past few years, there has been a major decline in the worldwide security situation. This has forced countries all around the world to spend more on defense and strengthen their military alliances. The ambiguity around the exact definition of a national security concern is one of the difficulties presented by this new security landscape. This is still up to national governments to decide, which leaves room for wide variances in methods and policies and adds complexity and danger.

Prioritizing military might is still commonplace despite significant changes in the global balance of power and even in the manner that power is used, since military might has long been viewed as the key to securing national security. It appears necessary to reevaluate the concept of national security in light of China and Russia's flexing of strength beyond the military and transnational dangers such as international terrorism and transnational organized crime, in addition to pandemic illnesses and climate change. However, Joseph E. Stiglitz, University Professor at Columbia University, rightly says: "how do the tectonic shifts in global economics impact U.S. national security? We are no longer the dominant country in the world that we were after World War II. In fact, in 2015, in the standard way that economists measure the relative size of an economy, which is called PPP – purchasing power parity, which accounts for the real purchasing power rather than the vicissitudes of exchange rate – China in 2015 became larger than the United States, and while our economy is going to decrease this year, probably an estimated 5-6 percent, China's economy is looking like it's going to increase by some 3 percent. And so their economy is continuing to grow relative to our economy. So all this means that we will need even more cooperation with our allies, and we want to have more countries join to be our allies" (Stiglitz, 2020).

The term "geoeconomics" has become widely used in the policy community; nevertheless, definitions now in use heavily overlap with the well-established academic disciplines of political economy of national security and economic statecraft. Lee (2024) defines geoeconomics as a concept based in the study of the system, economic statecraft as a concept based in the study of foreign policy, and political economy of national security as a concept based in the study of domestic institutions and resources. This demonstrates how geoeconomics can be distinguished from existing terms in a way that is grounded in international relations theory, which anchors the study of geoeconomics in the social sciences. Putnam's idea of two-level games, Waltz's levels of analysis, and his differentiation between systemic and unit-level theories are all referenced in these distinctions. For the wide range of topics at the nexus of international political economy and international security, they establish a conceptual separation.

In a period of significant and rapid change to the global security order, academics and national security professionals today investigate the link between geo-economics, innovation, national security, and great power strategic competition. Strategic rivalry is the main long-term national security threat between the US, China, Russia, and other major nations. The characteristics of the strategic rivalry of the twenty-first century differ greatly from those of earlier great power conflicts, particularly the US-Soviet Cold War in the latter half of the twentieth century. Important elements consist of:

1. Realms that are fuzzy. Nowadays, there are a lot of sectors where rivalry exists, and these borders are becoming more hazy and permeable. The most evident ones include the gap between the military and the civilian population, the state's participation in foreign investment as opposed to private players, and gray-zone conflicts that do not escalate to war. However, the issue is also evident in a broader sense when considering how defense capabilities are impacted by economic competitiveness. The United States and its allies face significant hurdles as a result of this blurring of domains since many components of the present international security architecture, such export control regimes, are outdated and ill-suited to deal with the new environment. It could also be more challenging to cover hazy fields

because the US system is meant to be specialized and has institutional safeguards to preserve the independence of many agencies.

2. Interdependence in the economy. The economies of the major powers - particularly those of China and the United States - have grown more intertwined. Interdependence may benefit strategic opponents and increase the costs of a breakdown in cooperation, even while it may reduce some risks.

3. Geoeconomics' primacy. The main area of great power competition, particularly between the US and China, is undoubtedly geoeconomics, which is defined as the use of economic tools to advance and defend national interests and to produce positive geopolitical outcomes. It also includes the effects of other countries' economic actions on a country's geopolitical goals (Nekhai et al., 2024).

4. Technology and innovation. With the advent of new and possibly revolutionary technologies like 5G, artificial intelligence, quantum technologies, and high-performance computing, one of the main areas of struggle is for global dominance in manufacturing and technology.

The contemporary corpus of national security law in the United Kingdom has consistently recognized "economic well-being" (or "EWB") as a justification for the different security authorities' authority to intervene and the goal of which they may resort to invasive measures. However, the idea is still sufficiently vague that the House of Lords Constitution Committee recently recommended that the Intelligence and Security Committee of Parliament evaluate the idea and its place within the large body of national security law. In other words, the committee is essentially being asked to repeat an exercise that it carried out early in the modern project of rationalizing such law, albeit hopefully with more transparency this time around (Scott, P., 2022). Therefore, there are clear gaps in today's scene of economic nature-backed imperatives of national security and their detrimental influence on security legal provision, even in highly developed nations with strong traditions of conceiving and defining the field of national security in legislation.

Simultaneously, Asian nations have a greater comprehension of the economic dimensions of national security compared to wealthy Western nations. Specifically, from the perspective of the public goods theory, Hong Kong's national security is a public benefit. For example, the mainland and Hong Kong may more effectively safeguard national security and guarantee the socioeconomic stability of the area by utilizing the Article 23-based law (Haiming, 2024). When seen under the prism of externalities theory, preserving national security benefits the whole economy. A stable business climate, economic progress, and the attraction of international investors and firms are all made possible by foolproof national security. Additionally, it can lessen the fear of terrorism, lower crime rates, and boost investor confidence, all of which will encourage investment and commercial ventures. Both on the mainland and in Hong Kong, companies and people may feel more confident when national security legislation is in place. A national security statute based on Article 23 can also offer a secure institutional and legal framework, safeguarding the rights of companies and individuals and encouraging investment and creativity. In order to sustain social stability and foster economic growth, national security is essential. Both the mainland and Hong Kong may avoid and resolve internal and foreign dangers and disputes through the Article 23-based laws, preserving social stability and fostering long-term economic prosperity. Better national security protection will be made possible by legislation based on Article 23, which is essential for advancing economic growth, providing a strong basis for the future development of the mainland and the SAR, and preserving Hong Kong's standing as a major international financial hub.

Mainland China hopes to establish a "new international economic order" by challenging US hegemony. China presents a different framework for trade integration and governance in the geoeconomic struggle of the twenty-first century. This framework is based on private law contracts, infrastructure, and the resolution of disputes, primarily through the Belt and Road Initiative (BRI) (Huang, 2021). Some say that the Chinese model of the international economic legal system is based on a pragmatic governance model headed by the state, where economic progress and security are closely linked, rather than on neoliberal ideology rooted in the existing international legal order.

6. Conclusions

In view of the above, it seems necessary to flexibly develop national security law into a full-fledged comprehensive branch of legislation based on the concepts of a centralized subject of legal regulation of great general social and state significance, the necessary volume of normative material - legal acts that have a regulatory effect, and a specialized method of legal regulation. Improving legal regulation in the field of ensuring national security should be built on the basis of the complexity and systematicity of the construction of legal material, otherwise it is impossible to achieve the national goals of legal provision (support) for national security and the effective implementation of national interests. Excluding geoeconomic risks and other economic security risks from the scope of national security law would be an unacceptable mistake, capable of increasing the country's vulnerability in the global landscape already in the short term.

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