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The New US Trade Agenda

Institutionalizing Middle-Out Economics in Foreign Commercial Policy

By Todd N. Tucker

with contributions from
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About the Roosevelt Institute

The Roosevelt Institute is a think tank, a student network, and the nonprofit partner to the Franklin D. Roosevelt Presidential Library and Museum that, together, are learning from the past and working to redefine the future of the American economy. Focusing on corporate and public power, labor and wages, and the economics of race and gender inequality, the Roosevelt Institute unifies experts, invests in young leaders, and advances progressive policies that bring the legacy of Franklin and Eleanor Roosevelt into the 21st century.

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Executive Summary

Over the past few years, the United States has made the most significant change in its approach to trade in generations. Starting in the 1970s, trade policy was focused on neoliberal priorities such as promoting efficiency through tariff and cost reductions and limiting the space for purely national regulation of commerce. This was done with an eye toward benefiting multinational corporations and with the view that trade was primarily a tool for advancing the foreign policy interests of the US (and its image as a global leader). Other goals, such as the quality of domestic jobs or environmental sustainability, were an afterthought. In recent years, however, a new set of values has started to guide US engagement with the global economy, with working class power, climate sustainability, and supply chain resilience at the core of a new approach to global leadership.

While evidence of this new approach can be found throughout the executive branch, it is perhaps most clearly evidenced in the Office of the US Trade Representative (USTR) under the leadership of Ambassador Katherine Tai. Since assuming office with the unanimous, bipartisan support of the US Senate in March 2021, Tai and her agency have laid out an ambitious new US trade policy agenda—one that has started to bear fruit for workers, industries, and the environment.

To take stock of these changes, the Roosevelt Institute convened a study commission of scholars, former policymakers, and labor leaders. Some are longtime trade experts, others economic policy generalists with a bird's eye view of how trade connects to other economic policies. We sought to better understand how trade policy got to where it is and to sketch out ways this trade agenda could be refined and expanded by future policymakers.

This stocktaking report summarizes our takeaways from the commission. However, nothing here should be taken as consensus recommendations or the group's full range of ideas for the future of trade policy. Rather, the report represents our attempts to identify—through a group-informed process—fruitful areas for analysis and action in the months and years ahead.

The report is divided into three sections based on the following themes:

1. **Producing what matters**: Trade policy should be in service of the emerging theory of economic growth, rather than pursued for its own sake. Future trade negotiations should focus on problem-solving around production challenges in specific sectors, with the goal of deepening competition and promoting sustainable economic development at home and abroad.
2. **Consuming with purpose**: Past trade policies have been sold through emphasizing their benefits to US consumers in the form of lower prices. The new

strategy organizes American consumers to use their collective strength as a $3.8 trillion import market (the world's largest) to push countries, producers, and importers to follow high-road practices. In other words, access to the US market is a privilege, not a right, and "consumption power" through trade enforcement is how the privilege is managed.

3. **Personnel is policy**: Who serves in government and who government consults is vital to good policy outcomes. Trade policymakers, career staff, and expert advisors should be willing and able to build on this new trade policy model and should reflect America's full diversity.

Foreword

By Felicia Wong, President and CEO of the Roosevelt Institute

In planning this first-of-its-kind study commission on trade policy and the Office of the US Trade Representative (USTR), the Roosevelt Institute team asked: Why us, and why now?

First off, it is our job to lift up and celebrate the legacy of Franklin and Eleanor Roosevelt. They remade the US and global economy in much the same way that the Biden administration is trying to do today, by rewarding work and not wealth, using the public sector to shape markets, and preserving our natural resources.[1] These efforts are very much in line with the ideas and initiatives that have been developed at USTR under Ambassador Katherine Tai's leadership.

Second, establishing better trade policy has been a core part of the Roosevelt Institute's work. It featured as a theme in our flagship 2015 *Rewriting the Rules* report.[2] After trade dominated the 2016 election cycle, we held extensive convenings with Open Society Foundations, New America, the Center for American Progress, and other partners to better understand the fault lines and opportunities around the issue. Trade was core to my own work as the US representative on the G7 Panel on Economic Resilience in 2021,[3] and has been a regular part of the portfolio of Roosevelt's own in-house experts including Joseph E. Stiglitz, J.W. Mason, and Todd N. Tucker.[4] Indeed, a glance at our 2017 *Sustainable Equitable Trade* report will show how a series of Overton-window pushing recommendations from that time have now become conventional wisdom: the value of directing the benefits of trade to regions of the country left behind by globalization, greening production, putting guardrails around corporations' privileges, and finding new bases for international cooperation with other democracies.

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[1] Rexford G. Tugwell, *The Democratic Roosevelt*: A *Biography of Franklin D. Roosevelt* (Doubleday, 1957).
[2] Joseph E. Stiglitz, "Rewriting the Rules of the American Economy: An Agenda for Growth and Shared Prosperity" (New York: Roosevelt Institute, May 12, 2015), http://rooseveltinstitute.org/rewriting-rules-report/.
[3] Mark Sedwill et al., "Global Economic Resilience: Building Forward Better: The Cornwall Consensus and Policy Recommendations" (Cornwall: G7 Panel on Economic Resilience, October 2021), https://rooseveltinstitute.org/publications/global-economic-resilience-building-forward-better/.
[4] Joseph E. Stiglitz, "Tricks of the Trade Deal: Six Big Problems with the Trans-Pacific Partnership" (New York: Roosevelt Institute, March 28, 2016), https://rooseveltinstitute.org/publications/tricks-of-the-trade-deal-problems-with-trans-pacific-partnership/.; Todd N. Tucker, "The Sustainable Equitable Trade Doctrine" (New York: Roosevelt Institute, March 16, 2017), http://rooseveltinstitute.org/trade-set-doctrine/. See chapter by Mason in Nell Abernathy, Mike Konczal, and Kathryn Milani, "Untamed: How to Check Corporate, Financial, and Monopoly Power" (New York: Roosevelt Institute, June 6, 2016), http://rooseveltinstitute.org/untamed-how-check-corporate-financial-and-monopoly-power/. See also the report by our formerly affiliated Great Democracy Initiative: Timothy Meyer and Ganesh Sitaraman, "A Blueprint for a New American Trade Policy" (New York: Great Democracy Initiative, December 2018), https://rooseveltinstitute.org/publications/a-blueprint-for-a-new-american-trade-policy/.

Third, since 2015, Roosevelt has run a personnel project—part of what we now call the Roosevelt Society—that helps develop a pipeline of exciting and innovative people from the academy and civil society and into government. We are pleased that a number of our past and present fellows have served in government and were able to join the study commission, including Joelle Gamble, K. Sabeel Rahman, and Sameera Fazili.

Finally, and most importantly, we believe that now is the right moment to have a deep conversation about trade and how it fits in with the emerging US economic strategy. The COVID-19 pandemic, climate crisis, exploding inequality, and precarious supply chains have brought into question much of the received wisdom about globalization. The US has begun charting a new path with increasing bipartisan support,[5] but the exact contours of this path are still ripe for mapping. The sometimes heated international response to the trade implications of US policies, including the Inflation Reduction Act, Infrastructure Investment and Jobs Act, and the CHIPS and Science Act, suggest there is value in communicating—and actually ensuring—that new industrial strategies are not a zero-sum game, and that increasing support for green manufacturing could drive a race to the top. In fact, much of the initial criticism of the US's industrial policy from trading partners has subsided, suggesting that the breaking of established economic norms was both significant and broadly understandable once explained. It is thus no coincidence that many of the US's closest partners and allies are considering or implementing similar industrial policy packages.

We hope that this study commission serves as a template for future evaluation of making government agencies deliver equitable economic policy for all Americans.

[5] See the recent letter by 18 House Republicans—none of whom voted for the IRA—indicating that they would oppose repeal of the law's clean energy provisions. See Emma Dumain and Kelsey Brugger, "Republican Fight over Green Subsidies Heads toward a Boiling Point," *POLITICO*, August 25, 2024, https://www.politico.com/news/2024/08/25/republican-fight-inflation-reduction-act-00176223.

Background

The Old Growth and Trade Model

For decades, several tenets animated economic thought and policymaking in the US and many of its trading partners: First, markets are the primary mechanism that determines where and how production happens. Second, states should actively exercise power to encase those markets and protect them from small-d democratic contestation, while engaging in limited redistribution after the fact. Third, policymakers should rely on international norms, regulation, and adjudication instead of national governance (wherever feasible) to improve market efficiency. Sometimes called "neoliberalism,"[6] in the US context this theory overlapped significantly with "trickle-down economics" (or "Reaganomics"). This called for reducing the government's footprint on the economic lives of top earners and large firms, which was said to increase the savings they would have available for investment and consumption, thus spurring growth that would somehow drip down to the wallets of the rest of the population.[7]

Trade and trade policy was intended to serve a number of functions in the neoliberal era. First, lower tariffs would become the default trade policy orientation.[8] It was thought that reducing tariff barriers at national borders would increase allocative efficiency in the global economy, letting production take place in economies that had a comparative advantage in particular goods and services. Second, growth—the size of the global pie—would thus increase, creating the possibility for the "winners" of specialization to compensate the "losers" in these shifts.[9] Third, government policies other than tariffs—such as food safety standards—would be reclassified as potential

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[6] See Dieter Plehwe, Quinn Slobodian, and Philip Mirowski, *Nine Lives of Neoliberalism* (London: Verso, 2020), https://www.econstor.eu/handle/10419/215796. See also Karthik Sankaran.

[7] William A. Niskanen, "Reaganomics," in *The Concise Encyclopedia of Economics*, 1993, https://www.econlib.org/library/Enc1/Reaganomics.html.

[8] That is not to say that there were no tariff or tariff-like barriers. There continued to be a range of such measures, including anti-dumping and countervailing duties, and Section 301 of the Trade Act of 1974 gave the president significant unilateral tariff powers. However, these remedies require protection-seeking industries to win administrative law cases (or convince presidents of their policy wisdom), as opposed to lobbying Congress. Political scientists call this a shift to "quiet politics," where legal and technocratic arguments fare better than in the rough and tumble of interest group advocacy, making protection the exception rather than the rule. See Pepper D. Culpepper, "Quiet Politics in Tumultuous Times: Business Power, Populism, and Democracy," *Politics & Society* 49, no. 1 (March 1, 2021): 133–43, https://doi.org/10.1177/0032329220985725. Nitsan Chorev, *Remaking U.S. Trade Policy: From Protectionism to Globalization* (Cornell University Press, 2007).

[9] Brad McDonald, "Why Countries Trade," *Finance and Development* 46, no. 4 (2009): 48–49. Albert L. Danielsen, "A Positive Theory of Trade and Compensation," *Southern Economic Journal* 40, no. 4 (1974): 571–78, https://doi.org/10.2307/1056375.

"non-tariff barriers" or "non-tariff measures," and economists and lawyers would attempt to estimate their impact on commercial flows as if they were tariffs, even though they may have been enacted for reasons that had little or nothing to do with gaining a commercial advantage.[10] Fourth, trade policy and negotiations would be used as a disciplining device to shape how states interact with markets, generally but not always in a state-minimizing direction, including through restricting subsidies, lightening antitrust enforcement, and promoting intellectual property rights. Finally, countries were often selected to be agreement partners based on their willingness to sign up for the entire package of neoliberal trade priorities, rather than a deal's concrete value in economic terms.

Several developments have challenged these theories of growth and trade. First, the trade agreements of the period failed to contribute significantly to growth. In the US government's official 2021 review, trade deals signed over the previous 37 years added just $88.8 billion to the economy in 2017.[11] To put this amount in perspective, public and private clean energy investments increased five times that amount in the two years after the Inflation Reduction Act.[12] Second, while not producing much growth, trade deals introduced new income and regional inequalities. Economists have found the places hardest hit by the North American Free Trade Agreement (NAFTA) saw lower wage growth for blue-collar workers, with impacts especially concentrated among women and nonwhite workers. At the same time, policymakers did not create viable and nimble mechanisms to compensate those who were displaced.[13] Third, the concentration of wealth and power among top earners was recognized as not only a distributive fairness problem but a hindrance to growth itself, as the well-off and well-connected hobbled competition and investment.[14] Fourth, the model of

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[10] Alan V. Deardorff, "Why Do Governments Prefer Nontariff Barriers?," in *Carnegie-Rochester Conference Series on Public Policy*, vol. 26 (Elsevier, 1987), 191–216, https://www.sciencedirect.com/science/article/pii/0167223187900261. William J. Drake and Kalypso Nicolaidis, "Ideas, Interests, and Institutionalization: 'Trade in Services' and the Uruguay Round," *International Organization* 46, no. 1 (January 1, 1992): 37–100, https://doi.org/10.2307/2706952.

[11] USITC, "Economic Impact of Trade Agreements Implemented under Trade Authorities Procedures, 2021 Report" (Washington, DC: US International Trade Commission, June 2021), at 15, https://www.usitc.gov/publications/332/pub5199.pdf.

[12] This is not meant to be an apples-to-apples comparison, but instead to give a flavor to the magnitudes involved. Investment number from Lily Bermel et al., "Tallying the Two-Year Impact of the IRA" (Cambridge: Clean Investment Monitor, August 7, 2024), at 17, https://www.cleaninvestmentmonitor.org/reports/tallying-the-two-year-impact-of-the-inflation-reduction-act.

[13] Thomas Piketty, *Capital in the Twenty-First Century* (Cambridge Massachusetts: Harvard University Press, 2014); Elizabeth Pancotti, "To Put Trickle-down Economics to Rest, We Need a New Tax Code" (New York: Roosevelt Institute, April 15, 2024), https://rooseveltinstitute.org/publications/to-put-trickle-down-economics-to-rest/. Sung Eun Kim and Krzysztof Pelc, "How Responsive Is Trade Adjustment Assistance?," *Political Science Research and Methods* 9, no. 4 (October 2021): 889–98, https://doi.org/10.1017/psrm.2020.38.

[14] Andrew G. Berg and Jonathan D. Ostry, "Inequality and Unsustainable Growth: Two Sides of the Same Coin?," *IMF Economic Review* 65, no. 4 (November 2017): 792–815, https://doi.org/10.1057/s41308-017-0030-8; Andrew Berg et al., "Redistribution, Inequality, and Growth:

globalization that let firms decide where and how to produce sometimes led to short-term efficiencies and lower prices, but at a cost to economic resilience and household-supporting wages that was revealed during the COVID-19 pandemic and China shock.[15] Fifth, because the shift to globalization was not accompanied by a requirement for balanced trade accounts between countries (of the kind proposed for the postwar order by British economist John Maynard Keynes), some countries could and did suppress consumption of their workforce in order to gain manufacturing advantage and trade surpluses.[16] Finally, and due in part to the foregoing trends, new trade agreements during the neoliberal era became increasingly politically untenable, as evidenced by the failure of the Obama administration to get congressional support for the Trans-Pacific Partnership (TPP) in 2015–16.

The New Growth and Trade Model

Upon entering office, President Biden argued that America cannot "go back to the same old trickle-down theories . . . that did nothing to make our economy more productive or resilient." In its place, he pledged to "change that paradigm so working families could have a fighting chance."[17] The new paradigm that he and his administration developed was called "middle-out economics." It had three growth-enhancing prongs: 1) raising public investment through industrial policy to create good jobs and to foster strategically important industries; 2) boosting the power of workers generally (and labor unions specifically) in order to improve the distribution of wealth, increase purchasing power throughout the economy, and provide a political counterweight to concentrated power; and 3) increasing competition in product and service markets by limiting corporate concentration and rolling back opportunities for the wealthy to extract a disproportionate share of the value that society creates (e.g., through limiting "junk fees," coercive debt, and other abuses).[18]

Over the next four years, other officials in a series of speeches outlined how this new paradigm would be applied to specific policy areas, including trade and foreign

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New Evidence," *Journal of Economic Growth* 23, no. 3 (2018): 259–305. Heather Boushey, *Unbound: How Inequality Constricts Our Economy and What We Can Do about It* (New York: Harvard University Press, 2019).

[15] This was the term economists coined to describe the sudden surge in US imports from China after that country's accession to the World Trade Organization in 2001. David H. Autor, David Dorn, and Gordon H. Hanson, "The China Shock: Learning from Labor-Market Adjustment to Large Changes in Trade," *Annual Review of Economics* 8 (2016): 205–40.

[16] Matthew C. Klein and Michael Pettis, *Trade Wars Are Class Wars: How Rising Inequality Distorts the Global Economy and Threatens International Peace* (New Haven: Yale University Press, 2020).

[17] Joe Biden. "Remarks by President Biden on the Economy." Washington, DC: White House, July 19, 2021. https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/07/19/remarks-by-president-biden-on-the-economy-3/.

[18] "Bidenomics Is Working: The President's Plan Grows the Economy from the Middle Out and Bottom Up—Not the Top Down" (Washington, DC: White House, June 28, 2023), https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/28/bidenomics-is-working-the-presidents-plan-grows-the-economy-from-the-middle-out-and-bottom-up-not-the-top-down/.

partnerships. (Some of the highlights are collected in the appendix of this report.) The common denominator of these addresses is their emphasis on production and its component parts—labor, capital, and natural resources. But the shift was not merely rhetorical: It was underpinned by concrete actions. The following sections detail two overarching strategies, and how they were actualized: building competitive and resilient markets, and promoting sustainable economic development.

Building Competitive and Resilient Markets

Coming into office at the height of the COVID-19 pandemic and its associated shocks in geographically concentrated supply chains, the Biden administration's early focus was on refashioning trade policy into a tool for deepening competition and resilience. In some instances, this involved targeting markets where corporate exit from American shores had left the US economy vulnerable. In those cases, the US paired a defense of its sovereign right to (re)build its own domestic ecosystems, with a recognition that it was neither feasible nor desirable to make everything in America (so active engagement with allies was necessary). In other instances, it was US companies that had let their own self-interest trump the broader public interest outside American borders. In those cases, the US response needed to more closely police its own corporate actors.

Addressing US Vulnerability

Shortly after one month in office, the Biden administration issued Executive Order 14017, requiring numerous federal agencies to conduct 100-day and one-year reviews of America's supply chain vulnerabilities.[19]

In June 2021, the initial 250-page report came out, focused on semiconductors and advanced packaging, large capacity batteries, critical minerals and materials, and pharmaceuticals and active pharmaceutical ingredients (APIs). The report documented an extreme pattern of concentration and/or offshoring in these sectors, with the US share of chips manufacturing decreasing from 37 to 12 percent between 1990 to 2021 (and with Taiwan's share of high-end chips at 92 percent in 2021), the US having 10 percent of battery cell fabrication compared to China's 75 percent, China dominating 60 and 80 percent of lithium and cobalt refining, and 87 percent of generic API facilities located offshore. Among the reasons cited for this falling behind were: insufficient manufacturing capacity leading to a loss of innovation and human capabilities, short-termism in corporate governance and financial markets, active industrial policies that fell outside of market norms, and insufficient coordination among allies.

[19] "Executive Order on America's Supply Chains" (Washington, DC: White House, February 24, 2021), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/executive-order-on-americas-supply-chains/.

Warning against being "agnostic to where these technologies are manufactured and where the associated supply chains and inputs originate," the report stated:

> It is neither possible nor desirable to produce all essential American goods domestically. But for too long, the United States has taken certain features of global markets—especially the fear that companies and capital will flee to wherever wages, taxes and regulations are lowest—as inevitable. In the face of those same pressures, other countries successfully invested in policies that distributed the gains from globalization more broadly, including to workers and small businesses. We must press for a host of measures—tax, labor protections, environmental standards, and more—that help shape globalization to ensure it works for Americans as workers and as families, not merely as consumers. The Administration's approach to resilience must focus on building trade and investment partnerships with nations who share our values—valuing human dignity, worker rights, environmental protection, and democracy.[20]

The report concluded with a number of recommendations that would go on to become law or policy, including consumer subsidies for electric vehicles, investments across the battery supply chain, more aggressive use of the Defense Production Act, strengthening Buy American rules in federal procurement and subsidies, improving data collection on supply chains, and $50 billion for semiconductor incentives (to close the cost gap between building a fabrication plant in the US versus in Asia, where it is 30 to 50 percent cheaper due to lower labor costs and government incentives).

The granular analytical and diagnostic work continued in the years that followed. In February 2022, the results of the one-year study were released, coincidentally on the same day that Russia's escalation of its Ukraine invasion brought new urgency to supply shocks. These reports documented still further problems with concentration and chokepoints, including in railroads, ports, meatpacking, consumer electronics, rare earth magnets, electric grid technology, and more.[21] In June 2024, the administration announced that these reviews would be conducted every four years, with the first one due by December 31, 2024.[22] Separately, the Department of Energy published lift-off

[20] Brian Deese and Jake Sullivan, "Building Resilient Supply Chains, Revitalizing American Manufacturing, and Fostering Broad-Based Growth: 100-Day Reviews under Executive Order 14017" (Washington, DC: White House, June 8, 2021) at 7-8, https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/08/fact-sheet-biden-harris-administration-announces-supply-chain-disruptions-task-force-to-address-short-term-supply-chain-discontinuities/.

[21] For an attempt to synthesize the 1,358 pages of research this Executive Order produced, see Todd N. Tucker, "Everything Is Climate Now: New Directions for Industrial Policy from Biden's Supply Chain Reports" (New York: Roosevelt Institute, May 17, 2022), https://rooseveltinstitute.org/publications/reading-bidens-supply-chain-reports/.

[22] "EO 14123: White House Council on Supply Chain Resilience" (Washington, DC: White House, June 14, 2024), https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/14/executive-order-on-white-house-council-on-supply-chain-resilience/.

reports that plotted in granular detail how the US could develop infant industries in sectors like advanced nuclear, clean hydrogen, and virtual power plants.[23] In September 2024, the Department of Commerce launched the SCALE Tool, which maps criticality, vulnerability, and resilience across hundreds of industries, to better assess where challenges are likely to emerge.[24] Taken together, these efforts have significantly deepened the knowledge base of top officials and career staff throughout the US government on the actually existing world of production, from everything from ship-to-shore cranes, ultraviolet lithographic equipment, grain-oriented electrical steel, and more.

The analytic work informed specific domestic and international cooperative actions to lessen market concentration and promote onshoring, reshoring, and friendshoring (i.e., the relocation of production to allied nations). The administration invoked the Defense Production Act (DPA) and other authorities to make personal protective equipment (PPE) and heat pumps in the US, mine critical minerals in Canada, and construct nuclear submarines with the UK and Australia.[25] Using the Development Finance Corporation (DFC), the Biden administration grew international climate finance more than sevenfold between 2021 and 2023, including by investing in energy resilience in India, Kenya, and other countries.[26] The US worked with the Japanese government and companies to return ship-to-shore crane production to the US for the first time in 30 years, lessening reliance on the Chinese state-owned company that supplies 80 percent of the US market.[27] The US also partnered with Finland and Canada on the Icebreaker

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[23] DOE, "Pathways to Commercial Liftoff" (Washington, DC: Department of Energy, 2022), https://liftoff.energy.gov/.

[24] Rana Foroohar, "We Need to Know Where the Risks in Supply Chains Really Lie," *Financial Times*, September 9, 2024, sec. Supply chains, https://www.ft.com/content/e8a94c4c-da26-4f09-b8cd-e1008a193615.

[25] Chad P. Bown, "COVID-19 Vaccine Supply Chains and the Defense Production Act," Working Paper (Washington, DC: Peterson Institute for International Economics, June 2022), https://www.piie.com/sites/default/files/documents/wp22-9.pdf.
MESC, "Defense Production Act Heat Pump Program Selections" (Washington, DC: Department of Energy, 2023), https://www.energy.gov/mesc/defense-production-act-heat-pump-program-selections.
DOD, "Department of Defense Awards $14.7 Million to Enhance North American Cobalt and Graphite Supply Chain" (Washington, DC: Department of Defense, May 16, 2024), https://www.defense.gov/News/Releases/Release/Article/3777044/https%3A%2F%2Fwww.defense.gov%2FNews%2FReleases%2FRelease%2FArticle%2F3777044%2Fdepartment-of-defense-awards-147-million-to-enhance-north-american-cobalt-and-g%2F.
Bryant Harris, "Biden Seeks Legislation to Invest in Australia, UK Defense Industries," *Federal Times*, May 25, 2023, https://www.federaltimes.com/federal-oversight/2023/05/25/biden-seeks-legislation-to-invest-in-australia-uk-defense-industries/.

[26] Maxine Joselow, "Analysis | The Little-Known Agency Helping Biden Send Climate Cash Overseas," *Washington Post*, December 8, 2023, https://www.washingtonpost.com/politics/2023/12/08/little-known-agency-helping-biden-send-climate-cash-overseas/.

[27] David J. Lynch, "Biden Wants to Cut US Need for Chinese Cranes; Ports Fear Higher Costs," *Washington Post*, July 9, 2024, https://www.washingtonpost.com/business/2024/07/09/cranes-china-ports-biden/.

Collaboration Effort (ICE) Pact, which aims to help allied nations diversify icebreaker production away from China and Russia (the latter of which has the world's largest fleet).[28]

Addressing US Impact on Vulnerability of Other Nations

Upon entering office at the height of the pandemic, the Biden administration's most urgent priority was deploying vaccines to bend the infection curve and be able to reopen the economy. Within the US, vaccines were made available for free, and governments at the federal and state level went to considerable lengths to distribute them. Internationally, however, there were major disparities in access to vaccines. Two years into the pandemic some high income countries had as high as 99 percent vaccination coverage, while only 15.8 percent of some low-income countries' populations had received even a single dose.[29] Meanwhile, even the concessionary prices charged by companies like Pfizer for COVID-19 therapeutics in developing countries could represent half to twice the average annual health care expenditure for all health needs combined.[30]

One of the readiest solutions would have been more diversified production sites. And yet, dating back to the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO), protection of monopoly profits has evolved into a quasi-global constitutional right for patent holders. By some estimates, this increased the prices of pharmaceuticals by 400 percent in developing countries,[31] while subsequent "TRIPS-plus" bilateral trade agreements restricted competition still further.[32]

In 2020, India and South Africa attempted to inject more competition into these markets by introducing a proposal for a broad TRIPS waiver to fight the COVID-19 pandemic. This was opposed by the US and other rich country governments, who had no interest in setting such widespread flexibility as a precedent. Indeed, a month into the worst pandemic in a century, the Trump administration issued the US's annual intellectual property watchlist report, and criticized India and other countries for using

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[28] Justin Katz, "ICE Pact: Why the US Had to Recruit Help in Race with Russia, China for Arctic Icebreakers," *Breaking Defense*, August 16, 2024, https://breakingdefense.com/2024/08/ice-pact-why-the-us-had-to-recruit-help-in-race-with-russia-china-for-arctic-icebreakers/.

[29] Jillian Kohler, Anna Wong, and Lauren Tailor, "Improving Access to COVID-19 Vaccines: An Analysis of TRIPS Waiver Discourse among WTO Members, Civil Society Organizations, and Pharmaceutical Industry Stakeholders," *Health and Human Rights* 24, no. 2 (December 2022): 159.

[30] USITC, "COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities" (Washington, DC: US International Trade Commission, December 2023), at 262.

[31] Mario Cimoli et al., *Intellectual Property Rights: Legal and Economic Challenges for Development* (Oxford: Oxford University Press, 2014), at 35.

[32] Brigitte Tenni et al., "What Is the Impact of Intellectual Property Rules on Access to Medicines? A Systematic Review," *Globalization and Health* 18, no. 1 (April 15, 2022): 40, https://doi.org/10.1186/s12992-022-00826-4.

so-called “compulsory licenses” to lower prices or pursue domestic industrial policy without permission from the patent holder.[33] This changed rapidly after President Biden came into office and Ambassador Tai was unanimously confirmed by the Senate on March 21, 2021. On April 30, 2021, the 2021 version of the report was published, and broke with tradition by not faulting countries for attempting to use such flexibilities, noting “the United States emphasizes trading partners’ rights to protect public health and, in particular, to promote access to medicines for all.”[34] On May 5, 2021, the US announced support for a TRIPS waiver for vaccines, siding with developing countries against the opposition of the EU, PhRMA trade association, and World Bank. As a result, in June 2022, WTO members adopted a ministerial declaration that permitted developing countries to produce COVID vaccines without the consent of corporate patent holders.[35] A full accounting of the adequacy of this waiver is beyond the scope of this report, but it is clear that a new policy model was on display when the country that had been among the most aggressive proponents of corporate patent monopolies was now calling them into question.[36]

USTR also faced heated controversy in the ongoing talks on so-called “digital trade” that were initiated under previous administrations. These kinds of provisions are generally supported by large technology monopolies, who want to maintain maximum control over decisions such as the location of data centers. But as the AFL-CIO has warned, digital companies have led the drive toward more worker surveillance and job precarity. However, the US’s completed trade deals with digital chapters (e.g., the US-Mexico-Canada Agreement [USMCA] and a 2019 US-Japan digital trade agreement) place little to no restrictions on cross-border digital flows and could preempt domestic regulation, which is still in its infancy.[37] In the first few years of the Biden administration, USTR was reportedly continuing the pro-tech company stance of previous administrations, but appeared to pivot in 2023 by withdrawing US support for

[33] USTR, “2020 Special 301 Report” (Washington, DC: Office of the US Trade Representative, April 2020), at 14, https://ustr.gov/sites/default/files/2020_Special_301_Report.pdf.
[34] USTR, “2021 Special 301 Report” (Washington, DC: Office of the US Trade Representative, April 30, 2021), at 34, https://ustr.gov/sites/default/files/files/reports/2021/2021%20Special%20301%20Report%20(final).pdf.
[35] WTO, “Ministerial Declaration on the TRIPS Agreement” (Geneva: World Trade Organization, June 22, 2022), https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/30.pdf&Open=True.
[36] For diverse perspectives on the negotiations, see Sara E. Fischer et al., “Intellectual Property and the Politics of Public Good during COVID-19: Framing Law, Institutions, and Ideas during TRIPS Waiver Negotiations at the WTO,” *Journal of Health Politics, Policy and Law* 49, no. 1 (February 1, 2024): 9–42, https://doi.org/10.1215/03616878-10910269. WTO, “WTO | Thirteenth WTO Ministerial Conference - Intellectual Property Briefing Note” (Geneva: World Trade Organization, April 2024), https://www.wto.org/english/thewto_e/minist_e/mc13_e/briefing_notes_e/trips_e.htm.
[37] “A Worker-Centered Digital Trade Agenda” (Washington, DC: AFL-CIO, February 7, 2023), https://aflcio.org/worker-centered-digital-agenda.

certain digital trade proposals in the Indo-Pacific Economic Framework (IPEF) and the WTO.[38]

USTR also took other steps to align the trade policy apparatus with middle-out economics. This included revising both the framing and content of the statutorily required Trade Estimate Report of 2024. Some policies that previous editions listed as trade barriers included anti-apartheid measures in South Africa and country restrictions on imports of firearms and endangered species. As Ambassador Tai noted in a press release,

> Over the years, the NTE Report expanded from its statutory purpose to include measures without regard to whether they may be valid exercises of sovereign policy authority . . . By carefully editing and returning the NTE Report to the statute's intent, USTR is making it a more useful document that enumerates significant trade barriers that could be addressed to expand market opportunities and help our economy grow.[39]

Promoting Sustainable Economic Development

To many observers, the COVID-19 crisis was but the dress rehearsal for the shocks that would come from the climate crisis, if left unaddressed. However, in the latter case, the entire energy backbone of the economy would need to be rebuilt, an enormous undertaking that the UN estimates will cost between $4 and $6 trillion a year for decades to come.[40] While economists had long advocated for a carbon price to force firms to internalize the negative externalities caused by their emissions, the US political system tried and failed to produce one. In its place, the Biden administration chose to instead internalize the positive externalities produced by clean energy, through an ambitious system of subsidies and other supports. In the subsections that follow, we look at economic development efforts through domestic industrial policy and trade policy.

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[38] Danielle M. Trachtenberg, "Digital Trade and Data Policy: Key Issues Facing Congress" (Washington, DC: Congressional Research Service, April 30, 2024), https://crsreports.congress.gov/product/pdf/IF/IF12347. David Dayen, "Corporate Attack Dogs Find a New Subject to Bully," *The American Prospect*, February 21, 2024, https://prospect.org/api/content/7920cbe8-d04b-11ee-952e-12163087a831/.

[39] "2024 National Trade Estimate Report on Foreign Trade Barriers" (Washington, DC: Office of the US Trade Representative, March 29, 2024), https://ustr.gov/about-us/policy-offices/press-office/press-releases/2024/march/ustr-releases-2024-national-trade-estimate-report-foreign-trade-barriers.

[40] UNFCCC, "Sharm El-Sheikh Implementation Plan" (Dubai: United Nations Climate Change, November 20, 2022), https://unfccc.int/documents/624444.

Chief among these developmental efforts was the Inflation Reduction Act (IRA), enacted in August 2022. Initially assessed by the Congressional Budget Office[41] and Joint Committee on Taxation at "only" $391 billion in expenditures, official estimates are now double that due to novel features like "uncapped" and transferable subsidies, and independent estimates of the act's total public and private clean energy investments are now in the trillions of dollars.[42] The IRA attempts to unlock higher wages, boost skilled labor supply, and upstream domestic production through a "layer cake" of incentives to pay prevailing wages, use domestic supply chains, and invest in economically downtrodden regions.[43] Separately, the CHIPS and Science Act and Infrastructure Investment and Jobs Act (IIJA) make new investments of $52 billion and $550 billion respectively in the semiconductor and transportation- and infrastructure-related industries (including EV chargers, electric buses, and broadband). Like the IRA, these too have a range of supply-side provisions, ranging from requirements in the CHIPS Act for firms receiving large grants to submit plans to make childcare available for their workers (which frees up labor supply from workers who would otherwise have care responsibilities), to prohibitions on using federal subsidies to oppose union elections in the IIJA's electric bus program (which can in turn lead to workers sharing in the gains from productivity growth).[44]

To put this domestic investment into quantitative and qualitative context, the previous high-water mark for climate action was the 2009 American Recovery and Reinvestment

[41] "Estimated Budgetary Effects of H.R. 5376, the Inflation Reduction Act of 2022" (Washington, DC: Congressional Budget Office, August 2022), https://www.cbo.gov/publication/58366.

[42] Jim Tankersley, "Why the Cost of Biden's Climate Law Keeps Going Up," *New York Times*, February 8, 2024, sec. US, https://www.nytimes.com/2024/02/08/us/politics/biden-inflation-reduction-act-cost.html; Goldman Sachs, "The US Is Poised for an Energy Revolution," April 17, 2023, https://www.goldmansachs.com/intelligence/pages/the-us-is-poised-for-an-energy-revolution.html.

[43] Dan Gearino, "Red States Stand to Benefit From a 'Layer Cake' of Tax Breaks From Inflation Reduction Act," *Inside Climate News*, May 11, 2023, https://insideclimatenews.org/news/11052023/inside-clean-energy-red-states-inflation-reduction-act-tax-breaks/.

[44] Jonathan Weisman, "Flush With Federal Money, Strings Attached, a Deep South Factory Votes to Unionize," *New York Times*, May 12, 2023, sec. US, https://www.nytimes.com/2023/05/12/us/politics/clean-energy-unions.html.; Lea Woods and Julie Kashen, "CHIPS Act Child Care Requirements Already Showing Promise" (Washington, DC: The Century Foundation, April 17, 2024), https://tcf.org/content/commentary/chips-act-child-care-requirements-already-showing-promise/. Jonathan Weisman, "Flush With Federal Money, Strings Attached, a Deep South Factory Votes to Unionize," *New York Times*, May 12, 2023, sec. US, https://www.nytimes.com/2023/05/12/us/politics/clean-energy-unions.html.

Act (ARRA), which invested $90 billion in clean energy industries.[45] But this earlier effort lacked a proactive trade strategy: The Obama administration removed domestic content requirements at the behest of US trading partners, and industries that received investments proceeded to offshore production to China and elsewhere. Moreover, fierce Chinese competition also tanked ARRA's high-profile $535 million investment in solar manufacturer Solyndra. These experiences tainted industrial policy for a decade.[46]

In contrast to this earlier effort, the IRA and other post-2020 industrial policy legislation put trade strategy at their center. For instance, the IRA provides consumers with a $7,500 tax credit for the purchase of a new electric vehicle, provided it is assembled in North America, between 40 and 80 percent (depending on the year) of its critical minerals are sourced and processed in the US or a "free-trade agreement" partner country, and between 50 and 100 percent (again, depending on the year) of the value of the battery is manufactured or assembled in North America. Electric vehicles that contain content from companies from China or other entities of concern are ineligible for these subsidies.[47] When coupled with the more stringent "rules of origin"

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[45] Christina Romer, "Impact of the American Recovery and Reinvestment Act on the Clean Energy Transformation" (Washington, DC: Council of Economic Advisers, April 22, 2010), https://obamawhitehouse.archives.gov/blog/2010/04/21/impact-american-recovery-and-reinvestment-act-clean-energy-transformation.

[46] Carol E. Lee, "Obama Backs off 'Buy American,'" *POLITICO*, February 13, 2009, https://www.politico.com/story/2009/02/obama-backs-off-buy-american-018809; Jonas Nahm, *Collaborative Advantage: Forging Green Industries in the New Global Economy* (New York: Oxford University Press, 2021). This was not the only moment when failure to consider trade impacts tanked climate ambition. In 1997, by a unanimous vote, the US Senate indicated disapproval of the US joining the Kyoto Protocol, which would have set binding emissions reductions targets and paved the way for carbon pricing (as it did in Europe, unless it also bound China and other developing countries. A few years later, after negotiations finished, President Bush concurred that the Senate's worries had been realized and shelved efforts at ratification. President Trump framed his withdrawal from the Paris Agreement in virtually identical terms, citing unfair Chinese competition. And in 2016, Obama backed off the WTO's Environmental Goods Agreement (which would have promoted free trade in green products) over concerns that China was seeking unfair dominance in those markets. See Michael Grubb, "The Economics of the Kyoto Protocol," in *The Economics of Climate Change* (Routledge, 2004); George W. Bush, "Letter to Members of the Senate on the Kyoto Protocol on Climate Change" (Washington, DC: White House, March 13, 2001), https://www.presidency.ucsb.edu/documents/letter-members-the-senate-the-kyoto-protocol-climate-change.; Donald J. Trump, "Statement by President Trump on the Paris Climate Accord" (Washington, DC: White House, June 1, 2017), https://trumpwhitehouse.archives.gov/briefings-statements/statement-president-trump-paris-climate-accord/.;
William Alan Reinsch, Emily Benson, and Catherine Puga, "Environmental Goods Agreement: A New Frontier or an Old Stalemate?" (Washington, DC: Center for Strategic and International Studies, October 28, 2021), https://www.csis.org/analysis/environmental-goods-agreement-new-frontier-or-old-stalemate.

[47] DOT, "Clean Vehicle Credits Under Sections 25E and 30D; Transfer of Credits; Critical Minerals and Battery Components; Foreign Entities of Concern" (Washington, DC: Department of Treasury, May 6, 2024), https://www.federalregister.gov/documents/2024/05/06/2024-09094/clean-vehicle-credits-under-sections-25e-and-30d-transfer-of-credits-critical-minerals-and-battery.

to qualify for lower duty treatment in the 2019 US-Mexico-Canada trade agreement (USMCA), the EV rules amount to a robust industrial policy to help North American consumers support North American auto production.[48] Separately, the US has negotiated a deal with Japan to qualify as a trade agreement partner under IRA incentives, and other countries have also expressed interest in such arrangements.[49]

Similarly, the IRA's production tax credits (PTCs) and investment tax credits (ITCs) provide incentives to produce and invest in US clean energy and clean manufacturing production, with bonus incentives that multiply the value fivefold if workers on the projects are paid prevailing wages and job sites utilize apprenticeship programs.[50] There are additional incentives to invest in fossil fuel communities or those that are struggling economically, and for projects that choose to additionally use US supply chains (including 100 percent domestic steel and iron). One aspect of this policy gives production incentives to the makers of the supply chain components themselves, such as solar-grade polysilicon and battery cells.[51] While the PTC and ITC have been around for decades and projects outside the United States were never eligible, the add-on incentive structures are new.

The other industrial policy bills have their own trade dimensions. The IIJA has a title called Build America, Buy America (BABA), which expanded domestic content requirements beyond certain categories of public works programs to any project that receives federal funding (even if administered by the private sector). It also created a Made in America Office that uses the federal procurement and subsidy process to analyze current and future bottlenecks in domestic supply chains, including by reviewing federal agencies' requests for waivers from Buy American preferences, which serve as an early warning sign.[52] For its part, the CHIPS and Science Act aims to reshore semiconductor supply chains. All three laws place limitations on companies expanding their trade with Chinese companies or other "foreign entities of concern."[53] Combined,

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[48] "USMCA Automotive Rules of Origin: Economic Impact and Operation, 2023 Report" (Washington, DC: US International Trade Commission, July 2023), https://www.usitc.gov/publications/332/pub5443.pdf.
[49] Kyla H. Kitamura, "US-Japan Critical Minerals Agreement" (Washington, DC: Congressional Research Service, May 20, 2024), https://crsreports.congress.gov/product/pdf/IF/IF12517.
[50] 26 U.S.C. § 45; 26 U.S.C. § 48.
[51] See Abby Harvey, "A User Guide to the Inflation Reduction Act" (Washington, DC: BlueGreen Alliance, October 13, 2022), https://www.bluegreenalliance.org/wp-content/uploads/2023/02/BGA-IRA-User-Guide-Print-FINAL-Web.pdf.; Tom Moerenhout and Kevin Brunelli, "The Debate over the 45X Tax Credit and Critical Minerals Mining" (New York: Center on Global Energy Policy at Columbia University SIPA, February 27, 2024), https://www.energypolicy.columbia.edu/qa-the-debate-over-the-45x-tax-credit-and-critical-minerals-mining/.
[52] Elisabeth B. Reynolds, "US Industrial Transformation and the 'How' of 21st Century Industrial Strategy," *Journal of Industry, Competition and Trade* 24, no. 1 (April 11, 2024): 8, https://doi.org/10.1007/s10842-024-00420-x.
[53] William Alan Reinsch and Thibault Denamiel, "The CHIPS and Science Act Guardrails' Implications for the US Trade Agenda," April 13, 2023, https://www.csis.org/analysis/chips-and-science-act-guardrails-implications-us-trade-agenda.

these efforts merely placed the US more within the norm for its trading partners, which have long favored greater shares of domestic production in procurement.[54]

Development Through International Trade Agreements

Moving from industrial policy to more traditional types of trade cooperation, a few initiatives merit mention.

In October 2021, the Biden administration announced a deal with the European Union that swapped tariffs on steel and aluminum imports originally imposed by the Trump administration in 2018 for a tariff-rate quota that allowed freer trade between the two parties.[55] While this helped to relieve an immediate bilateral irritant in the short-term, the long-term goal was far more ambitious: creating a Global Arrangement on Sustainable Steel and Aluminum (GASSA) that would condition market access on deeper international cooperation on lowering embedded carbon and tackling Chinese overcapacity. It is difficult to state what a transformative precedent GASSA would have been, and it could have served as a model for sectoral cooperation in other emissions-intensive sectors.

But unfortunately, the parties were unable to reach a conclusion by the self-imposed deadline of October 2023, with news reports indicating a lack of EU interest in a deal that Europeans felt stretched WTO norms. The US, while feeling less constrained by the multilateral rule set, nonetheless attempted to meet the EU halfway, but to no avail—casting doubts on the viability of future transatlantic sectoral deals.[56] The US may be able to restart negotiations with the European Union this year, or alternatively move on to other trade negotiating partners like the United Kingdom, Canada, or Australia. If

[54] Still, the overall industrial policy push did not always move in the direction of more onshoring. For example, in 2022, President Biden took the unusual step of preemptively blocking duties on solar panels produced by Chinese companies in Southeast Asian economies, even if the Department of Commerce found these to violate US trade laws. A year later, he vetoed a bipartisan bill that would have overridden that action. Matthew Daly, "Biden Vetoes Bid by Congress to Reinstate Tariffs on Solar Panel Imports from SE Asia," AP *News*, May 16, 2023, sec. Washington News, https://apnews.com/article/solar-tariffs-biden-china-imports-climate-56582d84c0d369cdb01b774dc15d61ee. David Dayen, "Administration Playing from Behind on Domestic Solar Production," *The American Prospect*, June 12, 2024, https://prospect.org/api/content/08b05444-283b-11ef-b4ef-12163087a831/. "International Trade:Foreign Sourcing in Government Procurement" (Washington, DC: US Government Accountability Office, May 2019), https://www.gao.gov/products/gao-19-414.

[55] "Fact Sheet: US – EU Arrangements on Global Steel and Aluminum Excess Capacity and Carbon Intensity" (Washington, DC: US International Trade Commission, October 2021), https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2021/october/fact-sheet-us-eu-arrangements-global-steel-and-aluminum-excess-capacity-and-carbon-intensity.

[56] Alesha Alkaff, "EU, US Fail to Reach Agreement on Global Arrangement on Sustainable Steel and Aluminium," *Fastmarkets*, November 7, 2023, https://www.fastmarkets.com/insights/eu-us-fail-to-reach-agreement-on-global-arrangement-on-sustainable-steel-and-aluminium/. See also Todd N. Tucker et al., "Why the US and EU's Green Steel Negotiations Matter: A Series," *Roosevelt Institute* (blog), July 18, 2023, https://rooseveltinstitute.org/2023/07/18/why-the-us-and-eus-green-steel-negotiations-matter/.

such negotiations start (or restart), they will benefit from the analytical work of the Trade and Climate Task Force (a White House body established in 2024), as well as a separate study by the US International Trade Commission on the carbon intensity of US steel and aluminum producers, which will be made public in early 2025.[57]

In May 2022, the Biden administration launched the Indo-Pacific Economic Framework (IPEF), a next-generation economic cooperation agreement among 13 countries and the US.[58] The proposed deal contains provisions on trade (Pillar I), supply chains (Pillar II), clean economy (Pillar III, focused on environmental and infrastructure cooperation), and fair economy (Pillar IV, focused on anti-corruption and tax administration issues). IPEF countries could choose which pillars they wanted to join. USTR leads ongoing negotiations on Pillar I, while the Department of Commerce concluded negotiations on the other three pillars in November 2023. As part of IPEF's last three pillars, countries have agreed to set up supply chain points of contact and three senior-level bodies on supply chain coordination and crisis response, including a trilateral Labor Rights Advisory Board (LRAB) with workers, business, and government representatives all taking part;[59] to complement their Paris Climate Accords commitments with tangible projects to drive the energy transition; and to establish penalties in their domestic law against a wide array of corporate and public governance and tax abuses.[60]

There are essentially two schools of thought on IPEF. IPEF's critics focus on its relative paucity of binding provisions. To some corporations and trading partners, IPEF is a talk-forum that does not offer economically meaningful market access—one of the hallmarks of past "free-trade agreements." To some labor and labor-aligned voices, IPEF is weak because it does not include binding labor enforcement rules. Indeed, much of the media consensus was that these factors led to the IPEF Pillar I talks imploding in the fall of 2023.[61]

To IPEF's defenders, on the other hand, the framework provides a potential template for future economic cooperation. Its provisions are not written as a "rule book" to dictate how its signatories would agree to compete, but rather as a "playbook" for how they will cooperate to address threats to supply chain resilience. Unlike the Doha

[57] "USITC to Assess Greenhouse Gas Emissions in the US Steel and Aluminum Industries" (Washington, DC: US International Trade Commission, July 6, 2023), https://www.usitc.gov/press_room/news_release/2023/er0706_64095.htm.
[58] "Indo-Pacific Economic Framework for Prosperity" (Washington, DC: US Department of Commerce, May 2023), https://www.commerce.gov/ipef.
[59] A Supply Chain Council does long-term work to align countries' production incentives, a Crisis Response Network coordinates during acute shortages and other production challenges, and a Labor Rights Advisory board is a tripartite labor-government-business group that aims to ensure high labor standards in supply chains that the US and other trading partners rely on.
[60] In July, the appointments to LRAB were announced, and included our study commission member Eric Gottwald as the labor representative.
[61] Gavin Bade, "RIP 'Worker-Centered Trade': Biden's Global Economic Agenda Stalls," *POLITICO*, January 2, 2024, https://www.politico.com/news/2024/01/02/bidens-economic-agenda-stalls-00133138.

Round of WTO talks (begun in 2001 and technically still ongoing) or the Trans-Pacific Partnership negotiations (begun in 2005, with the US withdrawing in 2017), talks on three of the IPEF's pillars were concluded in only 18 months. Unlike traditional US "free-trade agreements" (FTAs), which cover rules for nearly all of a country's economic activities and thus deter some countries from negotiating anything with the US, the IPEF's à la carte framework allowed countries to pick and choose which pillars they wished to join. This is likely the reason that a country like India, which jealously guards its sovereignty in trade matters, was willing to sign up for the Pillars II, III, and IV.

The jury is still out on IPEF's ultimate value. One indication that there might be more impact than initially thought was Pillar III's Clean Economy Investor Forum, held in Singapore in June 2024.[62] Infrastructure investment in developing countries is notoriously difficult to finance. Market failures and political risks abound, which is part of the reason publicly financed multilateral development banks often play a leading financial role—though the need for projects far outstrips supply even with those tools. Under IPEF, governments are experimenting with a more dynamic, hands-on model where they combine the functions of planner, coordinator, direct investor, and matchmaker for other public and private investors. At this forum, the Indo-Pacific Partnership for Prosperity—a public-private partnership—announced that a coalition of private equity firms, like KKR, joined with state development banks such as Singapore's Temasek and philanthropists such as the Rockefeller Foundation to commit $25 billion in infrastructure spending. Governments are in the process of linking that supply of funds with demand, identifying $6 billion of shovel-ready projects, and a further $17 billion in potential projects.[63] The US Development Finance Corporation also announced equity stakes in a regional clean energy investment fund.[64] It is possible that IPEF's model of "trade deal as coordination platform" could be at least as economically meaningful as traditional FTAs, which are often projected to contribute mere rounding errors to national income.[65]

If the optimistic take on IPEF is borne out, there are other similar regional initiatives in the wings ready to go. A separate Americas Partnership for Economic Prosperity might eventually evolve into something like IPEF for the Western Hemisphere. And the US-EU

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[62] "FACT SHEET: IPEF Clean Economy Investor Forum" (Washington, DC: US Department of Commerce, June 6, 2024), https://www.commerce.gov/news/fact-sheets/2024/06/fact-sheet-ipef-clean-economy-investor-forum.
[63] Kimberley Kao, "KKR, GIP, Indo-Pacific Group Form $25 Billion Regional Infrastructure Tie-Up," *Wall Street Journal*, June 6, 2024, sec. Markets, https://www.wsj.com/finance/currencies/kkr-gip-indo-pacific-group-form-25-billion-regional-infrastructure-tie-up-3f91f58d.
[64] Ryan Mulholland, "IPEF Starts To Demonstrate Results" (Washington, DC: Center for American Progress, June 10, 2024), https://www.americanprogress.org/article/ipef-starts-to-demonstrate-results/.
[65] "Trans-Pacific Partnership Agreement: Likely Impact on the US Economy and on Specific Industry Sectors" (Washington, DC: US International Trade Commission, May 2016).

Trade and Technology Council (TTC) is now even further institutionalized, with a range of working groups covering everything from climate technology to artificial intelligence.

Separately, USTR has attempted to improve the quality of data available to the US government when assessing how trade impacts developmental goals. In October 2021, the agency requested that the US International Trade Commission report on the distributional impacts of trade by class, race, and geography. The first report was published in 2022, and will be followed up by five additional studies due to be published in 2026 and every three years thereafter. One of the major takeaways of the initial report was that "when faced with trade shocks, Black and other nonwhite workers fare worse than their white counterparts."[66] Future administrations can use this analytic base to inform trade agreement priorities.

Box. 1. Interview with Sameera Fazili

Roosevelt Institute Senior Fellow and Former National Economic Council Deputy Director

Q: Under the Biden administration, we've seen a shift toward sectoral deals and away from economy-wide ones. What's motivating that change?

There are two main motivating factors that I see, one driven by economic security imperatives and the other from a political economy perspective.

Post-COVID-19, we saw that supply-side shocks drove large spikes in inflation—with one-third of core inflation in 2021 driven by the chips shortage's impact on the auto industry. We also lacked a good set of policy tools to address the macroeconomic shocks generated by supply-side crises. However, the solution to various supply chain crises did not always lie in onshoring production. In fact, trade relationships were a key part of the solution. During the baby formula shortage, the FDA authorized more foreign formulas to be sold domestically, and tariff rate quota changes were also a mechanism we considered using. During the chips shortage, a diplomatic early warning mechanism was put in place to more quickly notify US companies of anticipated delays in shipments of intermediate inputs, allowing factory workers in the US to avoid furloughs and shutdowns. Trade tools were clearly a part of the solution to shifting global supply chains toward resilience over efficiency.

From the political economy side, the American public has lost faith in "free trade," and we need to build a new, politically viable consensus around trade policy. Sectoral agreements can rebuild that public support. Rather than getting bogged down by rules for hundreds of industries at once, focus on solving a specific production or climate problem. Pick a

[66] USITC, "Distributional Effects of Trade and Trade Policy on US Workers" (Washington, DC: US International Trade Commission, October 2022), https://www.usitc.gov/publications/332/pub5374.pdf.

sector or a good that is important to the domestic economy or has strong public salience. That's how you show the American public that trade improves their lives in very tangible ways and regain their trust in global markets. Sector-specific trade deals also help organize and then align industry, stakeholders, and policymakers between countries, and solve the shared challenge of supply chain resilience. The US-Japan Critical Minerals Agreement serves as an early example of this approach, as USTR was able to quickly negotiate a new agreement that was sector-specific, leveraging the IRA as motivation for the deal.

Q: The supply chain reports produced in the first few years of the Biden administration focused on a bunch of industries, but let's focus on the Information and Communication Technology (ICT) ones. What was behind this focus, and how did trade connect to it?

In ICT supply chains, there was a growing recognition that security vulnerabilities could be introduced into the hardware, posing a real national security threat. Furthermore, manufacturers of ICT equipment could not prevent that manipulation because of the opacity and complexity of the supply chain. As China's Huawei grew into the world's largest telecom equipment maker, there was the very real threat of China spying via Huawei equipment. The solution set here was a combination of policy incentives to increase domestic capacity (through both the Bipartisan Infrastructure Law and the CHIPS and Science Act) and stronger trading alliances to counter the shared security threat posed by companies who could be controlled by the Chinese Communist Party and to de-risk our collective supply chains. On the trade side, the EU Trade and Technology Council was established as a high-level dialogue to align policy tools to strengthen our respective technological and industrial leadership in critical and emerging technologies, taking both innovation and security into consideration. Similarly with the Quad (the US, Australia, India, and Japan partnership), cooperation on critical and emerging technologies became a central pillar.

Through these multilateral, peer-to-peer discussions, policymakers are pressure-testing potential solutions, sharing emerging evidence, and examining the array of policies respective partners can deploy to support a more resilient global economy. It's also an opportunity to promote competition in these technologies—which in some cases are in highly consolidated industries—without compromising safety and security interests. In both forums, clean energy technologies, not just digital infrastructure, have taken center stage. These dialogues have also created opportunities for American domestic and foreign policy experts to work together, whether to strengthen trust and safety in the digital economy or to expand clean energy deployment globally.

Q: From your answers, it seems like foreign policy considerations are always close at hand, even when thinking about something like how to obtain electronics to build out domestic broadband. How has the rise of China impacted these supply-side conversations, and what does that then imply for relations with the rest of the world?

The rise of China has clearly generated a bipartisan mindshift amongst policymakers, especially those in Congress, on reasserting a stronger role for government in shaping markets. At the same time, the US has been chided by many of our trading partners for not offering them a compelling reason to choose the US ecosystem over the Chinese. In part, I see this as a failure of the US foreign policy establishment to adapt to the reality of a multipolar world. These establishment figures remain trained in a Cold War mindset of a bipolar world where cooperation was underwritten first and foremost through security alliances. They also fail to recognize that the post-colonial legacy in many emerging "middle powers"—countries like Brazil and India that are key to us winning the strategic competition with China—results in distrust of America. While the US's founding myth is that we too are a post-colonial nation, many of our trading partners perceived us to be a new colonizing force in the post–World War II era, deposing leaders who did not serve our strategic or economic interests or propping up autocrats who would.

We have a real opportunity, however, to win these countries over. When I meet policymakers from these rising middle powers—be they in Latin America or Asia—they note they are nervous accepting Chinese investment because they worry China seeks domination over them, rather than partnership. That said, they often accept that investment because China moves fast with financing and helps them deploy projects faster. Here, I think Ambassador Tai's overture to our trading partners, reassuring them that we seek a trading relationship based on mutual benefit, what she called "post-colonial trade," was an important step in showing that we hear their concerns and, compared to China, we seek mutual benefit not domination. We want them to strengthen their sovereignty, owning or co-owning a piece of the supply chain and moving up the value chain, rather than being trapped in cycles of extraction and exploitation. Moreover, the high labor or environmental standards we insist on are not the US being moralistic, they are aimed at supporting stronger, more sustainable growth.

Q: There are some analysts that say we should decarbonize quickly using cheap subsidized Chinese and other imported products. There are others who say we are in a developmental moment, where the decisions we make now could lock in the productive structure of the economy for decades to come. How should the US be thinking about the trade-offs involved in these choices?

In the US, we have long understood that energy security is an economic and national security imperative. Similar to how we're working to balance security and innovation in the evolution of ICT supply chains, as clean energy becomes the dominant source of energy in our economy, we need to do the same for clean energy supply chains. Moreover, the lack of resilience in today's hyper-globalized ICT supply chains is a warning for the clean energy industry. Today's global supply chain for clean energy technologies has dangerous chokepoints, with multiple single points of failure. The Inflation Reduction Act—as well as actions the US is taking to de-risk global clean energy supply chains—helps drive private investment toward creating new nodes in that global supply chain and making a more resilient clean energy industry. Creating a more diverse supply chain should also help support competition and innovation.

There is another, more American-centric argument to consider as well, one that sees the clean energy transition as a way to strengthen US competitiveness. Some argue that we should go fast and cheap deploying current technologies, and focus the US on becoming a leader in next-generation technologies. In fact, they point out, we have some of the leading research in new technologies like sodium ion battery chemistries or small modular reactors. The techno-optimists often fail to recognize that in hard tech areas, research and production networks are more tightly linked than people realize. If we do not know how to build a lithium iron phosphate battery at scale today, when the time comes to commercialize a new sodium ion technology, we will lack the production know-how to go from "lab to fab." And we will be unable to build that capacity fast enough to win that new global market. Therefore, we must consider how we expand the clean energy industrial base in the US today, to make us a larger source of both R&D and production of tomorrow's clean energy technologies.

Further Reading:

Robinson Meyer, "The Book That Explains the White House's Outlook on China," *Heatmap News*, March 28, 2024, https://heatmap.news/politics/biden-china-climate.

Elisabeth B. Reynolds, "US Industrial Transformation and the 'How' of 21st Century Industrial Strategy," *Journal of Industry, Competition and Trade* 24, no. 1 (April 11, 2024): 8, https://doi.org/10.1007/s10842-024-00420-x.

Quinn Slobodian, "The New Paradigm: How Fares Post-Neoliberalism?," *Democracy Journal*, no. 64 (March 8, 2022), https://democracyjournal.org/magazine/64/the-new-paradigm-how-fares-post-neoliberalism/.

Todd N. Tucker et al., "Industrial Policy Synergies: Reflections from Biden Administration Alumni" (New York: Roosevelt Institute, April 2023), https://rooseveltinstitute.org/publications/industrial-policy-synergies-reflections-from-biden-administration-alumni/.

Commission Views

Our study commissioners highlighted a number of ways that the Biden administration had effectively articulated a vision for growth. The policymakers who went into the administration had been increasingly frustrated that tax and transfer policies were failing to effectively address geographic and income inequality. Moreover, there was a so-called "secular stagnation" problem, where economic growth was not reaching desired levels.[67] Thus, instead of focusing only on a "redistribution" agenda that had been a mainstay of recent liberal administrations, the new administration also considered the scope for "pre-distribution," or influencing how private employers and production allocated resources in the first place. Seen from this perspective, the planks of middle-out economics were not random, but rather targeted strategies to improve outcomes for workers and firms. Public investment was not being pursued for its own stake, but because it would catalyze and shape private investment.

However, commissioners noted ways in which the industrial investment, labor, and competition planks could be in tension with one another. Competition, for instance, could come at the expense of industrial resilience. Some markets, such as generic pharmaceuticals, solar panels, and potentially electric vehicles, were characterized by highly, and even ruinously, subsidized competition. Firms unable to earn returns above their immediate marginal costs will have fewer resources available to partner with government to train and retrain workers, or to engage in forward-looking supply chain planning. Government can attempt to level the playing field by supporting small businesses, but there are certain advantages to having corporate partners with adequate scale (that don't also simply extract surplus, for example through stock buybacks).[68]

Similar tensions were seen between the public investment and labor planks. While it was positive that the IRA promoted clean energy domestic manufacturing, a large and visible chunk of it was going into so-called "right to work" states that had anti-union laws on the books. This made the public investments harder to sell to a labor union constituency. As one commissioner said:

> It's a climate emergency, right? That feels like you have to fix it now. But we're also in a longer era of transition. My worry with prioritizing the climate emergency is then you create a second emergency that overtakes it, which is the political economy emergency, the erosion of support for climate policies, because we have left workers and communities behind.

Commissioners recommended that policymakers redouble efforts to explain what goals are motivating which projects. For example, some investments and strategies are geared toward building industries that could eventually become globally competitive and even dominant, while others are aimed more modestly at clawing back a small share of the market from rivals like China, so that there is some reserve ability to produce items in America when pandemics or geopolitical disruptions occur. The types of public legitimation needed for the two strategies thus differ. In the first case,

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[67] L. Josh Bivens and Asha Banerjee, "Inequality's Drag on Aggregate Demand: The Macroeconomic and Fiscal Effects of Rising Income Shares of the Rich" (Washington, DC: Economic Policy Institute, May 24, 2022), https://www.epi.org/publication/inequalitys-drag-on-aggregate-demand/.
[68] For an early and influential account of this argument, see Charles R. van Hise, *Concentration and Control : A Solution of the Trust Problem in the United States* (New York: Macmillan, 1914).

policymakers should prime citizens to evaluate public-sector risk-taking on a portfolio basis, and tolerate some individual project failure risk while a few projects wildly outperform expectations. In the latter case focused on resilience, the initial public outlay might be less, but the industry may need some level of public support in perpetuity, in order to make up for green premiums and the "China price" (i.e., the low price that Chinese producers can provide thanks to the mix of subsidies and labor repression). In either case, commissioners recommended making the best possible case for connecting public investments to macroeconomic goals like price stability.

Turning to trade more explicitly, commissioners noted that the US's trading partners treated domestic initiatives like the IRA as trade policy anyway—although the US initially sought to downplay the trade implications—so there were benefits to leaning into this framing. First, this could help address the assertion from some corporate groups that the US was no longer doing trade policy.[69] Second, it could help build a pathway for groups historically skeptical of trade to celebrate and articulate a more positive vision for trade that was not only about tariff protection. Third, leaning into IRA-as-trade-policy could help focus multilateral institutions toward more strategic ends. For instance, forums like the WTO could serve as a platform for the "coordinated toleration" of energy transition policies, and could help salvage US participation in the body. Commissioners noted with pleasure that neither the EU nor other countries formally joined in China's WTO suit over the IRA, and cited both the TTC and diplomacy in Geneva as contributing to that outcome. Alternatively, if the WTO were to instead remain a site for legal challenges against sovereigns' energy transition policies, not only would the Geneva institution lose any chance of helping countries implement race-to-the-top environmental policies, it would see further erosion of its trade role as well.

One of the most complicated messaging challenges came from the intersection of middle-out economics, trade policy, and foreign policy. Commissioners lauded the idea of a "foreign policy for the middle class," and noted some under-tapped ways in which it could be operationalized. For example, international human rights discussions have increasingly moved in the direction of "positive rights," the idea that the states should be helping citizens to affirmatively achieve their economic potential, rather than the "negative rights" of protecting citizens from state action. The images of "building" that administration officials invoked in their public messaging seemed like a natural adjunct to that shift (see appendix). However, commissioners largely saw "middle-out economics" as lacking a very thorough foreign policy dimension. One challenge was that the administration came into power facing diplomatic headwinds with allies, who had just been battered by four years of unilateralism under Trump. This often tilted the balance in favor of reassuring partners that the US had cooperative intentions, rather than imagining new and meaty models of cooperation with labor at the center. As such,

[69] See claims and sources cited in Keith M. Rockwell, "What Went Wrong with USTR," *Hinrich Foundation*, May 28, 2024, https://www.hinrichfoundation.com/research/article/us-china/what-went-wrong-with-ustr/.

it was difficult to get foreign policy officials to take seriously the idea that (traditional) foreign policy should not be driving trade policy; indeed, considerations like forward-basing strategies for the military often seemed to drive the selection of partners for trade initiatives. As one commissioner noted, in a callback to President Biden and National Security Advisor Jake Sullivan's description of their desire to have a "foreign policy for the middle class,"

> We don't need global military hegemony but for the middle class, because I think understanding part of why we have failed to support and help our own workers and our own middle class is bound up with this maniacal constant attempt to sustain American military dominance. And it seems that they want to have both of those things, and we simply can't.

Commissioners had a number of ideas for early action in the next administration, including:

- **Make the most of the major trade deadlines coming up in 2025 and 2026** (see the appendix for more details). This period will feature a number of action-forcing reauthorizations and reviews, including of the DPA, Export-Import Bank (EXIM), and Africa Growth and Opportunity Act (AGOA) in 2025, and USMCA in 2026. The IPEF and TTC will also have meetings in 2025. During the transition and early days of the next administration, policymakers should find ways to advance the middle-out economics agenda in each of these endeavors.
- **Demonstrate the utility of IPEF and similar initiatives through near-term supply chain coordination wins.** Commissioners saw the 2021–2022 supply chain reports as some of the most valuable exercises undertaken by the Biden administration, forcing staff and offices across agencies to meet, trade memos, and collaborate—some for the first time ever—to share intelligence and develop common frames of reference. Ideas for near term follow-ups included developing a trade strategy complement for each of the reports; adding the most important mineral-producing countries into initiatives like the State Department's Minerals Security Partnership; doing joint supply chain reports with key trading partners; and contemplating "commodity clubs" that could deploy tactics like sharing consumer subsidies with each others' producers, giving price guarantees, and managing stockpiles. Showing IPEF's utility in the next supply chain crisis was deemed an essential way to show proof of concept for that trade model.[70] For any product in key supply chains, policymakers should understand and articulate the

[70] During the chips crisis, a similar mechanism was used to avoid factory shutdowns and worker furloughs. See essay by Fazili in Todd N. Tucker et al., "Industrial Policy Synergies: Reflections from Biden Administration Alumni" (New York: Roosevelt Institute, April 2023), https://rooseveltinstitute.org/publications/industrial-policy-synergies-reflections-from-biden-administration-alumni/.

relevant market and cost constraints: What products could benefit from higher price floors in the domestic market (i.e., green steel that trades at a premium), and what products simply need lower cost structures so that consumer-facing prices stay low (i.e., pharmaceutical ingredients)?

- **Where possible, quantify and make explicit the goals of trade policy.** As trade and the rest of economic policy continues to move away from the neoliberal ideology that characterized the past 50 years, the proponents of this move need to be clear on what they are trying to achieve. This does not necessarily mean artificially precise cost-benefit analysis or an insistence that each policy only address one goal at a time. The United States would have never had its most impressive development spurts with those strictures in place. Nonetheless, our trading partners and the public deserve to know the terms of the bargains we are driving toward. If union density improves and domestic auto company market share remains constant for the next five years, could the EV tariffs be removed? If trading partners agree not to challenge each other's environmental policies at the World Trade Organization, will the United States remove blocks on judges there? Or is the demand more systemic, like establishing a WTO 2.0 for the clean energy transition? Here, the European Commission's Mario Draghi report offers a useful template, explicitly dividing industries into those where non-China producers have a realistic path to competitiveness.[71] Being clear on targets is good for democratic accountability and a less muddled discourse.

- **Deepen the federal government's financial tool kit to promote trade.** On paper, the US government has a range of flexible financial tools, from the Defense Production Act Fund to the Development Finance Corporation to the Export-Import Bank. However, agencies are not as nimble as they could be in deploying these mechanisms, either because they lack in-house expertise for issuing loans as opposed to grants or for originating deals, or because equity stakes are disadvantaged by congressional budgeters. This is not to say that there haven't been significant success stories, including the standing up of entirely new agencies at the Department of Energy, Department of Commerce, and Environmental Protection Agency, as well as sped-up regulatory review.[72] Experts in and out of government need to convene over the coming year to assess what the roadblocks are to the US deploying resources nearer to the scale of China's trillion-dollar global infrastructure project, the Belt and Road Initiative.

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[71] EC, "The Future of European Competitiveness: A Competitiveness Strategy for Europe" (Brussels: European Commission, September 9, 2024), at 37, https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en.
[72] Todd N. Tucker et al., "How Industrial Policy Gets Done: Frontline Lessons from Three Federal Officials" (New York: Roosevelt Institute, October 8, 2024), https://rooseveltinstitute.org/publications/how-industrial-policy-gets-done-frontline-lessons-from-three-federal-officials/. See also K. Sabeel Rahman, "Building the Government We Need: A Framework for Democratic State Capacity" (New York: Roosevelt Institute, May 6, 2024), https://rooseveltinstitute.org/publications/democratic-state-capacity/.

Where is statutory language the binding constraint? Where is agency practice and rulemaking the problem? What would be the benefits and costs of putting these various tools under a parent structure like a national development bank or sovereign wealth fund? And how can financing be nested in trade agreements like IPEF, AGOA, and others to maximize the benefits of those arrangements?

- **Continuing to build resilient industrial ecosystems at home.** Commissioners noted that a number of industrial policy projects are still struggling to find adequate workforce and suppliers. Any potential IRA 2.0 should include major investments in workforce development, including in labor union–led initiatives that have helped unstop held-up projects like Taiwan Semiconductor Manufacturing Company (TSMC) in Arizona.[73] As one commissioner said, "the military and unions are the two biggest providers of workforce development. And look at how small the labor movement is. That's nowhere near what we need." Boosting and reimagining trade-adjustment assistance (which expired in 2022) and other forms of assistance could give greater comfort to US workers that (like their European counterparts) if they lose a job they can find another, and that the new job can also have union protections. Rewriting the social contract around labor can make for more dynamic product markets. Likewise, boosting the Manufacturing USA centers, the Manufacturing Extension Partnership Program, the Small Business Administration, and energy- and labor-specific hub programs begun under the Biden administration can help to build up resilient industrial ecosystems.[74]

Box 2. Four Challenges to Middle-Out Economics

Felicia Wong and Matt Hughes have described the post-2020 moment as an "interregnum," an in-between period during which neoliberalism has been unsettled but the governing philosophy that may replace it is not yet clear. While in general there is a greater embrace of government activism in the economy across the political spectrum, this could ultimately culminate in social democracy, authoritarianism, or something in the middle.[75]

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[73] David Dayen, "TSMC Chips Deal Promotes the Logic of Biden's Industrial Policy," *The American Prospect*, April 10, 2024, https://prospect.org/api/content/d9c69f82-f6ab-11ee-9c4a-12163087a831/.
[74] White House, "President Biden Announces New Workforce Hubs to Train and Connect American Workers to Good Jobs Created by the President's Investing in America Agenda," Fact sheet, April 25, 2024. https://www.whitehouse.gov/briefing-room/statements-releases/2024/04/25/fact-sheet-president-biden-announces-new-workforce-hubs-to-train-and-connect-american-workers-to-good-jobs-created-by-the-presidents-investing-in-america-agenda/; Department of Energy, "Regional Clean Hydrogen Hubs," Office of Clean Energy Demonstrations, https://www.energy.gov/oced/regional-clean-hydrogen-hubs-0.
[75] Felicia Wong and Matt Hughes, "Getting There From Here: What Comes Next," *Democracy Journal*, May 29, 2024, https://democracyjournal.org/arguments/getting-there-from-here-what-comes-next/.

When it comes to trade, a surprising range of views vie for space as the new common sense. There is the view reflected in this report and at USTR that trade policy must not detract from—and ideally would contribute to—a holistic industrial strategy. This includes building the power of current workforces, unions, and communities to survive, decarbonize, and compete in a clean energy transition. In addition to the normative contention that this allows for a more just transition, this view is also predicated on the empirical and strategic claim that energy transitions will not occur within a given polity if the potential policy and political veto points are not tended to.[76]

But there are rival views. A first rival view is reflected in the Project 2025 report assembled by the Heritage Foundation and other right-wing think tanks. This view notes that, because the US gains from fossil fuel production and an energy transition could be disruptive, an energy transition should not be attempted, or should be left to only what the market is willing to provide. Moreover, the US should double down on fossil fuel production, and *not* focus on renewables. In this view, trade and economic policy should promote carbon-intensive industrial production and exports.[77] In short, *any* cost to the energy transition is a good enough reason not to do it.

A second view takes almost the opposite perspective, that the climate emergency is so dire that the US should be willing to incur any cost, including substantial deindustrialization of its own economy. Adherents of this view range from the center to the far left of the spectrum, and often are willing to cede substantial economic advantages to China, even as that country engages in extensive nonmarket practices.[78] A more nuanced version of this view fully embraces industrial policy as a "supply-side liberalism,"

[76] This contention is derived from insights from political economists like Karl Polanyi and John Kenneth Galbraith, who hypothesize that attempts to separate "the economy" from "society" are unlikely to succeed. See Karl Polanyi, *The Great Transformation*, ed. Robert M MacIver (New York: Farrar & Rinehart, 1944); John Kenneth Galbraith, *American Capitalism* (New York: Houghton Mifflin, 1952). For an application to the climate crisis, see Matto Mildenberger, *Carbon Captured: How Business and Labor Control Climate Politics* (Boston: MIT Press, 2020).
[77] "Mandate for Leadership: The Conservative Promise" (Washington, DC: Project 2025, February 2, 2023), https://www.project2025.org/policy/. Notably, this group failed to reach a consensus on much else of what the US trade apparatus should be doing.
[78] See, e.g., Dylan Matthews, "Chinese Electric Cars: Why Biden Is Keeping Cheap Cars from BYD Out," *Vox*, April 3, 2024, https://www.vox.com/climate/2024/3/4/24087919/biden-tariff-chinese-ev-byd-battery-detroit. Catherine Rampell, "Opinion | Why Are Both Biden and the GOP Sabotaging Clean-Energy Technologies?," *Washington Post*, May 16, 2024, https://www.washingtonpost.com/opinions/2024/05/16/biden-ev-tariffs-china-trump-clean-energy/. Kate Aronoff, "Criticizing China for 'Dumping' Cheap EVs Is a Bit Rich," *The New Republic*, May 14, 2024, https://newrepublic.com/article/181589/biden-china-tariffs-electric-vehicles-evs-oil. Nick Beam, "Biden Administration Intensifies Economic War against China," *World Socialist Web Site*, May 15, 2024, https://www.wsws.org/en/articles/2024/05/15/yokc-m15.html.

but one narrowly focused on maximizing low-cost energy production rather than supporting other factors of production like labor unions or the environment.[79]

A third, "sticks"-focused view attempts to reboot a more neoliberal approach to addressing climate change through sidelining supply-side approaches like industrial policy in favor of punitive carbon taxation. Notably, this approach has found its clearest articulation in alumni of the Obama and Biden administrations, who posit that this could form the basis of a grand bargain with Republicans in a future Congress.[80] As a policy matter, there is a sequencing concern here: While a sticks-and-carrots approach would be ideal, replacing carrots (incentives to boost production) with sticks (penalties for carbon emissions) before we have domestic supply capacity would produce economic shocks. Politically, this strategy would seem to have a high risk of backfiring: While there is some bipartisan support for industrial policy, to our knowledge, there is no Republican support for domestic carbon pricing.

Finally, a fourth and related view offers more a methodological critique, but ends up with a similar set of prescriptions. This perspective faults proponents of middle-out economics for their supposed inattention to "trade-offs." For example, a dollar spent on industrial subsidies is a dollar not spent on other social programs, and could increase the federal budget deficit. A tariff could benefit domestic industry, but perhaps at a trade-off to higher inflation.[81] Or similarly, a dollar spent on industrial policy could increase construction costs for non-subsidized factories, or push up mortgage rates. As economist Jason Furman claims, industrial policy proponents "often argue that it will increase economic growth and support middle class jobs while achieving other goals, like addressing climate change or increasing national security . . . the problem with ignoring [...] tradeoffs is that you end up without any limiting principles for where industrial policy should stop. You also end up sometimes hurting your other objectives, for example less emissions reductions as a result of local content requirements. And you can miss out on some of the most powerful and even more progressive tools to achieve goals, like the carbon tax."[82]

[79] Ezra Klein, "The Problem With Everything-Bagel Liberalism," *New York Times*, April 2, 2023, sec. Opinion, https://www.nytimes.com/2023/04/02/opinion/democrats-liberalism.html.; Matthew Yglesias, "Every Policy Objective, All the Time, All at Once," *Slow Boring* (blog), April 26, 2023, https://www.slowboring.com/p/every-policy-objective-all-the-time.

[80] John E. Bistline et al., "Climate Tax Policy Reform Options in 2025" (Washington, DC: Hamilton Project, February 2024), https://www.hamiltonproject.org/publication/paper/climate-tax-policy-reform-options-in-2025/.

[81] Michael B. G. Froman, "The Next President and the Tradeoffs in US Economic Policy," *Foreign Affairs*, October 3, 2024, https://foreignaffairs.com/united-states/trade-next-president-kamala-trump-economic-policy-michael-froman.

[82] Jason Furman, "In Defense of the Dismal Science" (Washington, DC: Peterson Institute for International Economics, September 27, 2024), at 12, https://www.piie.com/events/2024/second-annual-richard-n-cooper-lecture-featuring-jason-furman.

There are diverse ways to interpret this trade-off primacy line of argument. As an entreaty to make good arguments and quantify where possible, it is entirely unobjectionable. As a guide to what goals government should have at this moment and how it should meet them, it is less instructive and a poor fit for the scale of challenges the world faces.[83] The United Nations estimates that the world should be spending between $4 and $6 trillion each year to fight climate change,[84] while the benefit to society at large from decarbonization is almost incalculable (estimates exceed $1.2 quadrillion).[85] Thus, clean energy industrial policy is best thought of less as a microeconomic intervention or jobs plan with some incidental climate benefit, but as the only climate strategy that allows action at the scale and speed that is needed to credibly transition the economy as a whole to a new economic development equilibrium.[86] Moreover, it was somewhat reluctantly arrived at after repeated failed attempts to institute carbon pricing. While cost-benefit analysis has its place, it is notable that policymakers (even in the neoliberal period) exempted foreign affairs, antitrust, defense, and tax decisions from their strictures, due to the broader strategic concerns they entail.[87] These considerations will, if anything, weigh even more heavily over the tumultuous decades to come.

Consuming with Purpose

Background

Under neoliberalism, consumers reigned supreme—but not as people in their full humanity and social context, or as workers who earn wages, citizens who vote, members of civic organizations that provide public goods, family members who assist in social reproduction, and physical bodies that can be harmed by chemicals and stress.

[83] This blurring of the line between what goals policymakers should pursue and the economically optimal way to pursue them is typical of what sociologist Stephanie Mudge calls the "transnational, finance-oriented economist." See Stephanie L. Mudge, *Leftism Reinvented: Western Parties from Socialism to Neoliberalism* (Cambridge, Massachusetts: Harvard University Press, 2018).
[84] UNFCCC, "Sharm El-Sheikh Implementation Plan" (Dubai: United Nations Climate Change, November 20, 2022), https://unfccc.int/documents/624444.
[85] Caroline Alberti, "The Cost of Inaction" (Climate Policy Initiative, January 4, 2024), https://www.climatepolicyinitiative.org/the-cost-of-inaction/.
[86] Elizabeth Pancotti and Todd N. Tucker, "Tariffs Are a Necessary Backstop of the Clean Energy Transition," *Journal of Policy Analysis and Management*, December 15, 2024; Geoffroy Dolphin et al., "A Net-Zero Target Compels a Backward Induction Approach to Climate Policy," *Nature Climate Change* 13, no. 10 (October 2023): 1033–41, https://doi.org/10.1038/s41558-023-01798-y.
[87] What price would one assign to the survival of the domestic auto industry? To the empowerment that comes with a union contract? And, even if these could be quantified, a policymaker that put these in writing would incur substantial reputational and perhaps legal risks. For more on the various exceptions to cost-benefit analysis, see Kathleen Claussen, "Trade Administration," *Virginia Law Review* 107, no. 4 (2021): 845–917. Todd N. Tucker and Rajesh D. Nayak, "OIRA 2.0: How Regulatory Review Can Help Respond to Existential Threats" (New York: Roosevelt Institute, April 2020), https://rooseveltinstitute.org/publications/oira-2-0-how-regulatory-review-can-help-respond-to-existential-threats/.

Rather, the neoliberal consumer ideal consisted of atomized individuals who do little more than fit into macroeconomic utility functions. In this conception of consumer-hood, the ultimate purpose of life is getting charged less, whether in the marketplace or on one's tax returns.[88]

Larry Summers, former Treasury Secretary, captured the zeitgeist of the time when he said:

> [I]ncreased openness to trade makes a country significantly richer than it would otherwise be and makes its workers better off than they would otherwise be. And the primary reason why that is true is that they are able to import goods at lower cost and therefore their paychecks go further . . . why couldn't somebody tell the story of Christmas without imports? Well, what if we would have to have all the toys produced in the United States at the prices that they would cost if they couldn't be produced by any of that low-cost labor? Barbie dolls at four times the price they are now?[89]

Elsewhere, Alan Greenspan, former Federal Reserve Chair, opposed Congress's efforts to tie labor and human rights standards. Warning against using "ethics as a guise for protectionism," Greenspan continued, "We're not trading human rights, we're trading property. Human rights . . . come up when we are dealing with whether we recognize certain countries or not diplomatically. But remember, trade is an economic issue."[90] More recently, Keith Rockwell (a former WTO official) chastised the Biden administration for focusing on workers, rather than businesses. The former are "important contributors to the fabric of American society. But they do not trade. Workers are vitally important to production, trade, and the overall economy. But they engage in these activities in their capacity as employees for businesses."[91]

How does the new paradigm turn this vision of consumption on its head? A necessary corollary to the idea of trade as an equitable economic growth strategy is that not just any product or service can be allowed to be produced domestically or enter the domestic market - at least not for free. Instead of the neoliberal view that producers and importers have a quasi-constitutional right to enter jurisdictions, the new trade policy sees market access as a privilege to be earned through meeting labor,

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[88] Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* (Zone Books, 2015). Suzanne Kahn, "More than Consumers: Post-Neoliberal Identities and Economic Governance" (New York: Roosevelt Institute, August 3, 2022), https://rooseveltinstitute.org/publications/more-than-consumers/.

[89] "Remarks of Harvard University President Lawrence H. Summers" (Cambridge: Harvard University, November 10, 2002), https://www.harvard.edu/president/news-speeches-summers/2002/remarks-of-harvard-university-president-lawrence-h-summers-10/.

[90] Greg Ip, "Greenspan Warns Trade Standards Will Harm US," *Wall Street Journal*, March 12, 2004, https://www.wsj.com/articles/SB107901068880452528.

[91] Keith M. Rockwell, "What Went Wrong with USTR," *Hinrich Foundation*, May 28, 2024, https://www.hinrichfoundation.com/research/article/us-china/what-went-wrong-with-ustr/.

environmental, and other criteria. As a practical matter, this means organizing the power of consumers collectively through the tools that government has at its disposal, including sovereign control over the custom houses that regulate $3.8 trillion in annual imports. Utilized in the service of this new paradigm, what was once called by the relatively staid term of trade enforcement or trade remedies can be reimagined as a form of “consumer power.”

Box 3. From Public Purpose as Exception to Public Purpose as Rule

This pivot cuts to the core of some of the most heated trade law debates of the neoliberal era. The five-decade dispute between the US and Mexico over whether and how the US could regulate the harm to dolphins from fishing practices for imported tuna hinged on whether trade law allowed countries merely to regulate what products were allowed to enter their markets, or whether it also allowed regulation and preferences over how those products were made. This so-called production-and-process method (PPM) debate saw stricter neoliberal interpretations (no PPMs allowed because they interfere with trade and/or imperially impose environmental protection on sovereign developing countries) and more flexible interpretations (PPMs are allowed exceptionally if certain rigorous policy processes are followed).[92] Regardless, countries have to defend labor, environmental, and consumer policies on a jurisprudential terrain that gives a lot, if not dispositive amount, of weight to trade concerns.

More recently, WTO adjudicators ruled against the US’s invocations of the so-called national security exception in trade law, related to steel tariffs imposed during the Trump administration.[93] For years, US administrations of both political parties had maintained that these provisions constituted defenses against being second guessed by trade panels—effectively a form of jurisdiction limitation for particularly sensitive policy decisions, just like the US maintains at home vis à vis domestic courts for certain matters.[94] USTR put out a statement arguing that the ruling showed “the need to fundamentally reform the WTO dispute settlement system. The WTO has proven ineffective at stopping severe and persistent non-market excess capacity . . . The WTO

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[92] David Sifonios and Andreas R. Ziegler, “‘ Tuna-Dolphin Forever’? The Development of the PPM Debate Related to Trade and Environment in the WTO,” *Indian Journal of International Economic Law* 12 (2020): 106.
[93] Elbio Rosselli, Esteban B. Conejos, and Rodrigo Valenzuela, United States — Certain Measures on Steel and Aluminium Products (Report of the Panel), No. WT/DS544/R (World Trade Organization December 9, 2022).
[94] Todd N. Tucker, “Off-Balance: Five Strategies for a Judiciary That Supports Democracy” (New York: Roosevelt Institute, November 13, 2018), http://rooseveltinstitute.org/off-balance-five-strategies-judiciary-supports-democracy/.

now suggests that the United States too must stand idly by. The United States will not cede decision-making over its essential security to WTO panels."[95]

The issue is not so much whether it is conceptually possible for adjudicators to reconcile market access and domestic regulatory or economic development concerns. The work of legal scholars has shown that this balance is indeed attainable.[96] The deeper challenge is that neoliberal ranking of policy goals creates focal points for international politics and bargaining that are out of step with what is required to nimbly address existential challenges like climate change and democracy-threatening levels of inequality.

Trade policy under the Biden administration and Ambassador Tai took some initial steps toward market access as a "privilege to be earned" by individual countries, firms, and importers.

Progress on Labor Rights

The clearest and most tangible example of "the American consumer shaping markets" were the 28 complaints alleging denial of labor rights at factories in Mexico.[97] These claims were brought by USTR (in collaboration with the Department of Labor's International Labor Affairs Bureau, led by longtime unionist Thea Lee) under the Facility-Specific Rapid Response Labor Mechanism (RRM). This tool was inserted into the US-Mexico-Canada Agreement (USMCA, the name given to the renegotiated North American Free Trade Agreement [NAFTA]) by members of Congress like then-Speaker Nancy Pelosi and then-congressional staffers like Tai and Nora Todd (now at the National Security Council).[98] (Despite signing the USMCA, the Trump administration did not use the RRM.) While labor provisions had been included in US trade deals going back to at least the original NAFTA in 1993, they had been considered largely toothless, and the US had only ever brought a single case against a foreign state: Guatemala, in a case under the US-Central American Free Trade Agreement (CAFTA), that took a decade to litigate.

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[95] "Statement from USTR Spokesperson Adam Hodge" (Washington, DC: Office of the US Trade Representative, December 9, 2022), https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/december/statement-ustr-spokesperson-adam-hodge.
[96] Timothy Meyer, "The Political Economy of WTO Exceptions," *Washington University Law Review* 99 (2021): 1299–1369.
[97] "Chapter 31 Annex A; Facility-Specific Rapid-Response Labor Mechanism" (Washington, DC: Office of the US Trade Representative), https://ustr.gov/issue-areas/enforcement/dispute-settlement-proceedings/fta-dispute-settlement/usmca/chapter-31-annex-facility-specific-rapid-response-labor-mechanism.
[98] Jenny Leonard and Eric Martin, "Key USMCA Negotiator Todd Picked as US Trade Chief of Staff," *Bloomberg.Com*, January 20, 2021, https://www.bloomberg.com/news/articles/2021-01-20/key-usmca-negotiator-todd-picked-as-u-s-trade-chief-of-staff.

The RRM is unique in trade law globally, as trade scholars Kathleen Claussen and Chad Bown explain: "It is a corporate responsibility tool with hard sanctions in a binding trade agreement. Unlike other economic agreement mechanisms, the RRM targets companies for their social harms rather than countries for their regulatory failures."[99] The ultimate penalty can be preventing the entry into the US market of products made by workers who were abused.[100] The USMCA memorializes the spirit of this undertaking in a subtle way by stating that the US, Mexico, and Canada "recognize the goal of trading only in goods produced in compliance with" the deal's labor chapter.[101] Thus, in lieu of a default where all goods are traded unless a treaty violation can be shown, this language reverses the presumption and commits countries to ensure that their entire domestic production systems block from commerce any products that wouldn't be able to meet the USMCA's standards.

Far from imperialistically imposing "US values" on a trading partner, these petitions were often brought at the behest of Mexican workers themselves, and the Mexican government saw the tool as a way to advance its own domestic labor reform agenda. Moreover, the first complaint was self-initiated by USTR against the subsidiary of a US company (General Motors), the largest auto manufacturer in Mexico, and the majority of the cases were brought against subsidiaries of US, European, or Asian firms operating in Mexico (many of which offshored previously American plants and jobs for the sole purpose of cutting labor costs). Unlike the Guatemala case, RRM cases get resolved in a matter of months and involve remediation plans that have immediate benefits for affected workers (like reinstatement of fired union organizers). According to USTR, their use of the RRM has positively affected the lives of 30,000 workers in Mexico.[102] (See appendix for more description of the 28 RRM cases.)

The USMCA Implementation Act also authorized the Forced Labor Enforcement Task Force, an interagency group to ensure that long-standing restrictions on imports made with foreign labor are being adequately protected. This effort got a boost with the 2021 Uyghur Forced Labor Prevention Act, which created a rebuttable presumption that goods sourced from the Xinjiang region of China are made with forced labor, and requires US agencies to coordinate with their Mexican and Canadian counterparts to

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[99] Kathleen Claussen and Chad P. Bown, "Corporate Accountability by Treaty: The New North American Rapid Response Labor Mechanism," *American Journal of International Law* 118, no. 1 (January 2024): 98–119, https://doi.org/10.1017/ajil.2023.64.

[100] A similar action was taken in October 2023 against Peru under the US-Peru FTA, blocking imports of illegally harvested timber by Peruvian exporter Oroza. See "2024 Trade Policy Agenda and 2023 Annual Report" (Washington, DC: Office of the US Trade Representative, March 2024), at 165 https://ustr.gov/sites/default/files/files/reports/2021/2021%20Trade%20Agenda/Online%20PDF%202021%20Trade%20Policy%20Agenda%20and%202020%20Annual%20Report.pdf.

[101] US-Mexico-Canada Agreement, Article 23.2.3, https://ustr.gov/sites/default/files/files/agreements/FTA/USMCA/Text/23-Labor.pdf.

[102] Katherine Tai, "Trade Must Transform Its Role in the Social Contract," *Financial Times*, May 28, 2024, sec. US trade, https://www.ft.com/content/91f22f38-6595-4b08-bebe-948c628fa736.

block entry to the US market.[103] To date, nearly 9,000 shipments have been detained, worth over $3 billion.[104]

The spirit of these various efforts was codified in November 2023 with the first ever presidential Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally.[105] While previous administrations maintained neutrality between labor and capital (at best) and actively sided with capital against labor (at worst), the Biden administration affirmatively wished to see more union density and organizing, both at home and abroad. The memorandum directs government agencies to follow best practices in consulting with and centering the concerns of labor unions, and directs USTR "to maximize use of existing authorities to promote internationally recognized labor rights and to pursue effective and meaningful remediation of labor rights violations or to address gaps in labor rights protections."

Box 4. Interview with Cathy Feingold

International Director, AFL-CIO

Q: If we go "back to the beginning," so to speak, of the immediate postwar period and even to the 1960s, it seemed that the labor movement was fairly aligned with the agenda of trade expansion. Why did that partnership work as well as it did?

Strong unions and limited offshoring kept a close link between increases in wages and firm productivity, meaning workers shared fairly in the gains to trade expansion.

Q: This partnership seemed to fray in the 1970s through the 1990s. What were the key moments where trust was eroded?

The first factor was that the Trade Act of 1974 created "fast track," a process that gave trade agreements an expedited congressional process that bypassed a Senate filibuster, even while labor rights bills still faced one. Economically speaking, this coincided with the link between increasing productivity and workers' wages breaking down, and the increased use of offshoring by manufacturers to save money on labor costs.

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[103] Christopher A. Casey, Cathleen Cimino-Isaacs, and Michael A. Weber, "Section 307 and Imports Produced by Forced Labor" (Washington, DC: Congressional Research Service, October 25, 2023), https://crsreports.congress.gov/product/pdf/IF/IF11360.

[104] "Uyghur Forced Labor Prevention Act Statistics" (Washington, DC: US Customs and Border Protection, October 12, 2024), https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics.

[105] "Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally" (Washington, DC: White House, November 16, 2023), https://www.whitehouse.gov/briefing-room/presidential-actions/2023/11/16/memorandum-on-advancing-worker-empowerment-rights-and-high-labor-standards-globally/.

Q: Due to a lot of intense mobilizing in the 2000s, policymakers began to try to incorporate labor provisions into trade deals. What were the steps forward and steps back with deals like the Central American Free Trade Agreement and the deals passed or considered during the Obama years?

Starting with the US-Jordan FTA in 2001, US FTAs have contained labor provisions that were incorporated into the body of the agreement. However, the central obligation was fairly weak—parties only needed to "effectively enforce" their existing labor laws, no matter how weak. In addition, a party's failure to effectively enforce its labor laws had to be shown to be "in a manner affecting trade" between the countries, which proved to be a significant hurdle in subsequent enforcement cases (Guatemala). Successive agreements, like DR-CAFTA, contained similarly weak and flawed commitments.

Then, starting in 2010, thanks to pressure from labor unions and their allies, the labor chapters in US trade deals contained a new obligation that parties must "adopt and maintain" labor laws consistent with the ILO's 1998 Declaration on Fundamental Principles and Rights at Work. While this was a welcome step forward (effectively setting a minimum floor for country's labor laws with respect to child labor, forced labor, employment discrimination, and freedom of association), the agreements signed under this template (Peru, Colombia, and the proposed TPP) retained the problematic loophole that a party's failure to effectively enforce its labor laws must be shown to affect trade flows between the parties.

Despite improvements to the substantive labor commitments in US FTAs during this period, monitoring and enforcement efforts by the US government through USTR and the Department of Labor were generally weak. The US would respond to allegations of noncompliance (many filed by the AFL-CIO with trade unions in affected countries) with slow-moving investigations, public reports, and open-ended dialogue with the offending government that would often last years (or even a decade) without resolution. This led to great frustration on the part of organized labor, as offending companies and governments would continue to enjoy tariff-free access to the US market without honoring the FTA's labor commitments.

Q: Finally, moving up to the USMCA and Biden years, it seemed like labor, trade, and industrial policy became more tightly integrated. What is bearing fruit in those strategies? What would the "North Star" look like if the labor movement got to steer future policy in this space?

USMCA made a number of improvements over existing labor chapters in US FTAs, including

- Requiring Mexico to overhaul its weak labor laws and institutions as a condition for the agreement to enter into force;
- Adding a rapid response mechanism where companies who deny workers their right to freedom of association/collective bargaining will face a timely investigation with increased tariffs and potential loss of access to the US market;

- Adding a footnote that clarifies that any failure to effectively enforce labor laws will be presumed to occur "in a manner affecting trade" between the parties;
- Adding a commitment for all parties to adopt a ban on the importation of goods made in whole or in part with forced labor;
- Adding a commitment for all parties to fully investigate and prosecute cases of harassment, threats, and violence against trade unionists for exercising their fundamental labor rights;
- Adding a commitment for all parties to protect the labor rights of all workers regardless of migration status; and
- Stronger rules of origin (ROO) for priority sectors (autos) to ensure more content of a qualifying product originates from the parties to the agreement.

Future deals should build on this template and include strong rules of origin (ROOs) for EVs, semiconductors, aerospace, pharmaceuticals, and other priority sectors. Overall, future policy must continue Ambassador Tai's recognition that trade policy should support our wider industrial policy goals, supply chain resiliency, and facilitate broad-based economic growth.

Further Reading:

Mark Anner and Matthew Fischer-Daly, "Worker Voice: What It Is, What It Is Not, and Why It Matters" (Washington, DC: Department of Labor, December 19, 2023), https://www.dol.gov/sites/dolgov/files/ILAB/Worker-Voice-Report-Final-3-6-24.pdf.

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Jeffrey S. Vogt, "The Evolution of Labor Rights and Trade—A Transatlantic Comparison and Lessons for the Transatlantic Trade and Investment Partnership," *Journal of International Economic Law* 18, no. 4 (December 1, 2015): 827–60, https://doi.org/10.1093/jiel/jgv046.

Progress on Environmental and Other Protections

Beyond progress on labor rights, numerous innovations also made or attempted to make market access conditional on meeting climate or other goals.

More significantly perhaps, in May 2024, the Biden administration announced the conclusion of its long-awaited review of Section 301 tariffs on Chinese products that had been initially imposed by the Trump administration in 2018. Concluding that China had not made significant progress toward meeting US demands, the tariffs were "rotated" to target clean energy and other sectors where China was expected to make especially aggressive market-capturing plays in the years to come. Headlines noted an effectively prohibitive 100 percent tariff on Chinese electric vehicles, but significant tariffs were also applied to Chinese steel, aluminum, semiconductors, medical equipment, and other products. While some commentators questioned why the US would slow the importation of products that could be helpful in fighting climate change, others noted that the US climate response (leaning as it does into industrial policy) would only be viable economically and politically if the US subsidies were not undercut by even more subsidized Chinese production.[106]

The US has a mixed record in getting allied countries to join in the attempts to counter Chinese overcapacity. In December 2020, the European Commission announced plans to seek the European Parliament's ratification of the EU-China Comprehensive Agreement on Investment (CAI), despite pressure from the incoming Biden administration team to pause further Chinese integration. The deal collapsed anyway in May 2021, after China sanctioned EU officials for having sanctioned China over labor abuses against Uyghur populations.[107] But fast forward to 2023, and Dutch authorities agreed to follow the United States' requests and limit trade between Chinese entities and their semiconductor supplier "national champion," ASML.[108] And after the US announced Section 301 tariffs on electric vehicles, the European Union announced relatively more modest tariffs of up to 38 percent. But the difficulty of forming a credible united front on such questions was immediately apparent when the German government attempted to walk back the commitment, in a bid to preserve relations with China.[109] Still, there were other efforts that were more successful, including getting allied countries to coordinate on sanctions on Russia,[110] and getting North American allies to more closely mirror the US trade actions.[111] Moreover, the widely lauded September publication of the European Commission's Mario Draghi

[106] Elizabeth Pancotti, Todd N. Tucker, and Matthew Yglesias, "Are We All Tariff Lovers Now?," *Democracy Journal* Fall 2024, no. 74 (September 17, 2024), https://democracyjournal.org/magazine/74/are-we-all-tariff-lovers-now/.

[107] Lily McElwee, "The Rise and Demise of the EU-China Investment Agreement: Takeaways for the Future of German Debate on China" (Washington, DC: Center for Strategic and International Studies, March 20, 2023), https://www.csis.org/analysis/rise-and-demise-eu-china-investment-agreement-takeaways-future-german-debate-china.

[108] Cagan Koc, "ASML Hit with New Dutch Limits on Chip Gear Exports to China," *Bloomberg.Com*, June 30, 2023, https://www.bloomberg.com/news/articles/2023-06-30/dutch-publish-new-limits-on-asml-s-chip-gear-exports-to-china.

[109] Keith Bradsher, "China and European Union Agree to Talks in Bid to Head Off Trade War," *New York Times*, June 22, 2024, sec. Business, https://www.nytimes.com/2024/06/22/business/china-germany-tariffs-trade.html.

[110] Elizabeth Rosenberg and Eric Van Nostrand, "The Price Cap on Russian Oil: A Progress Report" (Washington, DC: Department of Treasury, May 18, 2023), https://home.treasury.gov/news/featured-stories/the-price-cap-on-russian-oil-a-progress-report.

[111] "Canada to Follow US Lead in Imposing 100% Tariff on Chinese Electric Vehicles," *The Guardian*, August 26, 2024, sec. World News, https://www.theguardian.com/world/article/2024/aug/26/canada-tariff-china-electric-vehicles.

report—which recommends a more active US-style industrial policy and strategic use of tariffs—is a further indication of the direction of travel on the continent.[112]

Against the backdrop of these more novel activities, the regular trade enforcement machinery of the US government grew during the Biden years. As of October 2024, 113 anti-dumping and countervailing duty (AD/CVD) investigations are ongoing, and 716 orders restricting imports are in place, with the top three offenders being China, India, and South Korea.[113] This is nearly twice the levels of the Obama years.[114] In a potentially significant development, in March 2024, the Department of Commerce finalized changes that will allow its adjudicators to consider nonenforcement of labor and environmental regulations when calculating foreign dumping and subsidization margins.[115] To give a hypothetical example, if a direct government subsidy allows a firm to undercut its competitors by 10 percent, but nonenforcement of labor rights lowers the price they can charge by a further 10 percent, then the total anti-dumping margin could sum to 20 percent. There were a range of trade restrictions under other statutes, including on imported solar cells and washing machines under Section 201, and over 250 requests for exclusion orders of intellectual property-infringing imports under Section 337.[116] Moreover, USTR has initiated—in response to a request from the United Steelworkers and other unions—a Section 301 investigation into Chinese shipbuilding dominance, and envisions novel enforcement strategies like imposing fees on Chinese ships docked in US ports (since the US imports few ships from China directly).[117]

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[112] EC, "The Future of European Competitiveness: A Competitiveness Strategy for Europe" (Brussels: European Commission, September 9, 2024), https://commission.europa.eu/topics/strengthening-european-competitiveness/eu-competitiveness-looking-ahead_en.

[113] "ADCVD Proceedings" (Washington, DC: Department of Commerce's International Trade Administration, October 12, 2024), https://www.trade.gov/data-visualization/adcvd-proceedings.

[114] "CBP Trade and Travel Report" (Washington, DC: US Customs and Border Protection, 2023), at 11, https://www.cbp.gov/sites/default/files/assets/documents/2023-Jun/fy-2022-cbp-trade-and-travel-report.pdf.

[115] "Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of the Antidumping and Countervailing Duty Laws" (Washington, DC: Department of Commerce's International Trade Administration, March 25, 2024), https://www.federalregister.gov/documents/2024/03/25/2024-05509/regulations-improving-and-strengthening-the-enforcement-of-trade-remedies-through-the-administration.

[116] "Section 201 Investigations" (Washington, DC: Office of the US Trade Representative, October 17, 2024), https://ustr.gov/issue-areas/enforcement/section-201-investigations.; "Section 337 Statistics: Number of New, Completed, and Active Investigations by Fiscal Year" (Washington, DC: US International Trade Commission, October 17, 2024), https://www.usitc.gov/intellectual_property/337_statistics_number_new_completed_and_active.htm.

[117] Elizabeth J. Drake, "China's Policies in the Maritime, Logistics, and Shipping Sectors," Petition for Relief Under Section 301 of the Trade Act of 1974, as Amended, March 2024, https://ustr.gov/sites/default/files/Section%20301%20Petition%20-%20Maritime%20Logisitics%20and%20Shipbuilding%20Sector.pdf.

Box 5. Interview with Timothy Meyer

Richard Allen/Cravath Distinguished Professor in International Business Law at Duke Law School

Q: What are the origins of environmental activists' and analysts' engagement with trade issues?

The modern environmental movement often traces its origins to the 1970s, but it took some time for activists and analysts to really focus on the intersection of international trade and the environment. Also around the 1970s, trade liberalization began to focus on reducing "non-tariff barriers," including regulations, and in the 1980s, the United States began entering into modern free-trade agreements—which eliminated substantially all barriers to trade on products. These two trends focused environmentalists' attention on the role that international trade can play in weakening environmental protection standards imposed at the national level. By the time NAFTA was negotiated in the early 1990s, environmental activists and analysts were concerned about how "free" trade with countries with poor environmental regulations might encourage production to move to those countries. Goods could be produced in such countries at lower costs, due to the lack of environmental regulations, and then reimported into the United States, a phenomenon often called "leakage." Free-trade agreements would ensure that there would be no tariffs on such products, while trade rules were at the time understood to prevent countries from conditioning free entry on compliance with the United States' own standards of production. Concern about climate change, which exploded in the 1990s with the negotiation of the 1992 UN Framework Convention on Climate Change and then the 1997 Kyoto Protocol, highlighted the way liberalized trade could advantage producers in countries that did not tax or regulate high carbon production. In effect, consumers in countries with high environmental standards continued to finance poor environmental practices, just in foreign countries that exported their goods to the United States.

Q: What have been the different iterations of environmental advocates' attempts to get enforceable environmental provisions in trade deals?

Trade agreements did not contain affirmative environmental obligations prior to NAFTA. President George H.W. Bush's administration negotiated and signed NAFTA, but the 1992 presidential election left implementing legislation and ratification to the Clinton administration. Under pressure, the Clinton administration negotiated two new "side agreements" to NAFTA on labor and the environment. The agreements were the first of their kind, although some activists immediately decried them as too weak, and by today's standards they are modest at best. The NAFTA Environmental Side Agreement's main obligation was for member states to enforce their own environmental laws. The agreement also established a process for disputes, but that process was different from, and weaker than, the process that applied to commercial disputes.

Efforts to toughen environmental provisions and bring them into the "core" of trade agreements culminated in the consensus of May 10, 2007. Under that agreement, reached between the George W. Bush administration and Democratic congressional leaders, US trade agreements would require countries to comply with international environmental standards—i.e., they would impose minimum environmental standards for the first time—and the environmental chapters of trade agreements would be subject to ordinary dispute resolution, meaning that violating the provisions could result in the same kind of trade restrictions that are imposed for violating the ordinary trade provisions of the agreements. Shortly thereafter, the EU also began including environmental and sustainability provisions in its trade agreements for the first time. The United States once again took the lead in improving substantive environmental standards under the Obama administration, which negotiated new rules on managing fisheries and reducing harmful fishing subsidies, eliminating illegal trade in flora and fauna, and protecting biodiversity as part of the Trans Pacific Partnership (TPP). After pulling out of TPP, the United States incorporated similar rules into USMCA, the revised NAFTA.

Q: In environmental debates, there is a growing gap between conservationists on the one hand (sometimes associated with NIMBYism), and climate hawks on the other (perhaps more aligned with YIMBYism). Do you see trade law as having different points of leverage for each subgroup?

One of the big advantages of using trade law to address environmental problems is the ability to build coalitions that might not hold up on purely domestic issues. Conservationists and climate hawks might both be able to get behind policies designed to prevent consumption from fueling environmental degradation abroad via the purchase of imports made with poor environmental practices. The EU, for example, has limited the import of biofuels made from crops grown on deforested land—an effort to reduce the incentive for slash-and-burn agricultural practices in Asia and South America. Both conservationists and climate hawks can support that kind of policy which, incidentally, also helps domestic producers that are not engaging in the same harmful practices. A tariff on carbon-intensive steel, like that envisioned by GASSA, might also be paired with incentives to further decarbonize domestic production—a win for climate hawks and conservationists concerned about local air quality. But where trade policy requires new domestic investments and development to achieve its aims, the same gap can reemerge. For instance, trade restrictions on imports from countries like China can incentivize building domestic supply chains for critical minerals necessary for the green transition. But if NIMBY-ism blocks the development of new facilities in the US, those domestic supply chains may not come online. One solution to this issue is to design sector-specific trade agreements with like-minded countries, as the United States has attempted with GASSA and critical minerals.

Q: What are the "break glass" options for climate when it comes to trade instruments, and what are the pluses and minuses of breaking said glass?

The "break glass" options involve invoking national security and emergency powers to impose and justify aggressive climate measures, such as the imposition of a carbon tariff. Under domestic US trade law, the executive branch could, for example, rely on Section

232 of the Trade Expansion Act or the International Emergency Economic Powers Act (IEEPA) to curb the imports of carbon-intensive products. Both of those statutes grant the president expansive authority to regulate or limit imports if the president deems it necessary to address either a national security threat or an emergency. The advantage of these statutes is that the breadth of authority delegated to the executive branch allows the president to impose comprehensive border measures, even if Congress is unwilling or unable to act. Moreover, unlike domestic environmental authorities, to date domestic courts have been reluctant to strike down action taken under these statutes or to review the president's determinations regarding the existence of a threat or emergency.

Under international trade rules, the exercise is not about finding authority, but rather of justifying domestically imposed measures that might otherwise violate General Agreement on Tariff and Trade (GATT) rules. The United States could do this by invoking Article XXI of the GATT to argue that, in its view, measures to address climate change are necessary to address an emergency in international relations, i.e., climate change. Similar to the domestic context, the main advantage of using Article XXI is that WTO panels have been willing to give WTO members a greater degree of latitude in designing national security measures (albeit not as much latitude as the United States insists the national security exception requires), as compared to measures that have to be justified under the environmental exception contained in GATT article XX.

The drawbacks of these approaches are the same in both the domestic legal and international law contexts and are the reverse of the advantages. By relying on unilateral executive branch authority and exceptions, a US administration would not necessarily have built the kind of political consensus supporting its measures that could make the measure durable. A future president could simply undo the measure, while other countries might retaliate on the international plane. Invoking these kinds of exceptional authorities also risks encouraging future administrations or other countries to use these exceptional authorities for purposes that may be undesirable. Russia has already invoked the GATT's national security exception to justify measures taken against Ukrainian commerce after its 2014 invasion of Crimea, for example, and former President Trump has threatened to use IEEPA to impose an across-the-board 10 percent tariff on all imports.

Further Reading

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Commission Views

Commission members emphasized the significance of the conceptual shift in US trade policy that centered a different view of "why consumption matters." In the standard trade analysis, barriers to trade are bad for consumers because they raise consumer prices. The new view looks at the $3.8 trillion US market for imported goods and services (the largest in the world by a significant margin) as a primary channel by which the US can influence practices in the global economy. As one commissioner noted: "From roughly the end of the Second World War when the GATT was drafted, we were building a trade policy that was predicated on the idea that we were going to give the country in which production occurred the primary if not the exclusive ability to set the terms of production. Now we have an interest in influencing the types of extraterritorial production practices that US consumption supports. We care about the type of consumption we support."

There were several high points in the strategic shift toward valuing the power of US consumption.

First, said one commissioner: "We're winning the argument on forced labor in the global economy," noting how Mexico, Canada, the European Union, and potentially Taiwan were following the US's lead on adopting forced labor bans and restrictions. When other countries move, that helps make the initial US shift sticky.

Second, a focus on facility-specific violations in the USMCA was a game changer, one that trading partners were increasingly keen to discuss and learn from, and apply in other contexts. The fact that it was "fast, focused, and funded" was vital—it didn't require host governments like Mexico to act quickly or come up with labor enforcement budgets they don't have, and instead leveraged firms' self-interest in market access to get them to improve labor practices. However, commissioners noted that the success of this mechanism relied on having appropriations for dozens of staff at USTR and the Department of Labor to continue the work, which in turn required making the case to domestic legislators that control appropriations and to workers how they themselves benefited from improved standards abroad.

The facility-specific focus actually built on a long-standing feature of US trade law: the company- and country-specific analysis under US antidumping and countervailing duty law. Commissioners celebrated the changes that the Department of Commerce had made to allow for nonenforcement of labor laws to be counted as a subsidy. This was seen as addressing a long-standing complaint of domestic business: that they could not compete with foreign producers that did not even have to comply with home country law.

Overall, whether the tool was Section 232, Section 301, US antidumping law, or any other mechanism, commissioners felt that future administrations should continue the patterns embraced by the Trump and Biden administrations and self-initiate more cases. This was far preferable to waiting for firms or unions that are already badly injured to come up with millions of dollars of legal fees to assemble a petition, spend years arguing a case before domestic courts and then help defend a case at the WTO. Indeed, the very structure of having to wait until injury had already occurred was deemed detrimental to the public's esteem of trade. As one commissioner said:

> Filing a trade case is not a positive thing, it's about briefly protecting the remaining jobs at a facility. We rarely grow jobs. Once we do a trade case, we tend to stabilize them and then wait for the next wave of imports. With self-initiation, we could get ahead of problems and reduce over time the scope of the need to use trade remedies. That would engender a more positive view of trade, less injury, and hopefully fewer bad actors.

Indeed, commissioners believed trade tools like antidumping should be a more fulsome part of the industrial policy apparatus. Rather than allowing protection only to the point that domestic production reached price parity with imports, a more forward-looking trade strategy would unlock proactive subsidies, technology transfer, and marketing supports for industries deemed strategic. As one commissioner said, "We should proactively build competitiveness in a particular sector without thinking about injury. We're just thinking about a world where we want to be, and this is a tool to help us get there." But new forms of support—as well as more traditional ones offered by the Department of Commerce, EXIM, and other institutions—should be made contingent on a clean bill of health on carbon emissions, working conditions, anti-corruption, and other metrics. As one commissioner said, "We should not give official US government advocacy unless we're confident of the type of client that we're supporting." Overall, these forward-looking "remedies" could help crowd in private dollars and create a more stable investment climate in priority sectors, akin to the "indicative planning" once practiced by the French state.

Box 6. Europe: Two Steps Forward, Two Steps Back on Supply Chains?

A helpful model for managing US-inbound investment could be recent European due diligence laws. In April 2024, the European Parliament approved a Corporate Sustainability Due Diligence Directive, which will require companies of over 1,000 employees and revenue greater than €450 million to assess, report on, and mitigate human rights and climate risks in their supply chains.[118] This follows national level due-diligence laws in France, Germany, and other jurisdictions, which impose similar requirements. The German law, in particular, imposes fines of €8 million or 2 percent of a company's annual global sales for violations.[119] The United Autoworkers (UAW) have begun filing complaints under the German laws against organizing targets like Mercedes, which the Biden administration has reinforced.[120] While initially galvanizing to human rights advocates,[121] Germany sought to water down the EU-level law, and is considering pausing its domestic supply chain law, after an uproar from businesses about compliance costs.[122]

Commissioners argued that market access premised on high-road strategies should not only be limited to imported products, but also inbound investment. While some Asian-owned companies had a history of opposing US unions, European investors in wind and auto sectors (even those with unions and codetermination in their home countries!) were little better. Commissioners noted that the Committee of Foreign Investment in the US (CFIUS) regularly screened foreign-led mergers for national security threats, but should be doing something similar for job quality and respect for labor rights. Through formal US mechanisms, formal European mechanisms like the

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118 Mark Segal, "EU Parliament Adopts Environmental, Human Rights Sustainability Due Diligence Law," *ESG Today*, April 24, 2024, https://www.esgtoday.com/eu-parliament-adopts-environmental-human-rights-sustainability-due-diligence-law/.

119 Mairon G. Bastos Lima and Almut Schilling-Vacaflor, "Supply Chain Divergence Challenges a 'Brussels Effect' from Europe's Human Rights and Environmental Due Diligence Laws," *Global Policy* 15, no. 2 (2024): 260–75, https://doi.org/10.1111/1758-5899.13326. "Recent Developments of the New German Supply Chain Act" (Morgan Lewis, August 8, 2023), https://www.morganlewis.com/pubs/2023/08/recent-developments-of-the-new-german-supply-chain-act.

120 Ian Kullgren, "US Unions Can Wield New Weapon as Europe Targets Labor Violators," *Bloomberg Law*, June 20, 2024, https://news.bloomberglaw.com/daily-labor-report/us-unions-can-wield-new-weapon-as-europe-targets-labor-violators.

121 Alice Evans, "Overcoming the Global Despondency Trap: Strengthening Corporate Accountability in Supply Chains," *Review of International Political Economy* 27, no. 3 (May 3, 2020): 658–85, https://doi.org/10.1080/09692290.2019.1679220.

122 Maria Martinez and Riham Alkousaa, "Germany's Struggle to Clean up Its Supply Chains Has Lessons for Europe," *Reuters*, April 30, 2024, sec. Europe, https://www.reuters.com/world/europe/germanys-struggle-clean-up-its-supply-chains-has-lessons-europe-2024-04-30/.

due diligence laws,[123] and informal contacts with foreign firms, US policymakers should be making clear that they expect companies to play well with unions. This was not only good for the workers at a given plant, one commissioner noted, but moreover, "If we get Hyundai, and Mercedes, and Volkswagen, to recognize unions, it could transform the South and our democracy." (Since the commission, the UAW won the election at Volkswagen, lost an election at Mercedes, and has planned organizing drives at eight other foreign-owned plants.[124])

Commissioners saw significant potential in coordinating enforcement action with allies. However, a number of tactical decisions needed to be made. First, when taking actions at the border (such as blocking imports), should the US act unilaterally or wait for allies to simultaneously act? Second, should the executive branch wait for the US Congress to pass a fulsome domestic strategy for tackling a given problem (like decarbonization), or act first with measures that can be implemented by executive action? And finally, how much should the US tolerate allied country actions (and vice versa) that have mixed motives, such as both decarbonizing *and* creating jobs? In an academic policy seminar, one might center efficiency arguments and see anything that restricts trade as a last resort. However, this academic ideal might be wholly unrealistic: Actions at the border that also benefit domestic competitiveness are often much more straightforward for executives to utilize, so the alternatives may be between "second best" (from a free trade perspective) and no action at all.

Finally, commissioners had a range of specific trade policy ideas for the next few years:

- **Securing high road gains in any Taiwan and Kenya trade deals:** A near term idea was the ongoing US-Taiwan and US-Kenya trade negotiations, which was seen as an opportunity to replicate and expand upon the USMCA labor chapter.
- **Getting the ball rolling on climate trade enforcement:** Various commissioners argued for launching a Section 232 national security investigation on the climate impacts of carbon-intensive imports, or failing that, to begin a White House-led "pre-investigation." This was seen as valuable even if remedies were not ultimately imposed, and could start with steel, aluminum, and a few other carbon-intensive goods. There was also interest in having a facility-specific mechanism that targeted carbon emissions and other pollutants. Firms that behave badly on labor also often have other bad corporate practices; finding ways to sanction bad actors and reward good actors (through "economic passporting") could prove fruitful.

[123] While it is useful for domestic trust-building with labor for US policymakers to use (and encourage the use of) every tool in the arsenal, some commissioners pointed out the need for more after-action assessments on how useful the European supply chain laws really are, noting that not all of them were equally meaningful in terms of financial sanctions.
[124] Neal E. Boudette, "A Loss at Mercedes-Benz Slows UAW's Southern Campaign," *New York Times*, May 18, 2024, sec. Business, https://www.nytimes.com/2024/05/18/business/uaw-mercedes-benz-alabama-election.html.

- **Developing an action plan on currency and trade imbalances:** Several commissioners noted that Section 301 showed promise as a tool for penalizing currency manipulation. The Trump administration launched such an investigation against Vietnam in October 2020, which Biden's USTR shelved after the Treasury Department reached a cooperative agreement with Hanoi's central bank. Currently, the Treasury Department closely monitors China, Germany, Malaysia, Singapore, Taiwan, and Vietnam for possible currency manipulation. Developing an action plan on currency manipulation could help tee action in the next term.

- **Building a collaborative strategy on subsidized Chinese products.** The Section 301 tariffs will block or disincentivize Chinese goods from shipping directly from China. However, the country-specific nature of the 301 remedy invites avoidance of duties by rerouting Chinese products through third-country markets. In particular, commissioners anticipated that Chinese producers may try to use Mexico as a platform for trade rerouting to take advantage of lower USMCA tariffs. If policymakers are committed to the integrity of the 301 tariffs as a form of industrial policy backstop, they should immediately begin preparing and debating options on dealing with transshipped and modestly transformed Chinese content, such as common North American tariffs on Chinese inputs and finished products.

- **Combating fraud and customs circumvention.** Commissioners noted the lack of adequate repercussions for customs fraud. According to one commissioner, "Since the Chinese accession to the WTO, there's been one criminal case, and there's only one person at the Department of Justice tracking $300 billion of trade fraud. This should be 300 people." A related problem was the "de minimis" loophole, where shipments into the US worth less than $800 can enter duty-free. This has led to a surge from 400 million in 2018 to 1 billion shipments in 2023. Bipartisan groups in Congress have legislation designed to limit this practice,[125] and the executive branch should continue to build on its recently announced strategy.[126]

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[125] Richard Vanderford, "Imports Under Closely Watched US Trade 'Loophole' Surge," *Wall Street Journal*, March 1, 2024, sec. C Suite, https://www.wsj.com/articles/imports-under-closely-watched-u-s-trade-loophole-surge-25de0ae6.

[126] "FACT SHEET: Biden-Harris Administration Announces New Actions to Protect American Consumers, Workers, and Businesses by Cracking Down on De Minimis Shipments with Unsafe, Unfairly Traded Products" (Washington, DC: White House, September 13, 2024), https://www.whitehouse.gov/briefing-room/statements-releases/2024/09/13/fact-sheet-biden-harris-administration-announces-new-actions-to-protect-american-consumers-workers-and-businesses-by-cracking-down-on-de-minimis-shipments-with-unsafe-unfairly-traded-products/.

Personnel Is Policy

Background

Trade functions of the US government are spread across numerous agencies. While topics like day-to-day trade promotion, data collection, export controls, and export finance are handled by other federal agencies, USTR is the lead on developing and coordinating overall trade policy. The agency sits in the Executive Office of the President and is headed by an Ambassador-rank official who also sits in the president's cabinet. The agency's specific functions include serving as the principal adviser to the president on trade policy, leading international trade negotiations, representing the US at the World Trade Organization, enforcing certain US trade laws, and leading interagency groups like the cabinet-level Trade Policy Committee, deputy-level Trade Policy Review Group, and staff-level Trade Policy Staff Committee.[127]

USTR has a budget of $76 million and around 250 employees.[128] In contrast, the International Trade Administration, a component of the Department of Commerce responsible for the day-to-day analysis of commercial flows, adjudication of domestic trade remedy laws, and promotion of US businesses, has a budget of $645 million and has nearly 2,300 full time employees.[129] The US International Trade Commission, which conducts still other research and trade law adjudication functions, has a budget of $130 million and 429 full time employees.[130]

USTR has staff in Washington, DC, China, Mexico, Belgium, and Switzerland, and five organizational lines: bilateral negotiations, multilateral negotiations, sectoral activities, public outreach, and analysis/legal/policy coordination. The bilateral office is mostly organized in terms of broad geographic regions (e.g., Western Hemisphere) as well as a dedicated China team. The sectoral teams focus on agriculture, services and investment, intellectual property and innovation, market access and industrial

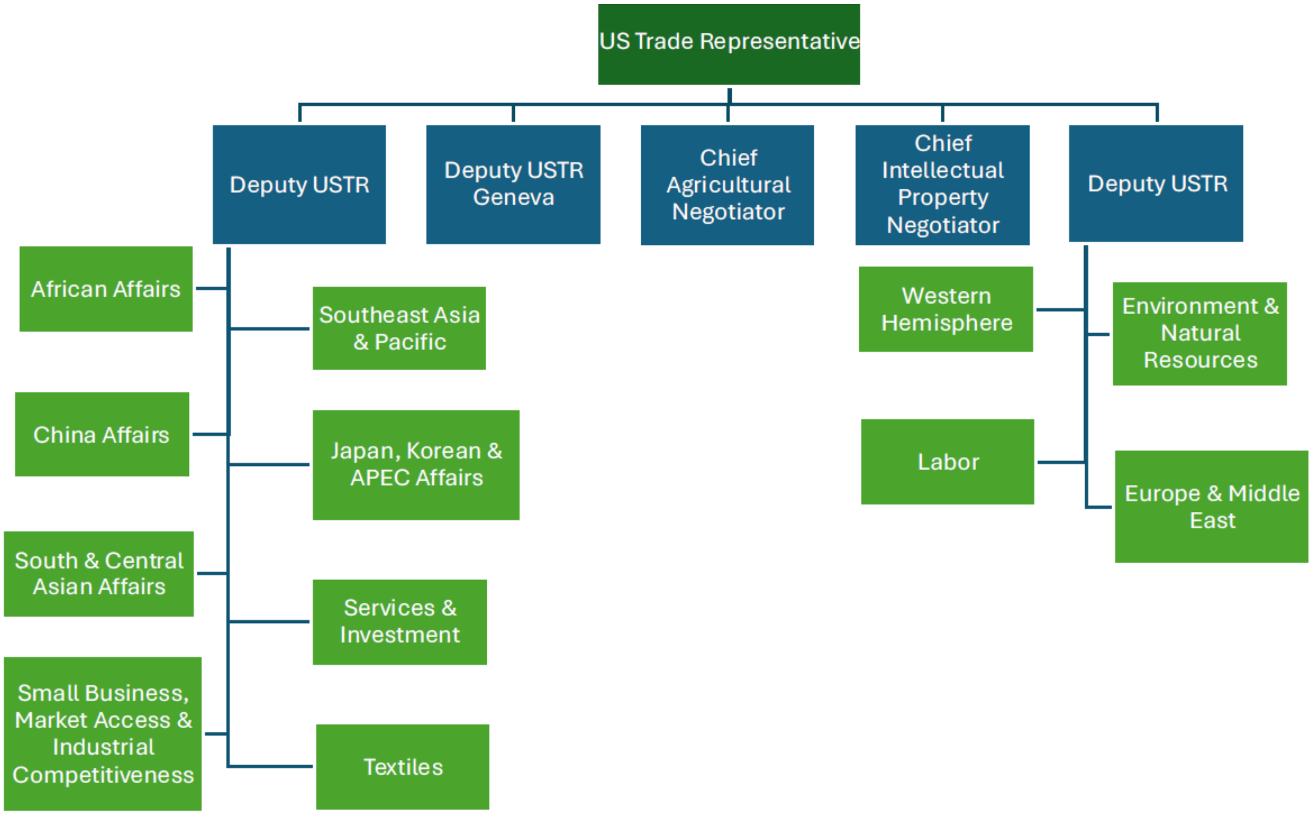
[127] This role has evolved over time. The Trade Expansion Act of 1962 established the "Special Representative for Trade Negotiations" to coordinate interagency processes. The Trade Act of 1974 rechristened the agency USTR, gave it cabinet rank, and made it the lead agency on negotiations and administering the trade agreements program. And the Omnibus Trade and Competitiveness Act of 1988 cemented that jurisdictional equity still further. See Shayerah I. Akhtar, "US Trade Policy Functions: Who Does What?" (Washington, DC: Congressional Research Service, February 22, 2024), https://crsreports.congress.gov/product/pdf/IF/IF11016. Shayerah Ilias, "Trade Reorganization: Overview and Issues for Congress" (Washington, DC: Congressional Research Service, May 31, 2012), https://fas.org/sgp/crs/misc/R42555.pdf.

[128] "Fiscal Year 2025 Budget" (Washington, DC: Office of the US Trade Representative, March 2024), https://ustr.gov/sites/default/files/foia/USTRFY2025CongressionalBudget.pdf.

[129] "FY 2025 Budget in Brief" (Washington, DC: Department of Commerce, 2024), https://www.commerce.gov/sites/default/files/2024-04/FY2025-Budget-in-Brief.pdf.

[130] "Budget Justification" (Washington, DC: US International Trade Commission, 2024), https://www.usitc.gov/documents/fy_2025_congressional_budget_justification_executive_summary.pdf.

competitiveness, textiles, environment and natural resources, and labor. The table below offers the organizational chart.



Source: USTR. Functional offices omitted.

In the organizational chart hierarchy, there are six roles that require Senate confirmation: the USTR, the three deputy USTRs, and the chief negotiators for agriculture and intellectual property. The next level below covers the geographic and topical areas, and are led by 20 assistant USTRs (or AUSTRs), who have deputy assistant USTRs (DAUSTRs) and various directors and other staff below them.[131] Additionally, the general counsel's office and a few senior advisers report directly to the USTR and her chief of staff. Except for compliance with the civil service laws and other restrictions set out by statute, the head of USTR has broad authority to organize and reorganize the internal working of the agency.[132]

USTR also maintains a robust structure for consultation with experts and the public. Dating to the 1974 Trade Act, USTR also maintains a range of 26 outside advisory groups, which consist of around 700 individual advisors.[133] These include an Advisory Committee for Trade Policy and Negotiations, a Labor Advisory Committee, a Trade

[131] "Biographies of Key Officials" (Washington, DC: Office of the US Trade Representative, October 12, 2024), https://ustr.gov/about-us/biographies-key-officials.
[132] 19 US Code § 2171.
[133] "Advisory Committees" (Washington, DC: Office of the US Trade Representative, October 12, 2024), https://ustr.gov/about-us/advisory-committees.

and Environmental Policy Advisory Committee, and Intergovernmental Policy Advisory Committee, as well as industry- and sector-specific committees for manufacturing, services, and agriculture. Under Tai, USTR has visited 48 out of 50 states, engaging in listening sessions and consultations.[134]

Box 7. Interview with K. Sabeel Rahman

Cornell Law School and former Associate Administrator (delegated the duties of the Administrator) of the Office of Information and Regulatory Affairs

Q: When you talk to different commentators on policy, they often have implicit views of the role that the public should directly play in policymaking. If you had to make it explicit, what are the different models out there?

As the United States transitioned into a modern industrialized economy in the late 19th and early 20th century, a central tension for many advocates, social movements, and policymakers centered on the question of *how* government itself should act and be structured. While there were growing pressures to tackle new urgent public challenges like economic inequality, social dislocation, concentrations of corporate power, and the like, these other questions centered on related but distinct issues. Who should have a seat at the table? How might the influence and power of dominant groups be mitigated? And how might democratic, participatory governance be achieved in the context of increasingly complex policy decisions that had to be made?

We can view much of the last century of governance reforms as cycling among three distinct orientations to participation, expertise, and governance. One common approach has tended to be a *managerial* one, emphasizing the neutral, insulated expertise of government policymakers who serve the public interest through objective scientific and social scientific knowledge. A second common approach—particularly since the rise of more neoliberal approaches to political economy in the late 20th century—took a different orientation: focusing on minimizing purported governmental inefficiency, overreach, and excess by preferring deregulatory, free market, or public-private-partnership arrangements. Both the managerial and neoliberal frameworks sought to prevent the excesses of political capture and policy failure by appealing to an apolitical system: either of experts, or of markets. A third orientation, seen in spurts in progressive, racial justice-oriented, pro-worker, or other social movements, emphasized democratic participation in governance, whether through more representative, tripartite style governance arrangements or through more direct forms of participatory policymaking.

Q: To what extent are we in need of resetting those models of participation in the current moment of polycrisis?

[134] "News" (Washington, DC: Office of the US Trade Representative, October 15, 2024), https://ustr.gov/about-us/policy-offices/press-office/news.

Part of the failure of recent decades of policymaking are about the *how* as much as the *what* of policymaking. The chronic persistence of systemic inequities—along racialized, gendered, geographic, economic, and other dimensions—stems in part from a policymaking system that continues to deemphasize the voices and power of the most vulnerable and impacted communities. As we look to innovate new approaches to structural inequalities, we should also be looking at evolving our approach to how governance itself is structured—and how we engage impacted communities more directly in the shaping, designing, and implementing of policy initiatives.

Q: What are the models of participation that are most exciting to you right now?

There has been a lot of rich innovation in this space happening in recent years.

First, state and local organizations have been piloting a host of participatory innovations, on everything from participatory budgeting to citizen assemblies to local-level co-governance models that empower workers and community members alongside developers and business leaders in urban planning decisions. There is enormous opportunity to learn from these models and incorporate them into federal and transnational forms of governance.

Second, we have had a burst of recent innovation within the executive branch itself to build, in real-time, creative ways to adapt existing regulatory systems into new approaches that might be more participatory, more equitable, and more inclusive. The administration's various efforts to advance equity—itself a historic first to support agencies in reimagining their approaches to policymaking with an equity lens—included a central commitment to proactively engage impacted communities more directly and intentionally in developing agency priorities and in designing specific policies. This ethic informed other related initiatives. The administration's work on regulatory reform included a new executive order emphasizing agencies' obligation to proactively engage impacted communities, included new requirements for agencies to build a civic engagement plan into their regulatory plan for each upcoming year, and expanded the leverage communities might have through citizen petitions filed with agencies to prod action on particularly urgent needs. Similarly, the administration's efforts to redesign benefits and service delivery emphasizes the role of participatory, user-based design and research to make these services as seamless and effective as possible from the viewpoint of the end user. These initiatives, among others, reflect an effort to start to encode into day-to-day agency practices a more equitable and inclusive orientation to the "how" of governance.

Q: How do you see some of these models carrying over into the complex world of trade negotiations, or domestic and international lawsuits related to trade? Is it transferable?

Many of these models could be adopted in the context of trade policy. We could imagine more inclusive and representative bodies that could advise or provide input on the design of particular policies or trade negotiations ahead of time—and on informing the overall priorities of a trade policy strategy. We might also imagine community-based models of monitoring and enforcement being highly valuable in spotting labor, environmental, or economic harms that could be important to bring to trade officials' attention. And such monitoring capacity would provide additional teeth to whatever "high road" and environmental standards might be incorporated into future trade arrangements.

Further Reading:

Xavier de Souza Briggs, *Democracy as Problem Solving: Civic Capacity in Communities Across the Globe*, 2008, https://doi.org/10.7551/mitpress/9780262026413.001.0001.

"Revitalizing Civic Engagement through Collaborative Governance" (Washington, DC: New America, December 16, 2022), http://newamerica.org/political-reform/reports/revitalizing-civic-engagement-through-meaningful-power-shifts/.

K. Sabeel Rahman, "Saving Bidenomics," *Boston Review*, January 4, 2024, https://www.bostonreview.net/articles/saving-bidenomics/.

K. Sabeel Rahman and Hollie Russon Gilman, *Civic Power: Rebuilding American Democracy in an Era of Crisis* (Cambridge University Press, 2019).

Commission Views

The Personnel Dimension

"Personnel is policy" is one of the oldest adages in politics, and our study commission members held that this was definitely true when it came to trade personnel and policy. A throughline throughout commission discussions was the need for USTR (and other trade enforcement agencies) to have staffing and appropriations boosts commensurate with the magnitude of the labor and environmental tasks that they are being asked to deliver on.

Starting at the top of the USTR personnel proper, the ability for the agency to do its job well started with the preexisting and new relationships of the Ambassador herself. Many commissioners had long-standing relationships with Tai from the China cases of the Obama years, negotiation of the USMCA, and other matters. Moreover, Tai knew the world of organized labor well and prioritized worker issues and relationships from Day One—creating a high level of trust with stakeholders. Commissioners credited Tai and her "front office" (chief of staff and top advisors) with going above and beyond other cabinet officials in ensuring that trade policy was in sync with the rest of the administration's economic policy. As one commissioner said, "Everything this USTR does supports the rest of the economic agenda. There are examples from previous administrations where that wasn't the case."

Moving one layer down, commissioners saw value in changing (or diversifying) the portfolio-specific cabinet-confirmed officials so that they did not (or did not only) reflect agriculture and intellectual property objectives. As one commissioner explained,

> USTR focuses on particular issues or sectors when they get elevated organizationally in the building. Having a specific ambassador for agriculture focuses attention [on agriculture]. If you had one for labor, it would show that labor isn't just about the labor chapter of free trade agreements. It would ensure that a worker-centered focus would spread across all issues, and that staff at lower levels would be getting performance reviews and graded on how aggressively they advance that agenda.

Another commissioner added:

> USTR should have a climate negotiator. It would send a strong message that climate is going to be a focal point for what we're going to be negotiating around in trade going forward. But it can't just be one person. We need a person who is in charge of climate trade negotiations, who is staffed with people who are experts on things like carbon accounting and the associated legal authorities. It would send a really powerful message.

Moving still one layer down, there were other strategies discussed that could make the new trade policy stickier. The relationships with labor should not be cabined in just the labor office, the front office, or the legal office of USTR. Labor relationships, outreach, and expertise should be embedded throughout the agency. Moreover, USTR should institutionalize ways to have climate and labor teams engage more systematically with one another. Finally, there were some signs under Tai's leadership that USTR career staff had been encouraged to see their role as not just reflexively cutting and pasting neoliberal trade precedents (and batting down any argument against the same), but rather contributing new ideas to the policy mix.

USTR could further adapt agency culture to the new era by paying attention to the pathways into USTR jobs. The agency does not hire too many staff directly from law schools; instead, these come from feeder agencies such as the Department of Commerce and State Department. Ensuring that staff across government are being evaluated and promoted for having creative solutions to emerging trade problems will thus have downstream effects at USTR. Commissioners noted that USTR has been emphasizing diversity, equity, and inclusion (DEI) messages, but there remain some structural constraints in terms of how much this can be actualized in hiring. US laws and job portals like USAJobs give a strong hiring preference for veterans, but not as much for other dimensions of diversity. In regard to informal screens used by the personnel office in the Biden administration, commissioners felt that favoring applicants without a corporate background could sometimes have the unintended effect of locking out nominees who are first-generation immigrants or first-generation college students (many of whom had substantial debt) who felt they needed to accumulate some wealth by working in the private sector. Nonetheless, the advantages to USTR embracing a robust diversity agenda were clear: It helped the agency specifically and the US government generally to differentiate itself from allies and competitors like Europe and Asia (whose delegations were not as diverse), which helped deepen relationships with Global South delegations. Moreover, USTR regularly emphasized how workers of color, women, and white workers without college degrees had common material interests in trade policymaking—a strategy that could lead to more support for an inclusivity agenda among whites and non-whites alike.

Commissioners saw a number of near-term opportunities for institutionalizing the new trade policy through personnel actions:

- **Retaining current leadership and filling vacancies with like-minded deputies.** As noted in this report, Ambassador Tai has been uniquely effective at helping align trade policy with middle-out economics and would be a valuable asset to future administrations. Additionally, there are currently two vacancies for Deputy USTR that should be filled with compatible experts. The current vacancy for chief intellectual property negotiator should be filled with someone sympathetic to aligning this policy area with the flexibilities necessary to fight future pandemics and the climate crisis.
- **Creating chief labor and climate negotiators at USTR on par with the other chief negotiators.** As noted above, this would help focus USTR toward its new mandates. Establishing these roles would require congressional action. Short of that, USTR should examine its own authorities to restructure the organizational chart to give labor and climate greater emphasis.
- **Revisiting existing agency organization.** Trade functions are spread across a number of departments of government. For agencies tasked with trade negotiations, this can bias definitions of success toward new trade deals. Other agencies are tasked with export promotion or import remedies, which can create their own biases. Having a single agency tasked with trade and industrial policy could ensure that the availability of certain tools is not dictating or limiting agency strategy.
- **Maintaining the labor desk at the National Security Council (NSC).** One of the significant staffing innovations of Biden's first term was creating a director of international labor position at NSC, serving under the national security advisor and the deputy national security advisor for international economics. This

position was initially filled by Gladys Cisneros, who came from organized labor.[135] This role was a "blue-sky" idea that had arisen in discussions between policymakers and the labor movement, and helped ensure a labor lens was brought into the most important interagency deliberations.

- **Building out labor attaché programs.** The USMCA implementing legislation allocated $210 million for labor rights work, including $180 million for technical assistance programs, and $30 million for new staffing at the Department of Labor and in the US Embassy in Mexico.[136] The funding for these initiatives expires in 2024 and 2028 respectively, and needs reauthorization. Along with renewing this funding, USTR and the rest of the US government should consider expanding these arrangements to other countries that sign comprehensive trade deals, e.g., potentially Kenya and Taiwan.
- **Hiring staff with dealmaking expertise in the industrial policy offices.** The Defense Production Act, Development Finance Corporation, and Export-Import Bank are up for reauthorization in 2025, which presents an opportunity to encourage these programs and offices to hire staff willing and able to make full use of the tools at their disposal, including loan and equity financing.
- **Creating a federal honors program for USTR.** A number of federal agencies have honors programs that give recent law school and graduate students a route into public service.[137] USTR should consider launching such a program and recruiting from networks such as the Hewlett Foundation-supported political economy centers, the Georgetown University Global Political Economy Project, the Law and Political Economy Project, and the Vanderbilt Policy Accelerator.

The Participation Dimension

The idea behind "personnel is policy" is not only the people on the federal payroll. It is also about the people "in the room where it happens" more broadly: who are consulted, whose voices are heard, and what formal and informal structures exist to share perspectives and priorities.

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[135] Josh Eidelson, "Biden Taps New York Fed Market Chief as National Security Deputy," *Bloomberg.Com*, February 5, 2021, https://www.bloomberg.com/news/articles/2021-02-05/biden-taps-new-york-fed-market-chief-as-national-security-deputy.
[136] "Labor Rights and the United States-Mexico-Canada Agreement (USMCA)" (Washington, DC: Department of Labor, October 12, 2024), https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca.
[137] "Introduction to Federal Government Honors Programs" (New York: Columbia University School of Law, 2021), https://www.law.columbia.edu/sites/default/files/2020-07/Federal%20Government%20Honors%20Programs.pdf.

Commissioners noted that USTR has never had as much engagement with labor as it has in the last few years. Unions were prominently represented in the formal advisory committee structure (including both labor and industry groups), and in briefings and informal consultations. Across these communications, USTR's goal was to identify red flags and strategic priorities. Because their views were taken so seriously, labor was able to affirmatively support more trade initiatives. (This contrasted with previous administrations, including with the generally labor-friendly USMCA under the Trump administration, where it was assumed that making a better labor chapter meant labor would support all the chapters—including, erroneously, the digital trade chapter.) Having embedded allowed labor into the policy process more robustly, it will be hard for future administrations to wind back the clock.

USTR's newfound working-class focus also extended to their international engagements. When visiting Asia, for instance, Tai and her team insisted on meeting with Filipino trade unionists.[138] Because this engagement mandate was codified in the presidential Memorandum on worker rights, US labor unions were able to insist that the rest of the administration did likewise (even where other agencies felt like labor "wasn't their constituency").

Commissioners had a number of specific ideas for expanding upon the participation gains of recent years:

- **Adding further labor and environmental voices across the trade advisory committees.** USTR has made progress in recent years in having deeper labor engagement on the industry committees, in addition to the traditional labor committee. There is still more work that could be done to add labor and labor-aligned voices—as well as environmental interests—to these committees.
- **Diversifying trade delegations.** Likewise, there has been progress on adding a labor dimension to initiatives like the IPEF supply chain work, and including labor on labor-specific delegations. However, commissioners felt that labor should be less siloed in this engagement: For example, anytime there is a business or CEO dialogue, labor and labor leaders should be included, as they equally have sectoral knowledge.
- **Building staff capacity for labor unions.** At the time of the Trade Act of 1974, unions were much stronger than they are today, and had industry-specific labor committees to advise USTR. Today, attacks on unions have meant there are fewer professional staff to provide this kind of service. Thanks to the Biden administration's interest in labor engagement, there is a new level of demand on union staff (for, e.g., a labor convention on the sidelines of trade talks with

[138] "Readout of Ambassador Tai's Meeting with Philippine Labor Leaders" (Washington, DC: Office of the US Trade Representative, April 18, 2023), https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/april/readout-ambassador-tais-meeting-philippine-labor-leaders.

Kenya), but there has not been a corresponding increase in union dues to help support these activities. Commissioners encouraged government and philanthropy to help identify ways to support increased union staff capacity and training.

- **Deepening engagement with environmental groups.** While commissioners noted that the quality of consultation with labor and competition groups was outstanding, more could be done to engage the environmental community.

Conclusion

Taken all together, in the span of just a few years, USTR and other trade agencies have retooled to become repositories of knowledge and negotiating acumen around a new trade strategy. This record compares favorably with most any four-year period in USTR's history, certainly when one adjusts for the fact that a fundamentally different template for trade was being developed and there was not an inherited stock of advanced negotiations. A few years ago, it would have been difficult to imagine a trade agreement that did not include little to no tariff reductions but attempted to further economic cooperation in other ways. Yet there are now several initiatives like IPEF, GASSA, and others that are on the shelf and ready to go in a future administration. Career staff throughout the US government have spent untold person-hours refining this approach, drafting negotiating text, and socializing ideas with counterparts around the world. There are hundreds of staff that are custodians of this new model. It would be an inefficient use of resources and a sap to agency morale to set back that agenda. We now have a state that puts resilience at its core; there is no going back.

Notably, despite occasional grumbling from Congress and K Street about the lack of traditional trade agreements under the Biden administration, no one has surfaced an alternative trade agenda that would command sufficient support in either political party. Few seriously advocate for the US to return to initiatives like the Trans-Pacific Partnership, and trade commentary from neoliberal quarters is mostly limited to opposing extreme proposals like universal baseline tariffs, not questioning the fundamental premise that labor, environmental, and resilience considerations need much more centrality in trade than they have had in the past. Any trade policy that does not at least attempt to reduce inequality, carbon emissions, and reliance on China is dead on arrival.

To recap the major near-term takeaways, themes, and recommendations of our study commission, they include:

Producing What Matters

- Make the most of the major trade deadlines coming up in 2025–26 (detailed in the appendix)
- Demonstrate the utility of IPEF and similar initiatives through near-term supply chain coordination wins
- Where possible, quantify and make explicit the goals of trade policy
- Deepen the federal government's financial tool kit to promote trade
- Continue building resilient industrial ecosystems at home through policies complementary to trade

Consuming with Purpose

- Secure high-road gains in any Taiwan and Kenya trade deals
- Get the ball rolling on climate trade enforcement through Section 232 investigations
- Develop an action plan on currency and trade imbalances
- Build a collaborative strategy on subsidized Chinese products
- Combat fraud and customs circumvention

Personnel Is Policy

- Retain current leadership and fill vacancies with like-minded deputies
- Create chief labor and climate negotiators at USTR on par with the other chief negotiators
- Revisit existing agency organization
- Maintain the labor desk at NSC
- Build out labor attaché programs
- Hire staff with dealmaking expertise in the industrial policy offices
- Create a federal honors program for USTR
- Add further labor and environmental voices across the trade advisory committees
- Diversify trade delegations
- Build staff capacity for labor unions
- Deepen engagement with environmental groups

Appendix

Building Out Middle-Out Economics Through Public Messaging

The exact contours of the administration's theory of middle-out economics evolved over numerous speeches in 2021–24. Here are some of the highlights.

- On June 10, 2021, Ambassador Katherine Tai of the Office of the US Trade Representative (USTR) addressed the AFL-CIO, mentioning the importance of allies nine times and arguing for partnering with them "a worker-centered trade policy" that addressed the damage to American industries and the middle class caused by trading practices that suppress wages and labor rights.[139]
- Later that month, National Economic Council Director Brian Deese gave a speech to the Atlantic Council noting that the innovation and coordination challenges of resilience and decarbonization were not "typical market failures," but required public investment as a backbone to economy-wide innovation. In the speech, he celebrated partnerships with allies over a dozen times in the speech, and noted that "the core of our strength as a country, our ability to support and partner with allies, is our economic strength at home."[140]
- In January 2022 at Johns Hopkins University, Treasury Secretary Janet Yellen outlined a "modern supply-side economics" vision that contrasted with both Keynesian and "traditional supply-side approaches" and was aimed at unlocking "labor supply, human capital, public infrastructure, R&D, and investments in a sustainable environment." The manifestation of this new approach was multilateral agreement on corporate minimum tax, with Yellen noting that "global cooperation is vital to address the common challenges that all of us now face."[141]
- In October 2022, Tai told a Roosevelt Institute industrial policy conference that industrial policy is not, and should not, be a zero-sum game with trading partners. A new trade playbook would move past traditional "free-trade

[139] "Remarks of Ambassador Katherine Tai Outlining the Biden-Harris Administration's 'Worker-Centered Trade Policy'" (Washington, DC: Office of the US Trade Representative, June 2021), https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2021/june/remarks-ambassador-katherine-tai-outlining-biden-harris-administrations-worker-centered-trade-policy.
[140] Katherine Walla, "Brian Deese on Biden's Vision for 'a Twenty-First-Century American Industrial Strategy,'" *Atlantic Council* (blog), June 23, 2021, https://www.atlanticcouncil.org/commentary/transcript/brian-deese-on-bidens-vision-for-a-twenty-first-century-american-industrial-strategy/.
[141] "Remarks by Secretary of the Treasury Janet L. Yellen at the 2022 'Virtual Davos Agenda' Hosted by the World Economic Forum" (Washington, DC: Department of Treasury, January 21, 2022), https://home.treasury.gov/news/press-releases/jy0565.

agreements" and focus on sectoral cooperation that can ensure a positive-sum outcome. Tai cited the settling of long-simmering disputes with Europe over aircraft subsidies and steel, and the establishment of the US-EU Trade and Technology Council as examples of pushing further cooperation.[142]

- In February 2023, Commerce Secretary Gina Raimondo gave a talk at Georgetown University that zeroed in on one sector of major interest: semiconductors. She noted that US inattention to sectoral health in chips led to offshoring of production, atrophying of skills in the workforce, and price volatility in chips-using industries that were reliant on imports, which were not always available during COVID-19.[143]

- In April 2023 at the Brookings Institution, National Security Adviser Jake Sullivan called for a "foreign policy for the middle class," and noted that had the new model of sectoral agreements "been in place when COVID wreaked havoc on our supply chains and factories sat idling, we would have been able to react more quickly—companies and governments together—pivoting to new options for sourcing and sharing data in real-time . . . For the problems we are trying to solve today, the traditional model doesn't cut it. The era of after-the-fact policy patches and vague promises of redistribution is over. We need a new approach. Simply put: In today's world, trade policy needs to be about more than tariff reduction, and trade policy needs to be fully integrated into our economic strategy, at home and abroad."[144]

- In June 2023, Tai spoke to the antimonopoly Open Markets Institute, and argued both competition and trade policy had focused unduly on keeping prices low, at the expense of broader societal concerns. As she noted, "When efficiency and low cost are the only motivators, production moves outside our borders. It becomes increasingly consolidated in one economy—such as the PRC—which manipulates cost structures, controls key industries, and became a dominant supplier for many important goods and technologies . . . Our new approach to trade recognizes people as more than just consumers, but also producers—the

[142] "Remarks by Ambassador Katherine Tai at the Roosevelt Institute's Progressive Industrial Policy Conference" (Washington, DC: Office of the US Trade Representative, October 2022), https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2022/october/remarks-ambassador-katherine-tai-roosevelt-institutes-progressive-industrial-policy-conference.
[143] "Remarks by U.S. Secretary of Commerce Gina Raimondo: The CHIPS Act and a Long-Term Vision for America's Technological Leadership" (Washington, DC: Department of Commerce, February 23, 2023), https://www.commerce.gov/news/speeches/2023/02/remarks-us-secretary-commerce-gina-raimondo-chips-act-and-long-term-vision.
[144] "Remarks by National Security Advisor Jake Sullivan on Renewing American Economic Leadership at the Brookings Institution" (Washington, DC: White House, April 27, 2023), https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/04/27/remarks-by-national-security-advisor-jake-sullivan-on-renewing-american-economic-leadership-at-the-brookings-institution/.

workers, wage-earners, providers, and community members that comprise a vibrant middle class."[145]

- In January 2024, new NEC director Lael Brainard noted that this new approach was not place neutral. Public investment in public goods in specific communities have multiplier effects that can reverse cycles of disinvestment. As evidence, she pointed to findings that dollars from the IRA and other policies are targeted to areas hard hit by the China shock, and government was building community capacity to access and steer funds.[146]

- In April 2024, Biden climate adviser John Podesta announced at Columbia University a White House Trade and Climate Task Force that would use trade tools and trade data to combat climate change, while calling for an international alliance to rebuild a global trading system that allows every country to build its own niche in the clean energy economy, provided no country sought to "dominate the global market . . . Our current global trading system was built to promote open and competitive markets—which it has done well—but it wasn't built to curb emissions." [147]

- In June 2024, Treasury Undersecretary Jay Shambaugh addressed the structural factors that confront the US economy at this juncture, namely a Chinese economy that allows production to happen below its true cost, without market disciplines, and without a clear link to plausible global demand. In this context, tariffs were a necessary and appropriate tool to seek rebalancing.[148]

[145] "Ambassador Katherine Tai's Remarks at the National Press Club on Supply Chain Resilience" (Washington, DC: Office of the US Trade Representative, June 2023), https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2023/june/ambassador-katherine-tais-remarks-national-press-club-supply-chain-resilience.

[146] "Remarks by National Economic Advisor Lael Brainard on Place-Based Growth: Helping Communities Making a Comeback" (Washington, DC: White House, January 22, 2024), https://www.whitehouse.gov/briefing-room/speeches-remarks/2024/01/22/remarks-by-national-economic-advisor-lael-brainard-on-place-based-growth-helping-communities-making-a-comeback/.

[147] "Remarks as Prepared for John Podesta Columbia Global Energy Summit" (New York: White House, April 16, 2024), https://www.whitehouse.gov/briefing-room/speeches-remarks/2024/04/16/remarks-as-prepared-for-john-podesta-columbia-global-energy-summit/.

[148] "Remarks by Under Secretary for International Affairs Jay Shambaugh on Chinese Overcapacity and the Global Economy" (Washington, DC: US Department of the Treasury, July 19, 2024), https://home.treasury.gov/news/press-releases/jy2455.

Key Dates for Trade Policy, 2024–26

Policymakers will face a number of key trade policy dates in the coming years. Here are a few of the top ones.

Initiative	Details
USMCA Technical Assistance Funding	This was funded over 2020–24, and needs to be replenished to go on.
USITC Commissioner Terms Expiring	By December 16, 2024, all the terms of the four remaining members of the six-member USITC will have expired. This creates potentially six vacancies for terms of up to nine years each. (Note one member with an expired term was appointed to a two-year term as chair in June 2024.)
Supply Chain Quadrennial Review	By December 31, 2024, the Council on Supply Chain Resilience will publish its quadrennial review.
IPEF, TTC, APEP meetings	These have not been scheduled, but will take place sometime in 2025.
USITC Greenhouse Gases Study	By January 28, 2025, the USITC will transmit its study on the carbon intensity of US steel and aluminum production to USTR, which will use it as an input into any future US climate negotiations with the EU and other trading partners.
Defense Production Act	The DPA needs reauthorizing by September 2025, which also presents an opportunity to improve its financial tool kit.
Development Finance Corporation	The DFC needs reauthorizing by September 2025, which also presents an opportunity to improve its financial tool kit.
African Growth and Opportunity Act (AGOA), the General System of Preferences (GSP), and Trade Adjustment Assistance (TAA)	The US's major unilateral trade preference tool expires in September 2025. There are legislative efforts to expand it for 14 years, which could present the US's best opportunity to develop a two-continent strategy for ensuring economic development and clean energy supply chains. The GSP, the US's broader program for less-developed countries, expired in 2020. TAA

	expired in 2022. Congress could act to reauthorize both and make their benefits retroactive.
USITC Distributional Consequences of Trade Study	The next phase of this research into the disparate geographic, racial, gender, and class effects of trade will be completed by January 20, 2026.
USMCA	By July 1, 2026, the US, Mexico, and Canada must complete a joint review to make any recommendations to improve USMCA, and determine whether to sunset the agreement by 2034. They can determine that they wish to continue the deal until 2050, or that they do not wish to. If a party determines that they do not wish to make this extension, then the pace of joint reviews accelerates to an annual cadence.
WTO Ministerial	This meeting of heads of state will happen sometime in 2026.
Labor Attaché Program	This was funded through 2028, and would benefit from expanding beyond just Mexico.

Cases Brought Under the USMCA Rapid Response Mechanism

Company	Petition authors	Parent nationality	Commencement
General Motors	N/A	US	May 12, 2021
Tridonex	AFL-CIO, SEIU, SNITIS and Public Citizen	US	June 9, 2021
Panasonic Automotive Systems	SNITIS and Rethink • Accepted Trade	Japan	May 18, 2022
Teksid Hierro	UAW and AFL-CIO	Netherlands and others	June 6, 2022
VU Manufacturing	LSOM and CFO	US	July 21, 2022
VU Manufacturing	LSOM and CFO	US	January 30, 2023
Unique Fabricating	Transformation Sindical	US	March 6, 2023
Goodyear	LSOM	US	May 22, 2023
Draxton	N/A	Spain	May 31, 2023
Industrias del Interior, INISA	FAT, SINTII	US	June 12, 2023
Grupo México	UAW, AFL-CIO, Los • Accepted Mineros	Mexico	June 16, 2023
Grupo Yazaki	Casa Obrera del Bajío	Japan	August 7, 2023
Aerotransportes Mas de Carga	ASPA	Mexico	August 30, 2023
Teklas Automotive	LSOM and ILAW Network	Turkey	September 25, 2023
Asiaway Automotive Components Mexico	LSOM and ILAW Network	China	October 23, 2023
Tecnología Modificada S.A. de C.V. Caterpillar	SNITIS	US	October 26, 2023
Autoliv Steering Wheels	Transformación Sindical	Sweden	November 20, 2023

Fujikura Automotive Mexico	Comité Fronterizo de Obreros	Japan	December 14, 2023
Atento Servicios, S.A. de C.V.	STRM	Spain	January 19, 2024
RV Fresh Foods S.A. de C.V.	Sindicato Nacional de Trabajadores y Empleados de la Industria del Comercio, Alimenticia, Textil, Automotriz, Metalúrgica, Servicios y Distribución Generalísimo José María Morelos y Pavón and COCENA	Mexico	February 16, 2024
Servicios Industriales González, S.A. de C.V.	SNTTYC	Mexico	April 1, 2024
Minera Tizapa S.A. de C.V.	Los Mineros	Mexico	April 3, 2024
Volkswagen de México, S.A. de C.V.	Group of former workers	Germany	May 28, 2024
Ammunition Manufacturer Industrias Tecnos, S.A. de C.V	Sindicato Metálico	Mexico	June 24, 2024
Impro Industries Mexico, S. de R.L. de C.V.	LSOM	US	July 25, 2024
Pirelli Neumaticos, S.A. de C.V.	LSOM, ILAW Network, USW, and AFL-CIO	Italy	August 23, 2024
Camino Rojo	Mineros	Canada	August 29, 2024
Bader de Mexico S. en C. por A. de C.V.	SITECCC-CAT	Germany	September 16, 2024

Study Commission Members

Here is the list of our study commission members. Affiliations are listed for identification purposes only, and should not be taken to constitute endorsement by the employer or individual study commission member of anything in this report.

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