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Article

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Biden and Trade: No Trade Policy, No-Trade Policy or Both?

When Joe Biden entered office, he promised that “the U.S. is back” and that, heretofore, the “U.S. writes the [trade] rules of the road for the world”, thus paving the way for U.S. businesses to “win on the world stage”. Yet, many commentators – including the editorial board of the *Wall Street Journal* – have lamented the absence of an international trade policy by the Biden Administration.

“This trade policy is under review” is probably the most frequently heard public statement expressed by U.S. Trade Representative (USTR) Katherine Tai. But with the Biden Administration soon entering its third year, such statements reek of temporizing. On the bilateral front, the Biden Administration has not rolled back former President Trump’s (likely WTO-illegal) discriminatory tariffs on Chinese imports under Section 301 of the 1974 Trade Act. Not only have these tariffs failed to achieve their intended purposes of coercing China to change its dirigiste industrial policy and of making China import more U.S. products. There is also mounting empirical evidence that the tariffs are hurting the U.S. economy significantly more than China’s. Yet, the inherited China tariffs have been “under review” ever since President Biden came into office.

Regarding trade relationships with allies, it is also difficult to discern an overarching strategy. Back in 2018, President Trump imposed double-digit tariffs on aluminum and steel imports from key allies, including the EU, the UK, Japan and South Korea, claiming national security threats. Under the Biden Administration, a portion of these (once again, likely WTO-illegal) Trump-era tariffs have been converted into voluntary export restraints and quotas – a sleight of hand, rather than a true fix. Others have remained in place. America’s closest trade allies Canada and Mexico have not gone unscathed, either. For example, the Biden Administration imposed stricter rules of origin in the automotive sector, thus eschewing Canadian and Mexican firms’ access to U.S. car manufacturers.

On his first day in office, President Trump withdrew from America’s most recent major trade deal, the Trans-Pacific Partnership (TPP). President Biden shows no signs of rejoining. Determining that “now is not the time for traditional free trade agreements,”¹ USTR Tai has nixed negotiations over any new preferential trade agreements. The only plurilateral effort pursued by the Biden Administration thus far is the Indo-Pacific Economic Forum (IPEF). Announced in February 2022, the IPEF is the putative counterbalance against China’s ascending trade might in the Asia-Pacific region. At present, however, IPEF can best be described as a paper tiger. Few trade partners hold their breath over concrete trade liberalization outcomes, not least since the Biden Administration has ruled out offering any market opening to IPEF partners. Such deliverables, in trade parlance, are the currency of any meaningful trade deal.

Maybe the most telling example of a rudderless trade policy is the Biden Administration’s stance vis-à-vis the World Trade Organization (WTO). After repeatedly threatening to withdraw from the WTO, the Trump Administration in December 2019 all but denuded a multilateral dispute settlement by refusing to appoint WTO appellate judges. Three years later, the Biden Administration has made no effort to reinvestigate the trade court; it has not even spelled out which procedural and substantial reforms it demands in exchange for unblocking the WTO dispute settlement.

¹ Washington Trade Daily (2022, 12 October), “Now is not the time for FTAs, Tai says”, Vol 31, No 202.

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Similarly, with respect to the WTO negotiation agenda, the Biden Administration has shown little interest, let alone leadership, in reinvigorating the deadlocked trade talks. However disappointing the absence of a coherent U.S. international trade policy may be for proponents of liberalized trade, something more concerning lurks. The Biden Administration has continued, and at times expanded, Trump-era efforts to limit international trade, rather than promote it. Examples abound: First, as mentioned above, President Biden has not yet lifted punitive tariffs on most Chinese products. Nor has he lifted a sizable number of import tariffs on steel and aluminum from Western allies, India and Turkey. According to some estimates, these tariffs still affect over \$400 billion of imports and exports, and increase costs to U.S. consumers by \$51 billion annually. Second, through a constant dribble of low-level regulations, technical restrictions and executive orders, the Biden Administration has continued interrupting trade with export controls, investor screening, capital controls, stifling labor compliance rules and economic sanctions. While many individual actions are reasonable on their own, it is unclear at what point valid national-security concerns are eclipsed by hidden protectionism. Finally, animated by what has been described as supply-chain nationalism, the Biden Administration has increased domestic content requirements for federal government procurement and enacted massive new subsidy programs, including in the \$50 billion CHIPS Act and the \$737 billion Inflation Reduction Act that contains a \$369 billion industrial subsidy scheme. Whether these government-led efforts will result in re-shoring of manufacturing back to the United States remains to be seen (economists tend to dismiss this as a quixotic effort). What these new programs have already achieved is strife with trade partners. For example, the recent \$7,500 tax credit applicable only to electronic vehicles manufactured with key inputs that need to be made in the USA provoked immediate threats of retaliation and counter-subsidization by the EU and China's Ministry of Commerce.

None of these trade-restricting tools are new. What is new (and unexpected) is their scale and the fact that they are only marginally counterbalanced by discernable pro-trade measures. The Biden Administration's zeal for protectionism and supply chain decoupling may score the United States some (political) wins in the short term. However, in addition to potential hardship on the U.S. economy over the medium- to long-term, America's actions will also have global repercussions.

The absence of U.S. leadership in trade (no trade policy), coupled with neo-protectionism (no-trade policy), ultimately constitutes a continuation of the Trump-era trade tactics, even though the accompanying rhetoric by the Biden Administration is more polished. The implications – self-centeredness à la *America First*, alienation of friend and foe alike, and a further shift away from a rules-based and towards a power-based world trading order – remain the same. With the United States clocking out of the multilateral trading system and without the WTO trade enforcer supervising international trade, the door to unchecked economic nationalism by other nations is ajar. According to some, Chinese President Xi Jinping is matching President Biden's techno-nationalist agenda move for move. Economic nationalism is also on the rise in India, Brazil and Mexico.

At the same time, international trade is not going to halt, and neither is international trade cooperation. China is already filling the vacuum left by the United States. While the United States dithers, China is aggressively pursuing new trade agreements, such as the Regional Comprehensive Economic Partnership Agreement, an Asia-Pacific regional trade agreement. China has even applied for accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership, as TPP has been rechristened after the United States had spurned it.

The more the United States lets the WTO slide into irrelevance, abdicates global leadership in trade, and pursues a power-based might-makes-right stance, the more it risks precipitating a de facto dissolution of world trade into blocs – one around China, one around the United States and one around the EU. In that scenario, trade within each bloc will be free, predictable, and with enforceable rules, whereas across blocs trade will become less rules-based, unpredictable and certainly more political. It would behoove the United States to think long and hard about whether this kind of international trading order is really in its economic and national-security interest.