

Biden Administration's 2021-2024 Quadrennial Supply Chain Review: Highlighting Areas for Trade Law Reform

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On December 19, 2024, the Biden administration released a report, the [Quadrennial Supply Chain Review](#). This report, and the accompanying [fact sheet](#), assess improvements made in American supply chains since 2021 and identify opportunities for further improvement. This post distills key takeaways from the National Security Council and National Economic Council's assessment and recommendations pertaining to key trade laws. Specifically, the report details the need for: (i) increased transparency and traceability of imports, as well as tariff code updates; (ii) more targeted action and legal authority addressing entire supply chains of imports, including components and inputs; (iii) codification of legal authority to address transnational subsidies; (iv) additional legal tools to combat circumvention of U.S. trade measures; and (v) updating trade laws to provide swift relief to domestic industries.^[i] With emphasis on reforming the trade laws to improve their effectiveness in responding to non-market policies and practices, the report offers a roadmap of areas where the incoming Trump administration and the 119th Congress might find bipartisan support for legislative and regulatory action.

Background

The Quadrennial Supply Chain Review is the product of [Executive Order 14123 on White House Council on Supply Chain Resilience](#) (June 14, 2024). That executive order tasked the White House Council on Supply Chain Resilience with conducting a four-year assessment of industries critical to national or economic security and submitting to the President a report every four years, beginning with this first report issued on December 19, 2024. The report also builds on [Executive Order 14017 on America's Supply Chains](#) (Feb. 24, 2021), which established policy objectives for pursuing more resilient, diverse, and secure American supply chains. For more information and related context, please refer to our prior [blog post](#).

Areas for Trade Law Reform

The report recommends updating the four primary trade statutes used to address non-market policies and practices: Title VII of the Tariff Act of 1930, Sections 201 and 301 of the Trade Act of 1974, and Section 232 of the Trade Expansion Act of 1962. Specifically, the report identifies the following areas for improvement to U.S. trade laws to enhance import transparency and traceability, update the breadth of potential remedies, address circumvention, and provide swift relief to domestic industries negatively affected by trade.

1. Increasing Import Transparency and Traceability

The report notes current impediments to the U.S. Government's efforts to address non-market threats, such as the limiting of the government's ability to share confidential trade, manufacturing, and supply chain data collected for other purposes even within the government. The report proposes updating statutes to facilitate the sharing of such sensitive data for critical sectors – while noting the need for maintaining confidentiality.

The report also proposes updating statutes to require importers to report components of specific imported final products, or the intended use of imported component parts, when such information is critical to responding to non-market economy threats. U.S. Customs and Border Protection and the U.S. Department of Commerce already collect data on the country of the melt and pour of steel imports and the countries of smelt and cast for aluminum imports, but the report contemplates expanding this concept to additional sectors.

In addition, the report identifies as a priority updating the Harmonized Tariff Schedule of the United States (“HTSUS”). For example, the HTSUS could be updated “to allow for more precise targeting of imports with trade actions and any tariff rate updates considered by Congress” by, for example, distinguishing the tariff classifications of critical minerals and disaggregating certain tariff lines that comingle products with very different end uses. This would allow the U.S. Census Bureau to collect and report more focused data that are specifically relevant to products and industries negatively affected by imports

2. Improving Remedies to Address New Challenges and Global Supply Chains

The report proposes several improvements to U.S. trade laws to address a variety of non-market policies and practices that are, for example, aimed at controlling entire supply chains, “including final products, intermediate goods, and key components and materials.” These improvements are necessary, according to the report, because upstream and downstream products are currently overlooked when specific imported products become subject to U.S. trade measures. The report highlights the following areas for reform. First, the U.S. unfair trade laws could be updated to provide U.S. producers of inputs or components of products with additional opportunities for participation in antidumping and countervailing duty proceedings. Second, the Section 201, 301, and 232 statutes could be clarified to make explicit existing legal authority for the U.S. Government to take actions on products throughout a supply chain, including inputs and components (wherever located) and derivative products as appropriate.^[ii] Third, Section 301 could be updated to explicitly provide the government with the authority to execute sectoral agreements with foreign allies and partners to further address non-market policies and practices.

In addition, the report touts [recent regulatory reform](#) designed to ensure that countervailing duty proceedings and measures can more effectively address unfair transnational subsidies. According to the report, codification of the U.S. Department of Commerce's ability to continue addressing transnational subsidies and to address instances of shifting production patterns would further improve the ability of the U.S. trade laws to counter non-market policies and practices. Accordingly, the report points to bipartisan, bicameral legislation introduced in the 118th Congress designed to achieve this purpose (commonly known as the “Levelling the Playing Field Act 2.0”). Reintroduction and consideration of this or similar legislation, would thus likely be an additional opportunity for improving U.S. trade laws.

3. Countering Circumvention of U.S. Trade Measures

The report notes that not all U.S. trade laws contain provisions to combat circumvention, making measures vulnerable to circumvention in the form of misclassification of products, third-country exportation, and shifting of production to different countries. The report recommends updating the Section 201 and 301 statutes to add circumvention procedures to address these issues. In addition, the report recognizes that foreign producers can avoid U.S. trade enforcement actions and other border-based measures by investing in U.S.-based operations. The report recommends that the U.S. Government monitor such investments and develop a policy response if necessary.

4. Authorizing Swift Import Relief for Affected U.S. Industries

The report also notes that the trade laws often only provide relief after an industry has been harmed to the point where the remedy may be less effective in helping the industry. Accordingly, one relevant tool that the report highlights for greater consideration and use is the provision under the U.S. antidumping and countervailing duty laws authorizing duties to counteract headwinds from unfair imports that prevent the establishment of a U.S. industry. In addition, to improve the ability of the U.S. trade laws to proactively address threats from imports, the report recommends updating the Section 201 and 301 statutes to allow for provisional measures while investigations are ongoing or relaxing requirements that an industry be harmed before actions are taken.

Stay tuned to Kelley Drye's Trade & Manufacturing Monitor for updates as the incoming Trump administration takes the helm and the 119th Congress prepares to continue working on crafting solutions to effectively safeguard U.S. economic and national security from foreign threats.

[i] While this blog post focuses on the recommended trade law reforms, the report also recommends U.S. Government actions that could be undertaken without legislative action, such as (i) publishing an annual public list of U.S. sectors vulnerable to being harmed by non-market policies and practices, (ii) the development of sector-specific response plans by the Office of the U.S. Trade Representative and U.S. Department of Commerce to address related harms and threats to U.S. industry, and (iii) engagement with U.S. allies and partners to address global economic harms posed by non-market policies and practices.

[ii] The report notes that Section 232 already "allows action to be taken against imports and their derivative products on the basis of a threat to national security," but that the statute could nonetheless be improved to explicitly provide for action to be taken to address non-market policies and practices throughout a supply chain.