

What To Expect From U.S. Trade Policy In The Biden Era

By **Stacy Swanson, Mayte Fedowitz and Rory Murphy**

Since entering office, President Donald Trump's "America First" trade policies have focused on countering unfair trade practices, ensuring reciprocal and balanced bilateral relations, and wielding executive authorities to achieve broader policy goals.

President-elect Joe Biden is expected to refocus U.S. trade policy on multilateralism and rebuilding relations with key allies — though a number of Trump policies and initiatives may live on. Let's take a trip around the world to see how U.S. trade policy may evolve in the coming months and years.

Countering — and Potentially Cooperating with — China

For the past four years, the Trump administration has pursued a relentless China strategy best described as "chaotic pressure." The Biden administration will likely keep up the pressure but apply it more predictably.

At a high level, Biden will likely continue many of Trump's China policies. Too much has changed for the U.S. to immediately revert to pre-2017 norms.

Attitudes in Washington have shifted, and both parties generally agree that the U.S. must be more aggressive than it has historically been when confronting and countering China. The Biden administration will continue pressuring China on trade, economic practices, and human rights, and maintain many of Trump's major China policies.

However, tariff relief may be on the table. It would be politically difficult for the Biden administration to roll back Trump's Section 301 tariffs on China immediately and fully. Instead, officials could look for opportunities to gradually remove or reduce the tariffs.

This could be effected as part of an early agreement with China to restart trade talks, or as part of a targeted stimulus package. U.S. courts could also play a role in reducing these tariffs. The U.S. Court of International Trade is currently considering thousands of challenges to List 3 and List 4A of the Section 301 tariffs.

If the plaintiffs succeed, a Biden administration may not mount as robust an appeal. These two lists include the vast majority of products from China covered by the Trump tariffs, and a wide range of industries would welcome removal of duties on these goods.

Biden will be more likely than Trump to publicly criticize China for its alleged human rights abuses. Despite demonstrating a reluctance to do so, Trump's administration has levied significant sanctions on Chinese individuals and institutions for actions related to Hong Kong, North Korea and the treatment of Uighurs in Xinjiang.

We expect the Biden administration to continue enforcing U.S. sanctions laws against



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Chinese individuals and entities, and better coordinate messaging on human rights across the executive branch.

Biden will also prioritize a multilateral strategy to counter China, especially with Indo-Pacific allies. However, Biden is unlikely to immediately reengage the U.S. in discussions to join the Trans-Pacific Partnership, the regional trade agreement negotiated by former U.S. President Barack Obama, and from which Trump withdrew the U.S. early in his term, having pledged to seek changes first.

Most notably, Biden may look for opportunities for bilateral cooperation with China. Over the past four years, Trump has shied away from working with other countries to address global challenges. The Biden administration, by contrast, will look for opportunities to reassert U.S. leadership in multilateral engagement.

This could include close cooperation between Washington and Beijing on issues such as the COVID-19 pandemic, climate change and nuclear nonproliferation. The Biden administration may also seek to establish formal, high-level ministerials with Beijing — similar to the dialogues held throughout the Bush and Obama administrations — and may seek new trade talks to build upon the Trump administration's Phase One deal.

Africa Policy Shifts Back to Traditional U.S. Engagement

Biden's campaign platform pledged the U.S. would renew a "mutually respectful engagement toward Africa with a bold strategy." His immediate focus, however, will be to tackle domestic matters like COVID-19 and the economy. Initial engagement with Africa may therefore be conducted through combatting the pandemic, bilaterally and multilaterally, and via the Global Health Security Agenda, as the new administration further refines its Africa strategy. The incoming administration will likely seek initially to restore and reinvigorate diplomatic relations with African governments and the African Union with respect to combatting the pandemic.

The Trump administration focused more on reciprocal trade relationships, while the incoming Biden administration is expected to return U.S. diplomatic efforts to promoting democracy, ensuring human rights and addressing climate change. It remains to be seen if the deal teams established under the Trump administration to spotlight investment opportunities for American companies will remain integrated within U.S. embassies or if some of these resources will shift to more traditional U.S. Department of State.

It is not yet clear whether a Biden administration will continue ongoing bilateral free-trade-agreement negotiations with Kenya begun earlier this year by Trump officials. A Biden administration could instead seek to broaden these talks to an African regional agreement, or even target negotiations with the newly established African Continental Free Trade Area.

Should Biden move forward with the Kenya trade talks, expect an increased focus on labor and environmental concerns that could culminate in a model free trade agreement for developing countries. Notably, trade promotion authority is set to expire on July 1, 2021, authority under which the current trade talks with Kenya are being negotiated. It remains to be seen if Congress will renew trade promotion authority.

It is also unclear whether the incoming administration will revitalize the African Growth and Opportunity Act Forum or the U.S.-Africa Leaders Summit initiated by Obama. Meanwhile, addressing China's inroads into Africa will remain a focus for the next administration and U.S. Congress.

Notably, the U.S. International Development Finance Corporation — a relatively nascent agency that enjoys strong bipartisan support in Congress — will continue to serve as one tool by which the U.S. can provide alternative financing for projects in developing countries. It, together with the Export-Import Bank of the United States, will be a valuable resource for American investment on the continent.

Renewed Transatlantic Relationships

Biden is expected to prioritize rebuilding transatlantic relations, after several years of elevated tensions on a number of trade priorities. U.S. and European officials have traded barbs on a number of fronts — from World Trade Organization reform to the long-standing large civil aircraft dispute, and from Section 232 national security tariffs on steel and aluminum to proposed and pending digital services taxes — leaving much ground to cover.

As part of his broader climate change agenda, Biden has pledged that the U.S. will rejoin the Paris Climate Accord on day one of his administration. This will realign the U.S. with European countries' climate change priorities and likely engender good will among America's trading partners.

Addressing supply chain challenges due to the pandemic, especially for the pharmaceutical industry, is an area of possible transatlantic cooperation under the Biden administration. While the president-elect will focus first on addressing the coronavirus and its impact on the U.S. economy, a dialogue on supply chains is in the interest of Washington, London and Brussels.

The U.S. will remain on the sidelines as the United Kingdom negotiates its trade relationship with the European Union. However, Biden will be able to influence and shape a possible final U.S.-U.K. free trade agreement.

Talks between the two countries will be fairly advanced by 2021, but are unlikely to conclude before inauguration day. These negotiations were initiated under trade promotion authority. Given this authority expires on July 1, 2021, a deal must be finalized by the end of April to benefit from the law's fast-track provisions.

It remains unclear whether Biden will seek trade promotion authority renewal before it lapses, if even a short-term extension to ensure congressional approval of the U.S.-U.K. free trade agreement.

The Biden administration will engage with allies, including the U.K. and EU, when interests align with respect to China — such as addressing excess global steel capacity and WTO reform — but the new administration also recognizes that some European countries do not view China as a systemic rival.

Biden's campaign platform emphasized restoring historic partnerships, which includes the North Atlantic Treaty Organization, while further addressing new challenges, such as weaponized corruption, cybertheft, and issues in space and on the high seas. However, U.S. officials are likely to continue calling for NATO member states to contribute at least 2% of their gross domestic product to defense spending.

Deepening Ties with Latin American Allies

While Biden supported the Obama administration's trans-pacific partnership negotiations, he

has since said he would renegotiate the Asia-Pacific pact. He views the U.S.-Mexico-Canada Agreement as the gold standard, especially on enforcement, environment and labor provisions.

Any future trade agreements will likely seek to at least achieve these same standards. Rule of law will play a greater role in a Biden administration's trade negotiations, especially with a country like Brazil, about which Democratic lawmakers have voiced concerns.

Biden's foreign policy generally leans toward increasing foreign assistance, with a special emphasis on addressing climate change; increasing international cooperation to address mutual concerns, such as COVID-19; and reestablishing relationships and partnerships.

With respect to the Western Hemisphere, he believes that Latin America's prosperity and national security are in the mutual interest of the U.S. To this end, he supports engaging at the highest levels toward creating mutually-beneficial economic and security partnerships.

Biden will take office as Latin America continues its fight against COVID-19 and related challenges, along with weakened human rights in the region, security concerns and declining prosperity. The new U.S. president will not only face immigration problems, but also security challenges with respect to the region.

Biden is expected to announce an agenda supporting \$1 billion in humanitarian assistance focused on economic development, security, combating corruption, and strengthening rule of law and institutions to stem immigration from the Northern Triangle — Guatemala, El Salvador and Honduras.

Biden will seek to reestablish bilateral — including commercial — relations with Cuba, akin to those restarted by Obama and which Trump reversed while in office. He will also likely continue a policy of sanctioning individuals, including current and former government officials accused of corruption and human rights abuses and in countries like Venezuela and Nicaragua, where presidential elections are scheduled next year.

Overall, he will try to shape his broader Western Hemisphere policy while at the same time addressing individual issues in bilateral relationships across the region.

Mexico-U.S. bilateral relations will likely return to a more comprehensive approach of addressing cross-border infrastructure, security and immigration concerns. Countries like Mexico and Brazil are critical to U.S. interests. Regardless of whether they agree or disagree with the U.S., hemispheric supply chains bridge bilateral perspectives on food, security, multilateral cooperation and climate change priorities.

Biden's climate change agenda is focused on financing tools and technology aimed at strengthening America's leadership on this topic. He will also use his commercial influence to guide Mexico and national companies to opt for renewable energy and sustainable technologies.

Biden has touted, "Colombia is the keystone of U.S. policy in Latin America and the Caribbean." As an early supporter of Plan Colombia, he will support the Colombian government and the Colombian people in advancing a durable peace.

Under a Biden administration, countries will find a renewed focus from the U.S. that is less transactional and focuses holistically on security, economic prosperity and democracy. Biden will seek to deepen ties with key allies like Mexico and Colombia, restore diplomatic and

commercial ties with Cuba, and seek multilateral approaches for increasing pressure on regimes such as those in Venezuela and Nicaragua.

U.S. trade policy under Biden will shift focus away from transactional relationships, and towards multilateralism — but with the continued aim of defending U.S. economic interests worldwide.

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