

US trade policy

Update on eight key issues

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Economics - Global

- ◆ The Biden administration is re-engaging in some trade areas and has sought to improve relations with allies...
- ◆ ...but US-China trade tensions persist and the bulk of tariffs remains in place
- ◆ We take a look eight key US trade policy issues

Shanella Rajanayagam
Trade Economist
HSBC Bank plc

Some shifts, some stability

It has been seven months since President Joseph Biden took office and, as widely expected, the Biden administration's approach to key trade policy issues has not changed drastically compared to the previous four years. The US continues to take a tough line when it comes to trade relations with mainland China and bilateral tensions show no signs of easing anytime soon.

On the other hand, the Biden administration is working more closely with European partners and recently agreed a truce over the long-standing Boeing-Airbus dispute with the EU and UK. It is also focussed on tackling environmental issues via trade policy and is engaging more in global tax negotiations and at the World Trade Organization (WTO), although it has been cautious about signalling full-blown support for the multilateral trading system.

In the following pages, we look at eight key US trade policy issues. The full report covers these eight key issues and the Biden administration's approach to each in more detail:

1. US-China trade relations
2. Supply chains
3. Implementation of the United States-Mexico-Canada Agreement (USMCA)
4. Trade relations with allies
5. New US trade deals
6. Tech taxes
7. Approach to the WTO
8. Trade and the environment

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US-China trade relations have not changed considerably under a new US administration

US-China trade relations

Tensions persist

US-China trade relations have not changed considerably under the Biden administration. Although there have been no new tariffs introduced this year, trade tensions persist and China's purchases of US goods under the Phase One deal lags behind estimated targets.

The Biden administration is currently conducting a comprehensive review of US-China trade relations, including existing tariffs, but has not committed to a timeline for completion. Although business groups and mainland China have urged the US to restart bilateral trade talks and reduce some of the tariffs on USD370bn worth of Chinese products, US Trade Representative Katherine Tai has previously indicated that duties could be left in place as negotiating leverage.

Therefore, it is unlikely that US-China tariffs will be lifted anytime soon. Any change could also be subject to bipartisan scrutiny given recent US actions related to technology and labour.

Supply chains

Review of supply chains

President Biden ordered a supply chains review to assess vulnerabilities

Ongoing US-China trade tensions and trade disruption and bottlenecks stemming from the COVID-19 pandemic have led the Biden administration to focus efforts on enhancing US supply chain resilience. One of the first actions President Biden took after entering office was to sign an executive order (EO) calling for a comprehensive review of critical US supply chains, within 100 days, to examine supply chain vulnerabilities and reduce reliance on single foreign suppliers.

The review focused on four sectors: 1) semiconductors, 2) advanced batteries, 3) strategic minerals, and 4) pharmaceuticals. The review put forward 23 recommendations for the US government, including the following:

- ◆ **Provide at least USD50bn in funding for semiconductor manufacturing and R&D**
- ◆ **Provide consumer rebates and tax incentives to spur consumer adoption of EVs**
- ◆ **Provide financing across the full battery supply chain**
- ◆ **Invest in the development of new pharmaceutical manufacturing and processes**
- ◆ **Create comprehensive sustainability standards for the extraction and processing of critical minerals**
- ◆ **Identify potential US production and processing locations for critical minerals**
- ◆ **Evaluate whether to initiate a Section 232 tariff investigation into imports of neodymium magnets**
- ◆ **Establish a trade strike force to identify and recommend actions to address unfair foreign trade practices**
- ◆ **Establish a cross-government Supply Chains Disruptions Task Force to help address near-term supply chain challenges**

In addition, the review recommended actions around working with allies to reduce vulnerabilities in global supply chains, providing support for small and medium sized businesses in critical supply chains, and supporting job pathways in key industries such as advanced manufacturing.

The EO also mandated a year-long review into defence, public health, IT, transportation, energy, and food supply chains. In addition, President Biden signed a separate EO to tighten "Buy American" provisions in federal procurement.

Implementation of the USMCA

Road bumps

The revised North American trade deal or the US-Mexico-Canada Agreement (USMCA) has been in force for over a year (it took effect on 1 July 2020) but hurdles to full implementation remain. The main sticking point is around how to interpret the stricter regional content requirements for autos (Table 1).

1. Regional content requirements for autos

Product	Examples of product	NAFTA regional content threshold	USMCA regional content threshold
Finished passenger vehicles and light trucks	Cars and light trucks	62.5%	75%
Core components	Engine, transmission, body and chassis, axle, suspension system, steering system, and advanced battery		75%
Principal components	Tyres, rear-view mirrors, hydraulic fluid pumps, compressors, air conditions, electronic brake systems, airbags		70%
Complementary components	Pipes, locks, catalytic converters, valves, electric motors, batteries, windshield wipers, defrosters, and wiring sets		65%

Source: USTR, Borden Ladner Gervais, HSBC. Note: The new thresholds under the USMCA will be implemented incrementally and members can temporarily relax these requirements until July 2025 under an alternative staging regime. USMCA content thresholds presented in this table are on a net cost basis and differ slightly on a transaction value basis.

There are various issues around USMCA implementation...

...including around autos rules of origin

Members have also raised disputes under the deal

The Biden administration has taken steps to de-escalate trade tensions with allies

The threat of new US tariffs on allies has receded for now

But some bilateral issues remain

For example, the US does not want to permit rounding up of rules of origin thresholds for parts, making it more challenging for autos producers to meet the duty-free regional content requirements.

In addition, at least 40% of manufacturing labour used in the production of cars (45% for trucks) must be paid a wage of at least USD16/hour (average manufacturing wage in Mexico was USD2.7/hour in 2020), and 70% of steel and aluminium used in autos production must come from North America.

Disputes under the deal

Beyond issues around the implementation of autos rules, USMCA members have already launched a number of disputes against each other under the deal. Add to this ongoing issues over Mexico's biotech approval process, potato market access into Mexico, US tariffs on Canadian softwood lumber and solar products, and concerns over the Biden administration's Buy American policies – and it is clear that tensions remain between the US and two of its top trading partners. The agreement has already proven to be a useful tool for raising (and working to resolve) labour disputes, which should help to strengthen labour standards in the bloc going forward.

Trade relations with allies

The Biden administration has committed to “repair partnerships and alliances and restore US leadership”, and has already taken various steps to de-escalate trade tensions with allies and reduce the threat of tariffs. However, some bilateral issues remain and there is no indication the administration will strike trade deals anytime soon.

More cooperation to come...

So what's next for US trade relations with allies? Overall we expect the Biden administration to continue to restore trade relations with key partners. It appears as though the threat of additional tariffs has retreated, for now. The US may also make use of joint forums to advance cooperation with key trading partners which could create paths to tackle issues between the US and mainland China.

...but some bilateral strains persist

Some bilateral issues between the US and allies remain, for example over reform of the WTO's dispute settlement mechanism and US blockage of the organisation's appeals court.

Striking new trade deals has taken a backseat under the Biden administration

Trade Promotion Authority has expired, making it difficult to quickly strike new trade deals

The US risks missing out on new trade opportunities as liberalisation advances elsewhere

The US is considering negotiating a digital trade deal with Asian economies

The Biden administration has reengaged in global tax negotiations

New trade deals

Progress update

The Biden administration has prioritised the domestic recovery over striking new trade deals. The US is currently reviewing its trade relations with mainland China, and has struck tariff truces with the EU and UK. However, progress towards comprehensive trade deals has largely stalled.

Trade Promotion Authority

It is also unlikely that the US will quickly agree new trade deals anytime soon as Trade Promotion Authority (TPA) – which allows new trade agreements to be fast-tracked through Congress – expired on 1 July 2021, and the Biden administration does not appear to be in any rush to renew it.

2. Summary of US trade deals signed under TPA

TPA in effect	Agreements signed
1975-1980	GATT Tokyo Round
1979-1988	US-Israel FTA, US-Canada FTA
1988-1994	GATT/WTO Uruguay Round, North American Free Trade Agreement (NAFTA)
2002-2007	US-Singapore FTA, US-Chile FTA, US-Dominican Republic-Central American FTA, US-Morocco FTA, US-Australia FTA, US-Bahrain FTA, US-Panama FTA, US-Peru FTA, US-Colombia FTA, US-Oman FTA, US-South Korea FTA
2015-2020	Trans-Pacific Partnership (US withdrew in 2017), US-Mexico-Canada Agreement (USMCA), US-Japan trade agreement (limited deal)

Source: US Congressional Research Service, HSBC. Note: The US-Jordan FTA was in October 2000, not under TPA.

Implications for businesses

Trade liberalisation has continued to advance in other parts of the world over the past four years, without the US. The high-standards Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) has now been ratified by eight markets, while a group of 15 Asia-Pacific economies recently concluded the large Regional Comprehensive Economic Partnership (RCEP). The EU has also struck various comprehensive deals with Asian economies, while the UK is working to quickly agree new bilateral trade agreements post-Brexit and has launched negotiations to join the CPTPP.

Therefore, the US risks losing out on new trade opportunities but also risks losing trade influence in Asia Pacific as mainland China steps up its trade engagement in the region via new trade deals.

Asia digital trade deal

However, the Biden administration is reportedly considering a digital trade deal with Asian economies excluding mainland China, as a way of reengaging in the Asia-Pacific region and setting standards for digital trade. The deal could be modelled on recent digital trade deals, and could cover issues such as data localisation, data privacy and developing trade rules around artificial intelligence.

Tech taxes

Towards a global solution

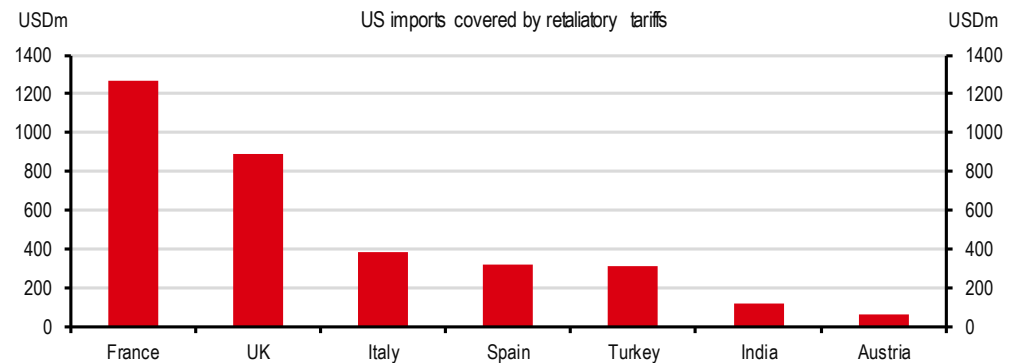
After the US paused its participation in global tax talks in June 2020, the Biden administration reengaged in negotiations and joined c.130 other economies in agreeing a preliminary deal on international corporate taxes earlier this year. Although global negotiations were initially focused on digital multinationals, the scope was expanded to include all sectors (except extractive industries and regulated financial services) at the request of the US.

De-escalation of tariff retaliation

Economies also agreed to remove country-specific digital services taxes (DSTs), targeted at taxing the revenues of large tech companies, as part of the deal. The Trump administration conducted various trade investigations that found that taxes in seven economies (Chart 3) were likely to discriminate against American tech companies.

In March 2021, the Biden administration announced but immediately suspended (until 29 November) tariffs on imports from six of these economies, while the Trump administration had previously suspended punitive tariffs on USD1.3bn worth of French imports.

3. The US announced but suspended retaliatory tariffs over digital services taxes



Source: USA Trade Online, USTR, HSBC. Note: Data for 2019. Based on tariff lists announced by the USTR.

Next steps

Overall, the Biden administration appears committed to international tax reform and has taken steps to engage constructively in global negotiations and reduce the threat of tariff retaliation. US Treasury Secretary Janet Yellen recently noted that she hoped US lawmakers would approve a global minimum tax rate this year and consider Pillar One¹ by Spring 2022 (Bloomberg, 12 July 2021). However, there could be challenges to come as any tax deal will need to be ratified by each economy.

Approach to the WTO

More constructive

The Biden administration is taking a more constructive approach to the World Trade Organization (WTO) than under the previous administration. But it has stopped short of fully committing to the multilateral trading system and continues to block appointments to the WTO's appeals court.

One of the first actions the Biden administration undertook at the WTO was to end the deadlock over the WTO leadership. Since then, the US has committed to constructively engage on WTO reform – something that the organisation is in desperate need of – although it remains to be seen how involved the US will be going forward.

Working with allies

US Trade Representative Katherine Tai also joined the WTO's Ottawa Group in July 2021 to discuss priorities for the WTO's 12th Ministerial Conference that will begin on 30 November 2021 after being rescheduled from last year due to the pandemic.

We have tempered expectations and do not expect widespread reform to be announced at this year's Ministerial Conference, given the status of various negotiations and that WTO members still remain divided on key issues such as vaccine waivers and the dispute settlement mechanism.

Vaccine waivers

The US announced its support for a proposal to waive WTO intellectual property obligations for COVID-19 vaccines which helped to reinvigorate talks on this issue. Proponents of the waiver support temporarily waiving IP rights on COVID-19 vaccines, diagnostics, therapeutics and medical devices to enable developing economies to manufacture more of these products. The US supports a waiver for vaccines only.

The Biden administration is taking a more constructive approach to the WTO

¹ https://ec.europa.eu/commission/presscorner/detail/en/QANDA_21_3564

However, some developed markets remain critical of the proposal. Additionally, vaccine production is complex and waiving patent protection alone is unlikely to be enough to scale up manufacturing. Manufacturers also need access to the right expertise, technology, facilities and ingredients.

Appellate Body issues persist

The Biden administration has continued the Trump administration's approach to blocking appointments to the WTO's appeals court. The Appellate Body stopped functioning in December 2019 as the US blocked the appointment of new judges and it lost its quorum of three members necessary to hear disputes. And although the US, under the Biden administration, has noted that it will engage with WTO members to reform the dispute settlement mechanism, the timing of doing so remains unclear.

But the US continues to block appointments to the WTO's appeals court

Trade and the environment

Strengthening standards

The Biden administration is committed to using trade policy as a tool to tackle environmental issues and has noted that it will look to negotiate and implement strong environmental standards.

The administration is also aiming to work with allies to develop regulatory approaches to address greenhouse gases emissions in the global trading system, and will take actions against trading partners that fail to meet their environmental obligations under existing trade agreements. It also aims to promote resilient renewable energy supply chains, which should help to support its goal of achieving net-zero emissions by 2050.

However, the administration has not mentioned reviving WTO negotiations on the Environmental Goods Agreement (EGA), which were nearly concluded in December 2016 and sought to remove tariffs on environmental products.

Paris Agreement and the USMCA

As a first step, the Biden administration is considering whether to add provisions to adhere to obligations under the Paris Agreement on climate change in the United States-Mexico-Canada Agreement (USMCA). Under the USMCA, members are required to adopt, implement and maintain seven multilateral environmental agreements.

Carbon tax

As part of its upgraded environmental agenda, the US is also mulling over introducing a carbon border tax to address carbon leakage. Draft legislation proposes that the US levy an import duty on carbon intensive goods that are exposed to trade competition. For example, aluminium, cement, iron, steel, natural gas, petroleum and coal. It also proposes exemptions for least developed economies, economies that apply equally ambitious regulations to reduce greenhouse gas emissions, and those markets that do not impose a carbon border tax on US goods.

The Biden administration is committed to strengthening environmental protections...

...and is considering adding provisions around the Paris Agreement to the USMCA

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Issuer of report

HSBC Bank plc
8 Canada Square, London
E14 5HQ, United Kingdom
Telephone: +44 20 7991 8888
Fax: +44 20 7992 4880
Website: www.research.hsbc.com

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