



NOVEMBER 2020

## TRANSITION MEMO FOR BIDEN-HARRIS ADMINISTRATION

The Biden administration should focus upon rebuilding production of goods, food and fiber supply chains across America. The era of offshoring should end. Nearshoring cannot substitute for the economic power of onshoring. Building jobs and purchasing power should prevail over the importation of cheap goods. The Build Back Better plan is an excellent start.

CPA is the only national organization representing the interests of a broad array of domestic manufacturing industries as well as farmers, ranchers, and workers. We stand ready to work with the Biden administration and have these recommendations:



## BIDEN-HARRIS ADMINISTRATION TRANSITION MEMO

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## MULTI-AGENCY

**China and Strategic Competition:** China is an autocratic communist country that seeks to displace the US as the most powerful country in the world. The Biden Administration should pivot from engagement towards containment on all levels. This includes increased decoupling on trade, incoming investment, sales of important technologies, and international institutions. It also includes boosting domestic industries through tariffs, quotas, incentives, government procurement, financing, and other tools, such as:

Neutralizing 'Made in China 2025' and other industrial strategies by refusing to be a customer or investor. This includes: (a) aggressively reducing and eliminating America's trade imbalance with China through tariffs and quotas, countering currency manipulation, and ending systemic dollar misalignment; (b) increasing the number of companies on the Department of Commerce Entities List; (c) deregistering Chinese companies that raise capital in U.S. financial markets while not fully complying with securities laws; (d) preventing US tax and other subsidy programs from benefitting companies owned, in whole or in part, by Chinese entities; and, (e) preventing Chinese acquisition of US companies or intellectual property.

Developing a Made in America strategy as powerful as China's industrial policy—one that rebuilds industries at home rather than in third countries.

Acting aggressively to isolate Chinese companies and supply chains that engage in militarization, surveillance, forced labor, overcapacity, intellectual property theft, and other activities that violate international norms and harm US national interests.

## MULTI-AGENCY

continued

**Reshoring - Building Back Better:** The Department of Commerce, in conjunction with the White House, should lead a multi-agency effort to build a broad reshoring strategy focused on industries essential to future economic growth, job creation, national security, and US leadership in the world.

**Overall:** This strategy requires: (a) incentives to build or expand here; (b) a guaranteed customer base allowing the industry to reach scale; and, (c) protection from foreign market predation. Government financial guarantees, grants, and procurement contracts should be used. Support for basic research, product development, and the establishment of domestic manufacturing here are critical.

**Essential industries:** Semiconductors, telecom, 5g wireless technology, medicines, advanced and basic materials, food and renewable energy are among the list of essential industries. The 16 critical industries identified by the Department of Homeland Security should be supported, including their supply chains.

**Office of Trade and Manufacturing Policy:** We support keeping the Office of Trade and Manufacturing Policy within the White House to rapidly accelerate the Build Back Better plan.

**Manufacturing USA** should be given sufficient funding to do the following:

Over a 5-year horizon, develop all the institutes it was originally designed to have.

Over a 10-year horizon, develop additional institutes sufficient to have comprehensive coverage of the industrial base, comparable to Fraunhofer Gesellschaft in Germany.

## OFFICE OF THE PRESIDENT

**Buy American:** We support the Biden campaign pledge to open a ‘Made in America’ office within the Office of Management and Budget as well as support for the Manufacturing Extension Partnerships (MEP). The previous administration’s E.O. 13811 is now being implemented in the Federal Acquisition Regulation (FAR) and should be supported.

**WTO Government Procurement Agreement (WTO GPA):** The Biden administration should consider withdrawing from the WTO GPA to allow government funds to be focused on creating US jobs rather than foreign jobs. At the very least, the sectoral scope of America’s GPA commitments should be narrowed to exclude critical industries as defined by the Department of Homeland Security.

**Currency:** The International Emergency Economic Powers Act (IEEPA) should be used to end dollar overvaluation so the US economy can recover from COVID while ending over 40 years of trade imbalances and deindustrialization. The Biden administration should specifically act to moderate capital inflows to move the dollar to a trade-balancing price.

**Office of Trade and Manufacturing Policy:** The Biden administration should maintain and strengthen the Office of Trade and Manufacturing Policy (OTMP) created in the prior administration, perhaps with the new name of Office of the Trade and Industrial Strategy. The OTMP should lead government-wide efforts to rebuild the US industrial base. The National Economic Council and the Council of Economic Advisors should have industrial strategy added to their mandate and be directed to support the work of the OTMP.

## DEPARTMENT OF THE TREASURY

### Currency policy

**Currency misalignment:** The US should establish a policy of achieving and maintaining a trade balancing price for the US dollar to drive reindustrialization and job creation. The International Emergency Economic Powers Act (IEEPA) should be used to moderate capital inflows with a small variable charge to realign the dollar. The Baldwin/Hawley Competitive Dollar for Jobs and Prosperity Act (S.2357) should be supported. Also, tax incentives established to encourage the inflows, such as 26 CFR §1.895-1, 26 U.S.C. §871(h)(1), including exemptions from tax withholding given to foreigners, should be abolished.

**Currency manipulation:** Countervailing currency intervention should be used to immediately counter foreign manipulation. Rapid reaction capabilities should be established.

### Tax

**Made in America tax goals:** We support the Biden campaign goals to improve the tax system to stop offshoring of jobs and profits. The proposed “Made in America” 10% tax credit is a good start but should be available only to American majority owned and controlled companies for production here.

**International taxation - Sales Factor Apportionment (SFA):** The Tax Cut and Jobs Act should be reformed to include Sales Factor Apportionment for international taxation to eliminate incentives to offshore profits and facilities without discriminating against domestic, multinational or foreign firms. If the Biden administration imposes a surtax on US company profits earned abroad, it should eliminate any discriminatory effect favoring foreign companies by applying SFA to them.



## DEPARTMENT OF THE TREASURY

continued

**International tax negotiations:** The US should establish its own taxation system in our national interest without waiting for Organization for Economic Cooperation and Development (OECD) negotiations. Our OECD engagement should focus upon promoting robust apportionment.

**Consumption tax:** The US should shift towards border adjustable taxation, such as a value added or goods and services tax, to neutralize foreign value added taxes and increase the competitiveness of US goods and services. Proceeds from a consumption tax should be used to lessen other taxes and/or costs for domestic companies and workers such as payroll taxes or health care expenses.

## DEPARTMENT OF COMMERCE

**Trade enforcement:** The past administration's practice of self-initiating anti-dumping and countervailing duty cases should be continued and strengthened. Commerce should study ways to make trade case litigation easier and cheaper for those domestic industries without the financial means to support a traditional trade case.

**Entities list:** Aggressive use of the Entities List should continue to protect national security and critical industries here.

**Currency as a subsidy:** The recent Commerce Department rule classifying undervaluation as a countervailable subsidy should be aggressively used in many products and against any countries that deliberately devalue.

**Section 232 National Security Tariffs:** The use of Section 232 should be expanded to protect essential industries, including industries manufacturing civilian products but which are important for national strength. We strongly favor continuation of the 232 program in steel and aluminum.



## OFFICE OF THE US TRADE REPRESENTATIVE

**Trade enforcement:** The 301 tariffs against China should be maintained and expanded until and unless China fundamentally changes its behavior. Section 301 should also be applied to more countries engaging in unfair trade practices including currency manipulation.

Section 201 should be used more often to protect industries subject to foreign assault. We strongly support continuation of the 201 solar tariffs to prevent China's bid to fully dominate the industry globally.

**The Role of Trade Agreements:** The Biden administration should rely first on the substantial array of domestic trade laws and institutions to manage trade, engage in trade enforcement and to pursue national economic objectives. Trade agreements should only be used if domestic laws are clearly insufficient to achieve our national goals. Reducing and eliminating the US trade deficit should be the priority.

**World Trade Organization:** The Biden administration should demand a comprehensive reform of the WTO as a precondition to approving appellate body members and a new director general. Solutions must be agreed upon to solve several important problems including (a) the appellate body exceeding its mandate and making new rules not included in the core WTO documents; (b) failure to tackle systematic global trade imbalances; (c) national treatment and other rules that prevent the US from engaging in a domestic industrial rebuilding strategy and (d) nonreciprocal tariff rates with other WTO countries.

**OFFICE OF THE US TRADE REPRESENTATIVE**  
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**WTO bound tariff rate renegotiation:** Under the GATT Schedule, modified tariff concessions are eligible to take effect on January 1, 2024. USTR should begin discussions with trading partners pursuant to GATT Art. XXVIII immediately to close the disparity in WTO Members’ tariff bindings, so that the revised schedule can take effect during this presidential term. If the WTO members will not meet the current, low U.S. bindings, we should meet their GATT bindings. This will increase leverage in trade negotiations, leave FTA and GSP countries unaffected, protect US industry, and isolate China.

**Trade preference programs** should be reexamined and narrowed. Many current tariff-free imports displace domestic workers and/or prevent rebuilding of important industrial sectors. Auto parts and chemical manufacturing are two examples. The pro-humanitarian rationale has proven dubious as few middle-class countries have been established. Instead, local oligarchs and multinational corporations reap the majority of the resulting economic benefits. Other development tools with better success records should be used instead. No unilateral tariff benefits should be allowed for products that the US should be producing.

**Miscellaneous Tariff Bill:** The Miscellaneous Tariff Bill should not allow tariff elimination for products that the US should be producing. The American Manufacturing Competitiveness Act of 2016 took helpful steps toward that goal by excluding products the ITC determines are currently made here.

| <b>GATT Bound Trariff Rates</b>           |        |
|---|--------|
| <u>All Products, (S.A.%, 2018 UNCTAD)</u> |        |
| USA                                       | 3.4%   |
| Japan                                     | 4.5%   |
| European Union                            | 5.0%   |
| Canada                                    | 6.6%   |
| Switzerland                               | 7.7%   |
| Singapore                                 | 9.4%   |
| Australia                                 | 9.7%   |
| China                                     | 10.0%  |
| Saudi Arabia                              | 11.2%  |
| UAE                                       | 14.6%  |
| Korea                                     | 16.5%  |
| Norway                                    | 20.1%  |
| Israel                                    | 22.7%  |
| Chile                                     | 25.2%  |
| Philippines                               | 25.7%  |
| Thailand                                  | 28.0%  |
| Turkey                                    | 28.9%  |
| Peru                                      | 29.5%  |
| Brazil                                    | 31.4%  |
| Argentina                                 | 31.8%  |
| Mexico                                    | 36.2%  |
| Indonesia                                 | 37.1%  |
| India                                     | 48.5%  |
| Pakistan                                  | 60.90% |

WTO-UNCTAD World Tariff Profiles, 2019



## SECURITIES AND EXCHANGE COMMISSION

The SEC should deregister all Chinese companies that do not comply with US securities laws.

## NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

**Manufacturing Extension Partnership (MEP):** We support the Biden campaign pledge to strengthen the Manufacturing Extension Partnership (MEP) program. Funding should increase and strategies should be improved.

**Emerging technology support:** The National Institute of Standards and Technology (NIST) should have its funding increased for the purpose of developing:

Technologies that are beyond pure science and have large potential positive spillovers to the economy at large but are currently too risky for the private sector to develop; and,

Infra-technologies that support the efficient research, production, standardization, and interoperability of advanced technologies.



## FEDERAL TRADE COMMISSION

**False Made in USA Claims:** The Biden administration should nominate FTC commissioners who will aggressively support enforcing false Made in USA labeling claims. Commissioner Chopra has been supportive, but Republican Commissioners Phillips and Wilson have not.

## DEPARTMENT OF HOMELAND SECURITY, CUSTOMS AND BORDER PROTECTION

**Funding** for Customs and Border Protection (CBP) should be increased to verify the origin of goods, to prevent tariff evasion, and to enforce withhold release orders.

**Force labor:** Country-wide withhold release orders (WROs) should be used to combat imports made in whole or part with forced labor. Regional WROs are unworkable and ineffective.

**Section 321 De Minimis entry:** The Biden administration should work with congress to reduce the \$800 De Minimis level to an amount that is reciprocal with other countries. Goods subject to section 301 orders should not be eligible for De Minimis entry. Enforcement of the one person, one day De Minimis rules should be tightened.

**Commercial Customs Operations Advisory Committee (COAC):** The membership of COAC should equal representation by domestic businesses and labor harmed by unlawful imports, rather than being dominated by multinationals and importer interests.

**Anti-counterfeiting strategy:** The recommended actions included in a January 23, 2020 report by the DHS Office of Strategy, Policy and Plans should be strengthened and implemented. Special attention should be paid to a program requiring formal entry for shipments deemed high risk.

## DEPARTMENT OF AGRICULTURE

**Agro-Industry Strategy:** The Biden administration should abandon the “trade your way to prosperity” ideology of the past because it has devastated family farms and ranches through chronically low prices. An agro-industry strategy should be crafted to rebuild family agriculture regardless of WTO rules and to insulate agriculture from retaliation in unrelated trade disputes. While the U.S. is not a net exporter of most row crops, it is a net importer of cattle and beef, produce, and seafood. Different strategies are needed for each farm sector. Country of origin labeling for beef and pork should be re-established. America’s food and agriculture policy should not be set in Geneva.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**Made in USA:** The Biden administration should continue and expand upon Executive Order 13944 that requires a plan for essential medicines, medical countermeasures, and critical inputs to be made in America.

**FDA list of essential drugs and supplies:** The recent list identified by FDA of essential generic drugs and medical supplies should be used as a guidepost to increase domestic manufacturing, government purchase orders, contracts, grants, and financing.

**Government procurement:** Companies establishing domestic production of US-made essential generic drugs (and their critical inputs) and medical devices and supplies should be provided with long-term government contracts, enabling them to attract financing and achieve scale economies with advanced manufacturing techniques. The Department of Health and Human Services should continue to partner with the Department of Defense to leverage their authorities and capabilities to expand domestic production that is sustainable.

**Ban unsafe medicines and supplies from foreign nations:** The FDA should ban the importation of essential medicines, PPE, and other medical supplies from foreign producers, especially in China, that are not inspected as rigorously as in the US, or when dangers are discovered. These bans should take effect whenever domestic alternatives become available.

**Establish an office for advanced manufacturing of essential generic drugs:** An office should be established to promote the development and commercialization of advanced manufacturing processes for essential generic drugs. The office should prioritize critical drugs needed to be fully manufactured domestically. Strict national security provisions should prohibit foreign companies from capitalizing on taxpayer-funded investments. Companies receiving support should be prohibited from selling their operations or methods to foreign actors.



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

continued

**Simplify the approval process for domestic drug manufacturing:** To increase the supply of US-manufactured generics, it must be simpler for new domestic manufacturers to enter the market while preserving safety standards. Regulatory hurdles and procedural roadblocks used to slow generic entry to market, such as Risk Evaluation and Mitigation Strategy and other restricted access programs that block new domestic entrants to the market, need to be addressed. Duplicative and conflicting regulations should be streamlined to promote safe, reliable medicines made in the U.S.

## DEPARTMENT OF ENERGY

**Support America's Grid Security:** We support the past administration's executive order (EO 13920) to prohibit the acquisition or installation of certain "bulk-power system electric equipment" that is sourced from foreign adversaries. However, we believe this executive order should also be expanded to include solar energy. The equipment that generates, stores, and distributes energy should be USA made.

**Buy America in Power Purchase Agreements.** Power purchase agreements executed by the federal government for renewable energy should require that the equipment used to generate electricity be made in America.