Insight

# Details of the New U.S. Trade Strike Force

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## Executive Summary

- The United States Trade Representative (USTR) will lead a new interagency trade strike force as directed by President Biden's 100-day supply chain review.
- The strike force's functions are to recommend enforcement actions against unfair trade practices that hurt U.S. supply chains and to leverage trade agreements to the same effect.
- Both functions are already performed by numerous federal entities, including USTR, making the new strike force redundant and unnecessary.
- Even if the strike force were to identify benefits that new trade agreements would bring for U.S. supply chains, the Biden Administration's ability to pursue trade agreements is currently very weak.

## Introduction

The United States Trade Representative (USTR) will lead a new interagency trade strike force. The strike force is a result of President Biden's 100-day supply chain review which was directed by his executive order on " America's Supply Chains." The strike force's two functions—to recommend trade enforcement actions and leverage trade agreements—are already performed by existing federal entities, most notably USTR and the Department of Commerce (DOC). While leveraging existing and new trade agreements is one of the most effective ways the United States can secure its supply chains, the strike force will struggle to have any effect on this front since, with Trade Promotion Authority (TPA) expired, the Biden Administration has little to no ability to pursue new trade deals.

Of note, the EO and its review's emphasis on supply chains bolsters the de-facto industrial policy President Biden supports. The supply chain review's plans will expand the federal government's role in private industry, and therefore its influence as a market actor. It explicitly recommends CHIPS for America, a $50 billion bill currently being debated in Congress to subsidize U.S. manufacturing of semiconductors.

## Supply Chain Review and the Strike Force

EO 14017 directed the review of four supply chains: semiconductors, large capacity batteries, critical minerals, and pharmaceuticals. The review recommends steps the federal government can take in securing these supply chains, including making grants, subsidies, loans, and in general creating federal-private partnerships. The goal of these recommendations is to increase or even bring back manufacturing of products critical to U.S. supply chains. The strike force will cover the foreign trade aspect of industrial policy. It will initially focus on the same four industries as the 100-day supply chain review. The strike force will then expand to cover six additional industries: defense; public health and biological preparedness; information and communications technology; energy, transportation; and agriculture and food production. This expansion will be part of Biden's second supply chain review to be completed later this year.

**Duplicate Efforts on Enforcement**

The strike force's primary task will be to "propose unilateral and multilateral enforcement actions against unfair foreign trade practices that have eroded critical supply chains."[1] USTR and DOC, along with other federal agencies, already have the authority and ability to investigate unfair trade practices and recommend enforcement actions. Both USTR and DOC can institute investigations on their own accord and do not have to wait for prior action.

Section 301 of the Trade Act of 1974 enables the president to impose tariffs or quotas when USTR finds any "unreasonable action that burdens or restricts U.S. commerce" such as those that "deny fair and equitable opportunities for the engaging in unfair trade practices" or simply "deny market opportunities."[2] This language can be broadly interpreted to identify unfair trade practices that harm U.S. companies in supply chains without the creation of a separate strike force for that purpose. Section 232 of the Trade Expansion Act of 1962 allows the president to impose trade barriers if DOC finds that imports threaten U.S. national security.[3] DOC already has the authority to determine that specific imports disrupt supply chains and thus harm national security. Private firms are also free to petition USTR and DOC, along with other agencies, to initiate investigations into unfair trade practices that harm their businesses. If those firms occupy particularly valuable positions in a U.S. supply chain, any investigation, recommendation, and enforcement action would effectively amount to the same as under the new strike force.

**Duplicate Efforts on Trade Deals and the Expiration of Trade Promotion Authority**

The other primary task of the strike force is to "identify opportunities to use trade agreements to strengthen collective approaches to supply chain resilience with U.S. partners and allies."[4] This is a commendable goal as trade cooperation among countries is essential to secure global supply chains. Trade agreements also allow the United States to shape regional trade in its favor over competitors such as China. This is already one of USTR's central functions, however, and it already can and does these things. For the same reason the strike force is redundant with enforcement, it is also redundant in terms of trade agreements.

Even if the strike force were to identify how a new trade agreement would be beneficial for U.S. supply chains, the Biden Administration currently has little ability to pursue trade deals. It is the president and his administration that pursues and negotiates trade agreements, but Congress has the ultimate authority to sign the agreements. Through Trade Promotion Authority, Congress outlines the objectives and priorities that the president and administration use as guidance in negotiating trade agreements.[5] TPA expedites and smooths what would otherwise be a complicated back and forth between a foreign nation, the president, and Congress. TPA expired at the end of June 2021 and has not been renewed. Without TPA, the Biden Administration will face much difficulty in pursing trade deals that Congress would eventually sign.

**Conclusion**

Nearly every administration has promoted trade enforcement as part of its platform to support American industry and workers. President Biden is promoting trade enforcement in the name of securing supply chains—and ultimately pursuing industrial policy. Regardless of the intentions, the trade enforcement efforts recommended by the EO are already performed by numerous federal entities, whether explicitly sanctioned or not. The trade strike force tasked with leading this effort is entirely redundant and unnecessary.

Even as the strike force is redundant, the goal of leveraging current and future trade agreements is a worthy pursuit. Congress should look to immediately renew the expired TPA, which would at least give the strike force a chance to truly secure U.S. supply chains and boost economic cooperation between the United States and its strategic allies.

[1] https://sgp.fas.org/crs/misc/R46604.pdf

[2] Ibid

[3] https://sgp.fas.org/crs/misc/IF10667.pdf

[4] Ibid

[5] https://sgp.fas.org/crs/misc/IF10038.pdf