

Recommendations on Trade Priorities for the Incoming Administration

November 30, 2020

Dear President-elect Biden:

Congratulations on your election!

Citizens Trade Campaign (CTC) is a cross-sector coalition of labor, environmental, family farm, faith and consumer organizations; many of the more than 12 million Americans represented by our diverse member organizations are excited about the promise your presidency holds for a new model of trade policy that creates good jobs, raises wages, reduces inequality, prevents climate catastrophe and otherwise ensures strong, healthy and resilient communities across the United States and beyond.

From the outset, we applaud your insistence on taking the time needed to make sure the nation finally gets trade policy right, including your pledge not to enter into any new trade agreements until the nation has first made major investments in its workers and communities. The United States and the world cannot afford a return to the corporate-centered, business-as-usual trade agreements of the past — and, frankly, the politics of the country will no longer allow it.

Our coalition's base in labor, family farm and other constituencies could not be angrier about trade policies that have devastated millions of livelihoods by facilitating the offshoring of good-paying jobs and promoting a global race-to-the-bottom in wages and working conditions. While the Trump administration never delivered on Trump's fraudulent promises to reverse these policies, that does not mean that voters are willing to return to the failed agreements of earlier administrations. In truth, many are still furious over earlier trade pacts and proposals, and will need to see first-hand how your administration will do better.

Put simply, Trump's failure to deliver a real fair-trade agenda creates an opportunity for your administration to win back the fair-trade mantle for the Democratic Party, which is necessary both to advance large parts of your Build Back Better agenda and to close the door politically on the next Trump-like nationalist that comes along in 2024 and beyond.

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Citizens Trade Campaign is a coalition of labor, environmental, family farm, faith and consumer organizations united in the pursuit of social and environmental justice in trade policy

Further, many young voters both inside and outside of our coalition are rightfully desperate for policies that will promote a just and sustainable global economy, rather than those that bring us further down the path of inequality and climate catastrophe. Their increasing understanding of the role that past trade agreements have played in handcuffing governments' ability to promote strong climate solutions is reflected in shared demands for new trade rules that prioritize climate action.

We look forward to working with your administration to build a new consensus on international trade policy that works for working people, family farmers, small business, consumers and the environment. The following is a summary of our shared views on how to begin doing so, which supplements more-detailed proposals your transition team has received from individual constituencies and organizations within our coalition.

Firmly Reject the Failed Trade Model of the Past

Moving the country and the world forward on a new trade model first requires abandoning the old, failed model of the past. Towards that end, we hope and expect that your promised moratorium on new trade agreements will include putting a halt to the Trump administration's attempted free trade agreements with Kenya and the United Kingdom, as well as to any new agreements within the World Trade Organization (WTO), such as those proposed on investment, digital trade and services. No new pacts should be negotiated until a new template for U.S. trade and investment agreements is first developed in partnership with Congress and civil society organizations.

Once that new trade model is eventually created, we also encourage your administration to begin enacting it by devoting resources to the renegotiation of existing pacts in order to achieve much-needed progress on labor rights, climate justice and the many other goals promoted within that model, rather than starting with new bilateral or multilateral trade deals. Past deals continue to harm our communities day after day, and they deserve your urgent attention.

Finally, some advocates of the old, "corporations first" model of trade are already calling on your administration to revive unpopular proposals like the Trans-Atlantic Trade and Investment Partnership (TTIP) or the Trans-Pacific Partnership (TPP), the latter of which was met with well-organized opposition from literally thousands of Democratic base organizations across all sectors of civil society and was eventually derailed by opposition from Congressional Democrats in 2016. We encourage you and your spokespeople to publicly repudiate these unhelpful suggestions.

To be as successful as possible, your administration should make its dedication to a new model of trade as clear as possible. While some corporate interests will undoubtedly oppose you on it, your base and the wider public will have your back.

Restore U.S. Manufacturing Capacity, Protect Worker Rights and Improve U.S. Resilience

Many of the much-needed policies and investments in workers and communities outlined in the Build Back Better could run afoul of existing U.S. trade agreements. If allowed to continue,

the ongoing offshoring of American jobs week after week under these trade pacts will further erode whatever economic recovery the Build Back Better program achieves.

To prevent these outcomes, your administration should first launch an immediate investigation into the ways in which service sector, procurement, investment and other terms stuck into trade agreements could limit government initiatives to strengthen the energy grid, telecommunications infrastructure, transportation and other public services, as well as policies to strengthen Black, Latino and Native American-owned businesses and companies operating in America generally. Rather than try to shoehorn economic recovery programs and industrial policies into the constraints these trade pacts impose, your administration should take whatever executive action possible to dismantle those restrictions, while promoting a new model of trade that eliminates them moving forward.

To end the ongoing offshoring of good-paying jobs to wherever workers are the most exploited, a new trade model must include strong and binding labor standards explicitly based on the International Labor Organization (ILO) Conventions and their accompanying jurisprudence. The United States must assure that the rules are being implemented and respected on the ground in partner nations before allowing the commercial benefits of any new trade agreement to take effect.

Resources for ongoing monitoring and robust mechanisms for swift and certain enforcement must also be included, so as to assure the protection of working people is ongoing. Labor provisions must likewise remove barriers that could prevent labor enforcement action from being taken, such as those requiring that labor violations must be proven to be “in a manner affecting trade or investment” or that they must be “sustained” or “reoccurring” before enforcement actions can be taken.

Measures must also be added to safeguard against any backsliding of existing labor standards, wages and working conditions in any party nation by barring movement of jobs to evade labor laws and by establishing formal protections for joint labor activities across borders, including collective bargaining. Strong “rules of origin” and related provisions to stop transshipment are likewise required so as to prevent companies from evading improved labor and environmental conditions.

To ensure a fair playing field for job creation, strong, enforceable disciplines against currency manipulation and currency misalignment are also needed, and must include mechanisms for the automatic triggering of corrective action against currency manipulators, rather than simply reports or dialogue.

While this new, worker-friendly trade model is being developed and implemented, the administration should also aggressively use existing labor enforcement mechanisms within the current iteration of the North American Free Trade Agreement (NAFTA), so as to support Mexican workers and limit offshoring incentives to the greatest extent possible, and further

identify where improvements in worker rights provisions and enforcement mechanisms in U.S. trade policy are needed moving forward.

The protection of labor rights and other human rights must be prioritized over commercial interests in all elements of U.S. trade policy.

Defend a Livable Future and Create Green Jobs by Prioritizing Climate Action

Rising to the challenge presented by looming climate catastrophe also necessitates a serious realignment of the nation's international trade rules and agreements. Significant changes to existing trade policies are needed to enable sufficient government investment in renewable energy, public transportation, sustainable agriculture, energy conservation and the creation of millions of good-paying, unionized green jobs, as well as to ensure the steps needed to end rip-and-ship extraction of fossil fuels and other limited natural resources both at home and around the world are free from challenge within trade tribunals.

To benefit the environment across the board, a new template for U.S. trade agreements must require countries to enforce Multilateral Environmental Agreements ratified by the U.S. or most countries in the world; establish limits on toxic pollution that are on par with U.S. standards; prohibit countries from weakening environmental standards to gain a trade advantage; permanently end Investor-State Dispute Settlement (ISDS), "Good Regulatory Practices" (GRP) chapters and similar polluter-friendly, deregulatory measures; and include other measures to protect forests and marine habitats.

Beyond these commonsense steps, a new, climate-friendly trade model must also require countries to uphold their commitments to the Paris Climate Agreement; must include measures to end the cross-border dumping of climate pollution; and must include a broad carveout protecting nondiscriminatory climate measures and other public interest measures from challenge by state-to-state trade disputes.

Like with labor standards, meeting environmental standards must be a prerequisite to countries enjoying the commercial benefits of any new trade agreements, and environmental provisions must also include strong, built-in mechanisms to guarantee their swift and certain enforcement moving forward. Enforcement mechanisms must enable members of the public to initiate claims of environmental violations, and these claims must trigger an independent investigation and, where appropriate, adjudication with binding remedies, regardless of whoever occupies the White House at any given moment.

Expedite Progress on Other Civil Society Trade Policy Priorities

As your administration works to create a new model for U.S. trade agreements and considers other actions on trade, the following hard-advocated policy recommendations of civil society organizations should also be prioritized. This list is by no means exclusive.

- *Eliminate trade rules that drive up the costs of medicine at home and abroad.* The COVID-19 pandemic is only the most recent illustration of the grave danger posed by

continuing to allow trade pacts to prioritize pharmaceutical industry profits over public health. Your administration should join public health advocates and the majority of nations around the world in supporting the proposed “Waiver for certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID19” at the WTO; should issue an Executive order doing all in your legal authority to waive any similar and TRIPS-plus provisions within other free trade agreements and bilateral investment treaties; and should actively encourage other nations to do the same. Attempts by recent administrations to use trade agreements to lock-in and expand pharmaceutical monopolies through patent evergreening, data exclusivity, trade secrets and other means must also be abandoned. The new trade model developed by your administration should include access to affordable medication as a U.S. priority.

- *Protect U.S. producers and consumers alike with strong food safety and consumer right-to-know requirements.* Trade agreements must no longer allow the import of food that does not meet domestic food safety standards, nor should domestic food safety, inspection, labelling and other policies that treat domestic and imported goods the same be subject to challenge food labeling programs, such as those telling consumers where their food came from. A new U.S. trade model must require imported food to meet U.S. standards; should enhance border inspection requirements; and must also require country-of-origin labeling for meat and other food produces so that consumers can make informed choices. At the same time, the U.S. should stop using trade policy to undermine the use of the precautionary principle or other efforts to raise standards in other countries.
- *Enhance fair and sustainable agricultural production.* Trade rules must support the growing movement for fair prices and supply management of agricultural production that helps to reduce overproduction and enhance farmers’ resiliency. This will require the ability to use trade barriers to protect sensitive local markets, as well as new international trade rules on farm subsidies designed to promote a transition to climate-resilient production that strengthens rural communities and food security in the U.S. and around the world.
- *Safeguard the ability to regulate the digital economy.* Digital trade deals negotiated under the Trump administration not only jeopardize consumer privacy and enable other bad corporate behavior, but make it even easier for big employers to offshore call centers and the data-driven jobs of the future. A new U.S. trade model must respect governments’ role in protecting consumers’ data privacy and the ability to regulate cross-border services, data collection and data usage, as well as to establish rules regarding corporate liability and algorithm oversight.

Facilitate Transparency and Public Participation in Trade Policymaking

To achieve such an overhaul of U.S. trade policy, the processes for developing a new trade model, renegotiating existing trade pacts and negotiating new trade agreements must be

transparent and participatory — the complete opposite of the opaque and corporate-dominated processes that produced trade agreements under previous administrations.

Civil society organizations, Congress and the public must be invited to help formulate U.S. positions and comment on draft U.S. proposals in each of the three abovementioned areas. To do so, the U.S. must publish draft versions of its trade agreement proposals and solicit public comment upon them prior to tabling them. During negotiations with other nations, U.S. proposals, other countries' proposals, related materials and any consolidated texts must also be published publicly after each negotiating round so that the public can review and comment on the latest proposals while there is still opportunity to make real changes.

Beyond this, the make-up of advisory committees must also be significantly altered so that these committees are no longer skewed in favor of corporate interests. Advisory committees must be balanced to better reflect the voices of working people, family farmers, environmentalists, public health advocates, consumer advocates, human rights advocates, people of faith and other constituencies.

These procedural measures are necessary not only to ensure better outcomes from U.S. trade policymaking, but to rebuild public faith after years of backroom deal making.

We are heartened that you and Vice President-elect Harris have already voiced support for change in most of these areas, and we look forward to your selection of a U.S. Trade Representative and other key appointees eager to work with civil society coalitions like ours to advance these changes.

While the above is far from a comprehensive list of recommendations our cross-sector coalition desires in trade policy moving forward, we believe that prompt executive action on these items by your administration would be a huge step forward for the nation and the planet.

International trade is a crucial part of our economy and connects us with the rest of the world. It's worth devoting the time and care needed to ensure that the rules governing international trade work for everyone, and not just corporate special interests.

We look forward to being a resource for you and your staff on trade policy matters in the days and years to come.

Sincerely,



Arthur Stamoulis
Executive Director