



May 2, 2024

The Honorable Katherine Tai
United States Trade Representative
Office of the United States Trade Representative
600 Seventeenth Street, NW
Washington, DC 20508

**Re: Office of the United States Trade Representative Request for
Comments on Promoting Supply Chain Resilience (89 Federal Register
16608, Docket No. USTR 2022-0002 (March 7, 2024)).**

**Post-Hearing Comments Written Comment (Including Oral Testimony As
Delivered on May 2, 2024)**

**Delivered in Person and via Electronic Filing at
<https://www.regulations.gov>.**

Dear Ambassador Tai,

My name is Dr. Todd N. Tucker. I am a political scientist and director of Industrial Policy and Trade for the Roosevelt Institute, the nonprofit research organization and partner of the Franklin D. Roosevelt Presidential Library & Museum. I have researched and published extensively on global governance, investment law, sectoral strategies for decarbonization, and other topics related to today's hearing.

I applaud the Office of the US Trade Representative (USTR) for exploring how trade and investment policy may be designed to promote supply chain resilience in the face of supply shocks and a changing economic and climate landscape. There are a few overarching challenges for this important work ahead, which I discuss briefly, with references to further reading by scholars at Roosevelt Institute and elsewhere.

Challenge 1: The climate crisis requires government to balance competing objectives

The climate crisis is an existential threat to humanity and the country. US economic, military, and intelligence agencies deem climate change one of the top

risks to economic and national security.¹ Until recent years, it was rare for the United States to experience an extreme weather event that caused more than a billion dollars in damage. Today, these are happening on average once a month. In 2021, nearly a thousand people died from these events. These events have profound implications for economic growth, income distribution, and national competitiveness.²

While climate change is a global problem, the response necessarily comes through national governments. To be successful, these governments must tend to their legitimacy and the health of their national economies. This presents a dual challenge: Decarbonization must move quickly, but it also must ensure that the United States and other countries maintain viable pathways to transitioning their industries and workers in a just and equitable manner that guarantees energy abundance and security of supply. This balancing act was noted by Senior Advisor for International Climate Policy John Podesta, who recently stated, “Even as we invest in America to build a clean energy economy—and even as we work with our allies and partners to build more resilient, secure clean energy supply chains—we have no intention of pulling the ladder up behind us. Every nation deserves the ability to build a clean energy economy that will protect its own citizens and support long-term growth.”³

Much of the current trade tool kit was designed for a different point in history with a different energy system. In the last half of the 20th century, when much trade and investment rule-writing took place, energy was drilled out of the ground for outside economic rents in countries that behaved as a revenue-maximizing cartel. Going forward, energy will be manufactured by producers in factories and facilities that could in theory be located anywhere in the world. But this production in practice

¹ Department of Defense, *Department of Defense Climate Risk Analysis* (Washington, DC: Department of Defense, October 2021), 5.

<https://media.defense.gov/2021/Oct/21/2002877353/-1/-1/0/DOD-CLIMATE-RISK-ANALYSIS-FINAL.PDF>;

National Intelligence Council, *National Intelligence Estimate: Climate Change and International Responses Increasing Challenges to US National Security Through 2040* (Washington, DC: National Intelligence Council, 2021).

https://www.dni.gov/files/ODNI/documents/assessments/NIE_Climate_Change_and_National_Security.pdf.

² Council of Economic Advisers, “The Rising Costs of Extreme Weather Events,” The White House., September 1, 2022.

<https://www.whitehouse.gov/cea/written-materials/2022/09/01/the-rising-costs-of-extreme-weather-events/>.

³ John Podesta, “Remarks as Prepared for John Podesta Columbia Global Energy Summit.” Remarks delivered at Columbia University in New York, April 16, 2024.

<https://www.whitehouse.gov/briefing-room/speeches-remarks/2024/04/16/remarks-as-prepared-for-john-podesta-columbia-global-energy-summit/>.

faces challenges of profitability, price volatility, and dominance by adversarial countries that are willing to lose money to secure geopolitical gain.⁴

This shift in our energy system poses two distinct but interrelated challenges for US international economic policy: positive externalities and economic development.

Challenge 2: Addressing positive externalities

Manufactured clean energy production is characterized by what economists call a “positive externality.” Translated to plain English, this means that the social gains to humanity from this production (in the form of avoided loss of life, property, and habitat) outweigh the private gains to its producers, leading *all else equal* to underproduction. Here, government has a role to play in internalizing this externality through subsidies to producers, of the kind the United States is deploying in the Inflation Reduction Act (IRA) and other US industrial policies.⁵

Trade and investment policymakers have historically looked askance at subsidies, but a new approach could be more accommodating of those that solve well-specified positive externality problems. Economists estimate that, in sectors like wind, hydrogen, heat pumps, and fuel cell trucks, world production by 2030 will still lag far below what is needed to meet climate commitments.⁶ For these and other nascent sectors, as former National Security Council senior director for international economics Jennifer M. Harris wrote for the Roosevelt Institute, “because the world is nowhere near the saturation point for needed public investment in either semiconductors or decarbonization technologies, partner countries should follow suit with IRA-like investments of their own. . . . indeed, the White House has welcomed announcements from Brussels on an EU clean energy package billed as responding to the IRA.”⁷

⁴ See discussion of the “dual circulation” strategy (including the so-called “body lock” tactic), at Leonard, Mark. “China Is Ready for a World of Disorder: America Is Not.” *Foreign Affairs*, June 20, 2023.

<https://www.foreignaffairs.com/united-states/china-ready-world-disorder>. For China’s dominance of clean energy supply chains, see Tucker, Todd N. “Everything Is Climate Now: New Directions for Industrial Policy from Biden’s Supply Chain Reports.” New York: Roosevelt Institute, May 17, 2022.

<https://rooseveltinstitute.org/publications/reading-bidens-supply-chain-reports/>.

⁵ A positive externality can be contrasted with a negative externality, where free market actors overproduce relative to the socially optimal equilibrium. This is the case with carbon-emitting industries in the absence of appropriate regulation or taxation.

⁶ CEA. “Economic Report of the President.” Washington, DC: Council of Economic Advisers, March 21, 2024, at 236. <https://www.whitehouse.gov/wp-content/uploads/2024/03/ERP-2024.pdf>.

⁷ Todd N. Tucker, Sameera Fazili, Jane Flegal, Jennifer M. Harris, Janelle Jones, K. Sabeel Rahman, and Tim Wu. *Industrial Policy Synergies: Reflections from Biden Administration Alumni*. New York: Roosevelt Institute, April 2023, at 31.

There are a number of proposals for better aligning international trade and investment agreements with pro-climate subsidies, including new “green boxes” for permitted subsidies,⁸ legal interpretive flexibilities,⁹ peace clauses, or withdrawal of commitments at international forums like the World Trade Organization or under investor-state dispute settlement.¹⁰ That said, it is essential that countries maintain the full suite of domestic trade remedies to combat unfair trading practices, and look for expanded tools to address nonmarket practices and overcapacity, for reasons I turn to now.

Challenge 3: Ensuring economic development and resilience

A key phrase in the foregoing discussion on the internalizing of positive externalities was the phrase “all else equal.” Of course, as real world policymakers know, all else is rarely equal. In today’s global economy, China’s nonmarket economy practices loom large. Under initiatives like the Made in China 2025 plan, China has set the goal of dominating many of the clean energy industries of the future.¹¹ With a willingness to sacrifice money and efficiency in the name of global market share and exporting its underconsumption problem,¹² this Chinese strategy poses potentially existential challenges for US industries and workers that are attempting to find their place in the clean energy transition. This includes actual

<https://rooseveltinstitute.org/publications/industrial-policy-synergies-reflections-from-biden-administration-alumni/>.

⁸ Joel P. Trachtman, Jean Yves Remy, Dan Esty, and Trevor Sutton. “Villars Framework for a Sustainable Global Trade System, Version 2.0.” Villars Institute, January 2024.

<https://villarsinstitute.org/posts/putting-the-planet-at-the-center-of-global-trade-the-villars-framework>.

See also Hillman, Jennifer A, and Inu Manak. “Rethinking International Rules on Subsidies.” Washington, DC: Council on Foreign Relations, September 2023. For an application to the investment context, see work by the OECD at: <https://www.oecd-events.org/investment-treaty-conference/content/keyresources>.

⁹ Timothy Meyer “The Political Economy of WTO Exceptions.” *Washington University Law Review* 99 (2021): 1299–1369. <https://scholarship.law.vanderbilt.edu/faculty-publications/1267/>.

¹⁰ For examples of this type of ideas, see Paine, Joshua, and Elizabeth Sheargold. “A Climate Change Carve-out for Investment Treaties.” *Journal of International Economic Law* 26, no. 2 (2023): 285–304; Sierra Club and Trade Justice Education Fund, “The Case for and Design of a Climate Peace Clause,” December 2, 2022.

<https://tradejusticeedfund.org/wp-content/uploads/ClimatePeaceClausePaper.pdf>;

Tucker, Todd N. *Judge Knot: Politics and Development in International Investment Law*. London: Anthem Press, 2018. <https://www.anthempress.com/judge-knot-pb>.

¹¹ US-China Economic and Security Review Commission, *2023 Annual Report to Congress* (Washington, DC: U.S.-China Economic and Security Review Commission, November 2023).

<https://www.uscc.gov/annual-report/2023-annual-report-congress>; USTR, *2024 National Trade Estimate Report on Foreign Trade Barriers* (Washington, DC: Office of the U.S. Trade Representative, March 29, 2024).

https://ustr.gov/sites/default/files/2024%20NTE%20Report_1.pdf.

¹² Matthew C. Klein and Michael Pettis. *Trade Wars Are Class Wars: How Rising Inequality Distorts the Global Economy and Threatens International Peace* (New Haven: Yale University Press, 2020).

and potential workers in electric vehicles,¹³ shipbuilding,¹⁴ solar, batteries,¹⁵ and more.

The US and EU governments are attempting to address these actual and potential overcapacity concerns by taking a fresh look at their trade policy tool kits. In the US, this has meant upgrading the trade enforcement tool kit to include a greater look at social dumping, including how un- or under-enforcement of labor and environmental obligations leads to unfair cost advantages.¹⁶ International supply chain policy can also play a useful complementary role in balancing decarbonization and economic development goals. The US-EU initiative around the Global Arrangement on Sustainable Steel and Aluminum offers a sectoral path towards joint trade restrictions that reward decarbonization and penalize overcapacity.¹⁷ These negotiations should be pursued with additional countries like the United Kingdom, Australia, and Canada in addition to (or instead of) the EU. These bilateral and plurilateral initiatives provide a natural channel for exchanging information on best industrial policy practices used in other advanced democracies to simultaneously promote supply chain resilience, equity, and sustainability.¹⁸

¹³ Sheila Chiang. “China Could Flood US Electric-Vehicle Market with Its Offerings, Energy Secretary Jennifer Granholm Warns.” CNBC, March 7, 2024.

<https://www.cnbc.com/2024/03/07/china-could-flood-us-electric-vehicle-market-with-cheap-offerings.html>.

¹⁴ Demetri Sevastopulo, “US Steel Unions Urge Joe Biden to Open Probe into Chinese Shipbuilding.” *Financial Times*, March 12, 2024, sec. US-China trade dispute.

<https://www.ft.com/content/62f902ed-9bb5-4167-84f0-4f1257889a97>.

¹⁵ Tom Hancock. “China’s Overcapacity Is More About Solar and Batteries Than EVs.” *Yahoo Finance*, April 2, 2024. <https://finance.yahoo.com/news/china-overcapacity-more-solar-batteries-220000630.html>.

¹⁶ International Trade Administration, “Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of the Antidumping and Countervailing Duty Laws.” Federal Register 89, no. 58 (March 2024): 20766.

<https://www.federalregister.gov/documents/2024/03/25/2024-05509/regulations-improving-and-strengthening-the-enforcement-of-trade-remedies-through-the-administration>.

¹⁷ Todd N. Tucker, Timothy Meyer, J. Benton Heath, and Maha Rafi Atal. “Why the US and EU’s Green Steel Negotiations Matter: A Series.” *Roosevelt Institute* (blog), July 18, 2023.

<https://rooseveltinstitute.org/2023/07/18/why-the-us-and-eus-green-steel-negotiations-matter/>.

¹⁸ For examples of these, see Tucker, Todd N., Kyunghoon Kim, Saule T. Omarova, Jonas Algers, Andrea Furnaro, César F. Rosado Marzán, and Lenore Palladino. *Industrial Policy 2025: Bringing the State Back In (Again)*. New York: Roosevelt Institute, 2024. <https://rooseveltinstitute.org/publications/industrial-policy-2025/>.