

A Worker-Centric Trade Agenda Needs to Focus on Competitiveness, Including Robust IP Protections

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In his shift to a “worker-centric trade agenda,” President Biden should reject the counsel of anticorporate, antitrade progressives who deny that U.S. companies’ interests align with U.S. workers’ interests. A new competitiveness-focused approach to trade policy can support both.

KEY TAKEAWAYS

- The significant decline of U.S. manufacturing jobs and output due to unbalanced trade and weak U.S. competitiveness provides an opening to rethink trade policy.
- A pivot is overdue because trade policy for too long has prioritized lower prices for imported products over U.S. workers’ welfare. But it is critical for the administration to make the right pivot.
- Many progressives see this reassessment as an opening to advance their longstanding agenda that puts the interests of developing countries’ workers ahead of the interests of U.S. workers and the U.S. economy.
- They wrongly claim almost any measure that helps large corporations—including intellectual property protection—is counter to U.S. workers’ interests.
- The administration should not go down this antitrade path. It should embrace a competitiveness-focused approach to trade that prioritizes market-opening and trade enforcement to advance the interests of U.S. firms and workers in traded sectors.
- This approach would include, among other things, ensuring strong IP provisions are included in trade agreements and trade enforcement.

INTRODUCTION

While U.S. trade policy has long been contentious, until recently, the orthodox view was that it should prioritize U.S. consumer interests. But the significant decline of U.S. manufacturing jobs and output due to unbalanced trade (and weak U.S. competitiveness) has provided an opening to rethink this policy.¹ Because of this and other factors, President Biden and key administration officials have spoken about the need to shift to a worker-centric trade agenda, turning away from the traditional approach.

But while such a pivot is overdue—for too long, trade policy prioritized lower prices for imported products over workers' welfare—it is critical for the administration to make the right move; one that would boost U.S. global competitiveness and help U.S. firms and their workers compete in global markets.² This may be difficult because significant forces in the Democrat party advocate for a trade policy that would ultimately hurt U.S. competitiveness, firms, and workers.

Many progressives see the administration's reassessment as an opening to advance their long-standing antiglobalization and anticorporate agenda. They equate almost any trade provision or policy, including foreign intellectual property (IP) protection, that helps large U.S. corporations as inherently counter to U.S. workers' interests. To be sure, some provisions in trade agreements that protect U.S. corporations' economic interests don't do much to help U.S. workers, but the majority of provisions do in fact create an alignment of corporate and U.S. worker interests. This is because many trade provisions lead to greater U.S. sales, which in turn benefits U.S. jobs. For example, strong IP rights in trade agreements support workers in the many U.S. sectors that depend on IP for increased global revenues.

As such, the Biden administration should reject the anticorporate, antitrade counsel and not go down this dead-end path. Rather, it should articulate, advance, and work for a new competitiveness-focused trade approach. This agenda would not reflexively prioritize consumer interests, especially when doing so would hurt companies and workers in the United States because of unfair foreign trade practices. But it would prioritize market opening and trade enforcement to advance the interests of traded-sector firms in the United States, especially those in key, strategic industries that pay above-average wages. This approach would include, among other things, ensuring the inclusion of strong IP provisions in trade agreements.

This report discusses the debate over trade policy, articulating the three main potential plans: 1) maintaining the current approach; 2) rejecting the current approach in favor of one that views large-firm interests as antithetical to U.S. worker and national interests, and 3) evolving to a competitiveness-focused approach that works to align U.S. corporate interests with national interests. It then focuses on one aspect of such a new trade policy—IP protection—analyzing arguments made by proponents of weak IP in U.S. trade policy. It then provides a summary of the arguments and studies showing that advancing the interests of U.S. companies in trade policy, including in IP protection, usually benefits U.S. workers. Finally, it concludes with recommendations for the Biden administration and Congress:

- The Biden administration should move forward with trade engagement around the world using a competitiveness-focused trade approach, which, among other things, includes support for strong IP and digital trade provisions in trade agreements and enforcement.

- The Biden administration should put foreign IP theft on the agenda for cooperation with like-minded countries, such as in the U.S.-EU Trade and Technology Council (TTC).
- As the U.S. government reengages in trade, it should continue to be the world’s leading supporter of strong IP provisions in trade agreements. This means, as the United States hopefully once again negotiates future trade agreements, it should continue to press to insert robust IP protections in the agreements.
- Congress should enact measures to better protect IP at home, such as the Stopping and Excluding Commercial Rip-offs and Espionage with United States Trade Secrets Act of 2021 (SECRETS Act).

THE NEEDED REBALANCING OF U.S. TRADE POLICY

U.S. trade policy has traditionally prioritized Americans’ role as consumers. On this basis, many trade policy experts minimized the impact of unfair Chinese practices, including rampant dumping and currency manipulation.³ After all, why shouldn’t we let the Chinese government subsidize U.S. consumers, even if it hurts U.S. workers and companies? Low prices are a benefit, goes the thinking, even if the products come from mercantilist distortions.

Mainstream trade policy has also long been industry agnostic—even sometimes favoring domestic, nontraded industries (e.g., solar panel installers) over traded industries (e.g., solar panel producers). Likewise, mainstream trade is predominantly guided by the overarching goal of opening more markets to global trade and, as such, has not always adequately prioritized key countries that impact U.S. competitiveness. In addition, it places more emphasis on market opening than on trade enforcement. Finally, until recently, mainstream trade policy largely ignored, or even disparaged, a domestic competitiveness agenda, relying on nostrums such as “countries should just focus on their comparative advantages” and “potato chips, computer chips, what’s the difference?”—meaning don’t treat one industry any differently than another.

Table 1: Three potential approaches to trade policy

| | Mainstream Trade Policy | Populist Trade Policy | Competitiveness Trade Policy |
|---|--------------------------------|------------------------------------|-------------------------------------|
| Goal | Consumer welfare | Limiting large corporation success | U.S. competitiveness |
| Industry targets | All industries | Small business | Key export industries |
| Country targets | All | Developing nations | Key challengers |
| Focus on enforcement | Moderate | Weak | Strong |
| Willingness to trade off U.S. economic interests for other international interests | High | High | Low |
| Importance of market access for U.S. firms | High | Low | High |
| Importance of a domestic competitiveness agenda | Low/moderate | Low | High |
| Importance of worker adjustment policies | Moderate | High | High |

The 2016 election of President Trump was a wake-up call, leading many in the trade policy community to question, or even rethink, the conventional approach to trade. Emblematic was a 2020 report by the Carnegie Endowment for International Peace, which notes that trade “policies left too many American communities vulnerable to economic dislocation and overreached in trying to effect broad societal change within other countries.”⁴

Thus, it is not surprising that United States Trade Representative (USTR) Katherine Tai advocated for a “worker-centric” trade policy that will “protect and empower workers, drive wage growth, and lead to better economic outcomes for all Americans.”⁵ Tai rightly stated that “people are not just consumers, they are also workers and wage earners.”⁶ Similarly, in a speech on “a foreign policy for the American people,” Secretary of State Blinken stated, “Our approach now will be different ... our trade policies will need to answer very clearly how they will grow the American middle-class, create new and better jobs, and benefit all Americans, not only those for whom the economy is already working.”⁷

As such, the shift to a trade policy focusing on Americans in their role as workers, not just consumers, is much needed. The actual operationalism of such a shift is yet to be determined, which makes the debate over this new trade policy approach so critical. As *Financial Times* columnist Rana Foroohar wrote, “The point is that the US doesn’t have a new, unifying theory for trade policy in our post-neoliberal era. It needs one, now.”⁸ Indeed it does need one now; but it must be the right one.

The Biden administration should reject anticorporate, antitrade counsel. Rather, it should advance a new, competitiveness-focused trade approach concentrating on Americans in their role as workers, not just consumers.

Anticorporate populists, progressives, and radicals view this policy opening with exhilaration, hoping to finally have their approach and agenda become dominant. There should be no doubt that their agenda is grounded in an aversion to global economic integration. They (wrongly) see this as enabling a race to the bottom that only benefits large corporations while limiting the ability of nations to impose their own domestic rules. The reality is that many potential trade rules—such as limits on subsidies and currency manipulation—are, in fact, tools against a race to the bottom.

Most problematic is that their desired approach is grounded in a belief that large corporations are inherently problematic, there is almost no overlap between corporate interests and worker interests, and, in fact, the interests are antithetical. Rather than assessing trade policies on whether they support policies that generate progressive outcomes—such as an expansion of high-wage domestic industries in traded sectors—many progressives now judge trade on whether it advances or hurts the corporate sector. And because larger markets, whether because of domestic growth or trade integration, enable firms to become larger, they generally oppose trade enhancement. It’s why progressive economist Joe Stiglitz wrote that we must “tame globalization,” which, among other things, means no more trade agreements.²¹ It’s why the Economic Liberties’ Rethink Trade project’s “program will fight to replace existing and proposed trade pact rules that expand and lock in corporate power.”⁹ And it is why anticorporate progressives tout slogans such as “think globally, act locally,” by which they mean embrace the

interests of workers of the world (rather than American workers) and structure economies to be dominated by small firms serving local and regional markets.

For these anticorporate progressives, trade policy should help workers, and can do so without helping large businesses. Moreover, their goal is not just to help U.S. workers but to help all workers around the world, especially in developing nations. In this sense, they see the divergence of interests not between the U.S. economy and other economies, but between the workers of the world and corporate interests. That is why they are willing to trade off U.S. interests to advance developing-nation interests, such as free access to U.S. IP and turning a blind eye to issues such as data localization.

This is also why they falsely argue that strong provisions in trade agreements will stop the U.S. government from taking needed domestic action, such as enacting privacy legislation law, putting in place artificial intelligence (AI) regulation, or changing antitrust laws.¹⁰ In most cases, however, trade provisions constrain domestic policy only if the policies unfairly discriminate against foreign firms. But they know that such alarmist, anticorporate rhetoric is emotionally arousing: “You too can be a warrior for fairness against evil corporations, but only if you completely restructure U.S. trade policy.”

If the Biden administration wants to prevent U.S. global economic competitiveness from sliding even further, it faces a fundamental choice: stick with the conventional approach, embrace the anticorporate populist approach, or embrace a competitiveness-focused approach. The conventional approach has its merits, but it doesn’t adequately address foreign challenges to U.S. competitiveness. It also suffers from growing misgivings in its validity. The populist approach sounds appealing—who can be against helping U.S. workers?—but going down this path will mean a more isolated America with declining national economic and diplomatic power. The competitiveness approach has the advantage of supporting Americans in their roles as both workers and consumers by helping ensure economic competitiveness while simultaneously offering a chance to rebuild trust in trade and globalization among American voters.

A new competitiveness and worker-focused trade agenda should mean the following:

1. **Better addressing unfair foreign trade practices** that, while potentially helping U.S. consumers in the short run, hurt Americans in their role as workers. This means no longer turning a blind eye to foreign currency manipulation and taking tougher action against direct and indirect foreign government subsidies to producers.
2. **Rethinking long-standing trade strategies that sacrifice the U.S. market (and firms in the United States) for foreign policy goals**, such as allowing countries eligible for Generalized System of Preferences (GSP) benefits tariff-free access to the U.S. market even if their domestic trade policies hurt the U.S. economy, such as being on the 301 Watch List for IP infringement. It means rejecting the notion that signing more trade deals is of such paramount importance that the United States will be the one making the majority of trade concessions just to get a deal. If other nations have more protectionist trade policies than the United States does, the United States should not be the one making concessions to get them to join any agreement. Rather, if these nations do not join an agreement, the United States should enact unilateral, reciprocal restrictions.

3. **Ensuring that some labor and environmental protections are built into agreements.** However, it would be unreasonable to expect less-developed nations to have the same level of protection as a developed country such as the United States. Moreover, the International Trade Administration noted that “the research finds no clear evidence that countries can improve their trade performance by maintaining poor labor conditions, contrary to the ‘race to the bottom’ point of view.”¹¹ In other words, policymakers should have realistic and modest expectations of what can be achieved for American workers by strengthening developing-nation worker protection laws. This is far from a panacea.
4. **Strengthening digital protections,** including ensuring cross-border flows of legal data (as opposed to digital piracy, for example) banning digital localization policies (e.g., local requirements for cloud computing centers), banning mandatory disclosure of source code, and any digital policies that discriminate against U.S. companies. However, this does not mean limiting what countries do with their own domestic digital policies, such as with regard to privacy or emerging technology regulation, as long as those regulations do not discriminate based on the nationality of the company doing business in the local market.
5. **Showing a greater willingness to unilaterally impose tariffs** against other nations whose actions violate the spirit, if not the rules, of the World Trade Organization (WTO) in ways that harm U.S. workers. For example, there is no rationale for the United States imposing a tariff of only 2.5 percent on Chinese auto imports when China imposes a 15 percent tariff on U.S. auto imports. Similarly, the U.S. government should be more willing to impose import restrictions on foreign companies’ products based on IP theft, as the Senate’s SECRETS Act would do.
6. **Strengthening antidumping rules** to better protect U.S. workers (and firms) from harm. This means waiving current provisions requiring a demonstration of harm. Foreign dumping is a distortion of trade and as such should be actionable the moment it occurs—versus after damage to U.S. firms and workers is evident.
7. **Insisting on reciprocity** in such areas as foreign direct investment and government procurement. For example, the U.S. government should not procure goods or services from countries that do not have reciprocal government procurement systems that are open to firms in the United States.
8. **Putting in place well-funded domestic competitiveness policies** to help the United States boost exports of high value-added domestic production. Gone would be the days of assuming that open markets automatically mean strong firms and good jobs in the United States. This also means focusing not just on blue-collar production jobs in factories, important as they are. Production of engineering-, science-, and software-based goods and services also generates needed exports and good jobs, as does the production of intellectual content such as movies, music, and video games.
9. **Focusing more on corporate competitiveness,** defined as performance that generates high value-added economic activity and good jobs in the United States. To imply, as some proponents of a worker-oriented trade agenda do, that all U.S. foreign investment only benefits those corporations and not American workers is overly simplistic. The reality of the global economy is that U.S. multinationals must have facilities in other countries

(just as hundreds of large foreign corporations have facilities in the United States). The goal of trade policy should be to further investments with mutual gains to the U.S. economy, as these investments can help expand companies' U.S. employment. As such, it's important not to lose sight of the fact that over half of U.S. private-sector employees work for large companies. If these companies are not competitive in foreign markets, they will not employ as many workers here at home.

However, a competitiveness and worker-oriented approach does not mean substituting one extreme focus (on consumers) with another one (on workers). For example, this would not mean pulling back from global engagement. Nor would it mean imposing tariffs beyond a response to foreign unfair trade practices. Also, it would not mean an end to market-opening efforts or new trade agreements. But it would mean that any new deals will adequately protect U.S. trade interests.

Several anti-IP advocates are taking advantage of the Biden administration's reassessment to advance their long-standing agenda to weaken IP rights.

Finally, there are at least two issues trade-populist skeptics argue should be fundamentally changed as we move toward a worker-oriented trade strategy. The first is the role of the Investor State Dispute Settlement (ISDS) process, which provides certain protections to foreign investors against capricious state "takings," adjudicated through a third-party court system. There is certainly some legitimacy in the claim that ISDS makes it safer for U.S. companies to invest in other nations. But at the same time, it protects U.S. assets, which in turn can help U.S. workers. The key here is establishing the right balance, ensuring ISDS protects against illegitimate takings that hurt U.S. firms—and, by definition, their U.S. workers—but does not limit foreign countries from putting in place legitimate domestic regulations.

The second issue is how trade agreements should deal with IP protection. Like ISDS, most trade populists argue that IP protection only helps U.S. companies—particularly large companies—and encourages offshoring. Indeed, as the Biden administration engages in this critical reassessment, several anti-IP advocates are taking advantage to advance their long-standing agenda to weaken IP rights, both at home and abroad. Unlike ISDS, where there are good arguments on either side (pro and con), when it comes to ensuring strong IP in trade agreements, the populists' argument is lacking in merit. Any trade policy focused on ensuring the well-being of U.S. workers should focus on robust IP protection, as it benefits Americans in their roles as both consumers and workers. The rest of this report examines IP policy in trade.

THE ATTACKS ON IP IN TRADE AGREEMENTS

The antitrade, anti-IP populist forces make three main arguments for scrapping IP from trade policy, especially a "worker-oriented" policy. First, they argue IP has no place in trade agreements. Second, they claim IP only benefits "big business" and the "elite." And third, they argue IP harms citizens of developing nations.

Essentially, the anti-IP campaign asserts that IP, both at home and abroad, hurts U.S. workers and the middle class. Such claims are not new. They were at the heart of strident opposition to the United States-Mexico-Canada (USMCA) trade agreement's IP chapter (even though it

required no changes to U.S. law) as well as to the Transpacific Partnership (TPP) agreement.¹² But these advocates were wrong then and are still wrong now.

Argument 1: IP Doesn't Belong in Trade Agreements

Critics of IP try to frame it as irrelevant to trade and therefore contend trade agreements should not address IP. Liberal economist Paul Krugman spoke for many critics when he wrote that the TPP “is not a trade agreement. It’s about intellectual property and dispute settlement.”¹³ Likewise, Joseph Stiglitz stated, “These [trade] agreements go well beyond trade, governing investment and intellectual property as well, imposing fundamental changes to countries’ legal, judicial, and regulatory frameworks.”¹⁴ Economist Jagdish Bhagwati thinks that IP rights should never have been included in the WTO agenda, claiming “Intellectual property protection is not a trade issue.”¹⁵ Many of these critics believe it is acceptable for WTO to deal with traditional trade issues such as tariffs and market access (along with other behind-the-border matters related to investment or sanitary and phytosanitary measures), but not IP.

But the reality is that what goes on “behind-the-border”—including with regard to IP—is central to shaping trade in the 21st century. In fact, many trade agreements specifically intend to harmonize the laws of different nations. Thus, the idea that reducing a tariff on a widget is a legitimate part of a trade agreement but reducing theft—through robust IP enforcement—is not legitimate is simply illogical. Rather, weak or nonexistent IP protections and enforcement can, and do, act as a non-tariff barrier, causing substantial distortions in international trade, especially in the global digital economy.¹⁶

Thus, excluding IP from trade agreements altogether ignores IP’s true economic role. And in a world of fast-paced technology, such policy actions look to the past rather than the future.

Argument 2: IP Only Helps Big Corporations, Not American Workers

In reality, the opponents’ argument that “IP doesn’t belong in trade agreements” is a red herring for their real complaint that IP protection only helps big U.S. corporations. Joe Stiglitz, Dean Baker, and Arjun Jayadev argued, “The IP standards advanced countries favor typically are designed not to maximize innovation and scientific progress, but to maximize the profits of big pharmaceutical companies and others able to sway trade negotiations.”¹⁷

Presumably, if IP maximized profits for small-to-medium enterprises (SMEs), that would be acceptable (though IP opponents rarely allow even that mere distinction). As discussed below, IP protections are vital for many SMEs.

When a foreign company infringes on a U.S. company’s IP, it takes sales and jobs from the U.S. company.

A related argument is that IP does little to help the U.S. economy or U.S. workers, so policymakers shouldn’t waste political capital on it. According to Lawrence Summers, companies pushing for IP protection reflect “elite concerns” and don’t contribute much to U.S. employment or tax revenue.¹⁸ As also discussed below, the data proves otherwise.

An even more outlandish argument holds that American workers somehow benefit from other nations growing their economy using American-produced IP thanks to weak or no IP laws and

enforcement. According to Jake Werner, a researcher at Boston University's Global Development Policy Center:

China's growing wealth has been the most important driver of growth in the global economy for the last 30 years. That growth hasn't just benefited people in China but also millions of U.S. workers who produce things for export, and universities in the U.S., and filmmakers in the U.S. All of these American industries would have faced stagnant demand if it hadn't been for the Chinese government's success in enriching their society through the violation of intellectual property laws.¹⁹

These growing nations gladly avail themselves of U.S. IP protections while violating the IP rights of U.S. companies. In the end, U.S. workers have the most to lose from such double-dealing practices. The United States must not allow foreign and state-sponsored entities to profit at the expense of U.S. workers and companies. A worker-centered trade policy, by definition, must make American workers a top priority.

Argument 3: IP Hurts Citizens in Developing Nations

The "IP helping big corporations" argument has a twin: IP in trade policy hurts the masses in developing countries. In other words, if the United States wants to help the developing world, it should not require such countries to enforce or adopt stronger IP standards. For Stiglitz, "the economic institutions and laws protecting knowledge in today's advanced economies are increasingly inadequate to govern global economic activity and are poorly suited to meet the needs of developing countries and emerging markets."²⁰

A worker-centered trade policy, by definition, must make American workers a top priority.

While the scholarly evidence on this point is mixed, its resolution should not guide U.S. trade policy, which is supposed to maximize U.S. national interests, not those of developing nations. If there is any trade-off involved, it is not between U.S. workers and big U.S. businesses; it's between the interests of America and the interests of other nations. If Stiglitz believes that the United States should sacrifice U.S. worker interests to help workers in developing nations, he has every right to hold that view. But he should be straightforward about his goal and let elected officials consider and debate it.

FOREIGN IP PROTECTION BENEFITS U.S. WORKERS

The heart of the "workers versus big business" argument rests on this: Opponents of IP in U.S. trade agreements don't see any overlap between worker and firm interests, as if the latter's success doesn't directly impact the former.²¹ Yet, as U.S. Commerce Secretary Raimondo noted, "The president's view, which is strongly my view, is you can have policies that are good for business and good for workers ... It doesn't always have to be either/or."²²

IP opponents disagree, believing that, to paraphrase former General Motors (GM) CEO "Engine" Charlie Wilson, what is good for GM is by definition bad for GM workers. In essence, they're arguing that there is no overlap between a company's ability to innovate and serve consumer interests and between company interests and worker interests. It's as if none of the revenues from the creation, delivery, and marketing of new digital content, drugs, technologies, or other

products go to the millions of artists, technicians, engineers, scientists, support staff, and others directly or indirectly involved in a broad range of IP-intensive goods and services.

This distorted populist view ignores the economic impact of IP on trade and that U.S. exports and operations overseas have a major impact on the U.S. workforce and operations. In fact, expansion abroad in affiliates of U.S. multinationals, something that the inclusion of IP in trade agreements enables, supports U.S.-parent jobs, rather than destroys them. A study of U.S. multinational corporation services firms finds that affiliate sales abroad increase U.S. employment by promoting intra-firm exports from parent firms to foreign affiliates.²³ Dartmouth's Matthew J. Slaughter found that employment and capital investment in U.S. parents and foreign affiliates rise simultaneously. Total compensation at U.S. parent companies was over \$1.36 trillion in 2006—a per-worker average of \$62,784. This average was \$12,163—fully 24 percent—above the average for the rest of the private sector of \$50,621.²⁴ In addition, a U.S. Department of Commerce study finds that export-intensive industries pay more on average and the export earnings premium is larger for blue-collar workers in production and support occupations than for white-collar workers in management and professional occupations.²⁵ Specifically, such workers earn a 19 percent premium in export-intensive manufacturing industries and a 17.6 percent premium in export-intensive services industries.

Anti-IP advocates seek to be on the side of the angels. They think that creativity, content creation, and innovation are not dependent on IP and that consumers and workers can have it all: weak IP rights and more IP (and thus innovation). If only that were true.

IP protections in trade agreements are also important because they make it easier to prevent foreign theft of all forms of U.S. IP, including patents, trademarks, and copyrights. When a foreign company infringes on a U.S. patent to illegally sell a product such as a computer chip, it takes sales and jobs from the U.S. company. When a foreign company infringes on a U.S. trademark to illegally sell a product such as designer clothing, it takes sales and jobs from the U.S. company. When a foreign company infringes on a U.S. copyright to illegally sell a product such as a hit movie, it takes sales and jobs from the U.S. company. With the United States being the leader in innovation and creation, foreign IP protection is particularly important to the U.S. economy and U.S. job creation and retention.

Hence, many U.S. union leaders support strong IP in U.S. trade policy. In August 2021, union executives representing workers from the U.S. entertainment industry spoke with USTR Tai and “emphasized the importance of copyright protections in trade agreements,” especially pertaining to piracy and royalty collections.²⁶ Without support from trade agreements and bilateral agreements between collective rights organizations (commonly referred to as CROs), creators cannot collect royalties earned in foreign markets. President of the AFL-CIO labor federation, Richard Trumka, said digital piracy has caused “countless” job losses in the heavily unionized media and arts sectors.²⁷ The boom in IP-enabled industries and career opportunities that didn't exist at the turn of the century (such as gamers and influencers) also shows IP protection is vital for future job growth.

Likewise, a study by the Pharmaceutical Industry Labor-Management Association (PILMA, a coalition of labor unions and pharma companies involved in pharma construction and

maintenance) estimates 447 pharma and biotech projects were constructed between 2015 and 2020, requiring 58.7 million labor hours across 14 states.²⁸ Many of these projects depend on foreign sales and licensing agreements, which rely on strong IP protection.

IP enables stronger U.S. firms and employment in firms of all sizes.²⁹ A study of 127,000 firms by the European Union Intellectual Property Office finds that those who own IP rights generate 20 percent higher revenues per employee and pay 19 percent higher wages on average than their contemporaries do. Although only 9 percent of small businesses own IP, the firms that do have almost 32 percent more revenue per employee than firms that do not.³⁰

To say IP is an elitist concern reserved for big businesses blatantly ignores a vital part of advanced industries and tech leadership. Start-ups—especially those in research and development-intensive industries such as tech, pharma, and biotech—literally would not exist without IP protection. IP portfolios that include patents and trade secrets enable start-ups and SMEs to gain vital capital by showing potential investors a possible return on their investments.³¹

The Effect of Piracy on Creative Industries

Piracy affects middle-class workers in gaming, software, content creation, music, visual arts, performing arts, AI, app development, streaming, broadcasting, literary arts, and more. For example, one study estimates that digital video piracy results in an estimated 230,000 to 560,000 job losses in the U.S. content-production sector and between \$47.5 billion and \$115.3 billion in reduced gross domestic product (GDP) each year. While piracy remains a problem in the United States, the study indicates that most of these losses are due to digital video piracy of U.S. content by people outside the United States.³²

Take the U.S. movie sector as an example. Weak or no IP would result in unemployment for many of the almost 350,000 U.S. workers directly employed in the video and sound recording industries.³³ The lengthy, scrolling credits at the end of a big-budget movie show that hundreds of workers are required to bring one film to life. And it's not just actors, directors, writers, and camera operators. Films also require sound technicians, electricians, carpenters, lighting specialists, costumers, metal workers, pyrotechnical experts, choreographers, stunt coordinators, armorers, prop and set designers, drivers, hairstylists, makeup artists, digital effects programmers, artists, and editors. One study shows a 51 percent increase in the average number of crew members listed during credits for North American cinematic releases from 185 in 2000 to 280 in 2018.³⁴ This same study shows a direct correlation between a film's budget and the number of crew credits.

The impact of big-budget TV shows (e.g., *Fear the Walking Dead*) and movies (e.g., *Avengers: Endgame*, with an estimated \$356,000,000 budget and \$2,797,501,440 worldwide gross, and *Avatar*, with an estimated \$237,000,000 budget and \$2,847,246,080 worldwide gross) is much broader given the money that goes into local economies via groceries, food services, accommodations, transportation, venues, local talent, and other service industries every day during filming; expenditures such as equipment purchases supporting the local and national economy; and higher wages for industry workers.³⁵ This is to say nothing of the thousands employed by movie theaters, performance venues, broadcasters, advertising agencies, talent agencies, event coordinators, and the plethora of manufacturers associated with merchandising, all of which rely on the movie, TV, and music industries.

Not only is IP protection vital for all sizes of enterprises and a wide variety of sectors, but IP-intensive industries also offer middle-class workers of varying skills and education levels good, high-paying jobs. For example, in 2019, copyright-intensive sectors employed 5.7 million workers who earned an average of \$107,805 annually, which was 43 percent higher than the average compensation (\$75,214) paid to all U.S. employees.³⁶ And many of these positions do not require degrees.³⁷

RECOMMENDATIONS

The timing of this debate around U.S. trade policy comes during a broader discussion about underlying insecurities and uncertainties U.S. workers face in an age of global competition. The Biden administration needs to find the right combination of domestic and trade policies to allay and address these reasonable concerns. However, this means rejecting the advice and counsel of anticorporate progressives not just because their agenda will hurt U.S. companies, but because their agenda will hurt U.S. workers. As such, the Biden administration and Congress should do the following:

1. **Work to restructure trade law, policy, and practice** along the lines discussed above.
2. **Expediently reengage with the rest of the world on a robust trade agenda.** Hopefully, Congress will soon pass and fully fund a national competitiveness bill. Additional trade engagement—including multilateral trade agreements—and agreements grounded in a competitiveness-focused approach to trade will complement the bill.
3. **As the U.S. government reengages in trade, it should continue to be the world’s leading supporter of strong IP provisions in trade agreements.** This means, as the United States hopefully once again negotiates future trade agreements, it should continue to press to insert robust IP protections into the agreements.
4. **Put IP theft on the agenda for cooperation with like-minded countries.** The United States should engage like-minded partners on new tools to counter IP theft, especially from China. Just as the United States should add countering IP theft to the agenda for cooperation with the European Union and Japan to the “Trilateral Framework,” it should be added to the agenda for the TTC.
5. **Enact new measures to better protect IP at home.** The Biden administration and Congress should ensure that U.S. firms have the legal tools they need to protect themselves from state-sponsored IP theft, especially from Chinese-backed firms. For example, the Biden administration should support the SECRETS Act.³⁸ Senators Cornyn (R-TX), Coons (D-DE), and Young (R-IN) introduced the bill to amend the Tariff Act of 1930 to make it easier for U.S. firms that believe they are victims of IP theft to block imports of products developed with their trade secrets.³⁹ The bill covers imports of both physical and digital products resulting from IP theft. This is a much-needed bill, as current legal processes addressing IP theft are slow and cumbersome and haven’t kept up with the rapid pace of technological innovation.

CONCLUSION

U.S. trade policy is at a crossroads. The nation cannot go back to the 1990s and 2000s. Nor should it go forward with what will ultimately prove to be an isolationist and antibusiness (and antiworker) trade agenda many progressives are seeking. Rather, the U.S. government and the trade establishment broadly need to embrace a competitiveness-focused trade agenda. Among other things, this means that fighting for the interests of American workers means fighting for the interests of U.S. companies and companies in the United States when they align, as they usually do, with U.S. economic and worker interests.

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The Information Technology and Innovation Foundation (ITIF) is an independent, nonprofit, nonpartisan research and educational institute focusing on the intersection of technological innovation and public policy. Recognized by its peers in the think tank community as the global center of excellence for science and technology policy, ITIF's mission is to formulate and promote policy solutions that accelerate innovation and boost productivity to spur growth, opportunity, and progress. For more information, visit itif.org.

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