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Abstract

The results of the 2020 elections do not mean a quick or easy return to U.S. leadership in the trading system. This examination instead stresses a series of global and domestic challenges, several of which stem from long-term shifts in power and wealth. In addition to the rise of China, these include a reputational hangover from the Trump administration and the proliferation of agreements that prize targeted liberalization over nondiscrimination. The Biden administration must also contend with protectionist industries, lack of comity between the branches of government, and the two parties' contradictory priorities on trade-related issues. The net effect is that American statesmen may continue to assign a low priority to trade, their attention is more likely to be directed toward discriminatory than multilateral initiatives, and the administration will face competing demands that complicate the negotiation and approval even of free trade agreements with selected partners.

Keywords

US trade policy, domestic politics, China, Biden administration, trade agreements.

I. Introduction[*]

The friends of an open trading system might understandably see in the 2020 U.S. election a repudiation not just of Donald Trump but of all that he stood for, and a prerequisite for the restoration of American leadership in the multilateral trading system. That conclusion might represent the triumph of hope over experience. If we view last year's events in their larger context, the four-year experiment with Trumpism may appear only as a deviation in degree, and not in direction, from the established trend-line. However much Trump and Biden differ in their temperament and objectives, a change in government does not negate the serious challenges that national policy and the larger trading system already faced long before 2016. And while there are many respects in which the new administration will want to undo how its predecessor responded to these threats, both its aims and its accomplishments may be limited. That sobering expectation is based on a review of trade politics at home and abroad, showing why a U.S. return to leadership in the trading system might not be rapid, easy, or complete.

This analysis looks beyond the swings in the 2016 and 2020 elections so as to place the current state of U.S. policy in a broader perspective, with special emphasis on how long-term changes in the global distribution of power and wealth have affected the objectives of statesmen, elected officials, and the private sector. I devote some attention to the specific issues that the new administration may deal with (or elect to postpone), but such transitory questions as Biden's personnel choices and his tactical options ultimately matter less than the larger environment in which these decisions will be made. Readers should also note that while the focus here is solely on trade policy, we would find similar trends if our scope expanded to cover other topics and instruments in foreign economic policy such as investment, foreign aid, and international financial institutions. With some differences in detail and dimension, each of these areas are marked by U.S. retrenchment and Chinese expansion.

This analysis, which distills and updates some key themes from my book on *Trade and American Leadership*,[1] is based on two propositions regarding the political economy of trade. The first concerns the international political foundations of the trading system: While all countries may benefit from trade, a more or less open system must be built on something more solid than a shared hope that everyone will voluntarily and spontaneously take up an appropriate share of the burden. Experience instead confirms that economic nationalism is the default policy in most countries, and that open markets require guidance from one that is especially efficient and influential. History also warns that this leadership is likely to wane over time, and when it does we should expect increased levels of protection, discrimination, or both. The second proposition concerns the domestic political foundations of the trading system: Both the larger U.S. constitutional order and the trade laws prevent the aggregation of authority in the executive, making presidential plans contingent on support from both the private sector and the legislative branch. Even if President Biden were intent on reversing all aspects of his predecessor's trade policies, he could not do so entirely on his own.

I pursue this argument by examining recent trends and the current status of eight foundations on which U.S. leadership has rested. Four of them are international, and four are domestic. The international trends are mixed. Whereas there is good reason to expect renewed U.S. respect for multilateral rules and norms, which may bode well for the allies' willingness to support the leader, the rivalry between the United States and China remains the principal source of friction. We may anticipate that concerns over American primacy will continue to dampen U.S. enthusiasm for multilateral liberalization, and that Biden will join his recent predecessors in treating bilateral and regional agreements more as substitutes

[*] This paper is a contribution to a European Union Horizon 2020 research and innovation supported project, realizing European soft power in external cooperation and trade (RESPECT), grant agreement 770680.

[1] *Trade and American Leadership: The Paradoxes of Power and Wealth from Alexander Hamilton to Donald Trump* (Cambridge University Press, 2019).

than as complements to nondiscriminatory liberalization. The challenges posed by the domestic politics of trade also remain daunting. The Biden administration may concentrate far less on trade liberalization than on other manifestations of leadership, especially in the next two years. To the limited extent that this administration does prioritize trade policy in the first half of its four-year mandate, it still faces a challenging domestic polity. Some industries have recently regained their appetite for protection, unified government does not ensure comity between the two branches of government, and the administration will find it difficult to reconcile the two parties' contradictory priorities on the many issues that have gotten entwined with trade over the past few decades.

The net effect of these trends can be reduced to three main points. The first is that the principal danger is not the perpetuation of Trumpian protectionism but a return to a prior pattern in which American statesmen assign a progressively lower priority to trade. Second, whatever attention policymakers devote to new agreements is more likely to be directed toward discriminatory than multilateral initiatives. Third, the administration will face competing demands that complicate the negotiation and approval even of free trade agreements (FTAs) with selected partners. Some of these demands are economic and defensive, such as the preservation of trade-remedy laws and Buy-American principles, while others lie at the intersection of commercial and social policy (e.g., on labor and environmental issues). Taken together, global and local politics ensure that the Biden administration will find trade liberalization — especially the nondiscriminatory variety — no easier to achieve than had the last few presidents who preceded Trump. Biden may feel obliged not only to assign this issue a lower and later status, but also to make trade-offs that tend to blunt the economic value of whatever new agreements his team may negotiate.

II. The International Foundations of Leadership

In this section we consider the recent trends affecting U.S. leadership in the trading system. It starts from the proposition that the arc of policy can best be understood by way of the theory of hegemonic stability, a paradigm that explains why global markets are often closed but sometimes open. The paradigm treats a liberal trading order as a public good from which every country benefits, but also acknowledges that public goods tend to be underprovided because they invite free-riding (i.e., everyone waits for everyone else to foot the bill). That problem is not likely to be overcome unless one especially influential country steps forward to propose — and also to obey — rules that limit countries' ability to cheat. A hegemon has both the incentive and the influence needed to provide this public good, insofar as it is efficient as well as powerful. The theory nevertheless implies that when a leader decides early in its hegemony to sponsor an open system it also sets something of a time-bomb. As the hegemon's own competitiveness diminishes, and as challengers arise, its interest and capacity to provide leadership will weaken.

The stability of the four foundations reviewed below is threatened by China's rise, insofar as its broad-spectrum challenge to U.S. authority alters Washington's perception of a multilateral, nondiscriminatory trading system. It is difficult to say whether the greater systemic danger comes from the Trump administration's protectionist measures or the turn that his predecessors already made to bilateral and regional agreements; we consider both of these problems in succession. And even if the Biden administration restores the U.S. willingness to abide by the *existing* norms of the multilateral system, there is good reason to doubt that it will spearhead the negotiation of substantial *new* commitments in the World Trade Organization (WTO). While this government may well carry on with the FTA negotiations that it has inherited, perhaps at an unhurried pace, the prospects for significant progress in the WTO are no higher today than they have been since the failed attempts to conclude the Doha Round of multilateral trade negotiations in 2003 and 2008.

II.A. The First Foundation: The Hegemon's Relationship with Challengers and Other Contenders

The principal challenge to a trading system that depends on hegemonic leadership is the Law of Uneven Growth, a phenomenon recognized by such diverse thinkers as Thucydides and Lenin. An open system may result in faster growth for the middle powers than for the leader, and a few of these contenders will eventually become challengers. The earlier, British-sponsored trade regime fostered the rise of one challenger that failed (i.e., Germany) and another that ultimately succeeded (i.e., the United States), and so too has the U.S.-sponsored system spurred the growth of one that flopped (i.e., Japan) and another that is still in the running (i.e., China). The three prior challenges were each resolved in different ways: Germany failed to unseat Britain in two world wars, the transfer of leadership from Britain to the United States was vastly facilitated by these two countries' alliances in those same conflicts, and the post-war terms that the United States imposed on Japan ensured that the latter country's challenge would be conducted solely in the economic sphere. The chief problem today is how the United States and China may handle a rivalry in which commercial objectives are again entangled with military concerns.

It would be naïve to expect the present challenge to be handled as easily as was the Anglo-American relationship, as that last transition was facilitated by major factors that are absent today. The first and most obvious difference, beyond the historical ties between Britain and America, is in the security sphere: Whereas the Second World War renewed an alliance with London that would only grow over time, Washington's partnership with Beijing began and ended with that war. These security tensions may be exacerbated by two economic factors, starting with a major distinction in the hegemon's external economic dependence. Whereas the United Kingdom has long been intimately tied to the global economy, depending on the outside world not just to take its goods and capital but also to supply its food, the United States is more self-contained. The low level of U.S. economic ties to the rest of the world — a theme that runs throughout this analysis — allows American policymakers to place a greater stress on security issues than was the case for their British forbears, for whom commerce was not just an interest but an imperative. This gives rise to yet another difference, which concerns the hegemon's stake in the prosperity of its challenger. From the time that the United States achieved its independence through its displacement of the former mother country, British investors sent vast sums across the Atlantic. By contrast with that symbiotic relationship, American capital sees more of a threat than an opportunity in China. As of 2009 just 1.5% of all U.S. foreign direct investment was in China, and over the next ten years this rose very modestly to 1.9%.[2] And while Chinese investment in the United States has grown, the implications are more often assessed in terms of power (through China's capacity to leverage large holdings of Treasury securities) than wealth (through its few "brick and mortar" investments).[3]

We may gain further insight into the evolving postures of the United States, China, and other potential leaders by examining their shifting fortunes since the start of the WTO period. The data summarized in Figure 1 start from the simplifying assumption that most countries have essentially mercantilist outlooks, such that they define their interests according to their exports and will naturally perceive other countries' influence according to the size of their import markets.[4] The trends show that the principal source of instability over the past generation has not been an absolute decline in the U.S. position, but instead the remarkably rapid growth of China along one dimension and the gradual erosion of other contenders' positions across two.

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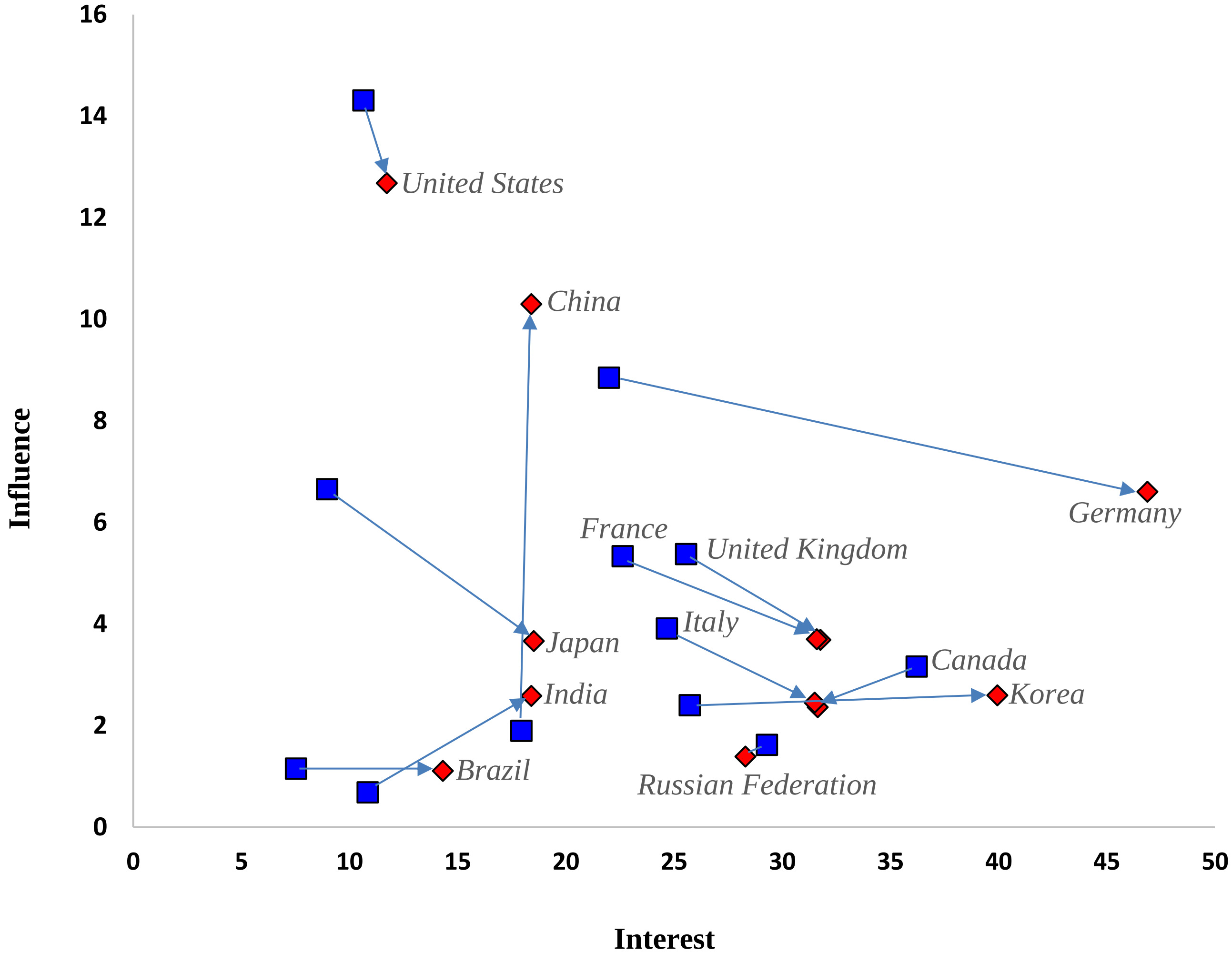
[2] Calculated from Bureau of Economic Analysis data at https://apps.bea.gov/international/xls/usdia-current/usdia-detailedcountry-2009-2019.xlsx.

[3] See for example the data and analysis in Andres B. Schwarzenberg and Karen M. Sutter, *U.S.-China Investment Ties: Overview* (Congressional Research Service, 2021).

[4] Based on the twelve largest economies as measured by 2019 GDP in current U.S. dollars, as shown at https://data.worldbank.org/indicator/NY.GDP.MKTP.CD. Separate data are not shown for the European Union because its composition changed since 1995 and intra-community trade can be tricky to assess.

Figure 1: Shifts in Selected Countries' Influence and Interest, 1995-2019

Values for 1995 shown as ***Blue Boxes****, for 2019 as* ***Red Diamonds***



Influence = Country's share of total global imports of goods and services.

Interest = Exports of goods and services relative to country's GDP.

Note: Data for Japan are 2018 rather than 2019.

Sources: Calculated from World Bank data at https://data.worldbank.org/indicator/NE.EXP.GNFS.ZS (exports) and https://data.worldbank.org/indicator/NE.IMP.GNFS.CD (imports).

The United States remains the world's largest import market, with its share of total world imports dropping only slightly from 14.3% in 1995 to 12.7% in 2019. American export interests have meanwhile grown very modestly in absolute terms, and actually fell relative to the global average. Whereas U.S. exports of goods and services crept up from 10.6% of gross domestic product (GDP) in 1995 to 11.7% in 2019, for the world as a whole this measure leaped from 21.9% to 30.5%. So while as of 1995 eleven countries were less export-dependent than the United States, by 2018 the only ones for whom exports mattered less were Burundi, Ethiopia, Haiti, Nepal, Niger, Pakistan, and Sudan. It is thus not surprising that American policymakers tend to accord a lower priority to trade than do their counterparts in most other countries. Simply stated, the United States matters more to the global economy than *vice versa*.

Where the changes in the U.S. position have been marginal, China's share of global imports is now five times larger than at the start of the WTO era. Over that same period, however, its export-dependence has hardly changed one whit. These observations hint at why China has not chosen to invest its rising influence in a reinvigoration of the WTO. Its position is beginning to resemble that of the United States, with both countries' influence being out of proportion to their interests. Similar conditions lead to similar conclusions regarding the utility of trade as a means of securing other objectives (economic or security) when dealing with their partners. Here arises a fine point in commercial jiu jitsu, or the art of maximizing the leverage of one's market while minimizing the risk to one's own economy: This capacity is greatest when it is employed bilaterally. We will return to this point when we examine how important FTAs have become in Sino-American competition.

A critic might suggest that this construct is based on an outdated conception of inter-state relations, and that in place of American or Chinese leadership we may instead look forward to a more democratic form of governance. According to this alternate view, the world may now be sufficiently mature to treat an open world market as a global public good that many hands help to create and sustain. That expectation would demand much of a community where the middle powers have drifted in ways that do not facilitate the collective exercise of power.

Consider the trends for the traditional American allies in Europe, where all four of the largest economies have followed a common pattern. France, Germany, Italy, and the United Kingdom are each significantly more export-dependent now than they were a generation ago, yet each of them has also seen their import-weighted influence decline. The European Union's capacity to exert a positive influence on the multilateral system has been further reduced by Brexit and the worldwide rush to discriminatory agreements. The biggest step in that latter trend began in 2013 with the Obama administration's launch of the abortive Transatlantic Trade and Investment Partnership (TTIP). Although Trump suspended those talks in 2017, he then rebranded them as a matched pair of U.S.-E.U. and U.S.-U.K. FTA negotiations in 2018. Those initiatives, coupled with the parallel plans for a U.S.-Japan FTA, now engage six of the world's eight largest national economies — each of which might otherwise be trying to reinvigorate an ailing WTO.

One searches in vain for a natural leader among the other major economies, where only India has experienced significant increases in both its interests and its influence. There are some positive signs that Indian policymakers may be less trade-skeptical today than in the past, but they have yet to make the transition from spoiler to leader. And while export interests have risen in East Asia, these countries' influence has either declined significantly (i.e., Japan) or risen only slightly (i.e., Korea). Nor do the remaining numbers illustrated in Figure 1 lead us to expect strong leadership from Brazil (whose influence seems to have flattened even as its export-dependence has gone up), Canada (the only country among these dozen where interest and influence have both fallen), or the Russian Federation (the only one to see virtually no change along either dimension). In short, the trading system today is defined not just by a rising Chinese challenge to American leadership, and a decreased U.S. interest in answering that challenge through multilateral initiatives, but by the diminished capacity of other players to present a third alternative.

II.B. The Second Foundation: The Allies' Continued Support of the Leader

A functional system requires not just leadership but followership, and the willingness of other countries to play follow-the-leader may depend at least as much on the hegemon's political prestige as it does on that country's economic influence. The data reviewed above, which showed only a modest reduction in the share of global imports that are taken in by the United States, may ultimately be less consequential than the injuries that Trump inflicted on the American reputation.

This point can be appreciated from the data illustrated in Figure 2, which compares the changing levels of selected countries' economic and political affinities for the United States.[5] The data confirm the trend whereby the relative economic size of the United States has not suffered as much as all of the reportage on China's rise might lead one to suppose. While some countries export a somewhat smaller share of their goods to the United States now than they did at the start of the WTO era, most of them have also grown more export-dependent in general over that same period. The net result is that for nine of the twelve countries shown in Figure 2, exports to the United States were equivalent to a larger share of GDP in 2019 than in 2009; the increases were especially large for continental European countries. By contrast, in most countries shown here support for U.S. leadership was far lower near the end of the Trump term than it was at the start of the first Obama term. India once again deviates from the broader pattern, being the only country where the U.S. position improved along both dimensions, while in Israel — the only other country where political approval rose, however little — trade retreated. Even for the partners that experienced a notable rise in their economic dependence on the U.S. market, the political decline was always larger than the commercial gain. In short, the relative decline of the United States has lately been more acutely felt in political than in economic terms. It should also be stressed that public opinion polling from 2019 will not fully reflect the turbulent events of the last eleven months. One may only imagine how much farther the U.S. image dropped after Trump's shambolic handling of the pandemic in 2020, followed by his incitement to insurrection in the opening days of 2021.

Will these downturns prove to be transitory judgments on what one hopes will have been a temporary man, or will deeper concerns over the political stability of the United States permanently impair its influence? Recent public opinion polling suggests that American soft power has taken some hard hits. "Most Europeans rejoiced at Joe Biden's victory in the November US presidential election," according to the European Council on Foreign Relations, "but they do not think he can help America make a comeback as the pre-eminent global leader."[6] Over half of the respondents to that organization's poll agreed that "the political system in the United States … is broken," and the shares were especially high in Germany (71%) and the United Kingdom (81%). The poll also found deep doubts regarding U.S. security guarantees to Europe and cooperation on economic issues. A recent Pew poll showed a comparable split in the short- and long-term assessments, with respondents in the three largest European countries expressing hope that things will be better under Biden while also indicating that the Trump experience had shaken their faith in the United States.[7]

We do not yet have the advantage that future historians will enjoy in assessing whether the Trump stain is indelible. That depends in the short term on the Biden administration's management of the economic and health challenges, and if it can effectively confront adversaries without worsening relations with traditional friends. It is notable that from the top down this new administration rarely passes up an opportunity to stress how highly it values international cooperation. Given the many and varied ways that its predecessor went about pursuing the "America First" agenda, the Biden administration faces no shortage of issues on which it must attempt a re-set. It will not have sole control over the U.S. image, however, as the continued antics of Trump and his base may well color American politics for years to come.

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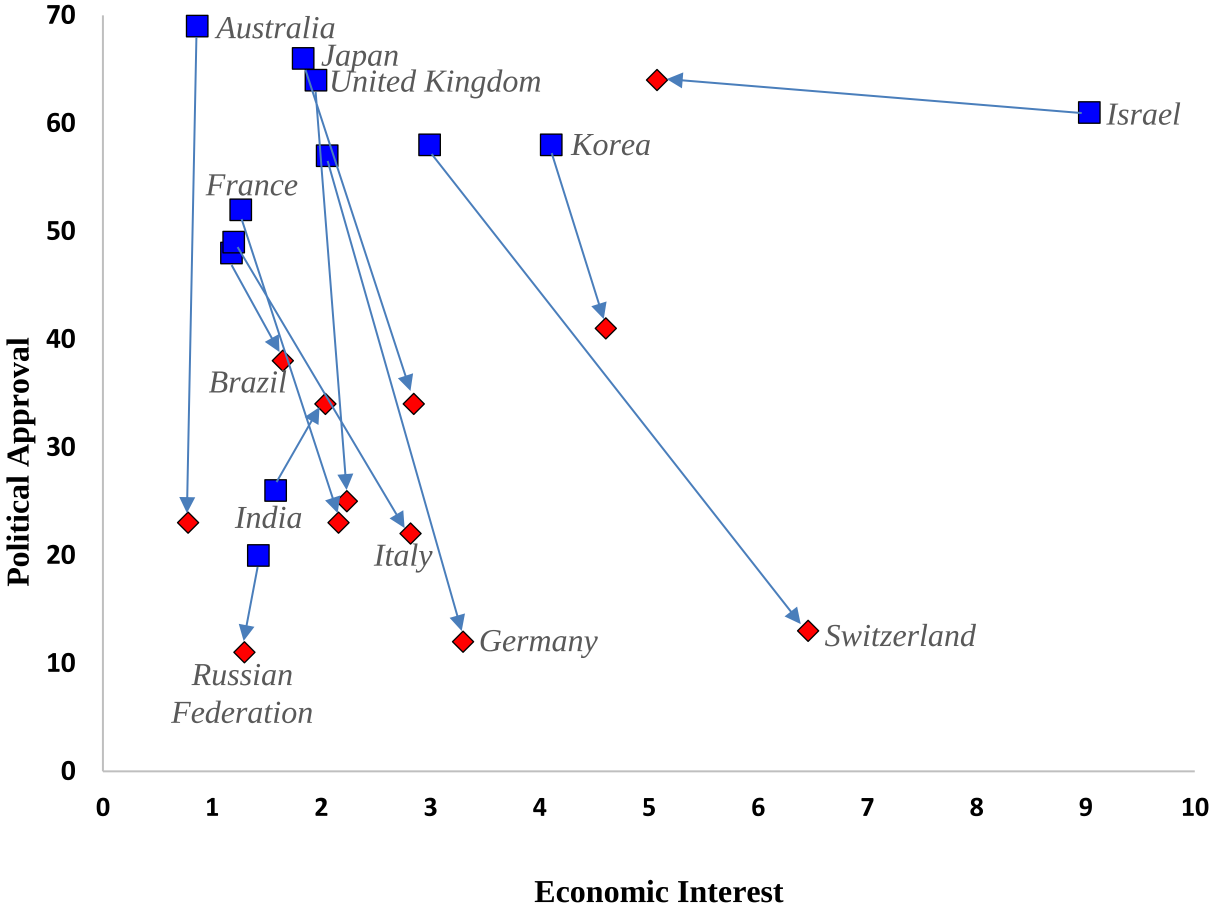
5 Note that I have excluded from Figure 2 countries for which exports to the United States are equivalent to more than 10% of their GDP, insofar as including them would make it more difficult to see the distinctions among other countries that are less dependent on their access to the U.S. market. In the case of Canada, for example, exports to the United States relative to GDP rose from 16.4% in 2009 to 18.4% in 2019. Over that same period, Canadian approval for U.S. leadership fell from 63% to 22%.

6 Ivan Krastev and Mark Leonard, *The Crisis of American Power: How Europeans See Biden's America* (European Council on Foreign Relations, 2021), page 1.

7 See "British, French and German Publics Give Biden High Marks After U.S. Election" at https://www.pewresearch.org/global/2021/01/19/british-french-and-german-publics-give-biden-high-marks-after-u-s-election/.

Figure 2: Shifts in Selected Partners' Perceptions of the United States, 2009-2019

Values for 2009 shown as ***Blue Boxes****, for 2019 as* ***Red Diamonds***



Political Approval = Share of respondents approving the job performance of U.S. leadership.

Economic Interest = Partner's exports of goods to the United States as a share of its GDP.

Note: Initial public opinion data for Australia are for 2010 rather than 2009.

Sources: Approval data from the Gallup Poll at https://news.gallup.com/poll/146561/2010-Global-Leadership-Project.aspx and https://www.gallup.com/analytics/315803/rating-world-leaders-2020.aspx. Export data calculated from U.S. imports at https://dataweb.usitc.gov/ and World Bank GDP data at https://data.worldbank.org/indicator/NY.GDP.MKTP.CD.

II.C. The Third Foundation: The Leader's Continued Support for Multilateral Rules and Norms

A leader cannot long expect to maintain its partners' support if those countries do not believe that the rules are honored widely and enforced fairly. This points to one of the main challenges that Joe Biden inherits from Donald Trump, who habitually tapped into that part of the national character that is untroubled by the suggestion that it is acting in contravention of international law, sees multilateral organizations as cabals in which unscrupulous foreigners conspire to cheat Americans, and is prepared to respond not just in kind but in advance. Trump was not the first politician to reiterate some variation on the outdated observation that the United States has never lost a war or won a negotiation, but none of his predecessors placed so little stress on the principle of *pacta sunt servanda* (agreements must be kept). His administration instead seemed to denigrate any commitments made by prior presidents as corrupt bargains or one-sided deals that it was eager to violate, abrogate, or renegotiate.

The Trump administration exacerbated this problem by conjuring up ancient trade laws that were largely forgotten but not yet gone. In each case it flouted formal or informal commitments in the WTO. The least provocative action came in Trump's 2018 decisions to grant global safeguards protection to producers of washing machines and solar panels. Neither of these actions were *prima facie* illegal under the WTO, and neither was self-initiated by the administration, but they did reanimate a protective mechanism that had entered a kind of legal limbo since the United States last used it in 2002. Much more troubling was the administration's use of the "reciprocity" law to impose retaliatory tariffs on China in an intellectual property (IP) dispute, as this went back on a key element in the Uruguay Round of GATT negotiations (1986-1994). In the grandest of all that round's grand bargains, the United States tacitly agreed to sheath its reciprocity sword in exchange for other countries' agreement to (1) accept disciplines on new issues such as IP, services, and investment and (2) replace unilateral enforcement with a strengthened dispute-settlement system. The overall balance of concessions in that round leaned far more toward what the United States demanded than what many of its negotiating partners hoped to concede, but this distinction was lost on the Trump administration when it went after China. It was as if the Uruguay Round never happened.

Trump's abuse of the national security law posed an even graver danger. As provided under section 232 of the Trade Expansion Act of 1962, and permitted through a necessary loophole in WTO law (GATT Article XXI), this statute gives the president broad authority to impose restrictions on imports that are alleged to threaten national security. Prior American presidents resorted to these unique provisions of domestic and international law only *in extremis*, and almost exclusively as an instrument of energy security.[8] That all ended in 2017, when one of Trump's first moves on trade was to self-initiate investigations against steel and aluminum imports. The resulting tariffs fell more heavily on NATO allies than they did on actual or potential adversaries, and the administration frequently threatened to do the same in an automotive case that it began but never completed. It also considered using this law to restrict imports of uranium, titanium sponge, vanadium, electrical transformers, and mobile cranes. The indiscriminate use of the national security law showed Trump's deep scorn for the interests of American partners and the rules to which they all agreed. The resulting WTO dispute-settlement panels fortunately chose not to take the bait, opting to slow-walk their deliberations. If the panels had quickly sided with the complainants, especially in the heat of a U.S. presidential election, they would stage a made-for-television opportunity for Trump to storm out of an international organization that (he would claim) does not respect the national security of a sovereign state. If they instead allowed the U.S. restrictions to stand, the panels would not only ratify the rot but invite other members to reciprocate. It was thus the better part of valor to postpone decisions until after the 2020 election.

It now falls to the Biden administration to determine how it will clean up after the elephant that just left the room. More is at stake here than the individual cases, as the events of the past four years raised serious concerns over the long-term reliability of Washington's commitments. Finding solutions is further complicated by the unresolved issues surrounding the WTO's Appellate Body, as U.S. demands for reform of this institution predate Trump. Given the slow pace that we might expect in trade negotiations, however, these disputes might well offer the first significant test of the American efforts to restore the faith of its trading partners. And as discussed in the concluding section, it is possible that here the Biden administration will not make as clean a break from its predecessor's policies as free-traders would hope.

II.D. The Fourth Foundation: Discriminatory Agreements as Complements, Not Substitutes

The trading system has long sought to achieve the seemingly twin objectives of reducing or eliminating trade barriers while also ending discrimination between partners. Squaring that circle was relatively easy

[8] Past presidents used this law and its predecessor statute to impose restrictions on oil imports five times, but invoked it only twice on behalf of other industries (i.e., ferroalloys in 1981 and machine tools in 1986).

as long as discriminatory agreements were rare and could be treated as complements to multilateral rules. An FTA might do so either by setting precedents that are picked up later in multilateral talks, or by offering an exceptional means for a few countries to integrate more deeply than would be possible in multilateral talks that are constrained by the least common denominator. The recent proliferation of FTAs, which ironically began just when the WTO was coming into being, has reached the point where countries now sacrifice nondiscrimination in pursuit of liberalization. The net results have been dubious, as the opportunity cost of each new FTA includes the disincentives they create to multilateral liberalization. By the time that Trump took office, many trade policymakers had already come to see discriminatory agreements as a substitute for the WTO. And while Biden has an instinctive internationalism, this will not necessarily manifest itself as multilateralism.

The principal problem is that U.S. policymakers and stakeholders increasingly see multilateral commitments as concessions that may benefit only China — and do so at the expense of FTA partners. That is especially true for any MFN reductions in tariffs, as can be appreciated from the data in Figure 3. It is an exaggeration, but one of diminishing magnitude, to see tariffs as a tax that is exclusively imposed on imports from China. Even before Trump began to heap various penalty tariffs on imports from that partner, we saw a significantly higher average rate on imports from China and a fairly steady rise in its share of total tariffs. The Trump administration accelerated that trend by more than tripling the average tariff on Chinese goods, and while this led China's share of U.S. imports to dip its share of all tariffs skyrocketed. One of the most pressing issues for the Biden administration is to decide what it will do with the penalty tariffs that remain, and how best to manage a rivalry that may evolve but will not evaporate.

The value that the United States attaches to multilateral liberalization is unlikely to improve as long as China accounts for the lion's share of tariffs. We have actually been in roughly comparable circumstances before, but the earlier challenge came before living memory and was much more easily resolved. At the dawn of the Cold War, critics charged (however implausibly) that any tariff reductions made in the GATT might redound to the benefit of Moscow. That problem was solved in 1951 when legislators obliged the Truman administration to strip MFN privileges from the Soviet Union and its bloc. Now that China is a WTO member, and eschews the Soviet-style autarky that it had once emulated, no such easy solutions are available. The only ways to ensure that China does not benefit from any agreements reached in the WTO are to negotiate them on a strictly plurilateral basis (which China opposes) or to abstain from multilateral negotiations altogether.

It is therefore not surprising that American trade negotiators devote so much attention to FTAs. The current negotiations with Brussels, London, and Tokyo, which we may provisionally expect the Biden administration to continue (but perhaps not accelerate), are actually the third and largest wave of discriminatory agreements.[9] The initial wave began when the United States struck its first deal with Israel in 1985, followed by agreements with Canada and Mexico a few years later.[10] The second wave, which lasted from 2001 through 2012, principally involved smaller countries that were chosen more for reasons of foreign policy than trade *per se*. What is most notable about the first two waves is that they each honored an unspoken rule that long constrained the principal leaders in the multilateral system. That rule held that while the European Union, Japan, and the United States might negotiate agreements with small and mid-sized trading partners — which might be roughly defined as Canada, Korea, and all economies smaller than them — they would deal with one another primarily in the GATT and (since 1995) the WTO. That rule was first negated when the Obama administration launched negotiations with both the European Union (TTIP) and Japan (as part of the TransPacific Partnership).[11] Even though

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9 This wave also includes an FTA negotiation with Kenya that began in 2020, as discussed in the concluding section.

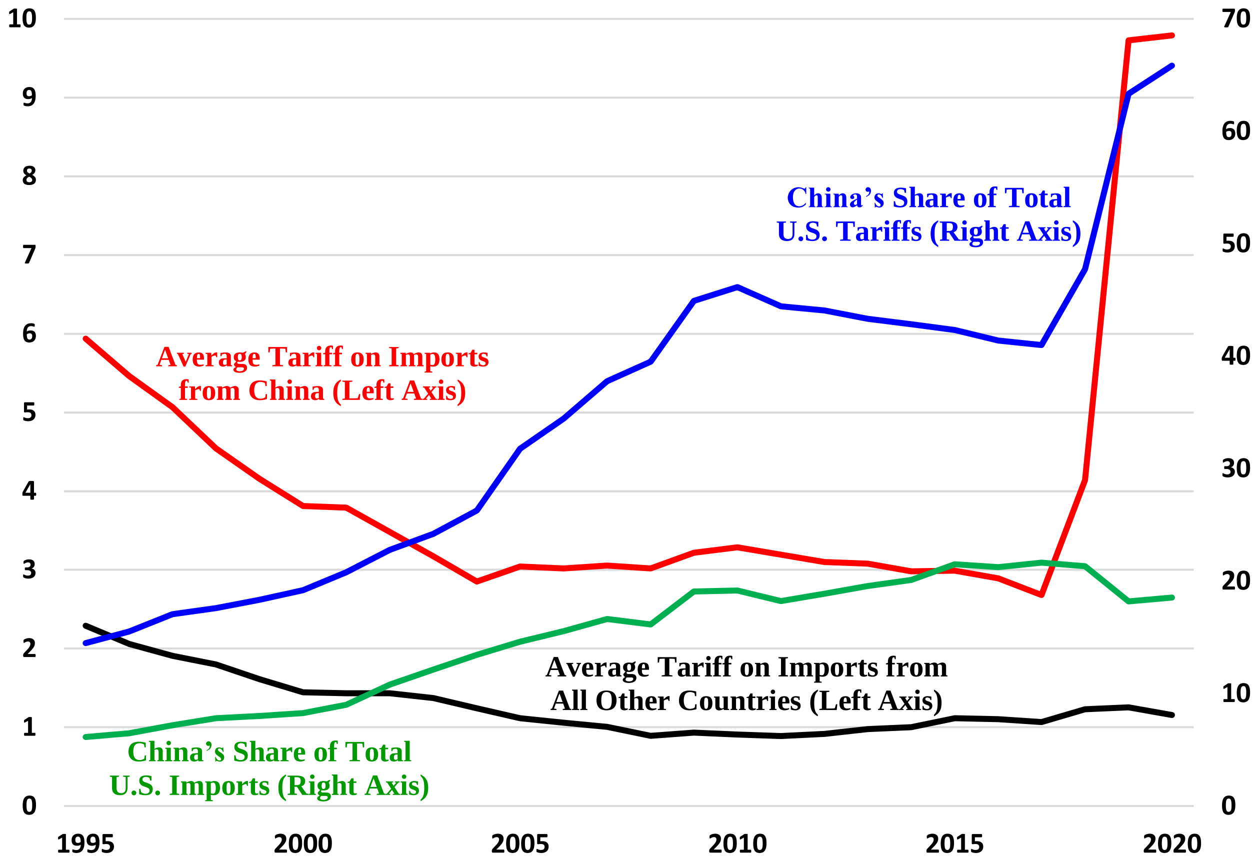
10 The negotiations for the original (bilateral) FTA with Canada concluded in 1988, followed by the trilateral NAFTA that was initially concluded in 1992 (then modified and approved in 1993).

11 It should be noted that the TPP negotiations began in the George W. Bush administration, but it was the Obama administration that brought Japan into the group.

Trump withdrew the United States from the TPP and suspended the TTIP negotiations, it did not take long for him to replicate both initiatives. His administration's plans were nonetheless configured differently: Brexit required that TTIP be bifurcated into separate negotiations, and the FTA negotiations with Japan are now bilateral rather than megaregional.

Figure 3: Tariffs on U.S. Imports from China and the World, 1995-2020

Based on Imports for Consumption; 2020 Based on January-November Data



Source: Calculated from USITC data at https://dataweb.usitc.gov/trade/search/Import/HTS.

This third wave of FTAs poses a much more serious challenge, with the newest partners being so large as to make discrimination the rule rather than the exception in the U.S. trade regime. If every current negotiation produces agreements, the share of U.S. imports (as measured in 2019) that are covered by FTAs will rise from 36.2% to 62.5%. Just how important will the WTO look to American policymakers when considerably more than half of their country's trade is conducted with FTA partners, and the combined value from all other countries (19.2%) is just a smidgen larger than what comes from China (18.2%)?

The systemic risks are only magnified when one considers the parallel processes that are currently underway in the trade strategies, as well as the larger foreign policies, of both China and the United States. Each country is now more heavily engaged in bilateral and regional negotiations than in multilateral talks, partly for commercial reasons and partly as leverage in other spheres, and there is a growing danger that their networks will evolve into rival blocs. At a minimum, each new agreement deepens the disincentives to nondiscriminatory liberalization; matters will be worse still if either or both sides take a leaf from Trump's rulebook and start to impose new restrictions on all countries outside the circles of their FTA partners.

As can be seen from the data in Table 1, the Chinese and American FTA networks already encompass distinct sets of partners that nonetheless have similar collective sizes. The 20 FTA partners of the United States together account for 9.8% of global GDP, compared to the 9.6% controlled by China's 24 FTA partners. If both countries conclude and implement all of the agreements that are now being negotiated or contemplated, however, the United States will be well ahead of China. When one adds the share of global GDP controlled by the United States (24.2%) to the share held by its existing partners, plus the 26.8% held by the countries with which it is now negotiating, the resulting bloc accounts for 60.8% of the world economy. While the FTAs that might ultimately comprise the Chinese bloc are larger in number, they will still account for a considerably smaller share of the global economy (37.4%).[12] From a multilateral perspective, the most important point here concerns just how little overlap one finds between these two blocs: The six countries that currently have FTAs with both the United States and China amount to just 4.5% of the world economy, although that share will grow to 13.7% if all of the negotiations that are now underway or under study come to fruition. This is precisely the sort of fragmentation that the architects of the GATT system hoped to abolish.

III. The Domestic Foundations of Leadership

No matter who occupies the White House, trade policymaking is perennially challenging in a system of government that is always divided by branch and frequently by party. The challenge is even greater now that American politics seem to have descended into an especially dysfunctional genre of performance art in which contending activists prize confrontation over governance and symbolism over substance.

In this section we review the domestic foundations of U.S. trade leadership. All other things being equal, the American capacity to lead is strengthened whenever the administration treats trade as a high priority, it does so with the support of pro-trade coalitions in the private sector and in Congress, and its objectives in this field are not bogged down with other, competing goals. The trends reviewed below unfortunately suggest that all of these foundations have eroded, and that the Biden administration may well put off major initiatives in this field for at least a year or two.

III.A. The First Foundation: An Administration that Accords a High Priority to Trade

The greatest danger that the trading system now faces is not that Washington will accord too much attention to trade, and maintain Trump-level protectionism, but instead that it will accord too little. We already saw in our review of the international data that the United States is more important to the trading system than that system is to the United States. One recurring consequence of this paradox is that American presidents feel less pressure than their foreign counterparts to treat trade as a high priority. When they seek to boost a flagging economy, their first instinct is to look to domestic initiatives. At a minimum, these alternatives draw away energy that might otherwise be devoted to resuscitating the multilateral trading system; they may also result in policies that conflict with the norms or even the rules of that system. As just one example, the Biden administration's plans for major increases in infrastructure spending that is subject to tighter Buy-American rules is not likely to sit well with the partners.

[12] The 37.4% figure is the sum of China (16.3%) plus its current FTA partners (9.6%) and the partners that are either still negotiating (9.2%) or under study (2.3%).

Table 1: Free Trade Agreements of the United States and China

Aggregate Figures Show Shares of Global GDP Held by All Countries in Each Row or Column

		China's FTA Partners			
		FTA in Effect (9.6% of GDP)	FTA under Negotiation (9.2% of GDP)	FTA Under Study (2.7% of GDP)	No Plan or Agreement
U.S. FTA Partners	FTA in Effect (9.8% of GDP)	Australia Chile Costa Rica Korea Peru Singapore	Bahrain Israel Oman Panama	Canada Colombia	Dominican Republic El Salvador Guatemala Honduras Jordan Mexico Morocco Nicaragua
	FTA under Negotiation (26.8% of GDP)	—	Japan*	—	European Union Kenya United Kingdom
	No Plan or Agreement	Brunei* Cambodia Indonesia Laos Georgia Hong Kong Iceland Macau Malaysia* Maldives Mauritius Myanmar New Zealand* Pakistan Philippines Switzerland Thailand Viet Nam*	Kuwait Moldova Norway Palestine Qatar Saudi Arabia Sri Lanka United Arab Emirates	Bangladesh Fiji Mongolia Nepal Papua New Guinea	*Group includes* inter alia — Algeria Argentina Brazil Ecuador Egypt Ethiopia India** Iran Iraq Kazakhstan Nigeria Russia South Africa Turkey Ukraine Venezuela

** : A country that would have been a U.S. FTA partner if the United States had ratified the Trans-Pacific Partnership.*

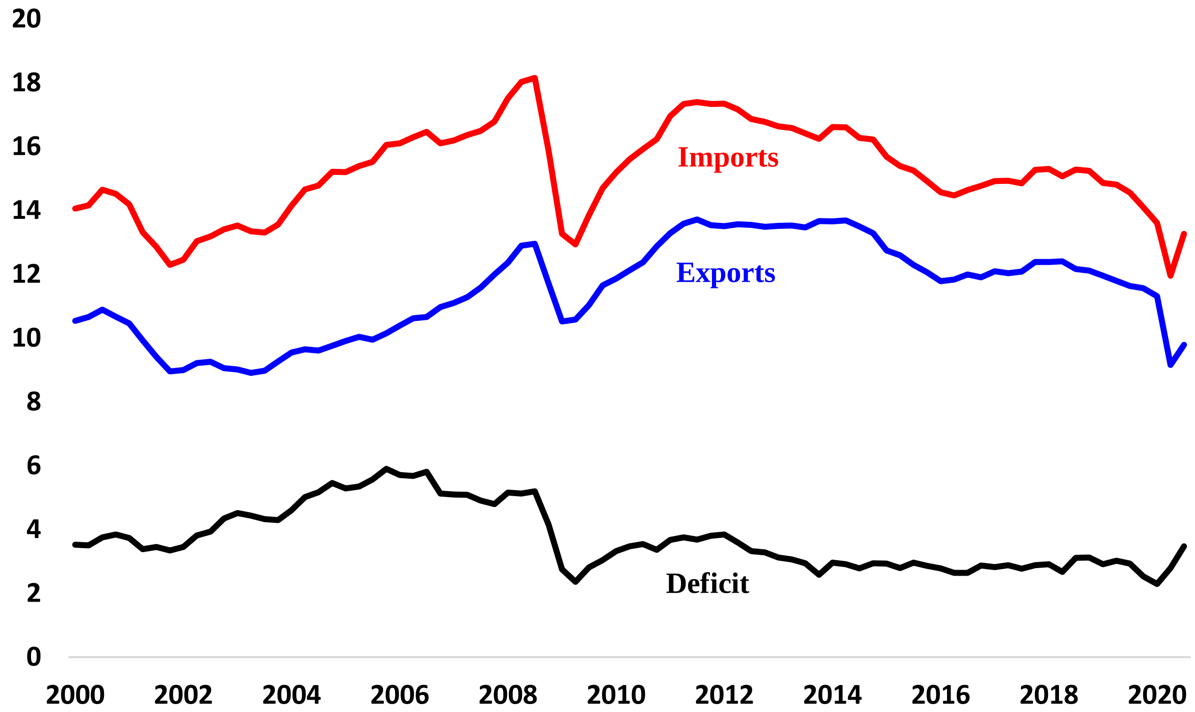
*** : Note that India had participated in the China-led Regional Comprehensive Economic Partnership (RCEP) but then opted out of the talks in 2019.*

Sources: GDP data are for 2019, calculated from World Bank data https://data.worldbank.org/indicator/NY.GDP.MKTP.CD. Status of FTAs from USTR at https://ustr.gov/trade-agreements/free-trade-agreements and MOFCOM at http://fta.mofcom.gov.cn/english/index.shtml.

Current trends suggest that U.S. policymakers may feel even less urgency to deal with trade today than they did a few decades ago. As shown in Figure 4, the 21st century began with fairly steady growth in the relative importance of exports and imports. This tumbled rapidly with the onset of the 2008-2009 financial crisis, however, and after a partial recovery the principal direction has been downward. This implies that the Trump administration's monomaniacal attention to trade was an aberration that the Biden administration may feel little incentive to repeat. We should not be surprised if on this issue — as on so many others — the priorities and policies of the new government were to bear a far greater resemblance to those of the Obama administration, which largely set aside trade policy in its first two years.

Figure 4: Relative Magnitude of Trade in the U.S. Economy, 2000-2020

Exports and Imports of Goods and Services as a Share of GDP; 2020 Data Based on Three Quarters



Sources: Calculated from Bureau of Economic Analysis data accessed via https://apps.bea.gov/iTable/index_nipa.cfm.

One way to measure the relatively low priority that American statesmen attach to trade is to examine the verbiage that the subject receives in their inaugural addresses. Joe Biden's first speech put great emphasis on the pandemic, democracy, and race relations, and touched on several other topics, but he did not say a word about trade. That put him back in the mainstream, as Donald Trump's 2017 address was the real outlier. When he uttered two sentences on this issue — including the jarring declaration that "Protection will lead to great prosperity and strength" — he said more than several of his predecessors combined.[13] Neither George W. Bush nor Barack Obama made any mention of trade in their four inaugural addresses, and when Bill Clinton brought it up in his 1993 and 1997 speeches he was the first president to give it real attention since Dwight Eisenhower's first inaugural address in 1953.

[13] See the texts of inaugural addresses at https://www.presidency.ucsb.edu/documents/inaugural-address-13.

Significantly, both Eisenhower and Clinton discussed trade more as a matter of foreign than economic policy.[14]

If and when President Biden does turn to the core issues of trade policy, he is likely to follow in that same pattern. Like every other Democratic president since Woodrow Wilson, he can be expected to govern as an internationalist who respects alliances and the rule of law. In addition to taking a less nakedly coercive approach to trade negotiations, one hopes that this will also mean re-shelving the aforementioned reciprocity, safeguards, and national security statutes. Yet while we can also anticipate a moratorium on the U.S. withdrawals from international organizations, and a return to those from which the Trump administration removed the United States, we should not expect reinvigoration of WTO negotiations to be high on the administration's to-do list. Assuming that this government opts to continue the FTA negotiations that it inherited, it may not feel obliged to complete them quickly.

III.B. The Second Foundation: A Net Pro-Trade Position in the Private Sector

Should the Biden administration take a more active approach to trade, especially the negotiation and approval of new agreements, it will need private sector support to advance its objectives in Congress. This involves more than appealing to the interests of exporters or other pro-trade interests. Left entirely to its own devices, the U.S. business community sometimes fails to provide sufficient support for market-opening initiatives, or to put up much of a fight against protectionist initiatives. Worse yet, some of its members willingly exploit any opportunities to demand protection, subsidies, and other market-distorting favors. This is a perennial problem that often leads to friction between the United States and its trading partners, whether the initiative is taken by presidents or the private sector.

Every pro-trade president from Franklin Roosevelt through Barack Obama found that negotiating for domestic support was a prerequisite to winning approval for their international plans. They often decided that this required judicious compromises to the demands of economic nationalists, whether that meant appeasing them via the trade-remedy laws, or giving them special attention when devising U.S. defensive interests in trade negotiations, or striking some other compromise. Some deals were made directly with industry, but more often they emerged from bargaining between the two branches over the terms by which a president's requests might be granted. Seen from the perspective of U.S. trade politics, this often appeared as a process of "two steps forward, one step back." America's trading partners do not always see it that way, sometimes concluding that the backward steps equal or even exceed those going forward. That same dynamic may soon be at work again.

The Biden administration's first substantive step on trade policy was the rather verbosely entitled executive order "Ensuring the Future Is Made in All of America by All of America's Workers."[15] This order, which fulfills an oft-stated campaign promise, is part of the administration's "Build Back Better" program of increased spending on infrastructure. It directs that the government should "maximize the use of goods, products, and materials produced in, and services offered in, the United States" and "procure goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive." This policy might be seen as an effort to out-Trump Trump by spending more money on projects while also enforcing the Buy-American rules more strictly. The order has already raised the ire of foreign partners who may justifiably wonder when or how this this step backward will be compensated by a step forward.

[14] Eisenhower deemed trade "an indispensable basis of military strength and the free world's peace," just as Clinton said in 1997 that, "Growing connections of commerce and culture give us a chance to lift the fortunes and spirits of people the world over." See *op. cit.*

[15] The text of this January 25, 2021 executive order is posted at https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/25/executive-order-on-ensuring-the-future-is-made-in-all-of-america-by-all-of-americas-workers/.

Another area where this administration's conduct of trade policy may partially resemble that of its predecessor concerns resort to the trade-remedy laws. The term "partially" is important here, as it speaks to a subtle but significant distinction. On the one hand, the Biden team can be expected to avoid deliberate provocations. Where the Trump gang bent some laws and broke others, this administration will want to show its support for the rule of law. On the other hand, the existing national trade laws and WTO agreements already offer great scope for the legal exercise of protectionism. That is especially true for those laws that are set in motion by private-sector petitions rather than by government fiat, as is the case for the antidumping (AD) and countervailing duty (CVD) statutes. Following decades of legislative revision, those laws now leave almost no discretion to the executive. As long as a petitioner can meet the evidentiary requirements with regard to the unfair trade practice (i.e., dumping or subsidization) and injury to the U.S. industry, the resulting orders are virtually automatic.

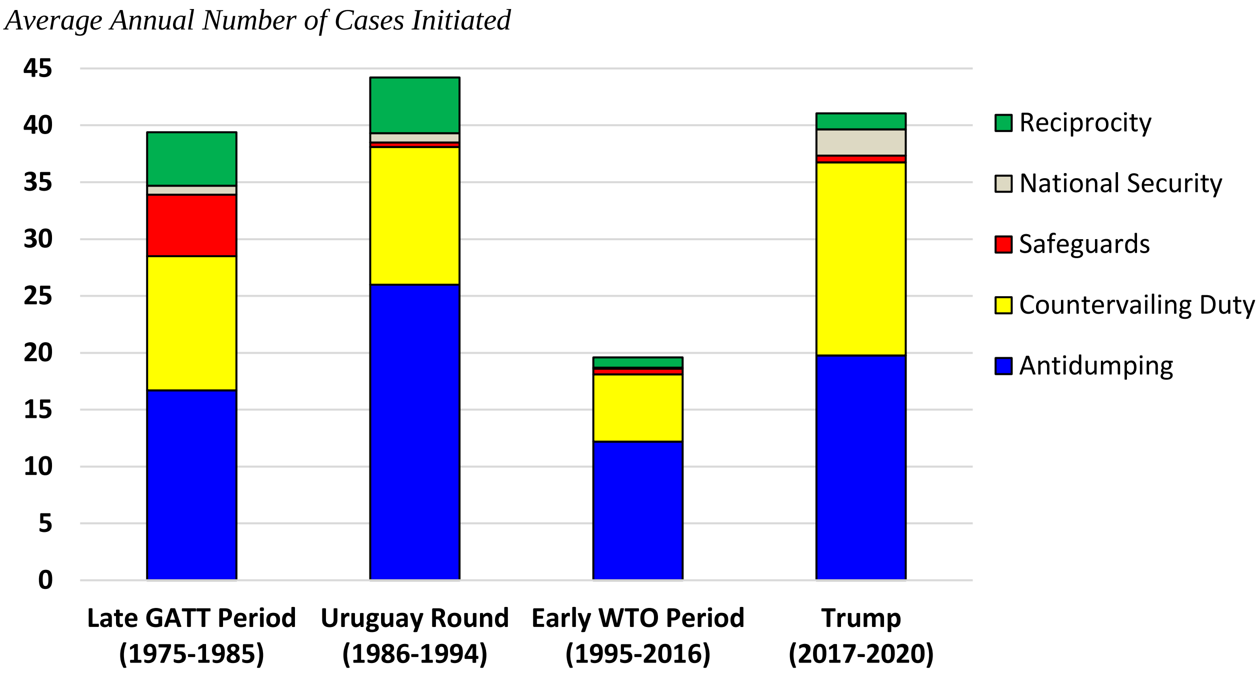
The recent trends in American resort to the trade-remedy and reciprocity laws, as illustrated in Figure 5, show that the use of these statutes increased tremendously under the Trump administration. The overall frequency of trade cases in 2017-2020 was only a hair below the pace achieved during the Uruguay Round, and if we concentrate on the private-sector petitions we see that the average annual number of safeguard, AD, and CVD cases during the Trump years was nearly identical to that earlier period. That represented a huge setback compared to the years that fell between the advents of the WTO and Trump, when U.S. industries honored the *zeitgeist* by halving the rate of filings under these laws. One may only speculate on whether the frequency with which they oblige the United States to employ these laws will change under the Biden administration. Given the continued tensions between the United States and China, and in the absence of any multilateral deals that might offer a sufficient attraction to trade away these statutes, it is possible that the pace of litigation in the coming years might more closely resemble the prior four years than the first two post-Uruguay Round decades.

Should the most recent trends continue, the impact will be greatest on China. That country was subject to one-third (134 out of 402) of the AD orders in place at year-end 2020, and half (71 out of 143) of the CVD orders. Many other partners may nevertheless object if the trade-remedy docket continues to swell, especially (but not exclusively) for large developing countries.[16] Even some countries for whom these laws are largely a thing of the past, such as Canada (now subject to just three AD and two CVD orders) and Chile (a single AD order), still make the control or elimination of these "contingent protection" instruments a leading objective in trade negotiations.

We can only guess just how many compromises the Biden administration will decide it must make in order to appease the demands of rent-seeking industries, and how much protection those industries may independently seek through the trade-remedy laws. It nonetheless seems safe to anticipate that U.S. trading partners will be disappointed on both counts, especially if the actions taken in those two areas are not followed soon by solid signs of renewed American interest in *bona fide* liberalization. Considering the fact that the majority of the complaints made against the United States in the WTO's dispute-settlement system concern the trade-remedy laws, it would not be surprising if the frequency of those complaints during the Biden administration were similar to what it was during the Trump administration. In short, there is no reason to expect any immediate change in the decades-long pattern whereby the main order of business at the WTO is adjudicating disputes over old agreements rather than negotiating new ones.

[16] Most of the economies that are each subject to at least ten AD and CVD orders are low-income (i.e., Brazil, Mexico, India, Indonesia, Taiwan, Thailand, Turkey, and Vietnam), but this list also includes Italy, Japan, and Korea. See the U.S. International Trade Commission tally at https://www.usitc.gov/trade_remedy/documents/orders.xls.

Figure 5: Trade-Remedy and Reciprocity Cases Initiated, 1975-2020



Sources: Compiled from U.S. International Trade Commission documents, "Import Injury Investigations Case Statistics (FY1980–2008)," https://www.usitc.gov/trade_remedy/documents/historical_case_stats.pdf; "Import Injury Investigations," https://usitc.gov/trade_remedy/731_ad_701_cvd/investigations.htm; USTR at https://ustr.gov/archive/assets/Trade_Agreements/Monitoring_Enforcement/asset_upload_file985_6885.pdf; and U.S. Department of Commerce at https://www.bis.doc.gov/index.php/forms-documents/section-232-investigations/86-section-232-booklet/file.

III.C. The Third Foundation: Comity between the Branches

If and when the Biden administration does turn to trade agreements it will need to deal directly with Congress. This is a constitutional necessity, with the Commerce Clause (Article 1, Section 8, Clause 3) making trade a congressional prerogative. Beyond seeking legislative approval for the agreements that they negotiate, presidents must also periodically ask Congress for other favors such as renewed grants of negotiating authority and reauthorization of preferential trade programs. Those requests usually set in motion a lengthy process where the two branches bargain over the terms by which a pending agreement will be approved, or a new trade law is enacted, often producing the aforementioned "two steps forward, one step back" compromises.

The outcome of this process depends on comity between the branches. Defining "comity" is both as difficult and as straightforward as the problem that a Supreme Court justice once faced in defining "pornography," resulting in the famous dictum "I know it when I see it."[17] Experience shows that unified government — a configuration in which both chambers of Congress are controlled by the president's party — is neither a necessary nor a sufficient condition for comity. It instead depends on trust and cooperation, two things that have grown increasingly rare over time. The problem naturally tends to worsen whenever government is divided, which used to be unusual but is now the norm.[18] Relations between the two parties are more parlous now than at any time in living memory, with historians often

17 Justice Potter Stewart's concurrence in the case of *Jacobellis v. Ohio*, 378 U.S. 184 (1964).

18 Whereas government was divided in just seven of the 34 congresses (21%) from 1901 through 1968, the share grew to 19 of the 27 congresses (70%) from 1969 through 2022.

comparing today's political environment to the period immediately preceding the Civil War (1861-1865).

Even though government is formally unified in the 117th Congress (2021-2022), as is typical in the first two years of a new president's term,[19] the Democratic margins are razor-thin. Biden's party holds 221 of the 435 seats in the House (with three vacancies), and its majority in the evenly-split, 100-seat Senate relies on Vice President Harris to cast the deciding vote. There is very good reason to expect that President Biden might enjoy this advantage for only two years. The party out of power almost always gains in the first mid-term election of a presidency, and even a below-average showing in 2022 may be sufficient for Republicans to recapture at least one chamber. This expectation increases the new government's urgency to concentrate now on Democratic priorities, and to postpone any other matters — including trade — until either the latter half of this term or even to a second term (should Biden seek and win it).

While the Biden administration can expect to face strong Republican opposition on most issues, the depth of this hostility on trade remains a matter of speculation. In the pre-Trump era, trade was one of the few issues on which generally pro-market, Democratic presidents such as Clinton and Obama relied on the opposition party to deliver more votes than the members of their own party. It is not clear whether Biden can expect the same, as we may only speculate on how many of the Republicans now serving in Congress will remain true to their party's traditional (i.e., pre-Trump) position on this issue.

One way of asking this question is to consider whether the patterns illustrated in Figure 6 are still relevant. This figure shows how House votes on FTAs became more difficult over time, as measured both by lengthening delays and rising partisanship (i.e., increasing reliance on Republican votes). Working out the terms by which the U.S.-Israel FTA would be approved lasted less than five months in 1985, and the U.S.-Canada FTA in 1987-1988 did not take much longer; both of these agreements received strong bipartisan support. The elapsed time grew in each decade that followed, and partisanship with it, to the point where approval of the FTAs with Korea, Panama, and especially Colombia took two administrations, five years, and vastly more Republican than Democratic votes.

All of the votes illustrated in Figure 6 were cast before many of the Republicans now in Congress even ran for office. As can be appreciated from the data summarized in Figure 7, only about one-third of all Republicans currently in the House were already serving there during all or part of what we may deem the "Active FTA Era" (i.e., 1984-2011). While a decade has now passed since the last of those votes, they remain the most recent "normal" decisions that members of Congress made on FTAs.[20] Just under one-fifth of House Republicans were first elected in one of the three election cycles that followed 2011, and nearly half of them first entered Congress in one of the three election cycles associated with Trump. We may only guess how many of these newly minted legislators will favor trade policies that reflect Trump's animosity toward globalism, especially if they are asked to approve agreements negotiated by a Democratic president. Matters are not so stark in the Senate, where most Republican members have had longer careers and are somewhat less tied to Trump, but even there his influence may outweigh the party's past allegiance to free trade.

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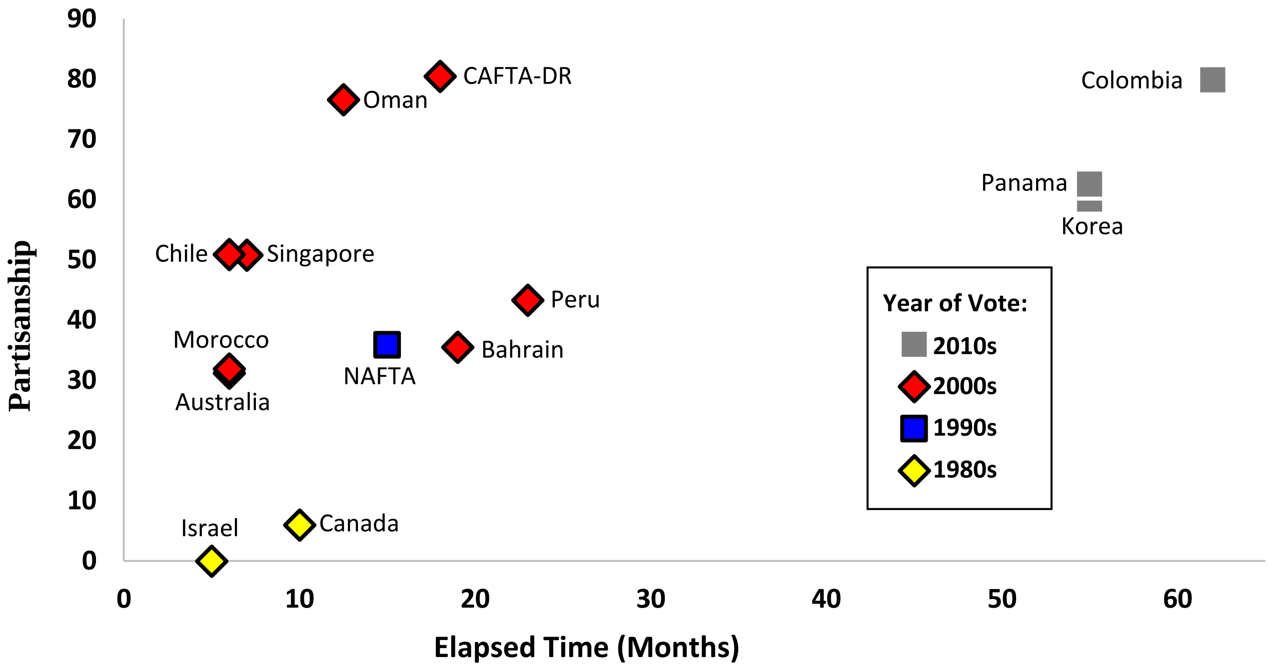
19 There was a serious danger that Biden could have faced divided government from the very start of his mandate, but he avoided this outcome when both runoff Senate elections held in Georgia on January 5, 2021 rather unexpectedly went the Democrats' way. Had that not happened, Biden would have been the first president since George H.W. Bush in 1989 (and the first Democratic president since Grover Cleveland in 1885) to face divided government from the very start of his mandate.

20 These are to be distinguished from the *sui generis* case of the revised NAFTA that Congress approved in 2019-2020, which defies simple analysis insofar as any given vote for that package might variously be classified as support for (1) a new trade agreement, (2) illiberal revisions to an old one, or (3) loyalty to Trump. It is nonetheless notable that the votes on this initiative were far less partisan than were the more recent votes shown in Figure 6. When the House of Representatives approved the bill in December, 2019 by a vote of 385-41, the number of votes that it won from Democrats (193) was nearly identical to the number it won from Republicans (192). Much the same thing happened when the Senate took up the bill: While Democrats cast all but one of the ten "nay" votes, they also provided 38 of the "aye" votes.

Figure 6: Rising Difficulty in Securing Congressional Approval for FTAs, 1985-2011



Elapsed Time and Partisanship in the House of Representatives' Treatment of FTA Implementing Bill

Partisanship = Percentage of House Republicans voting for the implementing legislation minus the percentage of House Democrats voting for it.

Elapsed Time = Number of months between the president's notification to Congress of his intention to sign an agreement and his later signature of the agreement's implementing legislation.

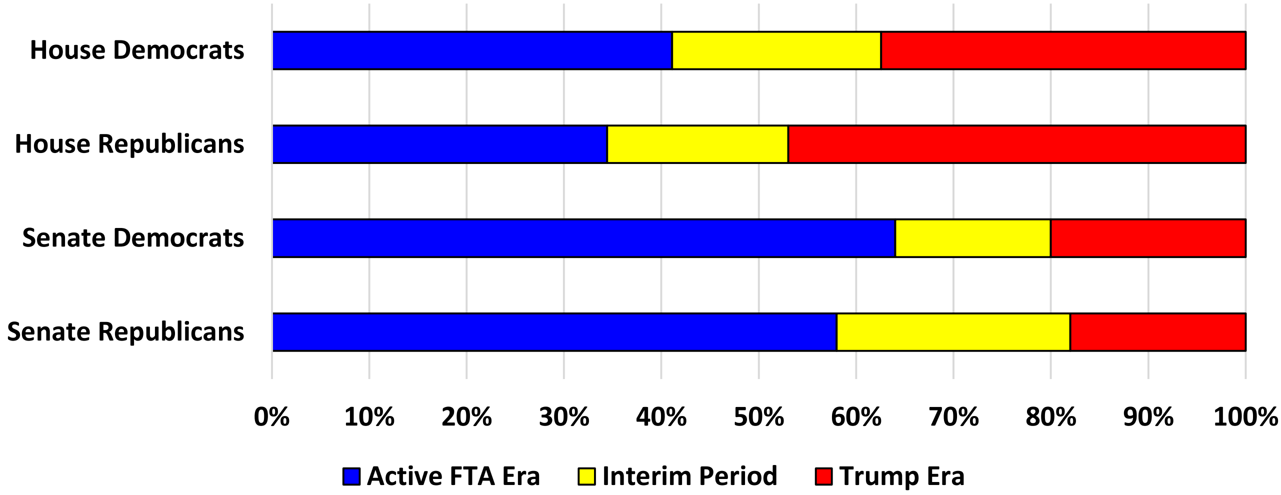
Sources: Congressional Record *and others.*

The Republican identity crisis may bedevil leaders in both parties for years to come. Members of this putatively conservative, pro-market party had long prided themselves on their principles, especially on matters championed during the presidency of Ronald Reagan (1981-1989), and the promotion of free trade was prominent among these principles (if not always in practice). Trump may have changed all of that not just by advancing a new set of goals that are antithetical to the old ones, but more profoundly by eschewing the very idea of principle. This was made most evident by what the party opted *not* to do in 2020, when the Republican National Convention chose not to adopt any platform at all. Republicans instead left open the implication that they would blindly support whatever Trump might decide to do in a second term. Events since then have only served to reinforce the impression that many Republicans act like members of a cult of personality in which fealty to Trump comes before attachment to any policy.

These concerns frustrate any predictions regarding future votes on trade agreements. At a minimum, forecasts on that point require that we know who the partner is (agreements with industrialized countries being less controversial than those with developing countries), and what sort of compromises may have been struck on such tricky issues as labor and the environment (see the next section). And more than ever before, we would also need to know the partisan context in which the issue arises. If the initiative were opposed by the congressional Republican leadership either on purely political grounds (i.e., to deny the Biden administration a victory) or on disputes over specific issues, and/or Trump and his loyalists were to insist that fidelity to the ex-president demands opposition to everything that the new president wants, there is a strong possibility that the Biden administration would be unable to make up for the resulting losses by finding votes among congressional Democrats. This is one reason why the question may remain moot: Knowing that such an initiative would require a considerable investment of limited political capital, and even then might still fail, the administration may quite reasonably conclude that its efforts over at least the next two years would be better spent on other topics where Democrats are united and do not need Republican support.

Figure 7: Experience Levels for Members of the 117th Congress (2021-2022)

Members by Chamber, Party, and When They First Entered Office



Active FTA Era = Legislators who first entered Congress before 2012.

Interim Period = Legislators who first entered Congress from 2012 through 2016.

Trump Era = Legislators who first entered Congress in or after 2017.

Sources: Calculated from data at http://clerk.house.gov/member_info/Terms_of_Service.pdf, https://www.senate.gov/artandhistory/history/resources/pdf/chronlist.pdf, press reports, and other sources.

Senators are counted according to when they first entered Congress; for 37 current senators that means counting their previous service in the House of Representatives.

Two senators who are technically independents are classified here as Democrats (with whom they caucus).

Does not include data on vacant seats.

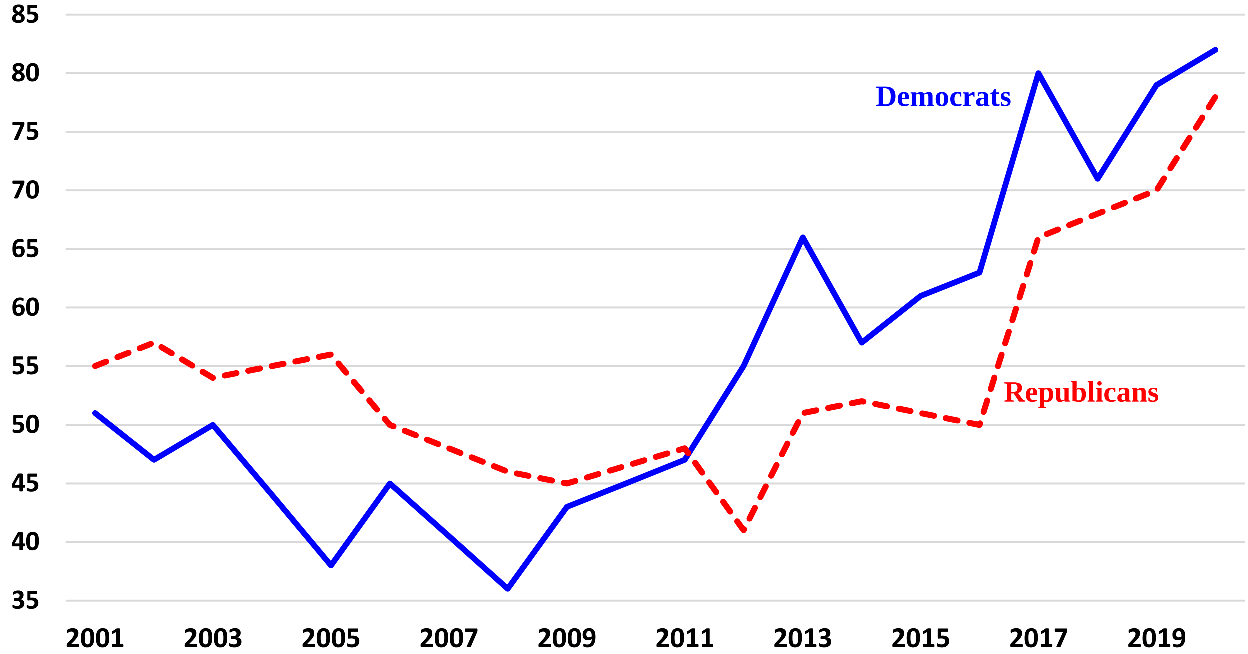
A few current members shown here as having begun their service during the Active FTA Era lost at least one election between 2012 and 2018, but won in both the 2010 and 2020 elections.

III.D. The Fourth Foundation: Managing the Politics of the "Trade And" Issues

One of the many consequences that stem from the relatively low level of trade-dependence in the U.S. economy is a transformation of partisan trade politics. When commerce is seen in narrow, economic terms, the typical American today is prone to think of it positively. As shown in Figure 8, this is even truer for Democratic than for Republican voters, as has been the case since early in the Obama administration. But if large and rising majorities in both parties see trade as an opportunity for economic growth, why do elected officials not compete to show the depth of their devotion to free trade? Why instead did we see in Figure 7 that pattern of rising partisanship? The answer comes in two parts. First, it is precisely that low level of trade-dependence that prevents many Americans from placing this issue top of mind when deciding how to vote. Second, the political vacuum is readily filled by other actors who define trade not in traditional, economic terms, but in relation to other issues with greater political salience. And just as Republican voters have lately proved receptive to Trump's portrayal of trade and globalism as threats to American sovereignty, so too have many Democrats — especially party activists — increasingly seen the trading system as a threat to cherished social issues.

Figure 8: Pro-Trade Sentiment in the U.S. Political Parties, 1975-2020

Percentage Who View Trade as an Opportunity for Economic Growth



Source: Compiled from data at https://news.gallup.com/poll/286730/americans-vanishing-fear-foreign-trade.aspx.

Domestic U.S. trade politics have fundamentally changed over the past generation. As late as the early 1980s, debates over trade agreements were dominated by the same issues that would be familiar to policymakers from generations or even centuries before: Export-oriented and import-dependent economic interests demanded that barriers be lowered, and industries that feared import competition demanded that they be either maintained or raised. Those traditional, commercial concerns still remain, but to a considerable degree they have been sidelined by other issues that are more difficult to resolve. These include such diverse topics as labor rights, environmental protection, and aspects of consumer welfare that go well beyond mere prices (e.g., product safety and pharmaceutical patents).

The association of trade with a broader array of issues, both in Republican and Democratic circles, has greatly complicated the process by which presidents can win congressional support for their plans. Back when trade politics were dominated by simple, commercial concerns, it was relatively easy to appease the more protectionist sectors by promising either new or continued insulation from foreign competition. Compromises of that sort are more elusive when the underlying issue involves topics that transcend the immediate economic interests of their advocates, and are sometimes cast as basic questions of distributive justice and even morality. Such disputes can easily give rise not just to inter-party squabbles but also intra-party conflict. President Biden might be able to count on the internationalist wing of his party to support most or all pro-trade initiatives, but may also face varying degrees of opposition from the progressive wing of the Democratic Party, and whatever steps he takes toward the latter position will risk losing votes from Republican traditionalists who might otherwise retain an anachronistic attachment to pre-Trump principles.

Labor rights had long been the most divisive issue associated with trade policy. While there are many pro-union Democrats who will vote against almost any market-opening agreements, and a smaller group who take just the opposite view, the middle ground is held by those legislators who insist that the United

States use its leverage in trade negotiations as a means of promoting labor rights in the partner countries. The principal problem with this trade-labor link is not in the resistance that it provokes from the negotiating partners, but instead the hostility it encounters from the business community and its Republican allies. Ever since 1991, when President George H.W. Bush had to bargain hard with Congress over the initiation of the NAFTA negotiations, domestic trade politics have been repeatedly caught up in almost theological debates over this topic. Every president from Bush to Obama struggled with this problem, seeking to strike compromises that were pro-labor enough to retain a sufficient number of Democratic votes yet also pro-trade enough to retain a sufficient number of Republican votes.

Environmental issues may prove to be even more difficult to handle in the Biden administration. The president already showed on the campaign trail that he is prepared to put the environment ahead of the economy when they are perceived to be in conflict, and his immediate reversal of the Trump administration's policy on oil imports from Canada showed that he would act on these instincts. The new government's priorities were further underlined by the appointment of former presidential candidate and Secretary of State John Kerry as its Special Presidential Envoy for Climate, and by a January 27 executive order that (among other things) established climate considerations as an essential element of U.S. foreign policy and national security.[21]

Reconciling these issues with commercial objectives may complicate both the global and the domestic politics of trade negotiations, with past experience showing how quickly these lines can be blurred. At the international level, this administration can be expected to pursue the now-standard Democratic objective of making the labor and environmental provisions of trade agreements subject to the same dispute-settlement provisions that govern the purely commercial commitments. Legislators from the two parties will not wait passively to see what emerges from these negotiations, but will instead kibitz during the talks and to threaten to kill any agreement that does not meet their competing demands. Like all other presidents from 1990 through 2016, Biden may have to seek some compromise that results in a net gain of votes. His ability to do so may be weakened both by the aforementioned doubts regarding the Republican position on trade, and by the widespread assumption that he might be the first deliberately one-term president in American history.[22] If Democrats in Congress expect another presidential nomination race in 2024, they may be more interested in positioning themselves on the left than on helping Biden move to the center.

IV. What We Should Look for in the Short, Medium, and Long Terms

Much of the analysis above may appear unduly pessimistic to some readers, and it should be recognized that future developments could ultimately take a brighter turn. It is possible to imagine any number of favorable circumstances that might restore U.S. support for a trading system that is both open and nondiscriminatory, and in which other countries welcome and support American leadership. The domestic precursors to this renaissance might include rapid recovery from the pandemic and the recession, the emergence of new leaders in at least one party (and possibly both) who do not fear an appeal to voters' pro-trade sentiments, a private sector that concentrates more on promoting market opportunities than in pursuing state intervention, politically sustainable compromises that balance commercial and social objectives, and a return to comity between the branches of government. Those positive developments at home might facilitate greater cooperation with U.S. trading partners, whether

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[21] See https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/27/fact-sheet-president-biden-takes-executive-actions-to-tackle-the-climate-crisis-at-home-and-abroad-create-jobs-and-restore-scientific-integrity-across-federal-government/.

[22] The creeping senescence of American political leadership is now a matter of bipartisan concern. When Trump took office in 2017 he was the first man over the age of 70 to do so, but when Biden took the oath he was older still (78). If Biden were to win reelection in 2024, he would be 86 years old when his second term ended. There is instead a widespread assumption in Democratic circles that Biden, who often calls himself a transitional figure, may forego reelection and instead treat Kamala Harris as a sort of president-in-training.

that takes the form of bilateral deals or — as long as we allow our speculations to be ambitious — a reinvigorated WTO in which the negotiators are kept even busier than the litigators.

While this sort of best-case skylarking has some appeal, any objective appraisal of recent trends and the current environment must conclude that unicorns and rainbows are still in short supply. It may be more realistic for now to consider a spectrum of outcomes that ranges from not so bad to quite bad indeed. In this concluding section I identify some of the more practical issues that may arise in the coming months and years, the development of which should tell us where we are on that spectrum. These can be seen as the challenges of the short term (the period preceding the 2022 congressional elections), the medium term (from those elections through the 2024 electoral cycle), and the long term (after 2024).

IV.A. The Short Term

The next few years are unlikely to be nearly as damaging to the trading system as were the last four. Biden will want to show greater respect than Trump did for the rule of law and the importance of alliances, and will at least try to apply the Hippocratic principle of *primum non nocere* (first do no harm). He will need to clean up the many messes left behind by Trump, several of which are the subject of formal disputes in the WTO, but he may nonetheless spark of few of his own. The new government's promotion of Buy-American policies may be a significant source of friction, as might any new initiatives taken with respect to China and continued resort to the trade-remedy laws. For the most part, however, chances appear low that the Biden administration will launch major, wholly new trade initiatives — positive or negative — over the next two years. Its main tasks instead stem from initiatives begun by its predecessor.

The most pressing matter is how to handle the many restrictive measures that Trump slapped on imports. Chief among these are the tariffs that penalize a wide range of Chinese products in retaliation for that country's IP policies, and the tariffs and quotas imposed on national security grounds against steel and aluminum imports from a much wider range of partners. Both in the campaign and in its early days in office the Biden team indicated that decisions on these matters would be subject to a review. The only indication of where that review may be headed, as of this writing, was a February 1 determination that the new administration would undo Trump's decision on his last full day in office to lift the aluminum restrictions imposed on the United Arab Emirates. It may be significant that when Biden reversed this specific application of his predecessor's policy he implicitly endorsed its broader rationale, observing in his own proclamation that "robust domestic aluminum production capacity is essential to meet our current and future national security needs" and to "reduc[e] United States reliance on foreign producers."[23] This does not necessarily mean that the administration's review will ultimately maintain the national security or the reciprocity restrictions, either for some or all of the countries now subject to these extraordinary measures, but it certainly suggests that this possibility remains on the table. It can be anticipated that concerns over competition with China, as well as the new president's desire to look no less resolute than the last one, will be an important factor in this review. It may also be affected by any new findings that emerge from the WTO dispute-settlement system, as well as the contrary argument that the new government should not be too quick to give up bargaining chips that the prior one created.

Biden is the first new president in recent decades who does not have to deal at the start of his term with the approval of a trade agreement that his predecessor negotiated. Bill Clinton inherited NAFTA in 1993, he in turn passed the U.S.-Jordan FTA along to George W. Bush in 2001, who left three FTAs for Obama in 2009, who then gifted the TPP to Trump in 2017. But whereas Clinton and (after a lengthy pause) Obama handled these legacy agreements by reopening negotiations so as to strengthen their labor and environmental provisions, and Bush did just the opposite with the Jordan agreement, Trump simply

[23] See https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/01/a-proclamation-on-adjusting-imports-of-aluminum-into-the-united-states/.

cut the Gordian knot altogether by withdrawing the United States from the TPP. Yet even he later reinstated the most significant aspects of the TPP and TTIP by launching bilateral FTA talks with the European Union, the (post-Brexit) United Kingdom, and Japan. Thus even the most iconoclastic president ended up partially honoring the general principle of continuity in trade negotiations.

While Biden does not need to handle any completed negotiations, there is good reason to expect that he will honor the rule of continuity when it comes to the principal talks that were still underway at the transition. To do otherwise might not just violate tradition, and mean rejecting initiatives that are comparable to those that began in the Obama administration, but also run the risk of alienating Brussels, London, and Tokyo. The proposed FTA with Kenya is the only Trump negotiation that was not rooted in the priorities of the two predecessor administrations, and is also the sole initiative that might be at risk of withering away. The principal underpinning for the Kenyan decision to enter into these talks — the expectation that its duty-free benefits under the African Growth and Opportunity Act (AGOA) will end when the authorization for that program expires in 2025 — may now be inoperable, as the Biden administration will likely seek reauthorization of those regional preferences.

Assuming that the administration does spend much of the next two years (and perhaps longer) on the FTA negotiations that are already underway with industrialized partners, two developments will bear close attention. The first concerns how the new team will use these talks to refine, and perhaps more fully redefine, the relationship between trade and social issues (especially environmental protection). We might generally expect that the E.U. negotiators will share closer perspectives with the Biden team on these issues than have many of the prior FTA partners of the United States, especially in the developing world, and that Washington and Brussels may want whatever deal they strike to set precedents for future negotiations.

We will also want to keep a close eye on how these issues are perceived in Congress, where partisans on both sides will try to ensure that the results align with their respective positions. The most practical way in which these issues may arise is in a renewal of the president’s trade promotion authority (TPA). This grant, which used to be called “fast track” authority, sets special rules by which Congress will approve any new trade agreements. Such grants are generally considered indispensable to ensuring that trade agreements are given a fair hearing, as any agreement that does not enjoy these special protections can easily be blocked or amended. The current TPA grant dates from 2015, and will expire on July 1, 2021. Any agreements that are concluded before that time can benefit from these special rules, but it is highly improbable that any of the pending negotiations could be completed so soon even if the Biden administration were to make these talks its top priority. The new administration does not necessarily need to win a new grant of authority before the current one expires, but it must do so sometime before signing any new FTA.

Assuming that Congress continues to play by the old, pre-Trump rules, any request from the administration for a renewed TPA grant would mark the start of negotiations over the terms of a new trade bill. That bill might include, in addition to TPA renewal, such items as a retroactive reauthorization of the Generalized System of Preferences (which expired at the end of 2020), perhaps a prospective reauthorization of the AGOA (which is due to expire in 2025), and trade adjustment assistance programs for displaced workers and firms; it could also amend the trade-remedy and reciprocity laws. Most debates over TPA reauthorization since the 1990s have been lengthy and difficult, with the two parties and the two branches sometimes failing to reconcile their differences over the treatment of social issues in trade negotiations. For reasons discussed above, such a negotiation this time — whether it comes in the short or medium term — may prove more contentious than usual, and its ultimate success cannot be taken for granted.

IV.B. The Medium and Long Terms

Before we look farther ahead we must first consider the possible impact that the next two electoral cycles may have on domestic trade politics. From the admittedly narrow perspective of trade politics, it would have been clarifying — but potentially very hazardous — if the 2020 election results had not been dominated by pandemic politics. In the normal course of events, an incumbent's reelection race is considered a referendum on his economic performance. Had Trump been reelected, the results might have been taken as approval for his policies on trade and much else. Whatever message the electorate may have intended was muddled, however, by the first recession in more than a decade and the most challenging health crisis in a century. Trump's critics cannot claim that that the 2020 election results amounted to an explicit repudiation of protectionism, just as his friends cannot definitively prove that the public would have rewarded him with a landslide victory if not for the pandemic.

The next tests will instead come first in the 2022 congressional elections, and then in the 2024 presidential and congressional elections. Mid-term elections are always treated as referenda on the incumbent president's performance, and typically result in gains — sometimes in large waves — for the opposition party. Beyond determining whether Joe Biden will still enjoy unified government during 2023-2024, these elections will also offer successive tests of Trump and Trumpism. The first test will be whether the ex-president can act as kingmaker in the Republican Party primaries of 2022, denying the nomination to any sitting legislators who do not show sufficient obeisance to his legacy and future plans. The second test will be how the electorate at large treats the resulting slates, including a Republican field that Democrats may find it easy to portray as extremist. The outcomes will naturally set up the next election cycle, including a possible Trump campaign to recapture the White House in 2024. In the event that trade and trade-related issues have a high profile in each of these phases, we may get a more reliable read than 2020 gave us on whether protectionism wins more votes than it loses.

Much of the preceding analysis has stressed that the Biden administration will want to concentrate for its first two years on priority issues for Democrats, and to put off others until at least the 118th Congress (2023-2024). Yet as bad as the environment for policymaking has recently grown, it might not substantially improve in the medium term. If President Biden opts not to seek reelection, and thus makes himself a lame duck, the Democrats may be just as divided between progressives and moderates as Republicans are between the Trumpists and the traditionalists. And in the event that Republicans capture control of either the House or the Senate in the 2022 elections, they may invest considerable energy in *ad hominem* attacks by launching formal investigations of Joe Biden, his family members, or any Democrats who might be positioning themselves for a presidential run. That may be a symmetrical development, insofar as multiple criminal and civil cases may already be underway by then against Trump, his family members, and associates. Enacting policy in any area will be difficult as long as the parties are so strongly divided, and that is doubly so for any subject — such as trade — that usually relies on centrist, bipartisan compromises.

It does not take much imagination to see that over the long term the U.S. economic rivalry with China will dominate the calculations of trade policymakers in Washington, Beijing, and other world capitals. What we cannot know is just how far their rivalry may go in revising the nature of the trading system, and the extent to which the flow and composition of trade may come to be determined by power. Unless the United States and China settle on some *modus vivendi* that permits them to move ahead together in the WTO, they are more likely to let that institution to go slack while each concentrates instead on discriminatory approaches. To the extent that the United States freezes its current levels of MFN treatment, and liberalizes its tariffs and other trade barriers only on a discriminatory basis, it will treat China and other countries outside its FTA circle as the least favored nations. The most important choices that most third countries may face is whether they will negotiate FTAs with the United States or China, or — if they can — with both.

In the foreseeable future, any pressure for new liberalization is more likely to be answered via FTAs. Whether new negotiations come later in a Biden term or in the next president's mandate, we can speculate on who the next partners might be. Apart from China, only six partners (1) do not yet have FTAs with the United States, (2) are not currently negotiating such an agreement, and (3) account for more than 1% each of U.S. imports. Three of them have already been parties to earlier U.S. FTA negotiations that failed either bilaterally (i.e., Thailand) or regionally (i.e., Malaysia and Viet Nam were in the TPP talks), and all of the rest are frequently mentioned as potential FTA candidates (i.e., India, Switzerland, and Taiwan). It would be entirely unsurprising if any or all of those economies, and perhaps a few others as well, were to engage in FTA negotiations with the United States in the years to come. That would not be good news either for the multilateral system as a whole or for the dozens of other, smaller partners who would be left behind.

Should these trends continue, the trading system in the not so distant future may be quite different from what it was in the recent past. Casting Trump out of office did not put an end to the conditions that gave rise to his presidency or his policies, and even if he never returns to power there are aspects of Trumpism that may long outlast Trump himself.

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