

# Congress of the United States

Washington, DC 20515

August 9, 2023

Ambassador Katherine Tai  
United States Trade Representative  
Executive Office of the President  
600 17<sup>th</sup> Street NW  
Washington, DC 20508

The Honorable Gina Raimondo  
Secretary  
Department of Commerce  
1401 Constitution Avenue NW  
Washington, DC 20230

The Honorable Antony Blinken  
Secretary  
Department of State  
2202 C Street NW  
Washington, DC 20520

Dear Ambassador Tai, Secretary Raimondo, and Secretary Blinken:

We write to express our concern about the undue influence exerted over secret trade negotiations by corporate interests through their dominance of official trade advisory committees. The Biden administration has made a historic commitment to advancing a worker-centered trade policy, breaking from a history of bad trade deals that have offshored American jobs, undermined labor and environmental protections, and forestalled government efforts to promote competition.<sup>1</sup> However, corporate lobbyists continue to fill out roughly 80 percent of the positions on Industry Trade Advisory Committees (ITACs),<sup>2</sup> granting them access to secret trade negotiating text that remains hidden from the public. As your agencies continue to lead the administration's efforts to establish new trade pacts in the Indo-Pacific and the Americas, we urge you to build on the work of the Office of the U.S. Trade Representative (USTR) to rebalance the trade advisory committee system to better reflect the interests of all stakeholders, not just large corporations.

The Biden Administration committed early on to a trade policy that centers workers,<sup>3</sup> protects the environment,<sup>4</sup> and promotes equity.<sup>5</sup> President Biden and Ambassador Tai have both recognized the flaws in pursuing antiquated, tariff-cutting free trade agreements, and have repeatedly reiterated the

<sup>1</sup> See e.g., Public Citizen, "Since 2017, Hundreds of Thousands of American Jobs Were Offshored, Trade Deficit Is Up 22%," press release, September 28, 2020, <https://www.citizen.org/news/since-2017-hundreds-of-thousands-of-american-jobs-were-offshored-trade-deficit-is-up-18/>; Economic Policy Institute, "NAFTA, Twenty Years After: A Disaster," Jeff Faux, January 3, 2014, <https://www.epi.org/blog/nafta-twenty-years-disaster/>

<sup>2</sup> Rethink Trade, "LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System," <https://rethinktrade.org/ustr-advisors/>

<sup>3</sup> Office of the U.S. Trade Representative, "U.S. Trade Representative Katherine Tai Outlines Biden-Harris Administration's Historic 'Worker-Centered Trade Policy'," press release, June 10, 2021, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/june/us-trade-representative-katherine-tai-outlines-biden-harris-administrations-historic-worker-centered>

<sup>4</sup> Office of the U.S. Trade Representative, "Remarks from Ambassador Katherine Tai on Trade Policy, the Environment and Climate Change," press release, April 2021, <https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2021/april/remarks-ambassador-katherine-tai-trade-policy-environment-and-climate-change>

administration's commitment not to pursue such deals.<sup>6</sup> In addition, USTR has made substantial efforts to consult with labor, environmental, and other public interest advocates on trade policy and negotiations.<sup>7</sup> And USTR has not shied away from invoking the rapid-response dispute resolution mechanism provided by the United States-Mexico-Canada Agreement (USMCA) to crack down on labor standards violations in those countries, recently filing its 11<sup>th</sup> complaint to that end.<sup>8</sup>

At the same time, your agencies are pressing ahead with new trade negotiations without having fully addressed the dominance of giant corporations on trade advisory committees, granting their corporate lobbyists access to classified negotiating text that is kept secret from the public. These efforts include potential further negotiations in the U.S.-Taiwan 21<sup>st</sup> Century Trade Initiative, as well as the Indo-Pacific Economic Framework (IPEF) and the Americas Partnership for Economic Prosperity (APEP), which include a range of critical issues, including digital trade, clean energy and decarbonization, and supply chain resiliency.<sup>9</sup> Congress recently reiterated the importance of congressional consultation in its passage of the *United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act*.<sup>10</sup> But your agencies can and should consider publishing draft trade negotiation text for feedback from all stakeholders, not just corporate lobbyists. Regardless, addressing corporate dominance in trade advisory committees is a commonsense step towards a stronger trade policymaking process.

For decades, the membership of trade advisory committee system has leaned heavily in favor of multinational companies and their industry associations, contributing to trade deals that have incentivized offshoring, moved thousands of American jobs overseas, and decimated families and communities. The *Trade Act of 1974* established the trade advisory committee system to ensure that certain private and non-federal public sector stakeholders had a seat at the table with regard to trade policy.<sup>11</sup> The statute grants USTR, Commerce, and other involved agencies broad discretion in terms of what committees to establish and how to determine their membership. And in fact, the *Federal Advisory*

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<sup>5</sup> Office of the U.S. Trade Representative, "FACT SHEET: USTR Releases 2023 Trade Policy Agenda and 2022 Annual Report," press release, March 2023, <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2023/march/fact-sheet-ustr-releases-2023-trade-policy-agenda-and-2022-annual-report>

<sup>6</sup> See e.g., New York Times, "In Washington, 'Free Trade' Is No Longer Gospel," Ana Swanson, March 18, 2021, <https://www.nytimes.com/2021/03/17/business/economy/free-trade-biden-tai.html>; New York Times, "Biden's Reluctant Approach to Free Trade Draws Backlash," Ana Swanson, April 3, 2023, <https://www.nytimes.com/2023/04/03/us/politics/biden-free-trade.html>

<sup>7</sup> See e.g., Office of the U.S. Trade Representative, "USTR to Hold Stakeholder IPEF Listening Sessions for Second Negotiating Round," press release, February 14, 2023, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/february/ustr-hold-stakeholder-ipef-listening-session-second-negotiating-round>

<sup>8</sup> Inside U.S. Trade, "U.S. again expands use of USMCA labor tool to address another sector," Margaret Spiegelman, June 16, 2023, <https://insidetrade.com/daily-news/us-again-expands-use-usmca-labor-tool-address-another-sector>

<sup>9</sup> The White House, "FACT SHEET: In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity," press release, May 23, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/fact-sheet-in-asia-president-biden-and-a-dozen-indo-pacific-partners-launch-the-indo-pacific-economic-framework-for-prosperity/>; The White House, "FACT SHEET: President Biden Announces the Americas Partnership for Economic Prosperity," press release, June 8, 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/fact-sheet-president-biden-announces-the-americas-partnership-for-economic-prosperity/>; Office of the U.S. Trade Representative, "USTR Announcement Regarding U.S.-Taiwan Trade Initiative," press release, May 18, 2023, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/may/ustr-announcement-regarding-us-taiwan-trade-initiative>

<sup>10</sup> United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act, H.R. 404, <https://www.congress.gov/bill/118th-congress/house-bill/4004>

<sup>11</sup> 19 U.S.C. 2155.

*Committee Act* of 1972 (FACA) requires that membership in federal advisory committees—including trade advisory committees—be “fairly balanced in terms of the points of view represented and the functions to be performed” by the committee.<sup>12</sup> Indeed, one of Congress’ primary purposes in passing FACA was “to end industry domination of advisory bodies.”<sup>13</sup>

We have been glad to see USTR under President Biden rebalance its highest-level advisory committee: the Advisory Committee for Trade Policy and Negotiations (ACTPN), which provides “overall policy advice”<sup>14</sup> on trade-related matters. Of the committee’s 14 members, only four represent large corporations or industry groups; the remaining 10 members hail from labor unions, research institutions and think tanks, non-profit organizations, state government, and small businesses. This is in stark contrast with the Trump administration’s ACTPN, which featured nearly 20 corporate executives counterbalanced by a single labor representative.<sup>15</sup> USTR’s rebalancing of the ACTPN is a significant step in the right direction towards realigning U.S. trade policy to center workers and other stakeholders who have been left behind by past trade deals, and to rein in undue corporate influence over trade negotiations.

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<sup>12</sup> 5a U.S.C. 5(b)(2).

<sup>13</sup> NORTHWEST ECOSYSTEM ALLIANCE, et al., v. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE and UNITED STATES DEPARTMENT OF COMMERCE, November 9, 1999, on file with the office of Senator Elizabeth Warren.

<sup>14</sup> 19 U.S.C 2155(b)(1).

<sup>15</sup> Office of the U.S. Trade Representative, “Advisory Committee for Trade Policy and Negotiations (ACTPN),” accessed via the Internet Archive on December 19, 2020, <https://web.archive.org/web/20201219145943/https://ustr.gov/about-us/advisory-committees/advisory-committee-trade-policy-and-negotiations-actpn>



Source: Rethink Trade, “LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System,” <https://rethinktrade.org/ustr-advisors/>

However, the other committees remain heavily overloaded with corporate representatives.<sup>16</sup> The *Trade Act of 1974* provides for two additional types of committees, administered jointly by USTR and another relevant cabinet department: “general policy advisory committees”<sup>17</sup> and “sectoral or functional advisory committees.”<sup>18</sup> For both of these, USTR and partner agencies like Commerce retain significant discretion as to the membership, provided those members are “fairly balanced” and represent the full breadth of interests described in the statute. The Industry Trade Advisory Committees (ITAC), sectoral advisory committees jointly administered by USTR and Commerce, are particularly troubling.<sup>19</sup> ITAC members make up nearly 45 percent of the entire trade advisor corps, with more than 200 members across 15 committees.<sup>20</sup> But only two ITACs have a labor representative, in spite of the statutory requirement that ITACs’ membership represent “all industry, labor, agricultural, or service interests”<sup>21</sup> in the sector, and while workers have a central interest in the work of key ITAC industries like energy, textile and clothing, and the digital economy.<sup>22</sup> Meanwhile, 178 ITAC members—roughly 80 percent—come from large corporations or their trade associations.<sup>23</sup> This extreme imbalance means that much of the esoteric process of negotiating trade deals is only visible to these corporate lobbyists and leaves the American public—and most of Congress—in the dark. And unlike Members of Congress and their staff who have to trek to a Sensitive Compartmented Information Facility (SCIF) if they want to view text, these cleared advisors are able to access classified text from their offices or homes, on their personal computers, whenever they want.

While the State Department does not co-administer any USTR-led trade advisory committees, it has established its own advisory committees with equally problematic membership. State’s International Digital Economy and Telecommunications (IDET) advisory committee, which advises the Department on the digital economy and information policy,<sup>24</sup> has 25 members (excluding designated federal officers); of those 25 members, more than two-thirds are representatives from the largest tech and telecommunications companies like Amazon, Google, and Meta, as well as their industry coalitions.<sup>25</sup>

<sup>16</sup> Rethink Trade, “LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System,” <https://rethinktrade.org/ustr-advisors/>

<sup>17</sup> 19 U.S.C 2155(c)(1).

<sup>18</sup> 19 U.S.C 2155(c)(2).

<sup>19</sup> International Trade Administration, “Industry Trade Advisory Committees,” <https://www.trade.gov/itac-committees>

<sup>20</sup> Rethink Trade, “LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System,” <https://rethinktrade.org/ustr-advisors/>

<sup>21</sup> 19 U.S.C 2155(c)(2).

<sup>22</sup> Rethink Trade, “LOADED: Corporate Interests Dominate the Official U.S. Government Trade Advisory System,” <https://rethinktrade.org/ustr-advisors/>

<sup>23</sup> *Id.*

<sup>24</sup> U.S. Department of State, “Charter of the United States International Digital Economy and Telecommunication Advisory Committee,” June 30, 2020, <https://www.state.gov/charter-of-the-united-states-international-digital-economy-and-telecommunication-advisory-committee/>

<sup>25</sup> FACADATABASE.GOV, “United States International Digital Economy and Telecommunication Advisory Committee,” <https://www.facadatabase.gov/FACA/s/meeting-members-advisory-reports?>

More broadly, State Department advisory committees provide limited representation to labor unions, environmental activists, and other non-corporate stakeholders. Unlike USTR, State appears not to have convened a labor advisory committee.<sup>26</sup> And its Clean Energy Resources Advisory Committee only has two members from any organization representing environmental or labor interests, but has 27 members from major automobile companies and other producers.<sup>27</sup> These data reveal a severe imbalance in State's approach to structuring its advisory committees' membership, raising particular concerns as the State Department leads negotiations on APEP alongside USTR.

Allowing corporate interests to continue to dominate the trade advisory committee system clearly harms workers, consumers, and small businesses. We urge your agencies to continue to rebalance membership in those committees to ensure that all Americans impacted by trade have fair representation in the trade policymaking process.

Thank you for your attention to this matter.

Sincerely,



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Elizabeth Warren  
United States Senator



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Pramila Jayapal  
Member of Congress

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<sup>26</sup> FACADATABASE.GOV, "Department of State,"

<https://www.facadatabase.gov/FACA/s/account/001t000000DCAotAAH/department-of-state>

<sup>27</sup> FACADATABASE.GOV, "United States Department of State Clean Energy Resources Advisory Committee,"

<https://www.facadatabase.gov/FACA/s/meeting-members-advisory-reports?recordId=a10t000000ErN5JAAV>