

**RESPONSE TO QUESTIONS ON SUPPLY CHAIN RESILIENCE**  
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**THE OPEN MARKETS INSTITUTE**  
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The Open Markets Institute welcomes the opportunity to respond to the Request for Comments by the Office of the United States Trade Representative (USTR), to inform objectives and strategies that advance U.S. supply chain resilience in trade negotiations, enforcement, and other initiatives.

The Open Markets Institute has played a pioneering role in seeking to understand the nature, magnitude, sources, and potential solutions to the extreme and growing fragility of international industrial systems and supply chains, since our inception more than a decade ago. Members of our team have worked on this issue in great depth for more than 20 years, including through a series of books, articles, papers, speeches, testimony and other material.

*The following is organized as a set of responses to the set of questions posed by USTR on March 7, 2024.*

**QUESTION 1. How can U.S. trade and investment policy, in conjunction with relevant domestic incentive measures, better support growth and investment in domestic manufacturing and services?**

**Establish a strategic hierarchy of goals.** Not all manufacturing and service activity is of equal strategic importance for the security of the nation and our democratic institutions, and the sustainable prosperity of the United States and the people of the world. It is therefore vital to establish a strategic hierarchy of goals, to ensure that we devote limited public and private resources to the most important targets. The Biden Administration has demonstrated how this works with the CHIPS and Inflation Reduction acts, which targeted semiconductors and green technologies. But the U.S. government should also recognize there is much more work left to do.

**Recognize the physical and political nature of complex industrial systems.** Humans are very good at regulating complex systems to prevent dangerous concentrations of physical capacity and risk. The U.S., for instance, has for many decades regulated the international petroleum

production and distribution system to limit the power of any one producer over any key ally or the system as a whole. We have done much the same with the domestic banking system and the international financial system. Unfortunately, the U.S. government stopped doing this with trade in physical goods in the 1990s under the misguided assumption that the only industrial outcomes of importance to American society were high efficiency and low prices. This cleared the way for a few powerful private corporations and nation states to concentrate control over most or all of many key industrial capacities, in ways that threaten the structural and political stability of the system as a whole and the independence of the United States and many of our key allies.

**Develop detailed maps of keystone production capacities and services.** The U.S. government and its allies have begun to draw a detailed map of mining and processing chokepoints for key minerals. But the U.S. and its allies still do not have anything approaching as full an understanding of the concentrations of industrial capacity in other critical sectors that threaten our security, our national economic independence, and/or the independence of key U.S. industrial corporations and of key U.S. allies. It is vital to begin immediately to establish such a map, one that extends all the way from the assembly capacities of the Original Equipment Manufacturer to the smallest of Tier 5 suppliers of components and materials. Relatedly, it is vital to integrate this map with similar maps of the industrial capacities and capabilities of key allies, in ways designed to identify common strengths and weaknesses.

**Honestly reckon with limits on key capacities.** Neither the U.S. nor its allies have an unlimited supply of skilled labor, scientific and engineering expertise, construction capacities, or financial resources. True industrial policy recognizes that there are trade-offs whenever we invest in one capacity versus another. It is therefore vital to establish a system that empowers the U.S. and its allies to prioritize support for certain capacities over other capacities, and to consider ways to maximize our capabilities through partnerships with trusted trade partners.

**Target dangerous concentrations of capacity with tariffs, quotas, and other restrictions.** Combatting dangerous concentrations of global productive capabilities should be a core goal for U.S. trade policy, just as guarding against market concentration in all sectors is central to domestic economic policymaking. The U.S. has used tariffs and other forms of restrictions both to protect strategic domestic manufacturing capacities, and to target dangerous offshore chokepoints, since the earliest days of the nation. Such measure can also help provide manufacturers and investors with the financial confidence they need to build new domestic capacities to compete with foreign producers in the long term. To the extent that such measures are integrated with smart competition goals and policies they can also result swiftly in lower prices, higher quality, greater supply, faster innovation, and greater security. The Biden Administration should, relatedly, require the Treasury Department and Federal Reserve to reassess how they measure the near-term effects of tariffs and quotas on consumer prices, to better account for the medium-term and long-term economic benefits of such policies.

**Closely integrate U.S. industrial and competition policy with close allies and trade partners.** Deconcentrating global supply chains will require that strategic productive capacity be rebuilt both inside and outside of the U.S., requiring that U.S. trade policy support industrial

growth across countries while guaranteeing high labor and environmental production standards. The classic model for such integration is the early post-war European Coal and Steel Community (ECSC), which provided for joint multi-national control – and de facto ownership – of keystone industrial capacities, and also for the careful regulation of competition among the corporations. The ultimate goal – successfully achieved – was to prevent concentration of capacity among any nation state or private corporate estate. One emerging model that shares key characteristics with the ECSC was the proposed Global Arrangement for Sustainable Steel and Aluminum, which was designed to enable the G7 nations to establish a system of common tariffs based on higher production standards in these industries today.

**Stop allies and key trading partners from shifting vital capacity abroad.** The US and its allies should take immediate steps to prevent the industrial corporations of any key ally from worsening existing chokepoints and dependencies by shifting additional industrial capacities out of North America, Europe, Japan, South Korea and any other closely integrated industrial partner nations. We should apply such restrictions immediately to all NATO members.

**QUESTION 2. What existing or new tools could help ensure that growth in domestic manufacturing and services does not undergo the same offshoring that we have experienced over the past few decades?**

This is a fundamentally important question for the U.S. government today. Supporting new industrial capacity with taxpayer dollars is only one step in a larger process. It is also vital to protect the advances made possible by the CHIPS, Inflation Reduction Act and other emerging U.S. industrial policies. In addition to the points we made in response to Question 1, we encourage the following:

Simple rules of thumb, such as a Rule of 4 to govern imports of particular goods, components, and material from other countries. Such a rule would require the U.S. to limit the share of any good, component, or material consumed imported into the U.S. from any single country (or in certain cases region) to no more than 25 percent of the total. Such a rule would leverage American economic power as an importer to support diversified industrial growth in multiple countries without necessitating completely severing imports from the biggest and cheapest producers in a market.

Such rules have often been used in the past. Traditionally, the U.S. and other countries have ensured their security by establishing simple rules designed to limit the concentration of capacity and ownership, and hence the concentration of risk and control. For much of the 20<sup>th</sup> century, for instance, domestic industrial corporations that controlled 25 percent of the capacity to manufacture a particular good or component were essentially prohibited from acquiring another company that controlled even one percent of that market. Similarly, as noted above, the U.S. and other countries have long applied such engineering to the systems we rely on for the production and distribution of oil and financial credit.

Such an approach would immediately begin to a) boost the overarching resiliency of the system; b) limit the ability of nations to exploit industrial dependencies to manipulate and coerce other nations; and c) avoid the dangers of extreme decoupling by providing a way to measure de-risking.

**QUESTION 3. How can U.S. trade and investment policy promote a virtuous cycle and “race to the top” through stronger coordination and alignment on labor and environmental protections within trusted networks among regional and like-minded trading partners and allies?**

The easiest way to promote a “race to the top” is to use antimonopoly law and other competition policy to limit the power of dominant corporations to resist the government’s ability to set rules for the marketplace. Corporations that are governed by the need to compete in the marketplace have far greater incentive to provide better quality goods at lower prices, to treat workers and suppliers with respect, and to invest in next-generation technologies, than corporations that completely dominate their industries.

The U.S. government should also make it easier for worker and environmental groups – both in the U.S. and other countries – to shine a light on corporations that seek to compete by exploiting employees and/or the environment. The Rapid Response Labor Mechanism in the USMCA, for instance, allows workers employed in U.S. corporations in Mexico to appeal to the US government when those companies are not obeying agreed on labor standards. This places the onus on enforcement of U.S. company behavior on the U.S. government, which has more capabilities to respond than many of the U.S.’s trade partners. U.S. authorities should lean into this approach, and reinforce such incentive and enforcement mechanisms in future trade agreements, especially when dealing with industries such as mining, which generally suffer from poor labor and environmental records. Already, strong enforcement of this disincentivizes offshoring if it is only for the sake of social dumping while increasing U.S. commitments to improving labor and environmental practices abroad.

**QUESTION 4. What are examples of trade and investment policy tools that potentially could be deployed in the following sectors to enhance supply chain resilience? In these sectors, what features of the current policy landscape are working well, or less well, to advance resilience?**

- **Agriculture**
- **Automobiles**
- **Critical minerals**
- **Metals**
- **Pharmaceuticals and medical goods**
- **Semiconductors**

The CHIPS and Inflation Reduction Acts are already greatly boosting the supply chain resilience of the semiconductor and automobile industries. Actions taken to address the Covid Pandemic boosted the supply chain resiliency of the pharmaceutical and medical goods industries. But much more remains to be done within these industries as well as in agriculture, critical minerals, metals, and other industries.

In the case of certain industrial capacities, the U.S. government may decide that the only way to ensure sufficient supply at all times is to require that a significant portion – or even all of these capacities – be located within the borders of the United States. The government might, for instance, establish such rules for certain pharmaceuticals, medical equipment, materials, metal and tool making capacities, and munitions and other defense production activities.

**QUESTION 5. What additional sectors may need dedicated trade and investment policy approaches to advance supply chain resilience? What should such approaches entail? What features of the current policy landscape are working well, or less well, to advance resilience?**

The U.S. government has thus far largely failed to address dangerous concentrations of capacity and control in the following industrial sectors, among others:

- Chemicals
- Electronics components
- Processed Materials
- Ocean Shipping
- Machine tools

We should apply the same basic rules, principles, and policies described above to these industries as well as the industries already discussed.

**QUESTION 8. There is concern that preferential rules of origin in free trade agreements can operate as a “backdoor” benefiting goods and/or firms from countries that are not party to the agreements and are not bound by labor and environmental commitments. What actions could be taken to mitigate these risks and maximize production in the parties? What policies could support strong rules of origin and adherence to rules of origin?**

The problem is not the Rules of Origin regime. The problem comes from a lack of transparency in the supply chain itself, and hence the inability of corporations and governments to identify dangerous chokepoints. The way to prevent such “back door” chokepoints is to fully map the industrial system all the way from OEM through Tier 5 Suppliers to the manufacture of materials and the mining and processing of minerals, and then to apply a simple set of rules designed to limit the concentration of any keystone capacity.

**QUESTION 9. What factors are driving supply chain and sourcing decisions, and how does trade and investment policy impact them? How do companies factor in geopolitical risk into their global and domestic manufacturing and sourcing decisions? How do companies take into account traceability and transparency considerations in supply chain and sourcing decisions?**

One of the main factors driving supply chain concentration is the inability of even the largest OEM corporations to identify chokepoints and to respond to chokepoints, in the absence of government rules designed to create transparency and to require all businesses to follow the same set of regulations.

Many if not most businesses would prefer to limit their exposure to single sources of supply, for a variety of reasons. But one of the lessons of the long series of supply chain breakdowns over the last 25 years is that there are many risks that individual corporations – even the largest – cannot address without incurring unacceptable costs. The government mandates disclosures from companies to protect the stability of financial systems, and should consider mechanisms for collecting information from importers and exporters, as well as through trade agreements for economic activities taking place abroad, that would support increased stability in industrial production across the global economy.

**QUESTION 11. How can supply chain resilience be measured, including the cost of insufficient resilience, and the impacts of trade and investment policy on resilience? What are appropriate quantitative or qualitative data to consider?**

In recent years, we have been able to measure lack of supply chain resilience in only the most crude of fashions. This includes the number of people who became sick or died due to the lack of PPE during the Covid pandemic. Or the degree to which Germany's dependence on Russia for the supply of natural gas may have played in the Kremlin's decision to invade the Ukraine. Or the degree to which the concentration of semiconductor capacity in Taiwan decreases, or increases, the likelihood of a Chinese invasion of that island. Or the number and magnitude of the shortages – of drugs, infant formula, meat, eggs, etc. – caused by extreme concentration of essential production capacity. Or the amount of inflation caused by such shortages, and by profit taking by powerful corporations able to exploit such shortages.

Other factors are even harder to quantify. How, for instance, are we to measure the effects on German government decisions of the extreme and growing dependence of German industry on components manufactured in China. Or how a Chinese decision to cut off export of Active Pharmaceutical Ingredients or Apple iPhones to the United States might affect the decisions made by a U.S. president.