

ALERT

USTR Requests Trade Investigation That Gives Underserved Communities a Seat at the Table

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On October 14, 2021, the United States Trade Representative (USTR), Katherine Tai, filed a request with the U.S. International Trade Commission (ITC) for a Section 332 investigation on the distributional effects of goods and services trade and trade policy. The request builds upon the Biden Administration's goals of a worker-centric trade policy that is inclusive for all Americans and has both a positive and equitable impact on marginalized, underserved, and disadvantaged communities in the United States and abroad.

While Section 332 investigations are general factfinding proceedings and do not directly result in any formal trade actions, this request from USTR represents a significant shift in U.S. trade policy that actively considers the impact of trade on underserved communities. A formal shift towards inclusive trade could have wide-ranging implications for U.S. workers, especially those that did not have a seat at the table when traditional U.S. trade policy was developed, and millions of jobs were sent offshore. This Section 332 request comes on the heels of USTR outlining the Biden Administration U.S.-China Trade Strategy and an earlier report released by the House Ways and Means Committee highlighting decades of U.S. trade policy that has either perpetuated or exacerbated unequal access to the benefits of trade for individuals and communities, especially Black and Latinx Americans.

Who are the underserved communities? The White House describes members of underserved communities as "Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas;

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and persons otherwise adversely affected by persistent poverty or inequality.”^[1] The term underserved communities thus refers to “populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life.”^[2]

USTR’s request asks that the ITC conduct a two-part investigation on the potential distributional effects of goods and services trade and trade policy on U.S. workers by skill, wage and salary level, gender, race/ethnicity, age, and income level, especially as they affect underserved communities.

Part one focuses on identifying the distributional effects of trade and trade policy on underserved U.S. workers by group, including identifying their specific U.S. region, and making recommendations for future research. USTR suggests three separate methods to collect and report information in part one:

1. **Roundtable discussions:** These discussions intend to collect information from representatives of underrepresented and underserved communities, think tanks, academics and researchers, unions, state and local governments, non-federal governmental entities, civil society experts, community-based stakeholders, such as minority-owned businesses, business incubators, Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges and Universities (TCUs), other minority-serving institutions (MSIs), and local and national civil rights organizations;
2. **Symposium:** This approach is focused on academic or similar research on the distributional effects on underrepresented and underserved communities of trade and trade policy, including results of existing analysis, evaluation of methodologies, the use of public and restricted data in current analysis, identifying gaps in data and/or in the economic literature, and proposed analysis that could be done with restricted data; and
3. **Critical Review of Economic Literature:** This approach analyzes economic literature concerning the distributional effects on underrepresented and underserved communities of trade and trade policy including, among other things, the data limitations raised in these analyses.

Part two of this investigation requests that the ITC expand its research and analysis capabilities so that the agency is armed with tools that allow it to better analyze how certain trade policies affect American workers. In particular, USTR requests that the ITC develop estimates and models capable of analyzing the potential distributional effects of trade and trade policy on U.S. workers for future Section 332 investigations that provide probable economic effects advice. This would include an analysis of goods and services imports as well as an analysis of the effect of expanded market access for U.S. goods and services products abroad on affected U.S. exporting industries, and to the extent practicable, the “indirect” effect on U.S. exports of intermediate inputs when final goods receive preferential access to the U.S. market. Finally, USTR requested that the ITC identify any data limitations that, if removed, could substantially improve the ITC’s analysis or the time to complete its analysis.

The ITC reports for the two-part investigation on the distributional effects of goods and services will be due within 12 months. While the ITC does not generally make any recommendations on policy, the Biden Administration should take this opportunity to continue educating and connecting its foreign policy objectives

to the lives of ordinary Americans. While “recommendations on future research” and expanding the ITC’s research and analysis capabilities appear to be initial goals, the Biden Administration should consider action steps that encourage the recruitment, retention, and promotion of underserved communities in manufacturing as well as their ownership of manufacturing facilities for a truly inclusive trade policy.

Listen to Derick’s podcast series, “Making Trade Inclusive for All Americans” [here](#).

[1] See Executive Order (EO) 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (Jan. 20, 2021) at Sec. 2. Definitions.

[2] *Id.*