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Biden Administration Releases Industrial Base Reports

Reports identify weaknesses and introduce plans to
strengthen certain critical supply chains

On February 24, 2022, the Biden Administration released a Plan to Revitalize American Manufacturing and Secure Critical Supply Chains in 2022 (“the American Manufacturing and Critical Supply Chains Plan”). The White House also published seven reports “identifying key weaknesses in some of the nation’s most crucial supply chains, and devising multi-year strategies to address those weaknesses.” The sectoral supply chain reports were mandated by last year’s Executive Order on America’s Supply Chains (the “America’s Supply Chains E.O.” or “E.O. 14017”). As we previously reported, E.O. 14017 initiated a comprehensive, “whole-of-government” review of identified critical supply chains that played out in two phases. The first phase required an interagency “100-Day Supply Chain Review” of the following: (1) Semiconductor Manufacturing and Advanced Packaging; (2) High-Capacity Batteries; (3) Critical Minerals and Materials; and (4) Pharmaceuticals and Active Pharmaceutical Ingredients.

The America’s Supply Chains E.O. also required a “deeper-dive” assessment of additional supply chains, including the defense industrial base, the public health and biological preparedness industrial base, critical sectors and subsectors of the information and communications technology industrial base, the energy sector industrial base, transportation industrial base, the production of agricultural commodities and food products. Links to the 1-Year Sectoral Supply Chain Reports are available below:

- Department of Defense (Supply Chains for Defense Industrial Base)
- Department of Homeland Security and Department of Commerce (Information and Communications Technology Industrial Base)
- Department of Energy (Energy Sector Industrial Base)



- Department of Agriculture (Agricultural Commodities and Food Products Industrial Base)
- Department of Transportation (Transportation Industrial Base)
- Department of Health and Human Services (Public Health and Biological Preparedness Industrial Base)

King & Spalding is in the process of preparing Client Alerts on each of the 1-Year Sectoral Supply Chain Reports that will be published in the near future. In the meantime, this alert provides additional context regarding these developments.

In releasing the 1-Year Sectoral Supply Chain Reports, the Biden-Harris Administration announced additional actions that it intends to take over the coming year to put the U.S. economy on a path towards long-term resilience across critical supply chains and to institutionalize supply chain resilience throughout the federal government. A "Capstone Report" that provides additional background information on the Administration's supply chain security efforts also was released.

CREATING LONG-TERM RESILIENCE ACROSS CRITICAL SUPPLY CHAINS

The American Manufacturing and Critical Supply Chains Plan reflects the Biden Administration's intent to continue working with Congress to enact final legislation that is based on the America Creating Opportunities for Manufacturing, Pre-Eminence in Technology, and Economic Strength Act of 2022 ("America COMPETES Act of 2022") and the United States Innovation and Competition Act ("USICA") as part of its broader Build Back Better Agenda. Additional efforts to address supply chain resiliency include the following actions:

- **Leverage the Bipartisan Infrastructure Law to move critical goods faster and more affordably.** "The Department of Transportation ("DOT") is announcing the opening of the \$450 million Port Infrastructure Development Grant program, [. . .] which is dedicated to investments in port infrastructure." DOT will also release notices of funding opportunity for a "diverse set of transportation infrastructure projects of regional and national significance, including those that support the movement of freight and improve supply chain resilience."
- **Invest in sustainable domestic production and processing of critical minerals.** The Administration announced plans to "expand domestic rare earth processing; strengthen the National Defense Stockpile; update mining regulations [. . .]; and issue recommendations for comprehensive reform of outdated mining laws." The Department of Energy ("DOE") also will "demonstrate the feasibility of a full-scale integrated rare earth element extraction and separation facility and refinery from mine waste." DOE released a "\$44 million funding opportunity to provide commercial-ready technologies that give the United States a net-zero or net negative emissions pathway toward increased domestic supplies of copper, nickel, lithium, cobalt, rare earth elements, and other critical elements required for a clean energy transition."
- **Leverage the American Rescue Plan to assist the meat and poultry supply chain.** Action by the Department of Agriculture ("USDA") includes "dedicating \$1 billion in American Rescue Plan funds to expand independent processing capacity" in the meat and poultry sectors by providing loans to independent processors and backing private lenders that invest in independently owned food processing and distribution infrastructure. USDA also announced grants for "new processing capacity and detail a partnership with Department of Labor's Goods Jobs Initiative to support the food processing workforce." The White House's statement also indicates that USDA will "announce \$10 million in technical assistance funding to establish an initial network, with additional efforts to follow, for a total of \$25 million for technical assistance."
- **Propose new domestic manufacturing initiative through the Export-Import Bank to strengthen U.S. exports.** The board of the Export-Import Bank "will vote on a new domestic initiative, including providing financing priority to environmentally beneficial, small business, and transformational export area transactions, including semiconductors, biotech and biomedical products, renewable energy, and energy storage."



ADDITIONAL FEDERAL GOVERNMENT ACTIONS TO SUPPORT SUPPLY CHAIN RESILIENCE

The Biden Administration also intends to take several actions to prioritize support for supply chain resilience throughout the federal government. Recent high-priority examples that were emphasized by the White House include DOE’s plan to deploy more than \$60 billion in funding for clean energy infrastructure and a new dedicated public health industrial base expansion and supply chain management office that will be housed in the Department of Health and Human Services (“HHS”). As part of its supply chain revitalization plans, the Biden Administration also intends to take the following actions:

- **Bolster the American manufacturing of critical goods through new reforms under the Buy American Act.** “The White House Office of Management and Budget will soon issue a new Buy American rule that will create a new category of critical products that will be eligible for enhanced price preferences.”
- **Fully establish a Defense Production Act (“DPA”) Investment Program to build and expand the health resources industrial base.** “During the pandemic, HHS established a [DPA] office to ensure supply chain issues did not impede national efforts to combat COVID-19.” Now, “HHS will establish a DPA Title III Program to provide loans, grants, and other financing to build and expand the health resources industrial base.”
- **Bolster clean energy manufacturing through implementation of the Bipartisan Infrastructure Law.** DOE will accelerate domestic clean energy manufacturing by establishing “four Regional Clean Hydrogen Hubs and supporting the electric-vehicle battery materials supply chain.” DOE also a \$44 million program for environmentally-friendly technologies to boost “domestic supplies of copper, nickel, lithium, cobalt, rare earth elements, and other critical elements required for a clean energy transition.”
- **Restore U.S. global leadership on supply chains.** The United States will meet with Mexico, Canada, and the European Union to address supply chain bottlenecks and the creation of procedures to maintain continuity of supply chains during crisis, among other initiatives.

KEY TAKEAWAYS

The American Manufacturing and Critical Supply Chains Plan indicates that the Biden Administration intends to continue to focus on supply chain vulnerabilities as part of comprehensive efforts to support “American manufacturing and industrial strength.” Affected stakeholders from across the U.S. economy should take steps now to participate as this process continues to unfold through action by Executive Branch agencies and in Congress.

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