



February 2, 2022

To The Members of the U.S. House of Representatives:

As the U.S. Chamber of Commerce [stated last week](#), we strongly support the effort in Congress to advance policies to strengthen the ability of American workers and companies to compete globally, including with China. We had hoped to be able to support House legislation on this important issue – H.R. 4521, the America COMPETES Act – just as we had supported the Senate counterpart – S. 1260, the United States Innovation and Competition Act (USICA). Regrettably, as COMPETES continues to include numerous policies that would undermine U.S. competitiveness, and Members are being denied the opportunity to vote on amendments to address these issues, the Chamber must oppose H.R. 4521. Should the House pass this legislation as reported from the Rules Committee, we will continue working in conference to improve it.

There is a better path forward. The Senate considered USICA through an open bipartisan process; the House should do the same. While USICA is not perfect, it would enhance U.S. competitiveness and innovation through new investments in basic research, would fund the CHIPS for America Act to bolster U.S. semiconductor capacity, and would make other important investments.

Although COMPETES includes some worthy components – including funding for the CHIPS for America Act to bolster U.S. semiconductor capacity and new tools for supply chain resiliency – the legislation also includes the following harmful provisions not included in the Senate bill:

- **New Regulation of Outbound Investment.** Known as the National Critical Capabilities Defense Act, this provision would establish an ill-defined new bureaucracy to review certain outbound investments, which would complicate efforts by U.S. businesses to compete, grow, and expand in global markets. It would create a Committee on National Critical Capabilities chaired by the United States Trade Representative and empower it with new responsibilities for which USTR is ill-equipped. USTR's mission is to develop and coordinate international trade policy and negotiations with other countries; it lacks the resources and experience to scrutinize U.S. investments abroad for potential national security risks. Congress should play a more constructive role by pressing the Administration to prioritize implementation of the Foreign Investment Risk Review Modernization Act and the Export Control Reform Act.
- **Eliminating Global Market Distortions to Protect American Jobs Act.** This component of H.R. 4521 would make sweeping changes to U.S. antidumping and countervailing duty (AD/CVD) laws in ways that have not received the scrutiny and deliberation required for such a complex, far-reaching proposal. This major overhaul of U.S. trade law could add to inflationary pressures by raising costs for a wide variety of imports, including many products sourced from U.S. allies. It would fast-track AD/CVD investigations based on the findings of earlier, unrelated cases in a manner that could injure U.S. businesses that had nothing to do with the past cases in question. The bill would change methodologies in ways that would increase tariffs and extend the reach of duties to goods from all producers in a given country in the event a single firm was found to engage in dumping or to receive countervailable subsidies. The bill also glosses over the extremely substantial challenges of determining third-country subsidization contemplated in the bill. In sum, the bill has the potential to favor a handful of businesses at the expense of a much

wider swath of industries employing many more American workers, thereby undermining the global competitiveness, productivity, and growth prospects of many more U.S. firms in high-growth sectors.

- ***Import Security and Fairness Act.*** This provision would add to the challenges of supply chain bottlenecks and backups at U.S. ports of entry. By diverting a share of the over 500 million shipments that enter the United States under the existing *de minimis* process, it would add substantially to the workload of CBP personnel who are already stretched thin. Further, it would increase costs with a particularly large impact on U.S. small businesses. Above all, any legislation on this matter should be delayed pending the conclusion of the pilot programs on Section 321 and Type 86 data pilot programs, which have already shown promise by allowing CBP to segment risk and target shipments more accurately even though the pilot programs and associated findings and conclusions are not complete. Congress should not prematurely legislate in this area.
- ***Miscellaneous Tariff Bill (MTB) and Generalized System of Preferences (GSP).*** COMPETES would upend the MTB existing process established in the American Manufacturing Competitiveness Act of 2016 that allows for a fulsome and transparent vetting process overseen by the U.S. International Trade Commission. Members of Congress and industry have ample opportunity to object to the temporary duty suspensions afforded under this process. Blocking the inclusion of finished goods in future MTBs would close the door to the possibility of relief from tariffs on goods generally not available from domestic sources and to which no one has objected. On GSP, the bill includes a reauthorization period that is two years shorter than the Senate proposal, which would add uncertainty and undermine the capacity of the program to accomplish its objective of fostering economic development in developing countries. On the program's eligibility criteria, the bill would go well beyond provisions of USICA in ways that analysts warn could lead foreign governments to conclude that GSP's compliance burdens outweigh its economic benefits.
- ***Lack of Section 301 Tariff Exclusion Process.*** The Chamber strongly supports amending the bill to include a Section 301 tariff exclusion process that is fair, consistent, and transparent. The Congressional Budget Office has estimated that U.S. tariffs imposed in 2018-2019 — the overwhelming majority of which are Section 301 tariffs on goods from China — cost the average American household more than \$1,200 in 2020 alone. Multiple studies show that nearly the entire burden of these duties has fallen on U.S. families and companies. USICA Section 73001 would reinstate previously granted tariff exclusions that expired last year through the end of 2022. USICA would also require USTR to implement a new product exclusion process beyond the extremely limited one now underway, which at most would reinstate one percent of previously granted exclusions, and it outlines specific criteria for USTR to consider in determining whether to grant an exclusion. Such a measure would help ensure American workers and businesses do not suffer disproportionate harm because of the tariffs.
- ***Prohibitions or Conditions on Certain Transmittal of Funds.*** The Chamber strongly supports laws to prevent money laundering but is concerned that provisions of 4521 would expand the Financial Crimes Enforcement Network's special measures authority in ways that would capture an overwhelming number of American businesses and investors engaged in lawful and productive digital assets activity. The Chamber stands ready to work with Congress on better avenues to target and eliminate fraudulent and criminal transactions.

In addition, the Chamber strongly opposes a provision of the Senate USICA bill that is thankfully not included in COMPETES related to ***Country of Origin Labeling***. This ill-conceived provision would add significant complexity, costs and burdens to the existing programs authorized by trade laws and enforced by U.S. Customs and Border Protection. Such a new, conflicting regulatory regime would create a new liability for retailers and sellers to not only post the required information but certify the accuracy of the information provided by product vendors, and does not include a corresponding obligation for manufacturers, rights owners, distributors, and other sellers. Labeling provisions were added to USICA legislation without sufficient opportunity for stakeholders to discuss their concerns. Many unanswered questions remain about the practicality and administrability of such a provision.

The Chamber believes the best course for enacting critical and durable legislation to improve American competitiveness is to allow for meaningful bipartisan input and to reject the misguided and problematic provisions detailed above. We stand ready to work with you to achieve this shared goal.

Sincerely,



Neil L. Bradley
Executive Vice President, Chief Policy Officer,
and Head of Strategic Advocacy
U.S. Chamber of Commerce