U.S. Chamber of Commerce

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To the Members of the United States Congress:

The U.S. Chamber of Commerce urges Congress to seize the opportunity to enhance American competitiveness and empower U.S. workers and companies to succeed in domestic and international markets by favorably resolving the differences between S. 1260, the United States Innovation and Competition Act (USICA), and H.R. 4521, the America COMPETES Act.

The Creating Helpful Incentives for the Production of Semiconductors (CHIPS) for America Act and enhanced Facilitating American-Built Semiconductors (FABS) Act provisions are key to this legislation. Semiconductors are essential to nearly every sector of the economy, including aerospace, automobiles, communications, clean energy, information technology, and medical devices. Unfortunately, demand for semiconductors has outstripped supply, partly due to shifts arising from the COVID-19 pandemic. This has created a global chip shortage and resulted in lost growth and jobs, in turn underscoring the need for increased domestic manufacturing capacity. Approval of these provisions will help meet this long-term challenge by incentivizing semiconductor research, design, and manufacturing in the United States. This will in turn strengthen the U.S. economy, national security, and supply chain resilience and increase the supply of chips so important to our entire economy.

The Chamber strongly urges several provisions be removed from the final legislation that would all hinder the ability of American firms to compete with foreign competitors, including:

- **National Critical Capabilities Defense Act:** This COMPETES provision would establish an ill-defined, duplicative, and unfunded bureaucracy within the Office of the United States Trade Representative (USTR) to screen outbound investments, which would complicate efforts by U.S. businesses to compete, grow, and expand in global markets. Investing abroad is often the only way American companies can sell their goods and services to customers abroad. Such investments overseas support millions of American jobs at home, underwrite critical investments in U.S. research and development, and enhance U.S. competitiveness. The measure is overly broad in scope and would capture a wide range of transactions without an obvious nexus with national security. Some firms question whether mundane international activities such as hiring salespeople in some foreign markets would trigger the tripwires in this unprecedented measure. Further, while the Chamber strongly supports USTR's existing mission 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 as this measure proposes. 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 as well as allow committees of jurisdiction to conduct hearings and review findings under regular order.

- **Import Security and Fairness Act:** This COMPETES provision would add to the challenges of supply chain bottlenecks and backups at U.S. ports of entry. By diverting a significant share of almost 800 million shipments that enter the U.S. under the existing *de minimis* process, it would add substantially to the workload of U.S. Customs and Border Protection personnel who are already stretched thin. Further, it would heap new costs on industry, with a particularly large impact on small businesses and further drive inflation. Any legislation in this area 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.

- **Eliminating Global Market Distortions to Protect American Jobs Act:** This portion of COMPETES 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. In the context of legislation aiming to enhance the attractiveness of the U.S. as a venue for both domestic and international investment, this proposal would heap new tariff burdens on U.S. producers and send exactly the wrong signal. By substantially raising prices for a host of industrial inputs, this measure would undermine the growth of the innovative, value-added manufacturing industries that Congress and the Administration should be working hard to support and attract. This measure would also 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 in ways that could prejudice the deliberative process of these quasi-judicial proceedings and produce higher tariffs on a wider universe of products. In sum, this provision 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.

- **Country of Origin Labeling (COOL) Online Act:** This ill-conceived provision of USICA 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. This provision was added to USICA without sufficient opportunity for stakeholders to discuss their concerns. Many unanswered questions remain about the practicality and administrability of such a provision.

- **Controlling the Export of Electronic Waste to Protect United States Supply Chains Act:** This measure has been considered and rejected on multiple occasions in recent

years. Many innovative American companies have embraced the circular economy and currently refurbish and redeploy hardware with their customers or as part of their own operations. If this portion of COMPETES were enacted, these firms would be prohibited from doing so without an export control license from the Department of Commerce for each device they intend to reuse, creating an unreasonable administrative burden that could eliminate the market for recycled and refurbished electronic products. Moreover, this provision would not address the counterfeiting challenge it ostensibly aims to address. China is the largest producer of e-waste in the world and has no shortage of domestically generated products from which to harvest components for counterfeits. Regardless, export controls — currently authorized for purposes such as protecting U.S. national security, fighting international anti-terrorism, and promoting U.S. foreign policy goals — are a misguided instrument to address this issue. Finally, it would have significant adverse environmental consequences by undermining existing private sector efforts to recycle, refurbish, and reuse electronic goods and would uniquely disadvantage U.S. exporters who would be unable to service reliably their equipment.

- **Protecting the Right to Organize Act (PRO Act):** The COMPETES solar energy provisions would implement the controversial "card check" fast track union organizing process and binding first contract arbitration of the PRO Act. Radical labor policies do not belong in legislation meant to improve the competitiveness of American businesses. We urge Congress to remain focused on bipartisan collaboration and to reject partisan components of the bill — especially the PRO Act — that would undermine the intent of this important legislation.

The Chamber very strongly prefers and supports the USICA trade title, which was developed in a bipartisan manner and won Senate approval on a 91-4 vote, over the more problematic and partisan COMPETES version:

- The COMPETES trade title would upend the process for preparing periodic **Miscellaneous Tariff Bills (MTBs)** as established in the American Manufacturing Competitiveness Act of 2016. That law 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. Given that no tariff relief petition can be included that implies a revenue loss in excess of $500,000 annually, the possibility of including finished goods in future MTBs should continue.

- The **Generalized System of Preferences (GSP)** provisions of COMPETES would provide reauthorization for two years shorter than USICA. Such a short duration 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 COMPETES version 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.

- The Chamber strongly supports the USICA provisions to establish 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 — 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 American 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. Additionally, it would specify 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.

The Chamber believes the best course for enacting critical and durable legislation to improve American competitiveness is to allow for meaningful bipartisan input, support the positive elements noted above, such as the CHIPS for America Act, and to reject the misguided and problematic provisions detailed above. We stand ready to work with you to achieve this shared goal.

Sincerely,

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and Head of Strategic Advocacy
U.S. Chamber of Commerce