

March 22, 2022

Re: Remove the “Eliminating Global Market Distortions to Protect American Jobs Act of 2021” from the Bipartisan Innovation Act

To the Members of the United States Congress:

On behalf of the undersigned organizations, we write to express our strong opposition to the inclusion of the “Eliminating Global Market Distortions to Protect American Jobs Act of 2021” (Division K, Title II of the America COMPETES Act of 2022) in any final version of the USICA/America COMPETES/Bipartisan Innovation Act legislation that Congress may enact. 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, and will continue working in conference to improve them.

This legislation would make far-reaching changes to U.S. antidumping and countervailing duty laws without being subject to the thorough Congressional deliberation required for such modifications. Proponents of this legislation contend it aims to address Chinese market-distorting activities and overcapacity in the steel sector. However, it would result in the application of more and higher tariffs on a diverse array of imported goods from *all* U.S. trading partners, not just China — including products from economies that are not unfairly subsidized or dumping into the U.S. market. This would penalize legitimate trade and contribute to the inflationary pressures on American businesses.

For example, while the U.S. has more than 230 AD/CVD duties in place on Chinese goods, this proposal would also impact an array of other products. Some examples include steel and aluminum imports from Germany and Japan, softwood lumber products from Canada, amino acid and chemical imports from France, and pastas from Italy. It would also impact agriculture imports like biodiesel and fertilizers, with significant new burdens on American farmers and ranchers. Not only would these changes lead to higher costs for inputs necessary to U.S. manufacturers, they would also hit the consumer goods, retail and renewable energy sectors especially hard.

Specifically, the legislation would establish the concept of “successive” investigations, referring to two types of AD/CVD investigations involving imports from different countries. The first type is the concurrent investigation, or AD or CVD trade cases that cover the same or similar type of merchandise imports from two separate countries and are being investigated at the same time. The second type is the recently completed investigation, which is defined as a completed investigation in which the U.S. International Trade Commission (ITC) made an affirmative definition in a case involving the same or similar class or kind of merchandise imports from another country within the last two years. These mechanisms created by the legislation would prejudice parties — including U.S. importers — that were not involved in the past cases involving other locations and could potentially impede full examination of the facts. For example, the successive investigation scheme shortens important timelines in an AD/CVD investigation — timelines that are already extremely difficult for U.S. importers to meet — to

adequately demonstrate the requisite facts to U.S. agencies that dumping or unfair subsidization is not occurring, or occurring at a lower rate.

U.S. tariffs have risen dramatically in recent years. Many U.S. manufacturers and retailers are already subject to the increasing costs stemming from new tariffs — including Section 232, 201 and 301 duties¹, expired trade preference programs, and the growing number of AD/CVD orders (624 across at least 66 different countries). Over the past two years, the United States imposed 51 new AD orders and 43 CVD orders.² In fiscal year 2020 alone, \$18.2 billion of imported goods were subject to AD/CVD orders.³ Accordingly, the proposed legislation would exacerbate existing enforcement and AD/CVD duty collection problems that are well documented by the U.S. Government Accountability Office.⁴

This legislation would add to this financial burden and obstruct the global competitiveness of a broad range of businesses in the United States by prejudicing due process in AD/CVD claims against U.S. importers and ensnaring legitimate trade. It would add to inflationary pressures by raising prices of a wide variety of legitimate imports from industrial inputs to household goods. These mounting costs would come at a time when uncertainty in the market is at an all-time high, as supply chain challenges persist, and as inflation continues to rise.

In addition, the legislation would compress timelines, move up deadlines, and limit extensions in AD/CVD proceedings in ways that would hamstring agencies already scrambling to meet timelines outlined in the statute. Such stipulations could lead to mistakes in the determinations that are reached.

Legislative proposals with such broad ramifications should be developed under regular order, with hearings that allow for input from stakeholders representing all segments of the economy, including consumers, as well as the responsible agencies. That did not happen in this instance.

At a time when Congress is aiming to enhance the global competitiveness of American industry and the attractiveness of the United States as a venue for both domestic and international investment, heaping new tariff burdens on American industry would send exactly the wrong signal. By substantially raising prices for a host of industrial inputs, this measure will undermine the growth of the innovative, value-added manufacturing industries that the United States should be working hard to support and attract. Indeed, fostering the growth of these globally competitive industries here in the United States should be a top goal of American policymakers. If Congress were to include this measure in a final legislative package aimed at increasing U.S. competitiveness, the irony would be notable. Lessening the tariff burden would allow companies to hire more workers, who are currently on the sidelines waiting for more certainty.

¹ <https://www.cbp.gov/newsroom/stats/trade>

² <https://ustr.gov/sites/default/files/2022%20Trade%20Policy%20Agenda%20and%202021%20Annual%20Report.pdf>
<https://ustr.gov/sites/default/files/files/reports/2021/2021%20Trade%20Agenda/Online%20PDF%202021%20Trade%20Policy%20Agenda%20and%202020%20Annual%20Report.pdf>

³ <https://crsreports.congress.gov/product/pdf/IF/IF10018>

⁴ <https://www.gao.gov/products/gao-20-50r>

We urge lawmakers not to include any aspect of this measure in a final version of the USICA/America COMPETES/Bipartisan Innovation Act legislation that Congress may enact.

Sincerely,

American Apparel & Footwear Association (AAFA)
American Clean Power Association
American Automotive Policy Council (AAPC)
Autos Drive America
Consumer Technology Association (CTA)
Edison Electric Institute (EEI)
Information Technology Industry Council (ITI)
National Foreign Trade Council (NFTC)
National Retail Federation (NRF)
Retail Industry Leaders Association (RILA)
U.S. Chamber of Commerce
United States Council for International Business (USCIB)