

April 11, 2022

Ms. Diane Farrell
Deputy Under Secretary for International Trade
Department of Commerce.
1401 Constitution Ave. NW
Washington, D.C. 20230

RE: Comments Regarding the Indo-Pacific Economic Framework (Docket Number ITA-2022-0001)

Dear Ms. Farrell:

Thank you for providing the Alliance for Trade Enforcement (“AFTE”) the opportunity to provide comments to the Department of Commerce regarding the proposed Indo-Pacific Economic Framework (“IPEF”).

AFTE is a coalition of trade associations and business groups that advocates for foreign governments to end unfair trade practices that harm American workers and companies from every sector of the economy and supports U.S. policymakers in their efforts to hold our trading partners accountable. Our members operate in the manufacturing, services, technology, and agriculture sectors, among others, creating good-paying high-quality jobs.

We support efforts by the Administration to demonstrate economic and diplomatic leadership in the Indo-Pacific region. As we have learned over more than two years responding to and living with the COVID-19 pandemic, strong trade and investment relationships are vital to maintaining economic stability in the midst of global turmoil. The pandemic has highlighted the need for preparation and cooperation among the United States and its allies and trading partners in the Indo-Pacific region.

As an interested stakeholder, AFTE appreciates the opportunity to contribute to the process of identifying and refining U.S. priorities for IPEF negotiations. The many U.S. companies and workers focused every day on exporting U.S. goods and services and strengthening economic relationships with Indo-Pacific countries are best situated to advise on the most important commitments that the United States should seek in any regional agreement.

We encourage the Administration to raise its ambition level for the IPEF by including market access provisions and binding, enforceable commitments in each of the pillars.

AFTE and its members are discouraged by statements from Administration officials indicating that the framework will not include market access provisions or traditional enforcement mechanisms, such as dispute settlement procedures. The promise of market access

can serve as a significant inducement for countries to participate in the IPEF as well as provide leverage at the negotiating table as the United States seeks commitments from other parties. Once the framework is in place, market access also serves to bolster enforcement with the threat of withdrawing market access looming large. A meaningful and binding enforcement mechanism is a fundamental aspect of ensuring compliance with trade obligations, from the World Trade Organization agreements to the United States-Mexico-Canada Agreement. The suspension of benefits permitted under the dispute settlement provisions of these agreements rests on the assumption that there are benefits to suspend.

Moreover, we encourage the Administration to consider market access issues beyond tariffs. Our members experience a wide range of non-tariff barriers to trade, from inefficient, nontransparent, and/or discriminatory regulatory regimes to burdensome rules of origin requirements to inadequate protection of intellectual property that discourage trade. The costs of non-tariff barriers often can exceed those of tariffs, and we encourage the Administration to seek to lower such barriers through each of the four pillars of the IPEF.

In addition to traditional dispute resolution enforcement mechanisms, we recommend that the Administration consider other tools to encourage compliance with the IPEF.

Beyond traditional dispute settlement procedures, the Administration should build into the IPEF new and creative mechanisms to ensure that the commitments that are made in the various pillars are fulfilled. For example, the IPEF parties could implement multi-tier consultative mechanisms, whereby officials from the parties meet regularly at the staff level and periodically at higher levels. Such consultations would not only signal the parties' commitment to the framework but also provide an enduring platform for key decision-makers from the parties to meet on a regular basis and address concerns. In addition to state-to-state mechanisms, the IPEF should include opportunities for private entities to raise claims of non-compliance directly with IPEF parties.

Effective enforcement also rests on the clear benchmarking of obligations. As part of the IPEF, the parties should develop and publish specific work plans with clear timelines for the implementation of IPEF obligations, which would increase transparency and allow stakeholders to track parties' progress. Working groups and other capacity-building procedures also can help to maintain communication between parties and provide opportunities to redress compliance concerns.

The IPEF should build on and bolster existing international agreements.

Through decades of negotiations, the United States has developed sophisticated and successful trade agreement provisions that should serve as a baseline for further ambition in the Indo-Pacific region. While emerging issues like digital trade and supply chain issues might necessitate new approaches, regarding other issues, the Administration should look to build on rather than replace existing models. The IPEF also presents an opportunity to encourage other parties to join and comply with agreements beyond the scope of the IPEF, including World

Intellectual Property Organization treaties, the Budapest Cybercrime Convention, the WTO Agreement on Trade in Pharmaceutical Products, and the Information Technology Agreement.

The IPEF should reward countries that are ready to commit to the highest aims of global trade rather than regress to the lowest common denominator.

As the composition of IPEF parties is determined, the Administration should prioritize working with countries that have shown a commitment to free-market principles and a strong track record of following international rules and norms. This approach has two benefits. First, these countries will be more willing to continue to raise domestic standards through robust commitments, resulting in a stronger agreement overall. Second, the benefits that accrue through IPEF membership can serve as a reward for countries that take meaningful steps to improve their compliance with international rules.

On the other hand, some countries have shown, time and again, that they are willing to undermine, skirt, or ignore their obligations under international treaties. If such countries are included in IPEF trade negotiations, then those countries inevitably will lower the quality and scope of commitments under the agreement. Such countries should not be permitted to join the IPEF and, in so doing, limit the potential ambition of IPEF commitments; moreover, including these countries in the negotiations jeopardizes even the successful conclusion of any IPEF agreements. Membership in the IPEF should require a demonstrated commitment to high standards in the first instance; furthermore, the IPEF should be designed to encourage better practices by countries seeking to join the framework in the future.

The Administration should ensure full transparency and meaningful engagement with stakeholders throughout the negotiations.

We reiterate our appreciation for the opportunity to comment on the IPEF negotiating priorities. As the Administration continues to consider its approach to the IPEF and enters negotiations, we request that the Administration regularly update on the progress of discussions and continue to seek the input of interested stakeholders.

If you have any questions about these comments, please do not hesitate to contact Joshua Teitelbaum at 202-887-4081 or jteitelbaum@akingump.com.