



April 11, 2022

Submitted via www.regulations.gov

William Shpiece
Chair of the Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Re: Docket No. USTR-2022-0002, Request for Comments on the Proposed Fair and Resilient Trade Pillar of an Indo-Pacific Economic Framework, Document No. 2022-05044

Dear Mr. Shpiece:

The American Chemistry Council (ACC) is pleased submit the following comments in response to the Office of the United States Trade Representative's (USTR) Request for Information ("RFI") published on March 10, 2022, to assist USTR on matters relevant to the Fair and Resilient Trade pillar of the Indo-Pacific Economic Framework (IPEF). ACC also plans to submit comments to the Department of Commerce in response to a related RFI (i.e., Docket No. ITA-2022-0001, Request for Comments on the Indo-Pacific Economic Framework, Document No. 2022-05206.)

The ACC represents a diverse set of companies engaged in the business of chemistry, an innovative, \$486 billion enterprise. We work to solve some of the biggest challenges facing our nation and our world and are committed to fostering progress in our economy, environment, and society.

The business of chemistry:

- Drives innovations that enable a more sustainable future.
- Provides 529,000 skilled good paying jobs—plus over 4.1 million related jobs—that support families and communities.
- Enhances safety through our diverse set of products and investments in R&D.

Every year, the chemistry industry invests tens of millions of dollars to help make the products that make modern living possible and safer for our communities and the environment. In addition to research initiatives, ACC programs focus on anticipating and preventing accidents, as well as

educating the public about how to use our products safely. Chemistry makes it possible to meet the needs of a growing world population. Our products help protect our food supply, air, and water, make living conditions safer, and provide access to efficient and affordable energy sources and lifesaving medical treatments in communities around the globe. To enable these ongoing innovations, we advocate for public policies that support the creation of groundbreaking products to improve lives, help protect our environment, and enhance the economic vitality of communities.

ACC supports the Biden Administration's commitment to promote free, fair, and open trade and investment through its decision to launch an Indo-Pacific Economic Framework (IPEF) initiative and hopes that ACC will be afforded the opportunity to continue to engage as negotiations progress. Strengthening trade, investment, and economic ties with the Indo-Pacific region will benefit all Americans and a high-standard, comprehensive agreement in the region will advance our shared economic and strategic interests. We would encourage USTR, as well as our key trading partners, to produce an ambitious and comprehensive agreement that includes enforceable commitments, new market opportunities, and strong regulatory rules. To meet these objectives, the IPEF should include both proven commitments from recent U.S. trade agreements and new ones to promote further opportunities for innovation and growth for U.S. chemistry production, exports, and workers. An ambitious agreement involving constructive discussions will be integral to demonstrating American engagement, both politically and commercially, in the Indo-Pacific region

General negotiating objectives for the IPEF

ACC believes USTR should prioritize the following objectives in all areas of the negotiations

- Focus on developing binding and enforceable commitments.
- Set high standards, based on sound science and risk-based parameters, and ensure that participating countries agree to all commitments. Broad country participation is important, but weak rules will produce less meaningful outcomes.
- Create market access opportunities for U.S. manufacturers and workers in the chemistry industry and that support the wider manufacturing value chain
- Develop work plans to regularly add commitments and participating countries to each area, which would deepen and broaden the IPEF's benefits over time.
- Establish an ongoing consultative mechanism for private sector to provide technical expertise and meaningful consultation on the priorities for each area to maximize benefits and outcomes.

While we understand that tariff negotiations will not be initially included in these negotiations, we hope that USTR does not eliminate market access from its negotiating priorities and objectives. Many policies and regulatory provisions have made U.S. chemical and plastic exports



less competitive and the absence of commitments that would result in new market access is less likely to attract important stakeholders to the negotiating table. We would urge USTR to make opening new markets for U.S. exports a priority, especially for innovative chemicals and plastics, as this would be a good way to develop high-standard, successful outcomes to these negotiations. Such constructive outcomes would support continued growth in U.S. production and jobs as well as help build resilient supply chains and opportunities to drive sustainable production across the Indo Pacific region.

We also hope that USTR prioritizes the resolution of existing trade barriers, and prevention of future barriers, including by incorporating and enforcing regulatory cooperation provisions. The U.S. chemistry industry, through the International Council of Chemical Associations (ICCA), directly works with many countries in the Indo-Pacific region to promote an aligned and constructive industry approach to promoting sound science and risk-based principles for chemicals management. Such work could serve as an effective model to demonstrate the value of close regulatory cooperation to promote domestic economic growth and innovation and create new market and job opportunities. Rules on regulatory cooperation will be fundamental to ensure a level playing field, especially for small businesses who need additional clarity and certainty on regulatory compliance. They would also support human health and safety, safeguard environmental innovation, cultivate resilient and strategically integrated global supply chains, and promote high value job creation, both in the United States and in the Indo-Pacific region.

Environment and climate

The IPEF provides a unique opportunity to address environment and climate change goals in a plurilateral setting that can contribute to broader multilateral goals, such as the UN Sustainable Development Goals (SDGs), climate protection, and fostering greater economically and environmentally sustainable innovation. Linkage to other multilateral agreements (MEAs) will be important to complement efforts and avoid duplication.

We would encourage the U.S. and IPEF countries to work together to identify and promote an agenda that encourages further investment and streamlines access to both IPEF markets and markets worldwide in support of deployment and implementation of these products and technologies. Based on experience with the Environmental Goods Agreement (EGA) negotiations, pragmatic and focused approaches will be needed in such a negotiation. IPEF members should avoid restrictive or punitive policies that discourage innovation.

We think that an enabling agenda in IPEF for new investments and deploying innovative products should include the following objectives:



1. **Elimination of non-tariff barriers** on environmental materials and their inputs as well as environmental technologies in order to achieve greater sustainability;
2. **Promotion of sustainable trade of environmental materials**, their inputs and technologies to help accelerate the achievement of the UN SDG objectives, climate protection, circularity and other societal and environmental priorities;
3. **Encouragement of standard adoption**, such as in product design, recycling and packaging standards, to facilitate efficient customs treatment and ease of doing business;
4. **Identification of public policies and governmental programs** that can spur innovation and investment in sustainability-related technologies and processes, such as the protection/enforcement of intellectual property rights and rules-based investment procedures;
5. **Development of common principles** to ensure that national and regional approaches to sustainability (e.g., carbon border adjustments, extended producer responsibility, recycling, and circularity) are consistent with the rules-based trade system;
6. **Encouragement of public-private sector dialogue** to identify specific challenges and barriers to building sustainable products and processes; and
7. **Removal of regulatory and policy obstacles** to innovation and adoption of new environmental technologies.

A near term opportunity to demonstrate the engagement and value of IPEF would be to promote the multilateral elimination of tariffs on chemicals that support the manufacturing of goods essential to combating climate change and addressing other sustainable development goals (e.g., clean water, energy efficiency, food safety, and food security.) In the least, IPEF countries should not impose further additional tariffs on imports of chemicals and avoid inviting retaliation on U.S. exports of chemicals.

Digital economy

The chemistry industry benefits substantially from digital investment to support advanced manufacturing. Digital trade based on the free flow of data across borders is critical to chemical manufacturers, which generate data for regulatory compliance, technical innovation, employee development, workplace safety, and global customer management.

ACC would encourage the IPEF to include state-of-the-art provisions that promote data privacy, enable open cross-border data flows, and prohibit data localization requirements, including



- 1. Prohibition of customs duties on electronic transmissions;**
- 2. Adoption or maintenance of interoperable frameworks** to protect personal information, while supporting innovation;
- 3. Mitigation of risk of cyberattacks and cyber theft** through adoption of common risk-based approaches and greater public-private sector transparency
- 4. Assurance of acceptance of electronic signatures** and use of interoperable authentication systems and secure digital identities;
- 5. Promotion risk-based approaches to cybersecurity;**
- 6. Participation in the digital economy**, including by cooperating on information sharing and capacity-building to foster SME innovation;
- 7. Promotion of use of industry-led and internationally accepted standards** to support digital trade, electronic payment services, and emerging technologies;
- 8. Privacy and data protection; and**
- 9. Technology choice and open digital architectures.**

Such provisions will help strengthen cybersecurity while respecting intellectual property rights and promote data flows that are essential for establishing and maintaining global value chains, not just to the benefit of chemistry industry but to downstream industries that involve chemistry such as the agriculture and automotive industries. Binding and effective commitments that prohibit unwarranted government restrictions on data flows and government involvement in network security could also promote the development of effective IPEF supply chain resilience commitments.

Transparency and good regulatory practices

The IPEF includes several economies with whom the United States has been making useful progress in discussions on transparency and good regulatory practice on chemical products, including in APEC, making IPEF a unique opportunity to introducing high-standard and ambitious commitments. We would encourage USTR to make commitments on transparency and good regulatory practice a major goal in IPEF negotiations, which would create new opportunities for trade negotiators, regulators, and industry to prevent barriers to trade through greater regulatory transparency, data and information sharing, and the adoption of best practices.

We would especially encourage work in the following chemical regulatory cooperation areas:



1. **Promotion and collaboration on the implementation** of international standards in the field of chemicals, such as the UN Globally Harmonized System of Classification and Labelling of Chemicals (GHS) and the OECD Mutual Acceptance of Data (MAD) system;
2. **Cooperation on prioritization of substances** for review and collaboration on chemical assessment;
3. **Enhanced scientific cooperation**, particularly on emerging regulatory issues; and
4. **Cooperation on data sharing** and use of available data to avoid redoing studies.

Competition policy

We would encourage USTR to engage with the chemistry industry to ensure a clear understanding of anti-competitive subsidies currently distorting trade and developing/implementing updated rules, particularly as IPEF economies work on their economic recovery post-pandemic strategies and place a greater emphasis on sustainability in their domestic systems.

We would encourage USTR to consider new rules on

1. **Updating the list of prohibited subsidies;**
2. **Ensuring greater transparency and compliance** with notification of subsidies; and
3. **Preventing governments from requiring that technology be transferred to the state**, state-owned enterprises, or other domestic companies as a condition of market access or investment.

Trade Facilitation

ACC believes the IPEF should expand on WTO Trade Facilitation Agreement commitments (TFA) to streamline procedures and ease logistical impediments to the free flow of chemical and plastic products. IPEF negotiations on trade facilitation should be used to accelerate implementation of key provisions of the TFA, and to promote commitments that go beyond the TFA that would further facilitate trade and simplify customs procedures.

We would encourage USTR to consider the following IPEF commitments on trade facilitation:



1. **Online publication of customs and other border information**, including practical steps for import, export and transit; current duties, taxes and fees imposed at the border; requirements related to customs brokers, and procedures to correct errors;
2. **Single window for import, export and transit**;
3. **Specific expedited customs procedures for express shipments**;
4. **Electronic systems for traders**, including submission of customs declaration and related documentation, including those documents required by other agencies (e.g., chemical regulators);
5. **Acceptance of electronic documents under specific international standards**;
6. **Joint work plan to advance AEO mutual recognition agreement** toward delivering more tangible benefits for AEO participants;
7. **Broad scope for advance rulings**, including classification, valuation, origin, and application of quotas;
8. **Mechanisms to help ensure consistent customs treatment from port to port**, including through advance rulings and administrative guidance;
9. **Coordination and consistency on customs classification** including support for science based regulatory requirements for shipments;
10. **Prohibition on consular transactions**;
11. **Disciplines on penalties**, including the absence of penalties on minor errors and procedures to allow correction of errors without penalties; and
12. **Expanded customs cooperation**, including on the sharing of best practices and lesson learned from the pandemic.

Conclusion

We appreciate the Administrations' efforts to define a new path forward on trade, through the IPEF negotiations, to drive meaningful progress, support American production and workers, and increase economic prioritization of sustainability and innovative production.



Mr. William Shpiece
April 11, 2022
Page 8

The IPEF can be used to help promote a more worker-centered trade policy that promotes broad-based economic growth, and we think that commitments in many existing trade agreements already meet or can be used as a template to meet these objectives. Since it is likely that development many of the commitments will need industry-specific information, we would strongly encourage the development of an ongoing consultative mechanism as soon as possible to share feedback on U.S. and IPEF country priorities in each negotiation area to maximize benefits and outcomes

ACC remains committed to working with the Administration and USTR across all aspects of the IPEF to achieve meaningful results and we hope that the USTR will use ACC as a source of information and experience regarding the role of business of chemistry to develop a high-standard, successful outcome to these negotiations.

Sincerely,

Jason Bernstein

Jason Bernstein
Director, Global Affairs
American Chemistry Council

