

United States Senate
WASHINGTON, DC 20510

April 11, 2022

The Honorable Gina Raimondo
Secretary of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Secretary Raimondo:

We write regarding your plans to negotiate an Indo-Pacific Economic Framework (IPEF) and our concerns about how this new trade deal may impact U.S. workers. The Biden Administration has made historic commitments to implement a worker-centered trade policy. However, the upcoming IPEF negotiation must move these policies forward, not return the U.S. to old, failed trade policies like the Trans-Pacific Partnership (TPP). We are particularly concerned that your agency's request for comments on IPEF failed to include any reference to labor standards or U.S. domestic manufacturing. We urge you to revise your approach to ensure that U.S. trade policy stands up for American workers.

In October 2021, the Biden Administration announced its intent to explore the development of IPEF, later clarifying that this new framework would consist of four "pillars":

1. Fair and Resilient Trade, led by the Office of the U.S. Trade Representative (USTR);
 2. Supply Chain Resilience, led by the Commerce Department;
 3. Clean Energy, Decarbonization, and Infrastructure, led by the Commerce Department;
- and
4. Tax and Anti-Corruption, led by the Commerce Department.¹

Commerce has requested comments on this proposed framework, and we submit this letter in response.²

This potential new trade deal comes at a pivotal time for U.S. trade policy. For too long, our trade agreements have been written at the behest of corporate lobbyists, putting their profits before American workers. Corporate interests have dominated the trade advisory committees

¹ Office of the U.S. Trade Representative, Federal Register Notice, "Request for Comments on the Proposed Fair and Resilient Trade Pillar of an Indo-Pacific Economic Framework," March 10, 2022, <https://www.federalregister.gov/documents/2022/03/10/2022-05044/request-for-comments-on-the-proposed-fair-and-resilient-trade-pillar-of-an-indo-pacific-economic>

² *Id.*; Department of Commerce, Federal Register Notice, "Request for Comments on the Indo-Pacific Economic Framework," March 11, 2022, <https://www.federalregister.gov/documents/2022/03/11/2022-05206/request-for-comments-on-the-indo-pacific-economic-framework/>.

that whisper in the ears of trade negotiators, while workers' concerns have too often been ignored. These failed processes have led to bad outcomes, including trade agreements that ship American jobs overseas, weaken our supply chains, limit opportunities and rights for workers, and contribute to pollution and climate change.³ The TPP, in particular, put the profits of multinational corporations before workers, including Investor State Dispute Settlement (ISDS) which allows corporations to challenge U.S. public health, environmental, and worker safety standards; while neglecting to require countries like Vietnam to ban forced or child labor or to adequately protect workers' rights to unionize.⁴ The U.S. is far better off for having withdrawn from the TPP, and we should not forget the lessons learned from it.

Given the failures of previous trade policy, we are pleased that the Biden Administration is committed to pursuing an inclusive trade policy that advances the interests of workers, environmental protection, and racial equity.⁵

At the same time, industry lobbyists would like nothing better than to turn back the clock and return to failed corporate trade policies. Business groups have clamored for the U.S. to rejoin the TPP – and see the newly announced IPEF as the next-best thing⁶ and, even worse, the first step towards rejoining TPP at a later date.⁷ In this context, we worry that IPEF could repeat the mistakes of previous trade policy and conflict with the administration's commitment to a worker-centered trade policy.

We appreciate that the Administration is raising important policy objectives for IPEF, including addressing supply chain disruptions that have hurt U.S. manufacturing, investing in clean energy and decarbonization, increasing digital inclusion, and promoting the global minimum tax agreement. We also note USTR's intention to include binding commitments to meet high standards in areas such as labor, environment and climate, and competition policy in the "fair

³ Office of U.S. Senator Elizabeth Warren, "Broken Promises: Decades of Failure to Enforce Labor Standards in Free Trade Agreements," May 18, 2015, <https://www.warren.senate.gov/files/documents/BrokenPromises.pdf>.

⁴ BuzzFeed News, "Senators Call For Global Super Court To Be Renegotiated," Chris Hamby, September 29, 2016, <https://www.buzzfeednews.com/article/chrishamby/senators-call-for-global-super-court-to-be-removed-from-tpp>.

⁵ Office of the U.S. Trade Representative, "2021 Trade Policy Agenda and 2020 Annual Report of the President of the United States on the Trade Agreements Program," March 1, 2021, <https://ustr.gov/sites/default/files/files/reports/2021/2021%20Trade%20Agenda/Online%20PDF%202021%20Trade%20Policy%20Agenda%20and%202020%20Annual%20Report.pdf>; Office of the U.S. Trade Representative, "2022 Trade Policy Agenda and 2021 Annual Report of the President of the United States on the Trade Agreements Program," March 1, 2022, <https://ustr.gov/sites/default/files/2022%20Trade%20Policy%20Agenda%20and%202021%20Annual%20Report.pdf>.

⁶ U.S. Chamber of Commerce, "Indo-Pacific Economic Framework: Business Recommendations," February 25, 2022, <https://www.uschamber.com/international/indo-pacific-economic-framework-business-recommendations>.

⁷ Business Roundtable, "Multi-Association Letter to Biden Administration Calling for Ambitious Indo-Pacific Economic Framework," February 22, 2022, <https://www.businessroundtable.org/multi-association-letter-to-biden-administration-calling-for-ambitious-indo-pacific-economic-framework>.

and resilient trade” pillar of the framework,⁸ and Commerce’s focus on clean energy and decarbonization in the “infrastructure” pillar, although the precise details will be important.⁹ And we are glad that the Administration will not offer new U.S. market access commitments, such as lowering tariffs, which could encourage further offshoring and undermine domestic producers.¹⁰

However, trade negotiations have frequently been weaponized by corporate lobbyists as a backdoor way to prevent the U.S. government from regulating their abuses of workers, consumers, and the environment. These lobbyists clearly will seek to repeat this play with IPEF – fighting to prevent the U.S. government and our trading partners from taking action to protect consumers and workers from Big Tech companies,¹¹ solidify offshore supply chains reliant on countries known to use forced and child labor, deny workers the right to organize, and fail to address climate and other environment and public health risks.¹²

In this context, we are concerned that you have not articulated how this framework will help U.S. workers – instead, you have noted the enthusiastic reception from foreign trading partners, who might benefit from IPEF’s focus on stabilizing offshore supply chains, as opposed to investing in manufacturing those products here in the U.S. You have also said that IPEF will be “inclusive” and “flexible.”¹³ We are concerned that this means you intend to “include” trading partners with low labor and environmental standards, while giving them “flexibility” to not improve their treatment of these vital issues. You also specifically expressed interest in engaging with countries like Vietnam and Malaysia that have poor labor and environmental protections and restrictions on internet freedoms. Any such engagement should be accompanied by binding

⁸ Inside U.S. Trade, “Bianchi: IPEF to include ‘high-ambition,’ binding trade commitments,” February 1, 2022, <https://insidetrade.com/daily-news/bianchi-ipef-include-%E2%80%98high-ambition%E2%80%99-binding-trade-commitments>; Office of the U.S. Trade Representative, Federal Register Notice, “Request for Comments on the Proposed Fair and Resilient Trade Pillar of an Indo-Pacific Economic Framework,” March 10, 2022, <https://www.federalregister.gov/documents/2022/03/10/2022-05044/request-for-comments-on-the-proposed-fair-and-resilient-trade-pillar-of-an-indo-pacific-economic>.

⁹ Department of Commerce, Federal Register Notice, “Request for Comments on the Indo-Pacific Economic Framework,” March 11, 2022, <https://www.federalregister.gov/documents/2022/03/11/2022-05206/request-for-comments-on-the-indo-pacific-economic-framework/>.

¹⁰ *Id.*

¹¹ Public Citizen, “53 Organizations Warn About Harmful Provisions in ‘Digital Trade’ Pacts,” November 2, 2021, <https://www.citizen.org/news/53-organizations-warn-about-harmful-provisions-in-digital-trade-pacts/>.

¹² U.S. Department of State, “2020 Country Reports on Human Rights Practices: Vietnam,” March 2021, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/vietnam/>; U.S. Department of State, “2020 Country Reports on Human Rights Practices: Malaysia,” March 2021, <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/malaysia/>; Climate Action Tracker, “Viet Nam,” October 29, 2021, <https://climateactiontracker.org/countries/vietnam/>; Washington Post, “Countries’ climate pledges built on flawed data, Post investigation finds,” Chris Mooney, Juliet Eilperin, Desmond Butler, John Muyskens, Anu Narayanswamy, and Naema Ahmed, November 7, 2021, <https://www.washingtonpost.com/climate-environment/interactive/2021/greenhouse-gas-emissions-pledges-data/>.

¹³ Reuters, “U.S. says new Indo-Pacific economic framework not typical trade deal,” Rozanna Latiff and Liz Lee, November 18, 2021, <https://www.reuters.com/world/asia-pacific/us-malaysia-agree-transparency-semiconductor-manufacturing-supply-chains-2021-11-18/>; Bloomberg, “U.S. Eyes ‘Powerful’ Asia Economic Deal in 2022, Raimondo Says,” Jenny Leonard and Eric Martin, December 9, 2021, <https://www.bloombergquint.com/global-economics/u-s-eyes-powerful-asia-economic-deal-in-2022-raimondo-says>.

requirements for them to make reforms in these areas before joining any agreement, and you have yet to indicate that you will include these requirements.¹⁴ In remarks to the U.S. Chamber of Commerce, you have promised to defend Big Tech companies from consumer- and worker-oriented regulation proposed by the European Union, raising questions about how you will weigh in on digital trade issues in IPEF – questions you have yet to answer.¹⁵ Finally, you have said that this new agreement would be “even more robust in some ways than the traditional free trade agreement.”¹⁶ Given that traditional free trade agreements have been terrible for workers, consumers, and the environment, we are concerned that you will use these, rather than the pro-labor, and pro-worker provisions of the revised USMCA, as models to build on.

The Commerce Department’s recent request for comments on IPEF also raises other concerns. Notably the request included nine issue areas of focus but failed to include any reference to labor issues.¹⁷ This omission is deeply troubling, as workers are at the center of the issues that Commerce seeks to negotiate, including supply chains and infrastructure, and the key to future economic prosperity. Any country worth partnering with on these issues should recognize the value of investing in workers globally in a 21st century economy. The U.S. government should be first and foremost seeking to build supply chains and infrastructure that builds on the strong foundation of U.S. domestic manufacturing with high labor and environmental standards. We produce the cleanest manufactured products in the world. As Mike Wessel – Staff Chair of the Labor Advisory Committee for Trade Negotiations and Trade Policy that advises USTR and the Department of Labor – recently testified, it would be a mistake to undercut U.S. workers by leaving out labor standards from these pillars of the framework.¹⁸

We also have difficulty understanding why the Commerce Department is involved in negotiations on the tax and anti-corruption pillar of the framework. We understand you are working collaboratively with the Treasury Department, but these important issues should be led by the agency with the appropriate expertise. The Treasury Department leads negotiations on international tax issues, and Treasury Secretary Janet Yellen negotiated the historic global

¹⁴ Freedom House, “Vietnam: Political Rights and Civil Liberties,” <https://freedomhouse.org/country/vietnam/freedom-world/2021>; Freedom House, “Vietnam: Obstacles to Access, Limits on Content and Violations of User Rights,” <https://freedomhouse.org/country/vietnam/freedom-net/2021>; Environmental Performance Index, “Viet Nam,” <https://epi.yale.edu/epi-results/2020/country/vnm>.

¹⁵ Letter from Senator Elizabeth Warren to Secretary of Commerce Gina Raimondo, March 4, 2022, <https://www.warren.senate.gov/download/20220304-letter-to-secretary-raimondo-regarding-failure-to-repond-to-previous-antitrust-letter>.

¹⁶ Inside U.S. Trade, “Raimondo: U.S. eyeing Indo-Pacific framework ‘more robust’ than CPTPP,” <https://insidetrade.com/daily-news/raimondo-us-eyeing-indo-pacific-framework-%E2%80%98more-robust%E2%80%99-cptpp>.

¹⁷ Department of Commerce, Federal Register Notice, “Request for Comments on the Indo-Pacific Economic Framework,” March 11, 2022, <https://www.federalregister.gov/documents/2022/03/11/2022-05206/request-for-comments-on-the-indo-pacific-economic-framework/>.

¹⁸ U.S. Senate Committee on Finance, “The Promise and Challenge of Strategic Trade Engagement in the Indo-Pacific Region,” March 15, 2022, <https://www.finance.senate.gov/hearings/the-promise-and-challenge-of-strategic-trade-engagement-in-the-indo-pacific-region>.

minimum tax agreement.¹⁹ The Treasury Department also has also significant experience working on anti-corruption issues, including through the Financial Crimes Enforcement Network, the Internal Revenue Service, and the Office of Foreign Assets Control. This should be the sole purview of the Treasury Department. Department of Energy and Department of Transportation expertise also seem crucial to negotiations on the clean energy, decarbonization, and infrastructure pillar.

Finally, all of our concerns are heightened by the fact that the Administration is seeking to negotiate this economic agreement with Congressional consultation but without Congressional approval. As you know, Article 1, Section 8 of the Constitution gives Congress the constitutional authority to regulate commerce with foreign nations.

And Congress renegotiated USMCA to strengthen the agreement's labor and environmental standards.²⁰ More generally, trade negotiations have too often been conducted in secret, with workers, environmentalists, and consumer advocates unable to see text and weigh in.²¹ This cannot be the case with the IPEF.

We urge you to revise your approach to an Indo-Pacific Economic Framework to ensure that it benefits American workers, not corporate offshoring, and ask that you provide answers to the following questions no later than April 25, 2022.

1. Broadly, why and how will IPEF serve the interests of American workers?
2. How will IPEF contribute to the Biden administration's goals of investing in American production and manufacturing?
3. How will IPEF incentivize American companies to create new manufacturing jobs in the United States?
4. What are the areas of overlap between IPEF and the CPTPP?
5. How will IPEF be "flexible" and "inclusive"?
6. How would IPEF address the poor labor and environmental practices of potential partners like Vietnam and Malaysia? How will you ensure that provisions to address these concerns are in the framework, and are adequately enforced?
 - a. Will you include labor protections in the supply chain pillar of IPEF? How, specifically, do you intend to do so?
 - b. Will you include labor protections in the clean energy, decarbonization, and infrastructure pillar of IPEF? How, specifically, do you intend to do so?
 - c. What other protections for workers are you seeking to include in the agreement?
 - d. Will the agreement address illegal, unreported, and unregulated (IUU) fishing, which often relies on forced labor, and will it address ocean plastic pollution?

¹⁹ U.S. Department of the Treasury, "Statement from Secretary of the Treasury Janet L. Yellen on the Global Minimum Tax Agreement," press release, October 30, 2021, <https://home.treasury.gov/news/press-releases/jy0447>.

²⁰ PBS, "These 4 changes helped Trump and Democrats agree to the USMCA trade deal," Courtney Vinopal, December 11, 2019, <https://www.pbs.org/newshour/economy/making-sense/these-4-changes-helped-trump-and-democrats-agree-to-the-usmca-trade-deal>.

²¹ Office of U.S. Senator Elizabeth Warren, "Boston Globe Op-Ed: Who is writing the TPP?", May 11, 2015, <https://www.warren.senate.gov/newsroom/op-eds/2015/05/11/boston-globe-op-ed-who-is-writing-the-tpdp-1>.

7. What, specifically, are the goals of U.S. trade policy as you see them with regard to large technology firms? How will they explicitly include promoting robust competition and curbing monopolies, protecting workers' rights, protecting consumer data privacy, and protecting consumers from disinformation?
8. Why is the Commerce Department leading the tax and anti-corruption pillar instead of the Treasury Department? What are the Commerce Department's goals for this pillar?
9. What processes will you use to ensure that negotiations are transparent and that Congress and stakeholders, including labor representatives, have ongoing, substantive input?
10. Will you be negotiating all pillars on the same timeline? Or will some modules and provisions be left for later negotiations and, if so, which ones?

Thank you for your attention to this matter. We look forward to receiving your reply.

Sincerely,



Elizabeth Warren
United States Senator



Robert P. Casey Jr.
United States Senator