



LEGISLATIVE ALERT

May 16, 2022

Dear Senator:

On behalf of the AFL-CIO, I am writing to urge conferees meeting on the Bipartisan Innovation Act (COMPETES and USICA) to focus on reaching an agreement that will promote the interests of U.S. workers and confront the Chinese government's unfair trade practices. Crafted properly, the COMPETES/USICA conference can present Congress with a rare opportunity to improve the United States' competitiveness across a broad cross-section of industry, science, trade, and technology.

The COMPETES and USICA bills are often referred to as the "China" bills. However, USICA's trade title would benefit China's economy more than ours by lowering tariffs and continuing our over-reliance on China in key sectors. Conversely, the COMPETES trade title contains numerous proposals that would strengthen our trade laws, enhance our ability to meet critical needs and make us more competitive with China.

We urge you to include the \$52 billion in funding for the CHIPS Act which will sustain U.S. leadership in semiconductors and address the current chip shortage that has hampered production in the automotive sector and elsewhere. The CHIPS Act is also critical to helping curb China's aggressive non-market trade distortions that have contributed to the offshoring of U.S. production and the downward pressure on employment and wages.

Importantly, the research and innovation provisions in each bill will strengthen our nation's technology and innovation infrastructure, mandate worker participation in our federal research enterprise, expand STEM education, and promote vital research and development. We also strongly support the provisions authored by Representatives Blunt Rochester, Kinzinger and Malinowski that will bolster U.S. supply chains and reduce dependence on critical materials from China. These provisions will encourage domestic manufacturing expansion with fair guardrails, and ensure that labor and management cooperate in the creation of well-paying union jobs.

The COMPETES Act contains important provisions that should be included in any competitiveness package that purports to challenge China's increasing economic dominance. These include renewal of robust Trade Adjustment Assistance (TAA); the Brown-Portman, Sewell-Johnson Leveling the Playing Field Act 2.0; the Casey-Cornyn, DeLauro-Pascrell-Spartz-Fitzpatrick National Critical Capabilities Defense Act; and the Blumenauer Import Security and Fairness Act that would halt China's exploitation of U.S. de minimis policy.

As indicated previously, the COMPETES Act includes critically important fixes to the trade title that was added at the last minute to the Senate USICA bill. These include stronger protections for workers under the Generalized System of Preferences (GSP) and restrictions to the Miscellaneous Tariff Bill in order to restore its historical purpose of exempting components, and not finished products, for goods to be produced domestically.

The COMPETES Act also removes harmful language from the Senate bill that would unnecessarily tie the administration's hands with regard to China 301 tariffs and weaken US enforcement of trade laws that are necessary to stop China's illegal trade practices.

Passage of a conference bill with strong competition provisions will provide critical and overdue enhancements to America's global competitive capabilities, support workers whose jobs are lost to trade, and protect and expand the tools to fight foreign unfair trade. Language from the USICA trade title that directly benefits China has no place in a package designed to increase U.S. competitiveness with that nation. The AFL-CIO urges you to focus your efforts on leveling the playing field against unfair trade practices, and improving opportunities for America's hard-working families.

Sincerely,

A handwritten signature in black ink, appearing to read "William Samuel". The signature is fluid and cursive, with a large initial "W" and a long, sweeping tail.

William Samuel
Director, Government Affairs

Critical Trade Provisions Included in COMPETES Act

- **Trade Adjustment Assistance (TAA).** Unfortunately, TAA reverted at the end of June 2021 to an insufficient program with limited funding and coverage that does not help workers whose jobs are outsourced to countries with which the U.S. does not have a Free Trade Agreement, which includes China. Renewing TAA with robust funding and support is critical to American workers and families who lose their jobs to trade and will make us more competitive with China.
- **The Sewell-Johnson Level the Playing Field Act 2.0** (similar legislation was introduced by Senators Brown and Portman in the Senate) is critically needed to update the rules against unfair trade. Inclusion will update U.S. trade laws and help ensure that the unique circumstances relating to economic recovery from the pandemic do not limit the ability of workers, farmers, and businesses to address the injury caused by illegally dumped and subsidized imports.
- **The National Critical Capabilities Defense Act**, is a bipartisan bill introduced by Representatives DeLauro, Pascrell, Spartz and Fitzpatrick. This companion to Senate legislation authored by Senators Casey and Cornyn creates a new review process to protect our supply chains by screening outbound investment and guarding against offshoring of critical capabilities to adversaries like China and Russia. It is a common-sense approach that finally recognizes how important our supply chains are to our national, health and economic security. From semiconductors to pharmaceutical ingredients, it will provide a needed review mechanism to advance U.S. production and employment. The approach was recommended as part of the most recent unanimously approved report of the bipartisan U.S.-China Economic & Security Review Commission.
- **A provision to halt exploitation of “de minimis.”** Currently, individual shipments into the U.S. are exempt from duties and tariffs so long as they are valued below the “de minimis” threshold of \$800 USD. This threshold is far too high and has allowed a new model of direct-to-consumer imports, particularly from China, with significant negative impact on many U.S. sectors, including textiles and apparel. By comparison, China’s de minimis threshold is under \$10 USD. Inclusion of the Import Security and Fairness Act would prohibit goods from countries that are both Non-Market Economies (NME) and on the U.S. Trade Representative’s (USTR) Priority Watch List (e.g. China) from avoiding tariffs and abuse of de minimis by eliminating it. In addition, “de minimis” packages arriving from China are not screened by CBP and may contain goods made with forced labor, particularly from the Xinjiang region.
- **A Miscellaneous Tariff Bill (MTB)** that allows for exemptions of product components if they are not available in the United States: but unlike the Senate provisions will eliminate tariff-free exemptions for finished products in the future. Historically, the MTB has been drafted only to allow components into the US tariff-free if they were unavailable domestically but necessary for the production of final products manufactured here. The COMPETES provisions restore this original purpose.
- **H.R. 3975, the “Generalized System of Preferences and Miscellaneous Tariff Bill Modernization Act of 2021.”** This bill would reauthorize and strengthen the Generalized System of Preferences (GSP) program. Importantly, the bill would be a

significant update of the labor eligibility criteria and enforcement process since 1984 when these standards were first included.

Removal of Pro-China Provisions and Extraneous Language from USICA

- **Removal of a Senate provision that would shift more jobs and production to China** and undermine enforcement actions designed to address that country's predatory and protectionist practices. The Senate provisions on Section 301 exclusions would tie the President's hands in responding to unfair and illegal foreign trade practices like intellectual property theft. They put new unnecessary burdens on USTR and Customs & Border Protection. Touted as "oversight," these provisions' purpose is to roll back China tariffs and would grease the skids for more imports from China. They should not be included in legislation dealing with the competitive challenges we face from China. USTR recently took action to expand 301 exclusions, rendering this provision unnecessary.
- **Removal of a USICA provision granting tariff-free access for PPE, medicines, and other medical goods into the US from China** (referred to as the Toomey amendment). Like the 301 provisions mentioned above, this language is in direct contradiction with ongoing Congressional and Administration efforts to bolster supply chain resiliency and Buy American.
- **Removal of extraneous foreign relations language regarding US funding assistance** to the brutal Duterte regime in the Philippines and trade relations with Taiwan.
- **Removal of troublesome 301 Digital Trade language** that would overwhelmingly benefit large digital corporations (Google, Facebook/Meta, Uber) at the expense of countries' right to reasonably regulate global digital platforms. This provision is overly broad and would have global ramifications, as it is not drafted to be specific to China.