

United States Senate
WASHINGTON, DC 20510

April 11, 2022

The Honorable Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Ambassador Tai:

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, and you have made important progress on this front. However, the upcoming negotiation must move these policies forward, not return the U.S. to old, failed trade policies like the Trans-Pacific Partnership (TPP). We urge you to carefully consider 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

USTR has requested comments on the “Fair and Resilient Trade” pillar of 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 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

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/>.

American jobs overseas, weaken our supply chains, limit opportunities and rights for workers, and contribute to pollution and climate change. 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.³ 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 you are committed to pursuing an inclusive trade policy that advances the interests of workers, environmental protection, and racial equity.⁴ We appreciate your focus on enforcing the labor and environmental protections in the U.S.-Mexico-Canada Agreement (USMCA). When the Trump administration tried to craft a new corporate-giveaway free trade agreement, Congressional Democrats secured a new Rapid Response Labor Mechanism (RRLM) in the USMCA, creating a mechanism for immediate action when a company violates workers' rights, and we are glad to have seen USTR act on complaints filed under this mechanism that workers at the Tridonex auto-parts plant and General Motors facility in Silao were being denied the right to freely select their union.⁵ The recent overwhelming votes in favor of new independent unions at these two facilities are a testament to the power of organized labor, proof that strong, enforceable labor standards work, and a reflection of USTR's commitment to a worker-centric trade policy.⁶ And your request to the U.S. International Trade Commission (USITC) to investigate the unequal effects of trade and trade policy on workers and underserved communities represents an important step towards a more equitable trade policy.⁷ We have long called for greater attention to the negative and

³ 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>.

⁴ 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>.

⁵ Office of U.S. Senator Sherrod Brown, "Brown, Wyden Release Statement Following Vote for Independent Union by Tridonex Workers in Mexico," Press Release, March 1, 2022, <https://www.brown.senate.gov/newsroom/press/release/brown-wyden-statement-vote-independent-union-tridonex-workers-mexico>.

⁶ *Id.*

⁷ Office of the U.S. Trade Representative, "USTR Requests ITC Investigation of Trade Distribution Effects on Workers and Underserved Communities," Press Release, October 15, 2021, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/october/ustr-requests-itc-investigation-trade-distribution-effects-workers-and-underserved-communities>; Office of U.S. Senator Elizabeth Warren, "Warren, Brown Statement on USTR's Call for USITC Investigation of Unequal Impacts of Trade on Workers," Press Release, October 26, 2021, <https://www.warren.senate.gov/newsroom/press-releases/warren-brown-statement-on-ustrs-call-for-usitc-investigation-of-unequal-impacts-of-trade-on-workers>.

unequal impacts of trade agreements on American workers,⁸ and are encouraged to see you describe USITC’s report as a future “map to make our trade policy more targeted and effective.”⁹ Finally, we have been glad to see your robust engagement with labor and environmental stakeholders across issue areas.

In summary, you have taken important and commendable steps towards a trade policy that stands up for American workers.

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 thing¹⁰ and, even worse, the first step towards rejoining TPP at a later date.¹¹ 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 and resilient trade” pillar of the framework,¹² although the precise details will be important.¹³ 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.¹⁴

⁸ Office of U.S. Senator Elizabeth Warren, “Warren, Brown, Merkley, Baldwin, and Markey Raise Concerns Over Distorted Findings in Trade Commission’s Economic Impact Report, Urge USITC to Improve Its Analysis of Trade Deals,” Press Release, September 21, 2021, <https://www.warren.senate.gov/oversight/letters/warren-brown-merkley-baldwin-and-markey-raise-concerns-over-distorted-findings-in-trade-commissions-economic-impact-report-urge-usitc-to-improve-its-analysis-of-trade-deals>.

⁹ Tweet from Ambassador Katherine Tai, March 2, 2022,

<https://twitter.com/AmbassadorTai/status/1499099915087138820?s=20&t=R8j173J2wHYVWh0VYIBmMg>.

¹⁰ 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>.

¹¹ 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>.

¹² 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>.

¹³ 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/>.

¹⁴ *Id.*

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,¹⁵ 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.¹⁶

In this context, we would like to emphasize some key priorities for a worker-centered trade pillar in IPEF. First, while we made important steps forward on strong, enforceable labor and environmental standards in USMCA, new trade negotiations with countries on other continents should go further. Second, with respect to digital trade issues in particular, trade rules should support the rights of workers and consumers, not lower regulatory standards to pad the profits of Big Tech companies. That includes respecting data privacy, protecting workers’ right to organize, combatting invasive workplace surveillance, and preventing employee misclassification.

We note 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 labor and environmental standards.¹⁷ More generally, trade negotiations have too often been conducted in secret, with workers, environmentalists, and consumer advocates unable to see text and weigh in.¹⁸ This cannot be the case with IPEF. We appreciate your robust consultations with workers and other advocates to date and urge you to continue that approach.

We ask you to carefully consider 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.

¹⁵ 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/>.

¹⁶ 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/>.

¹⁷ 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>.

¹⁸ 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>.

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 build beyond USMCA in terms of labor and environmental protections?
 - a. 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?
 - b. Will the agreement address illegal, unreported, and unregulated (IUU) fishing, which often relies on forced labor, and will it address ocean plastic pollution?
6. What digital trade rules are you considering including, and how will you ensure that these benefit workers and consumers, not just Big Tech?
7. 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