



May 12, 2022

Dear Bipartisan Innovation Act Conferees:

The American Chemistry Council 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 3.6 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 billions of dollars to help make the products that make modern living possible and safer for our communities and the environment. Chemistry makes it possible to meet the needs of a growing 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 in the United States and 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.

### **Supply Chain Provisions in the America COMPETES And USICA Acts Will Strengthen Our Nation's Supply Chains**

We are writing regarding the conference committee's consideration of the America Creating Opportunities for Manufacturing, Pre-Eminence in Technology, and Economic Strength (COMPETES) Act of 2022 H.R. 4521, and the U.S. Innovation and Competition Act (USICA) S. 1260. **ACC applauds the House and Senate for taking actions to strengthen our nation's competitiveness through policy changes and increased investments in critical supply chains and emerging technologies, including:**

- **Authorizing \$45 billion for grants, loans, and loan guaranties** to support supply chain resilience and manufacturing of critical goods, industrial equipment, and manufacturing technology;
- **Establishing a new Office within the Department of Commerce (DOC)** to lead a government-wide effort to strengthen supply chains critical to the nation's economic vitality and national security;
- **Creating a program within the new Office at DOC** to map and monitor supply chains, identify supply chain gaps and vulnerabilities, and identify opportunities to address supply chain risk; and
- **Equipping the private sector with best practices and guidelines needed to proactively identify and mitigate supply chain vulnerabilities;** and
- **Approval of the Ocean Shipping Reform Act**, which would prohibit ocean carriers from unreasonably turning down exports and reduce shippers' ability to charge holding fees by bringing their practices in line with Federal Maritime Commission (FMC) regulations

ACC also supports:

- **\$50.2 billion authorized for the Department of Commerce** under the "**Creating Helpful Incentives to Produce Semiconductors in America**", or "**CHIPS Act**" for U.S. investment for the fabrication, assembly, testing, or advanced packaging of semiconductors. Increased semiconductor manufacturing in the United States would provide new supply opportunities for U.S. chemical manufacturers, which supply important chemistries to the semiconductor industry. For example, in 2021, the U.S. chemistry supported 367,000 workers in the semiconductor and electronic component industry including \$45.4 billion in payroll, and \$52.5 billion in value-added. U.S. chemicals are essential in the manufacture of semiconductors, printed circuit boards, and other microelectronic devices, among them are cleaners, developers, dopants, encapsulants, etchants, gases, heat transfer fluids, photoresists, specialty polymers & fluoropolymers, plating solutions, and strippers. Such products serve major markets such as computers, telecommunications equipment, automotive, and medical devices.
- **Establishing a Senate-confirmed Chief Manufacturing Officer in the White House** to coordinate and advocate for policies that enhance U.S. domestic production capabilities. We see this position and role as consistent with the aim of improving U.S. supply chains and would help ensure coordination on supply chain issues across existing 58 federal



programs impacting the manufacturing sector, which are spread out across 11 federal agencies, according to a 2017 report from the Government Accountability Office.

While ACC supports measures to promote more resilient supply chains in such critical products and technologies, we are also concerned about possible cross sector retaliation if disputes arise between our trading partners as a result of the implementation of such programs. We would encourage the Administration to ensure that the implementation of such programs is consistent with our international trade commitments and a rules-based trading system. We would also encourage the Administration and the Department of Commerce, in the development of these programs, to work closely with the U.S. chemistry industry, state and local governments, and other U.S. Government agencies to ensure the proper incentives to produce chemistries crucial to semiconductor manufacturing and other critical goods. We think it will be especially important to work with U.S. government agencies to explore ongoing regulatory initiatives and actions relevant to new chemistries used for semiconductor manufacturing and other critical goods.

### **Tariffs Limit the Supply of Inputs for the Manufacturing of U.S. Chemistries**

A straightforward way to strengthen supply chains and incentivize U.S. chemical production for semiconductors and other critical goods is to provide relief from tariffs. Therefore, ACC supports for inclusion in any conference legislation:

- **Renewal of a comprehensive Miscellaneous Tariff Bill (MTB) and Generalized System of Preference (GSP) process** included in both the America COMPETES and USICA Bills. However, we do not support blocking the inclusion of “finished goods” from future MTB cycles, as proposed in the America COMPETES Bill, as it could close the door to the possibility of tariff relief for some chemical and plastics products. **All products that receive duty suspensions or reductions under the MTB should also be prioritized to be excluded from the application of Section 301 tariffs as a part of an open and transparent exclusions process.** Continuing to levy additional tariffs on these products runs contrary to the tariff relief purposes of the MTB program.
- **Reauthorization of the GSP provisions through 2027** as provided under USICA. Extending the GSP program only to 2024, as proposed in the COMPETES Bill, would be too short a time to accomplish the objectives of the program to foster economic development in developing countries.
- **Renewal of all previously expired product exclusions to the section 301 tariffs and reinstatement of a USTR-led exclusions process for all products subject to the 301 tariffs**, as provided in the USICA Bill. While ACC welcomed USTR’s recent



announcement to reinstate exclusions for a limited set of products, including several chemical and plastics products, these only amounted to a very small share of the total number of requested exclusions. Moreover, there is still no confirmation that the Administration will open a broader exclusions process or what circumstances might prompt them to do so. Therefore, we think it is necessary for the conference bill to include a comprehensive, transparent, and fair exclusions process – with retroactivity – for all chemical and plastics products subject to the section 301 tariffs.

We would also **urge for a review under the Section 301 statute of all products currently subject to the 301 tariffs** to examine the effectiveness of the tariffs in achieving their objectives as well as the effect of such tariffs on the U.S. economy in establishing critical industries, such as chemicals and plastics, that are essential to American economic competitiveness. As the Committees may be aware, List 1 of the China 301 tariffs is set to expire in July unless USTR receives a petition for a continuation of the tariffs, which would trigger a review process under the statute. While USTR would only be required to conduct a review with respect to List 1, we would urge USTR to include all four tariff lists in its review. Most chemical and plastic products currently subject to 301 tariffs are not on List 1, including products important to supply chains for critical products, and a review of all products would provide an opportunity for ACC member companies, which pay the tariffs, an opportunity to provide input into the review process.

There are some who may believe that continuing to levy Section 301 tariffs strengthens domestic production vis-à-vis China. An analysis of the Section 301 tariffs on chemicals trade prepared for ACC, however, shows that such tariffs have been economically counterproductive<sup>1</sup>. Despite the high tariffs on imports from China, aggregate imports of chemicals since June 2018 increased while U.S. exports stagnated, showing that such tariffs have done little to boost U.S. chemical production. Moreover, it is American consumers, not businesses, that are paying for the vast majority of the tariffs on imports while U.S. exporters are facing the costs of retaliatory tariffs imposed by China<sup>2</sup>. U.S. Secretary of Treasury Janet Yellin has said that lowering of such tariffs could help ease inflation<sup>3</sup>, and the conference committee can fix this issue and reopen and extend the exclusions process for Section 301 tariffs which would help alleviate the economic burden on American businesses and consumers.

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<sup>1</sup> <https://www.americanchemistry.com/chemistry-in-america/news-trends/press-release/2021/new-analysis-shows-section-301-tariffs-did-not-reduce-chemicals-trade-with-china>

<sup>2</sup> <https://thehill.com/policy/finance/trade/554136-trumps-china-tariffs-hit-us-businesses-consumers-hardest-moodys/>

<sup>3</sup> <https://www.reuters.com/business/yellen-says-reciprocal-lowering-tariffs-could-help-ease-inflation-2021-11-01/>  
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## **New Regulations Could Impair U.S. Chemistry Investment and Competitiveness**

**ACC also has concerns about possible new requirements to be developed addressing outbound investment included in the COMPETES but not in the USICA Act.** Also known as the National Critical Capabilities Defense Act, these legislative provisions would establish a new bureaucracy that would review a wide range of outbound investments and be enabled to block some transactions. While we support a targeted review process to help prevent the United States from becoming dependent on other countries for national security or critical capabilities, the process as proposed in the Bill covers a broad range of countries and investments beyond this rationale and gives a competitive advantage to non-U.S. companies, impacting the ability of U.S. chemistry and plastic companies to compete globally<sup>4</sup>. It could also trigger reciprocal cross-sector retaliation measures of which our companies have often been in the middle. We understand that changes to these proposed requirements are currently being considered and we would urge Congress to consult with industry to adopt a focused and targeted set of measures designed to address specific concerns without negatively impacting the broader economy and our competitiveness.

### **Conclusion**

**ACC supports a conference bill from COMPETES and USICA that improves our nation's supply chain and improves our national security and economic vitality.** Several of the provisions in the COMPETES and USICA Act enhance our competitiveness putting U.S. chemical manufacturers in a stronger position to produce more in the United States. **However, several trade-related provisions work at cross-purposes to these provisions and would impair market access for U.S. chemical companies, making it more difficult to make important chemistries in the United States and exporting more of those chemistries to the world.** Enhancing, not impairing U.S. chemistry's competitiveness, will lead to more competitiveness in the long run – and also to greater supply chain resiliency.

Sincerely,



Jason Bernstein  
Director, Global Affairs  
American Chemistry Council

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<sup>4</sup> <https://news.bloomberglaw.com/banking-law/new-regime-for-outbound-u-s-investment-would-be-first-of-its-kind>

