



WRITTEN SUBMISSION OF THE NATIONAL FOREIGN TRADE COUNCIL

Comments Regarding the Indo Pacific Economic Framework

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INTRODUCTION

These comments are submitted by the National Foreign Trade Council (“NFTC”) in response to the requests for comments on the Indo-Pacific Economic Framework (“IPEF”) published by the Office of the United States Trade Representative (“USTR”) (87 FR 13789, January 10, 2022) and the U.S. Department of Commerce (“Commerce”) (87 FR 13971, March 11, 2022) (“the Notices”).

About NFTC

NFTC is the leading business association dedicated solely to promoting the interests of U.S. companies in international commerce. NFTC advances global commerce through the promotion of international trade and tax policies that contribute to economic growth and job creation. We seek to strengthen the rules, norms, and key institutions that enable access to the global economy. NFTC’s membership spans the breadth of the national economy. It includes sectors such as energy products, capital goods, transportation, consumer goods, technology, healthcare products, services, e-commerce, and retailing. Our companies account for more than \$3 trillion in total sales worldwide, employ over five million Americans and produce a large share of our nation’s total exports. NFTC members play an important role in ensuring a healthy national economy and promoting U.S. global leadership. A list of the companies comprising the NFTC’s Board of Directors is attached as an Attachment.



ANALYSIS

I. GENERAL COMMENTS

In announcing the IPEF last October at the East Asia Summit, President Biden articulated his vision for “an Indo-Pacific that is free and open, connected, prosperous, resilient, and secure.” NFTC members share that vision and believe strengthening trade, investment, and economic ties in the region is critical to advancing the national security and economic interests of all Americans. Our trading partners also recognize the importance of the Indo-Pacific region and are not waiting for U.S. engagement, as they move ahead with the Regional Comprehensive Economic Partnership, which includes China; the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP) that China and several other countries seek to join; and the Digital Economy Partnership Agreement that China also seeks to join.¹ In addition, pressure to become less - not more - globally integrated arose during the COVID-19 pandemic and has been exacerbated by Russia’s invasion of Ukraine. The United States should put forward a comprehensive, regional initiative in response and should use the IPEF to address current and emerging challenges by establishing bold, ambitious, and binding economic rules and standards that advance the goals laid out in the Administration’s Indo Pacific Strategy.

NFTC has long supported trade agreements that provide new market opportunities for U.S. businesses, improve American competitiveness, create U.S. jobs and raise labor, environmental, and commercial standards. We continue to believe that trade agreements with binding and enforceable disciplines are a proven and effective tool for achieving durable results and shared prosperity.

NFTC also welcomes the opportunity to work creatively with the Administration in designing new approaches under the IPEF to achieve an ambitious, high-standard agreement that incentivizes economic progress and reinforces shared policy principles to shape a collaborative roadmap for the region.

Country Participation

We support the Administration’s goal for the IPEF to be inclusive, with as many participating economies as possible, recognizing that the Administration will need to strike a careful balance between the level of participation and the level of ambition that can be achieved

¹ See Peterson Institute for International Economics, [Which countries are in the CPTPP and RCEP trade agreements and which want in?](#)



within each IPEF module. The Administration should ensure that the opportunity to participate in the negotiation of IPEF commitments, particularly under the Trade Pillar, is extended only to those economies that are fully committed to achieving robust, high-standard, commercially-meaningful outcomes.

To this end, the Administration should consider requiring participating economies to adopt a “standstill” agreement for issues being negotiated in IPEF wherein governments must commit not to raise new barriers to doing business, adopt or modify standards/regulations, or discriminate in any other ways against stakeholders from other IPEF economies while the negotiations are ongoing. A stand-still agreement would ensure that only countries that are truly committed to a high-standard outcome participate in the negotiations. In addition, the Administration may wish to provide “observer status” for economies that want to closely follow the negotiations to better understand the obligations adopted even if they may need additional time to consider whether to sign onto the agreement.

Lastly, the Administration should also commit to providing the full community of U.S. stakeholders affected by trade (*e.g.*, private sector, workers, civil society, and others) with frequent and timely insight into the negotiations. NFTC members believe that such transparency is necessary to ensure that the IPEF produces meaningful outcomes for all.

II. PILLAR ONE - FAIR AND RESILIENT TRADE (USTR)

A. General Negotiating Objectives For The Proposed Agreement

NFTC member companies have identified several core principles that should apply horizontally across all elements of the Trade Pillar. Companies recommend the general negotiating objectives for the IPEF include:

- Achieving commercially meaningful outcomes that provide new market access opportunities for U.S. investment, technology, agriculture, goods, and services.
- Incorporating long-standing trade principles of non-discrimination, transparency, openness, and interoperability.
- Adopting a core set of high-quality rules and commitments that are binding and enforceable without resorting to broad exceptions or carve-outs. Should there be a need for an exception, there should be a GATS-style necessity test and relevant criteria laid out, with no broad, self-judging loopholes. To the extent additional flexibility is needed, it



should be addressed by allowing for phased-in implementation of commitments rather than carve-outs. Enforcement should include the ability to suspend IPEF membership partially or fully for participants that fail to meet the agreed standards of the framework.

- The IPEF should be a “living framework” with built-in review mechanisms to ensure that the rules and initiatives are kept up-to-date and relevant.
- IPEF should include robust and regular stakeholder consultation, including with small businesses, other affected businesses, civil society, and underserved communities, to ensure that the framework is inclusive and takes into account the needs and challenges of a wide range of stakeholders. In addition, participants should seek to maximize transparency around negotiating texts.

B. Customs And Trade Facilitation Issues

The United States has an opportunity to strengthen and build more resilient and sustainable supply chains, improve security and risk management and facilitate the movement of goods among allies by developing a gold-standard customs and trade facilitation framework through IPEF.

While technology has enabled cross-border e-commerce, the rules and customs procedures in many countries still treat an individual parcel under the same rules and procedures as an ocean container, often imposing complex and costly requirements (including, for example, necessitating the use of a customs broker).

IPEF should incorporate the USMCA trade facilitation chapter as the baseline text and seek improvements over that baseline by securing new binding commitments in the following areas:

- Avoiding unnecessary trade import licenses for imports of digital hardware and software.
- Providing data sharing between governments and the private sector on seizures.
- Strengthen facilitation procedures for low-value shipments, including voluntary public-private partnerships that increase operational efficiencies in exchange for facilitation benefits.
- Expanding the unified entry process based on the Single Window concept for all government partner agencies.



- Expanding the scope of Authorized Economic Operators (“AEOs”) to permit mutual recognition across all IPEF countries and to increase the tangible benefits of AEO certification, including by creating trusted trader programs for individual sellers that do business via trusted e-commerce marketplaces.
- Allowing entities to secure advanced rulings for supply chains free of forced labor.
- Building upon the provision included in the USMCA Customs Procedures Chapter to provide “fewer customs formalities” than are required for formal clearance by providing more specific facilitations for these informal entry procedures. Real gains could be made in adopting rules that establish simplified customs procedures to ease the entry requirements for shipments below a certain formal clearance threshold. Simplified procedures could mean requiring less documentation, fewer data elements, and less red tape while maintaining appropriate controls for health, security, etc., and still collecting the applicable tariff due.

C. Digital Economy-Related Matters (Joint USTR/Commerce Lead)

The IPEF provides an important opportunity for the United States and countries in the region to launch an affirmative, high-standard digital trade framework that can be a new model for inclusive, worker-centered digital trade globally while deepening two-way digital trade flows. In addition to prioritizing improvements to customs and trade facilitation rules, which facilitate e-commerce and digitally-enabled trade in physical goods, NFTC companies recommend using the binding digital provisions in USMCA as the baseline for digital trade commitments in the IPEF and building on them in areas of shared interest in the following areas:

1. Facilitating Digital Trade

To further encourage the adoption of digital technologies and accelerate participation in digital trade in the Indo-Pacific, NFTC companies recommend that IPEF digital trade negotiating objectives include provisions seeking binding commitments to address the following issues:

- Treating foreign companies no less favorably than local companies, and specifically not conditioning market access or participation in standards-setting, government procurement, or cybersecurity certification eligibility based on the nationality of ownership.
- Fully implementing the WTO Information Technology Agreement (ITA), joining the ITA expansion agreement (for IPEF participants who are not currently part of it), establishing



a working group to explore additional ICT goods that could be further liberalized, and working together to ensure full implementation of existing ITA obligations by all parties to the agreement globally.

- Promoting the adoption of interoperable electronic signatures, electronic authentication, paperless trading, electronic trade, and invoicing frameworks, such as Peppol, and other best practices.
- Prohibiting measures that would restrict technology choice and encouraging open digital architectures, with appropriate exceptions so that consumers can access and use services and applications of their choice on the internet.
- Prohibiting customs duties, fees, or charges on import or export of digital products, including transmissions of digital content by incorporating USMCA Article 19.3 (*Customs Duties*).
- Advancing cloud-based systems and relevant policies, by:
 - Providing full access and non-discriminatory treatment for cloud services and service providers based in an IPEF country, including for any government procurement.
 - Committing to using open tendering procedures for the procurement of cloud services or digital services.
 - Committing to designing and implementing cloud policies for public organizations and agencies and encouraging the adoption of trusted cloud services as part of the digital transformation of government operations and services.
- Discouraging mandates for local content and/or forced joint venture partners. Several countries in the region provide preferential procurement for companies with local manufacturing or local content, which is at odds with globally resilient supply chains.

2. Enabling Trusted Data Flows and Cybersecurity

- Our member companies recommend that IPEF include binding provisions covering data from all sectors that protect (1) the movement of data across borders and (2) the ability of companies to operate without requiring them to use local infrastructure or build expensive and redundant data centers. Companies recommend that IPEF replicate US-Mexico-Canada Agreement (USMCA) Articles 19.11 (*Cross-Border Transfer of Information by Electronic Means*), and 19.12 (*Location of Computing Facilities*) and



corresponding provisions from the financial services chapter, Articles 17.17 (*Transfer of Information*) and 17.18 (*Locating of Computing Facilities*).

- In addition, to promote privacy, security, and trust in data flows, and to ensure data transfers are not intentionally or inadvertently used to undermine core values, or unnecessarily restrict data flows, companies recommend that the IPEF digital trade provisions should:
 - Encourage IPEF participants to codify into domestic laws protections for the APEC Cross-Border Privacy Rules (CBPR) System to be a valid basis for transfers of personal data to enable “data free flow with trust,” which the US, Japan, and other Indo-Pacific economies have underscored as essential to maintaining the free flow of data amongst like-minded countries.
 - Require Parties to adopt legal frameworks to protect personal information and promote industry best practices, international standards, and other cooperative mechanisms to strengthen privacy and data protection. Such frameworks should be risk-based, harmonized within jurisdictions, and interoperable with other Parties’ frameworks.
 - Promote the development of interoperable e-payment systems.
 - Encourage Parties to strengthen cybersecurity capabilities through international cooperation and adoption of risk-based approaches to cybersecurity regulation. IPEF should build upon and strengthen existing trade provisions, including USMCA Articles 19.8 (*Personal Information Protection*) and 19.15 (*Cybersecurity*).
 - Prohibit the use of nationality of ownership or degree of foreign affiliation as a *de facto* or *de jure* eligibility criteria for meeting cybersecurity certification requirements.
 - Promote the adoption of privacy-preserving technologies such as encryption and secure multi-party computation that maintain high standards on individual privacy.
 - Promote the adoption of bilateral or multilateral agreements on government access to data based on guiding principles in the CLOUD Act, the OECD workstream on Trusted Government Access to Data held by the Private Sector, and other initiatives.
 - Promote a “reasonable care” approach to enhance safety, security, and welfare online.



- Mitigate the risk of cyberattacks and cyber theft through the adoption of common risk-based approaches as well as initiatives to address specific concerns such as submarine cable disruptions.
- Prohibit IPEF participants from requiring companies to hand over source code and algorithms or transfer their technology, IP, trade secrets, production processes, or other proprietary information as a condition for accessing the market. IPEF should replicate USMCA Articles 19.16 (*Source Code*) and 20.69 (*Protection of Trade Secrets*).
- Commit to greater collaboration to prevent, detect, and react to malicious cyber attacks, while improving resilience, reaching shared standards and norms for data security, and improving the cybersecurity workforce.
- Establish a mechanism to allow for coordinated voluntary disclosures of cybersecurity vulnerabilities between relevant stakeholders to improve awareness and the likelihood and effectiveness of voluntary mitigation of relevant vulnerabilities.
- Promote strong cybersecurity cooperation and the adoption of risk-based approaches in mitigating cybersecurity threats and vulnerabilities.
- Prohibit unsolicited commercial messages online and proscribe fraudulent, misleading, or deceptive commercial activities online. IPEF should replicate USMCA Articles 19.7 (*Online Consumer Protection*) and 19.13 (*Unsolicited Commercial Electronic Communications*).
- Protect innovation in encryption products while allowing law enforcement access to communications consistent with applicable law. IPEF should replicate USMCA Annex 12C.2 (*ICT Goods that Use Cryptography*).

3. Non-Discriminatory Treatment in Standards and Regulations

A high-standard digital module under the IPEF should promote a regulatory framework that both supports governments' digital transformation objectives and avoids discriminatory digital policies that lead to unfair competition. Companies recommend IPEF's digital trade chapter include:

- Emphasis on the use of international technology standards, including for artificial intelligence, privacy, and cloud security.
- Commitments to adopt internationally-recognized standards to support digital trade, electronic payment services, and emerging technologies, including the ISO 2700 family of information security management standards for cloud services certification



procedures, to support privacy and security and encourage interoperability across markets.

- Commitments to follow due process standards and provide reasonable notice and opportunity for public comment on new legislation, regulations, technical requirements, and other measures applicable to the installation, maintenance, or repairs of submarine cables.

4. Freedom of Expression, Censorship, and Surveillance

Companies recommend that IPEF economies work together to develop shared views on when digital censorship may constitute a trade barrier. New challenges continue to arise globally relating to harmful, dangerous, and illegal speech online. To preserve free expression and political discourse, safeguard against the use of censorship as a trade barrier or a means to access private data, and build up stronger cross-border digital norms, IPEF should require participants to:

- Recognize that online censorship, defined as the unreasonable governmental suppression or prohibition of speech communicated online, is an unacceptable impediment to trade and investment and inconsistent with the values of IPEF members.
- Affirm and incorporate commitments under Article 19 of the International Covenant on Civil and Political Rights, specifically affirming that “[e]veryone shall have the right to freedom of expression,” and that restrictions on this right “shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security, public order, public health or morals.
- Refrain from blocking or limiting access to – and refrain from requiring online services to block or limit access to – lawful content, applications, and services on the Internet.
- Ensure transparency and due process in content measures by publishing in advance any restrictions on the right to free expression online and providing other IPEF members with an opportunity to comment on and challenge such restrictions.
- Recognize the importance of effective content moderation practices that minimize the prevalence of harmful and illegal content while promoting free expression and robust political discourse.
- Ensure that any content removal measures implemented by IPEF members are reasonable and tailored to the objective of promoting online safety, including by:



- Avoiding general monitoring obligations that risk harming the privacy, security, and speech of users.
- Ensuring that measures requiring the removal of content are clearly defined and limited to the removal of illegal content as provided for in local law, and include reasonable processes for responding to requests to remove specific pieces of illegal content, and processes to appeal the removal of content.
- Ensuring that measures requiring disclosure of information to government authorities, including for law enforcement purposes, are narrowly and appropriately tailored for that specific purpose, and follow principles of due process, oversight, accountability, and user trust, including principles detailed in OECD recommendations on law enforcement requests for data held by businesses.

5. Promote Trust in Emerging and Frontier Technologies

NFTC companies recommend that IPEF include voluntary provisions encouraging IPEF parties to develop reasonable and balanced regulations that prioritize risk-based frameworks to govern particular uses of AI. This approach can help assure businesses and consumers that the use of emerging technologies is transparent, explainable, and fair. Specifically, IPEF should:

- Eliminate duties and NTBs on emerging technologies (*e.g.* AI, Internet of Things, 3D printing,² blockchain, and quantum information science) and discourage excessive regulation of emerging tech.
- Coordinate development of ethical and governance frameworks for AI and establish dialogue on the impact of AI on the workplace and society, including worker retraining and talent creation in the AI sector.
- Establish safeguards against forced technology transfer and forced source code disclosure as a condition for market access.
- Establish an ongoing dialogue on best regulatory practices on emerging and frontier technologies amongst relevant stakeholders, including government officials, regulators, the private sector, civil society, and academia.

² Including implementation of the new World Customs Organization HS 2022 code for 3D printing products.



- Commit to the joint development and promotion of responsible and ethical standards governing the use of AI.
- Promote the adoption of risk-based approaches to AI regulation, avoiding one-size-fits-all horizontal approaches, and leveraging existing sectoral approaches where relevant.

6. Promote US-Led Innovation

NFTC companies recommend that the negotiating objectives for digital trade in IPEF include a provision to promote and sustain market-driven innovation and technological deployment across a range of cutting-edge technologies—including semiconductors, 5G, ORAN, 6G, the internet of things, and other fields of invention. U.S. technology leadership depends on the private sector to make foundational investments in R&D – investments that are funded by sales to global markets. Continued U.S. leadership in advanced wireless and other emerging technologies is essential to the future of U.S. national security, economic competitiveness, and innovation capabilities. Companies recommend that IPEF seek to:

- Promote the use of industry-led and internationally accepted standards to support digital trade, electronic payment services, fintech, and emerging technologies such as 5G, blockchain, and quantum computing.
- Facilitate and fund joint research and development on AI applications that can help solve global challenges such as public health, humanitarian assistance, and disaster response.
- Facilitate the exchange of researchers and the movement of highly skilled personnel to enhance science and technology collaboration.
- Cooperate on joint projects using cross-border datasets.
- Facilitate the development and policy alignment of new products and services by promoting regulatory “sandboxes” where appropriate.
- Foster the use of digital technologies to address health, environmental, and other global challenges.
- Share data sets in machine-readable and accessible forms for use by the public based on obligations similar to language included in USMCA Article 19.1.
- Facilitate the active coordination of research activities for the development of future 6G technologies in a way that leverages existing capabilities in the Indo-Pacific region.



- Provide non-discriminatory treatment to the services, service suppliers, and digital products of other participants, including for new digital products and services. IPEF should include an obligation (based on language developed by USTR during the TiSA negotiations) requiring each party to permit service suppliers of any other Party established in its territory to supply any new service that the Party would permit its own like services suppliers to supply.

7. Facilitating Digital Health

NFTC companies recommend that IPEF countries work together to address the unique challenges impeding the adoption of digital health solutions, improve health outcomes, expand opportunities for U.S. (and other IPEF) digital health providers, enhance health outcomes across IPEF members, and expand goods and services trade in medical technologies. Companies recommend IPEF should:

- Eliminate regulatory barriers to preventive, predictive, and prescriptive analytics that can drive actionable health insights.
- Ensure that the cross-border data flow and privacy commitments described in Section C.2 above apply to digital health applications.

D. Transparency And Good Regulatory Practice Issues

Given the increased adoption of digital tools and technologies across all sectors, governments are pursuing active regulatory agendas around the use and misuse of technologies. But heightened regulatory concern should not be an excuse for undermining core trade principles such as non-discrimination, transparency, due process, the rule of law, and protections for privacy, security, and intellectual property. IPEF should incorporate and build from the Good Regulatory Practices chapter of the USMCA as well as the recently concluded WTO Agreement on Domestic Regulation.

Companies recommend that IPEF negotiating objectives on transparency and good regulatory practices include binding commitments on:

- Good governance procedures to promote transparency and accountability in the development and implementation of regulations, particularly as they relate to trade and emerging technologies.



- Regulatory non-discrimination provisions prohibiting IPEF members from drafting regulations or standards-setting processes that discriminate against companies based on their geographic location.
- Ensuring that when state-owned enterprises, state enterprises, or designated monopolies exercise regulatory, administrative, or other governmental authority while also providing services it regulates in the marketplace, those entities act in a non-discriminatory manner and are subject to oversight by an independent regulator.
- Practices that advance fair, balanced, industry-led, and consensus-based processes in global standards bodies to prevent distortions such as undue control by any single firm or country. Additionally, the recognition of industry-led standards focused on interoperability between various digital systems would enhance U.S. national security by creating a more diverse and transparent ecosystem.
- Due process protections and opportunities for regulatory dialogue where impacted stakeholders can provide input or seek clarifications.
- Recognition of the importance of industry-led, consensus-based, multi-stakeholder approaches to international standards development that foster interoperability, compatibility, and inclusiveness, and avoid country-unique standards.
- Timely publication of draft regulations, provision of a reasonable comment period, and appropriate consideration of comments.

E. Labor-Related Matters

- **Digital Skill Building:** Nearly two-thirds of all new jobs created in the last decade require either high- or medium-level digital skills, but one in three workers have limited or no digital skills. Given the acceleration of digital transformation during the pandemic, NFTC companies recommend the IPEF to include labor negotiating objectives that incorporate cooperative measures to develop a skilled digital workforce, including for those in underrepresented communities in tech like women and girls. Companies suggest that labor negotiating objectives could include such elements as:
 - Mapping digital skills to identify competencies and gaps in IPEF economies.
 - Establishing certificate programs, training courses, and digital apprenticeship programs, that are recognized across IPEF members as bonafide educational qualifications.



- Providing joint scholarships to relevant digital and STEM educational courses for students in the Indo-Pacific region.
- Developing common rules on labor practices in the digital economy, promoting labor protections and a level playing field by establishing inclusive, multi-stakeholder dialogue on labor issues in the digital economy.
- **Prohibition on the Use of Forced Labor:** NFTC companies recommend that IPEF incorporate the obligations of USMCA Article 23.6.

F. Environment, Sustainability, And Climate-Related Matters.

Companies recommend that IPEF negotiating objectives on environment and climate include commitments to create a regulatory framework that will allow companies to reach renewable energy goals. Examples of commitments could include:

- Commitment to avoid localization mandates and allow U.S. and other IPEF businesses to compete on a nondiscriminatory basis for commercial-scale energy projects, including those funded by governments, that involve emerging or innovative energy technologies.
- For governments that use a national Power Development Plan to guide energy development, a commitment to develop each plan transparently and with opportunity for stakeholder comment.
- Promotion of a flexible energy mix to promote decarbonization including renewal energy, hydrogen, ammonia, and carbon capture technologies.
- Open access to energy markets for renewable electricity suppliers, consumers, and corporate buyers and link those markets across borders.
- Removal of regulatory barriers to privately built and operated renewable energy projects and foreign investments in renewable energy.
- Prioritizing sustainability within the supply chain pillar. IPEF participants should collaborate on building not only more resilient supply chains, but more sustainable ones, including prioritizing clean/renewable energy in production, reducing waste, improving recyclability, and enabling more ecological products.
- Increasing consumer options for sourcing renewable energy beyond the existing grid mix.



- Promoting common accounting tools to track renewable energy certificates (REC) or other similar instruments.
- Providing capacity building in the region to strengthen the knowledge, abilities, and skills of individual companies, and improve institutional structures and processes around GHG reduction targets.

III. PILLAR TWO - SUPPLY CHAIN RESILIENCE (COMMERCE LEAD)

Following critical shortages exposed by the COVID-19 pandemic, several countries, including the United States, have begun to reexamine supply chains to ensure the availability of goods ranging from medical supplies (PPE, pharmaceuticals, medical supplies) to products of national security importance (e.g., semiconductor chips). NFTC companies have indicated the best way to achieve supply chain resilience is through diversification, not just through onshoring or reshoring. Companies recommend the IPEF's negotiating objectives on supply chain resilience focus on:

- Creating diversified, open, and fair markets to ensure that essential goods can be made available in the market faster and more efficiently. A too-heavy focus on only supplying from the U.S. domestic market will potentially undermine supply chain resilience, alienate the very allies that are needed to achieve real supply chain security, and create inefficient production patterns. Instead, supply chain resiliency must come from flexibility and redundancy made easier by an IPEF framework promoting cooperation among allies to use all trade platforms toward these ends.
- Ensuring that any steps to improve supply chain resilience remain consistent with U.S. international, regional, and bilateral trade commitments. Actions that precipitate retaliation (e.g., punitive tariffs) on U.S. businesses and consumers will only further exacerbate the problem.
- Improving on IPEF economy commitments that have already been made in other contexts (e.g., accelerating the implementation of commitments under the WTO's Trade Facilitation Agreement).
- Minimize supply chain disruptions for "essential" products and services by agreeing on conditions that would allow an essential permit issued by one IPEF economy to be recognized in all IPEF economies without additional review.



- In the ICT sector, IPEF negotiating objectives should capitalize on “friendshoring” in the region to diversify production capabilities for semiconductors and the broader ICT ecosystem. Semiconductor collaboration should include legacy, intermediary, and leading-edge nodes while avoiding supply disruptions. Dialogues through IPEF could explore the intent of many economies in the region to incentivize domestic production, R & D, and stimulate local industries.
- In the pharmaceutical sector, IPEF should seek to build on existing global and regional initiatives, such as those under the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use or the Association of Southeast Asian countries (ASEAN) to harmonize regulatory standards to ensure that regulatory approval processes do not impede effective and efficient global drug development, review and evaluation. IPEF should support more effective regulatory procedures with respect to the efficacy of new medicines, including developing new pathways for approval of medicines, increasing capacity within regulatory agencies, and eliminating unnecessary regulatory barriers. Addressing these important issues can help to optimize the deployment of limited regulatory agency resources and expedite patient access to innovative and lifesaving or life-enhancing medicines.
- Foreign governments, including several in the Indo-Pacific region, often impose burdensome and nontransparent regulations on the biopharmaceutical sector and employ price controls and reimbursement policies that discriminate against American products. Market access for innovative medicines depends not only on U.S. innovators meeting strict regulatory approval standards and obtaining necessary IP protections, but also on obtaining positive government pricing and reimbursement determinations. Some countries in the Indo-Pacific region have resorted to using national compulsory licensing provisions improperly or threatening disclosure of confidential commercial information to coerce American manufacturers to accept pricing agreements on unreasonable commercial terms and conditions. Regulatory procedures and decisions regarding the approval and reimbursement of medicines therefore must be governed by fair, transparent, and verifiable rules guided by science-based decision making. There should be meaningful opportunities for input from manufacturers and other stakeholders to health authorities and other regulatory agencies and a right to appeal government pricing and reimbursement decisions to an independent and objective court or administrative body.
- Access to procurement opportunities is an important aspect of many supply chains and should be provided based on equal access to public procurement for all companies (foreign or local) with no local content, technological restrictions, or other NTBs.



- Avoiding policies that could weaken supply chain resiliency or disrupt supply chains, including through overburdensome requirements.

IV. PILLAR THREE - INFRASTRUCTURE, ENERGY, AND DECARBONIZATION (Commerce Lead)

NFTC's comments regarding negotiating objectives for environment issues in Section I.C above are also applicable to the Pillar Commerce is leading on infrastructure, energy, and decarbonization. In particular, the negotiating objectives for Pillar 3 should include:

- Adoption of “quality infrastructure” standards by IPEF members to ensure that countries select infrastructure providers based on best value rather than the lowest price, which can lead to unreliable projects, costly sustainment expenses, and debt traps.
- In order to mobilize resources for energy transition, a commitment by each IPEF member to authorize (including through regulatory or legal means where necessary) and encourage its government financial institutions to engage in co-financing with other IPEF members for energy infrastructure projects in IPEF countries.
- To facilitate such projects, a commitment by each IPEF member that goods and services from any other IPEF members used on an energy project will be counted toward meeting any existing “local/domestic content” requirements associated with government financing or advocacy support.
- Incorporate infrastructure initiatives like the State Department’s Blue Dot Network to allocate special funding for physical infrastructure development in the region.
- Open access to energy markets for renewable electricity suppliers, consumers, and corporate buyers, linking those markets across borders.
- Removal of regulatory barriers to privately built and operated renewable energy projects and foreign investments in renewable energy.
- Increasing consumer options for sourcing renewable energy beyond the existing grid mix.
- Promoting common accounting tools to track renewable energy (e.g., renewable energy certificates (REC) or other similar instruments).



- Providing capacity building in the region to strengthen the knowledge, abilities, and skills of individual companies, and improve institutional structures and processes around GHG reduction targets.
- Promoting policy and regulatory frameworks that encourage investments in carbon capture and storage (CCS) and hydrogen.

V. **PILLAR 4 - TAX AND ANTI-CORRUPTION (COMMERCE LEAD)**

The IPEF negotiating objectives under the tax and anti-corruption pillar should include:

- **Non-discriminatory taxation measures:** IPEF negotiating objectives on taxation should include a commitment that IPEF jurisdictions will apply predictable taxes in a non-discriminatory manner and will not adopt tax rules that are inconsistent with the work currently being conducted in multilateral OECD discussions to update global taxation rules. IPEF members should commit to adhere to the OECD two-pillar political framework, including by refraining from imposing unilateral, burdensome, or discriminatory taxation measures that would undermine multilateral consensus or a durable global tax framework.
- **Global anti-corruption principles:** The IPEF negotiating objectives on anti-corruption should include a commitment for parties to IPEF to adopt and fully implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
- **Transparent government procurement:** The IPEF negotiating objectives on anti-corruption should include commitments to strengthen anti-corruption through more transparent government procurement practices. Commitments by IPEF members to enhance transparency and fairness in their government procurement practices would do much to reduce corruption, enhance value for IPEF government agencies, and open up greater competitive opportunities for U.S. exporters. (See additional comments on government procurement under Section VII. Other Issues below).

VI. **ISSUES OF CONCERN TO SMEs**

Issues of concern to small and medium-sized businesses will be addressed in a separate submission by the NFTC Foundation's Global Innovation Forum.



VII. OTHER ISSUES FOR CONSIDERATION

- **Export control policies:** IPEF should include negotiating objectives that address the use of export controls among the participants to ensure controls are targeted, multilateral, and narrowly applied to specific national security objectives. IPEF members should also develop a framework to facilitate, on an ongoing basis, the greatest possible alignment of export controls and coordinated implementation, where practicable, to ensure U.S. export controls and exporter competitiveness are not undermined by IPEF partners' export control policies.
- **Intellectual Property Rights ("IPR"):** IPEF should include negotiating objectives on IPR that create and protect incentives for innovators to invest in long-term R&D work.
- **Government Procurement:** Foreign government procurement markets are tremendously important for NFTC members. IPEF economies should be encouraged to increase transparency and open their processes for government procurement. Further, IPEF should extend national treatment for member economies to access government procurements and eliminate discrimination against products based on origin or content. The kind of procedural commitments in the USMCA's *Government Procurement* chapter would serve as a useful base. In addition, technical assistance to improve procurement practices from the U.S. Trade and Development Agency and other U.S. (and other IPEF member) assistance agencies could provide useful incentives for IPEF members to take on commitments to improve transparency and fairness in their procurement practices.

Thank you for the opportunity to present our comments. If you have any questions regarding our comments, please contact Tiffany Smith, Vice President of Global Trade Policy (tsmith@nftc.org).

Sincerely,

A handwritten signature in black ink, reading "Jake Colvin". The signature is written in a cursive, flowing style with a prominent initial "J" and a long, sweeping underline.

Jake Colvin
President