



June 20, 2024

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

The Honorable Antony Blinken  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington, D.C. 20520

The Honorable Gina Raimondo  
Secretary of Commerce  
U.S. Department of Commerce  
1401 Constitution Ave NW  
Washington, D.C. 20230

Dear Ambassador Tai, Secretary Blinken, and Secretary Raimondo:

As representatives of U.S. businesses from among virtually every sector of the U.S. economy, we call on the Biden Administration to maintain investor safeguards in U.S. trade and investment agreements, including national treatment and access to neutral, independent dispute settlement. These safeguards are fundamental to incentivizing and protecting U.S. foreign direct investment (FDI) abroad that will power the green transition and help the United States grow its economy, compete with China, and promote resilient supply chains.

FDI has proven to be a powerful engine for U.S. economic growth and competitiveness. Many U.S. companies earn more than half of their revenue through foreign affiliates – revenue that is reinvested at home into job creation, higher wages, and research and development. Operating in multiple markets allows U.S. companies to diversify risk. Foreign affiliates of U.S. companies generally serve foreign markets. They do not replace the U.S. operations of these companies; they augment them.

In addition, U.S. companies that operate abroad must often make foreign investments to do so. Highly regulated service providers such as insurance, banking, and telecommunications companies, are frequently required by foreign countries to establish themselves in those countries in order to operate. Companies in the infrastructure sector, for example, have no choice but to operate abroad, building roads and bridges. Technology companies are increasingly being forced to make investments in data centers abroad in response to the growing number of data localization requirements around the world. In response to geopolitical tensions, technology companies are rapidly diversifying their supply chains, which requires investments in other markets. U.S. companies also invest to expand their reach to the more than 95 percent of global customers.

The scale of these investments can be significant. For example, mining companies face tremendous up-front capital costs, and they incur significant risk due to the length of time it takes to realize any return on investment. For those heeding the Administration's call for investments to shore up critical mineral supply chains, there can be higher political risk in countries rich with deposits. Investor safeguards are a critical tool to support companies advancing U.S. supply chain resiliency and competing against countries like China for mineral resources abroad.

American companies are not operating in a vacuum; they face an array of strong foreign competitors from Europe, Japan, Korea, and Canada and increasingly from China, India, Brazil, and beyond. These

foreign competitors benefit from full-scale support from their own governments, including but not limited to strong investment treaty protections against unfair treatment and discrimination. Weakening U.S. Government support for our flagship international companies puts at risk U.S. jobs, shareholders, and U.S. competitiveness.

Investor protections or safeguards catalyze and protect foreign investment, particularly in countries that are politically or economically unstable. When U.S. companies invest abroad, they can be subject to bias, discrimination, and unreliable rule of law. They are targets for predatory taxation or regulation when a foreign government needs revenue to meet its political or economic goals or local competitors seek discriminatory protection. Note the alarming, unexpected, and illegal actions by the Mexican Government to seize and occupy Alabama-based Vulcan Materials Company deep water port and quarry investment in Mexico. This case proves the point that U.S. companies investing abroad need access to neutral, independent dispute settlement to deter and, if necessary, remedy unfair treatment by foreign governments.

The Biden Administration has spearheaded efforts to promote U.S. FDI to help emerging economies meet their infrastructure, digital inclusion, and green transition goals. This is a heavy lift given the estimated \$4 trillion gap in investment needed to meet today's sustainability demands. In addition, FDI is being offered as the key incentive for trading partners to participate in the Administration's Indo-Pacific Economic Framework for Prosperity and Americas Partnership for Economic Prosperity. These investments – in the Indo-Pacific, the Americas, and elsewhere – should be protected by investor safeguards.

Investor safeguards also play a critical role in promoting supply chain resilience, another Biden Administration imperative. When the United States encounters a deficit in the supply of an important good or service – such as critical minerals, semiconductors, health products, or large-capacity batteries – a foreign affiliate of a U.S.-owned company will naturally be more dependable than other foreign companies. Also, a foreign country may be less likely to restrict a U.S. investor from exporting goods or services back to the United States in a short-supply scenario if that investor has access to legal recourse to protect its rights.

Finally, investor safeguards help U.S. companies compete with Chinese counterparts bidding for development projects in Africa, South America, and Asia. China is pouring money into these regions as part of the Belt and Road Initiative (BRI) to create customers for its goods and services and expand its economic and geopolitical reach. China has almost three times the number of investment treaties with strong investment protections in force than the United States, and China is encouraging its companies to use these provisions. U.S. companies will be less equipped to compete against China if the U.S. removes investor safeguards from its trade and investment agreements.

For these reasons, we urge the Administration to maintain strong investor safeguards in U.S. trade and investment agreements. These provisions are critical to U.S. industry heeding the Administration's call to confront the BRI, diversify supply chains, and bridge the investment gap. It would be counterproductive to remove these critical safeguards at a time when U.S. FDI has never been more important to achieving U.S. economic and foreign policy objectives.

Best regards,

Coalition of Services Industries (CSI)  
Consumer Technology Association (CTA)  
National Foreign Trade Council (NFTC)

National Mining Association  
US Chamber of Commerce  
US Council for International Business (USCIB)