



**American Association of the Indo-Pacific
Comments to the U.S. Federal Register: Docket No. USTR-2022-0002
Concerning the Indo-Pacific Economic Framework**

April 11, 2022

About AAIP

The American Association of the Indo-Pacific is a membership-led organization that works to strengthen American business and investment in the Indo-Pacific region. AAIP does this through policy initiatives, ongoing engagement with policy makers in Washington, D.C., and in the region, and close collaboration with other business associations. AAIP is legally registered in the United States as a 501c6 non-profit corporation.

AAIP membership is only held by U.S.-headquartered companies and business associations. It seeks to further U.S. business interests, specifically through its affiliate operations in the Indo-Pacific region. This means that rather than advocating only for U.S. exports to the region, AAIP can advocate for U.S. companies that have broader economic and financial interests in the region through services, investment, and global value chains.

The Indo Pacific Economic Framework (IPEF) is an important initiative for the region to promote higher standards, collaboration, and partnerships in key markets. While the IPEF is not a traditional free trade agreement (FTA), it is an important first step for economic engagement.

The AAIP just launched a Build Back Better World (B3W) report (attached at the end of these comments) for the Indo Pacific region. The report includes suggestions for the region's developing nations to participate in B3W and the importance for U.S. businesses in the region, beneficiary countries, and regional USG priorities. We believe B3W and IPEF are complementary and allow for greater resonance and success if enacted together.

Our comments in response to the USTR's request for comments in the Federal Register (Docket No. USTR-2022-0002) are below.

1. General negotiating objectives for the proposed agreement

The negotiations should aim for a clear and legally binding agreement that is consistent with international norms on trade, supportive of greater trade connectivity in the Indo-Pacific region, contains mechanisms for dispute resolution, can have its membership expanded with clear mechanisms for accession, and contains provisions for review and revision.

2. Labor-related matters

AAIP recognizes the significance of a worker-centric trade policy to the Biden administration, a clear priority in the 2022 Biden Trade Policy Agenda. We also recognize that USTR is carrying out an inter-agency review of labor policies as they relate to trade.

Any labor requirements in the IPEF trade pillar must be of a high standard and legally binding, but their enforcement needs to be realistic; the requirements of the USMCA, for example, will not be achievable for many countries given that there will be no market access offered in return. Any proposed labor standards should meet or exceed international norms set by the International Labor Organization.

We would also encourage USTR to work with Customs and Border Protection to ensure that compliance requirements under Section 307 for exports to the United States are clear and consistent.

3. Environment and climate-related matters

As with labor, environmental and climate requirements under the agreement will need to be realistic, given that there will be no market access offered in return. Many stakeholders in the region view carbon border adjustments as protectionist measures rather than a legitimate means to reduce carbon emissions. We would encourage USTR to incorporate greater levels of sustainable development cooperation into any agreement. This could include, for example, support for the development of green infrastructure and development assistance for decarbonization.

4. Digital economy-related matters

Absent increased market access, IPEF has the opportunity to utilize digital and emerging technologies in place of service liberalization. This includes digital trade opportunities for regional integration, cross-border data flows, payment rails, edge technologies, and youth empowerment. Digital solutions can mitigate manufacturing and distribution bottlenecks and enable the digital delivery of services such as telehealth.

Digital payment services are key to this opportunity. The IPEF should create a level playing field for digital payment services within its economic framework. It should also support commitments to protect the free flow of data while ensuring regulatory access to data.

Digital infrastructure must also be recognized as a key element of any infrastructure agreement (see below) and governed by international standards and frameworks accordingly.

Barriers to digital trade – including data localization and other domestic regulatory requirements – should be addressed in the agreement going forward, as digital trade and infrastructure will continue to play an outsized role in regional trade.

Our suggestions for digital standards are as follows:

- Accept e-signatures (without associated paper-based requirements) and the use of interoperable authentication systems and secure digital identities.
- Apply non-discriminatory treatment to digital products.
- Prohibit restrictions on technology choice and encourage open digital architectures, with appropriate exceptions.
- Prohibit limits on cross-border data flows and requirements for the localization of computing facilities, with appropriate exceptions.

- Prohibit cryptography transfer requirements, with appropriate exceptions for law enforcement.
- Prohibit requirements to transfer source code or algorithms as a condition for market access.
- Adopt or maintain interoperable frameworks to protect personal information while supporting innovation.
- Promote a “reasonable care” approach to enhance safety, security, and welfare online.
- Mitigate the risk of cyberattacks and cyber theft by adopting common risk-based approaches and initiatives to address specific concerns, such as submarine cable disruptions.
- Coordinate the development of ethical and governance frameworks for AI and establish a dialogue on the impact of AI on the workforce and society, including worker retraining and talent creation in the AI sector.
- Promote the use of industry-led and internationally accepted standards to support digital trade (see below), electronic payment services, fintech, and emerging technologies such as 5G, blockchain, and quantum computing.

5. Agriculture-related matters

The IPEF provides an opportunity to address technical barriers to trade across the region, particularly for agricultural goods. U.S. companies that might be seeking to invest in food manufacturing in the region, or service U.S. markets with agricultural inputs, need certainty. The IPEF should provide a mechanism for resolving technical barriers to trade and sanitary and phytosanitary disruptions. This will be a key issue for many U.S. companies in the region that are importing agricultural commodities from the U.S. (e.g., potatoes, wheat, and dairy as inputs to locally manufactured foodstuffs) and U.S. affiliates exporting commodity inputs back to the U.S. (e.g., vegetable oil).

6. Transparency and good regulatory practice issues

Many U.S.-based companies face continued barriers to regulatory transparency due to the outsized political power of large local companies and state-owned enterprises. This ranges from a lack of transparency in allocating import licenses, for example, to a lack of contract enforceability or opaque government procurement processes.

The IPEF provides an opportunity to coordinate with and leverage other multilateral initiatives related to infrastructure investment, and provides a clear incentive for countries to undertake transparency initiatives and regulatory and competition reform. Transparency frameworks under the B3W or Blue Dot Network could be utilized as a benchmark for partner countries, incentivizing greater levels of investment from the U.S. government and private sector.

8. Customs and trade facilitation issues

The COVID-19 pandemic underlined the significance of digitizing trade and trade finance going forward. The IPEF provides an opportunity to be a clear standard-setter for the region in terms of:

- Facilitation of electronic processing of information and documents required for import, export, transit, and the electronic payment of customs duties, taxes, and fees.

- Expanding cooperation on customs matters, including enforcement.
- Development of common standards for trade digitization.

9. Issues of particular relevance to small and medium-sized businesses that should be addressed in the negotiations

Additional support will be particularly critical for the affiliates of U.S.-based MSMEs as they seek to utilize the agreement, expand operations across the Indo-Pacific region, and navigate the regulatory landscape in multiple countries.

For the IPEF to be successful, the inception, negotiation, and implementation phases will require significant capacity support.

AAIP will be an ideal partner for the U.S. government throughout these phases and are uniquely positioned as we:

- Have extensive representation across the Indo-Pacific region;
- Represent only U.S.-headquartered companies;
- Have “boots on the ground” understanding of U.S. business interests; and
- Are registered in the United States as a 501c6 non-profit corporation.

AAIP is in a position to assist MSMEs by:

- Advocating for MSME participation among partner country stakeholders, specifically business partners, business groups, and other civil society stakeholders;
- Providing technical input from MSMEs into the negotiating processes across all pillars;
- Working as an implementation partner for aspects of the agreement, particularly in relation to training to support agreement utilization and other aspects such as licensing.

10. Other measures or practices, including those of in-country entities, undermining fair market opportunities for U.S. workers, farmers, ranchers, and businesses