



November 29, 2023

The Honorable Mike Johnson
Speaker of the House of Representatives
Capitol Building H-232
Washington, DC 20515

The Honorable Charles E. Schumer
Senate Majority Leader
Capitol Building S-221
Washington, DC 20510

The Honorable Hakeem Jeffries
House Democratic Leader
2433 Rayburn House Office Building
Washington, DC 20515

The Honorable Mitch McConnell
Senate Republican Leader
Capitol Building S-230
Washington, DC 20510

Dear Speaker Johnson, Majority Leader Schumer, Minority Leader Jeffries, and Minority Leader McConnell:

I am writing on behalf of the US-China Business Council (USCBC), an association of over 270 US companies that do business in China, regarding current negotiations over the FY2024 National Defense Authorization Act (NDAA).

USCBC supports efforts in Washington, DC to protect US values and national security interests, while also promoting a robust US commercial relationship with China. USCBC strives to act as a constructive partner to US policymakers as they develop targeted policies related to China that adhere to the “small yard, high fence” principle. With this in mind, we would like to share our views on two provisions under consideration.

- **Outbound Investment.** USCBC has worked to be a constructive partner in Washington, DC throughout the ongoing debate over US outbound investment. This includes providing extensive feedback to the Biden Administration in the lead up to and following the release of its executive order (EO) on outbound investment in August 2023.¹ We believe the EO is a responsible action.²

¹ USCBC Comments Regarding Provisions Pertaining to US Investments in Certain National Security Technologies and Products in Countries of Concern (September 28, 2023) (<https://www.uschina.org/advocacy/regulatory-comments-on-china/uscba-comments-regarding-provisions-pertaining-us-investments-certain-national-security-technologies>).

² USCBC Statement on Outbound Investment Executive Order (October 9, 2023) (<https://www.uschina.org/media/press/uscba-statement-outbound-investment-executive-order>).

However, many critical details are still to be sorted out through the Treasury Department's public comment process. We also expect there will be a number of unanticipated issues to work through once the EO is fully implemented next year. USCBC is concerned that the outbound investment screening proposals reportedly being considered as part of the NDAA process may create overlapping and/or contradictory requirements that will be difficult for the US business community to comply with. Adding such language to the NDAA before the EO is implemented could potentially conflict with or even slow down the ongoing regulatory process. ***USCBC recommends not including language on outbound investment in the FY24 NDAA.***

- **Military Commissaries.** Section 662 of the House-passed version of the NDAA would prohibit commissary stores and military exchanges from selling goods: (1) manufactured in China; (2) assembled in China; or (3) imported into the United States from China. The Biden Administration's Statement of Administration Policy regarding a similar provision in the FY23 NDAA (which was not included in the final bill) noted that such a prohibition would "affect more than 70 percent of products sold in military exchanges, a similar percentage to private sector businesses, and place a heavy financial burden on service members."³ In an Op-Ed about the same provision last year, Armed Forces Marketing Council President Tom Gordy said the language would "fail to achieve its purpose while resulting in hurtful, unintended consequences for military families."⁴ One such consequence would be forcing military families to shop off base and thus losing their tax-free shopping privileges. The issues raised about this provision last year remain true today. ***USCBC recommends not including Section 662 of the House-passed bill in the final FY24 NDAA.***

USCBC aims to continue being a vital bridge between US companies and lawmakers. We would welcome further discussions on any of the issues raised here.

Sincerely,



Craig Allen
President, US-China Business Council US
Ambassador (ret.)

CC: House Armed Services Committee Chairman Mike Rogers; House Armed Services Committee Ranking Member Adam Smith; Senate Armed Services Committee Chairman Jack Reed; Senate Armed Services Committee Ranking Member Roger Wicker

³ Statement of Administration Policy: HR 7900 – National Defense Authorization Act for Fiscal Year 2023 (July 12, 2022) (<https://www.whitehouse.gov/wp-content/uploads/2022/07/H.R.-7900-NDAA-SAP.pdf>)

⁴ Tom Gord, 'Made in China' exclusion policy at exchanges would hurt families, Military Times (November 18, 2022) (<https://www.militarytimes.com/opinion/2022/11/18/made-in-china-exclusion-policy-at-exchanges-would-hurt-families/>).