

Congress of the United States
Washington, DC 20515

November 17, 2015

The Honorable Penny Pritzker
Secretary
U.S. Department of Commerce
1401 Constitution Ave., N.W.
Washington, D.C. 20230

Dear Secretary Pritzker,

As Co-Chairs of the U.S.-China Working Group in both the House and Senate, we respectfully urge you to continue your work in building America's most important bilateral economic engagement with China during the upcoming U.S.-China Joint Commission on Commerce and Trade on November 21-23 in Guangzhou. As the world's two largest economies, it is vital that the U.S. and China pursue a constructive agenda that will create economic opportunities and job growth in both countries. The potential gains and problem spots in the U.S.-China relationship require thoughtful exchanges at the highest levels of our governments.

China's remarkable story of economic growth, even despite the recent cooling, has created tremendous opportunities for American companies to expand to China and create new jobs for America's exporters. China's growing middle class is already larger than America's entire population. U.S. exports to China increased over 250 percent in the past decade to \$120 billion in 2013 and support nearly 800,000 American jobs. We know the Chinese people have an incredibly strong interest in American products and our ideas. One of the main roles of your Department is to better position U.S. businesses and exporters to take advantage of this historic market for our products. Knowing you share our commitment to increasing opportunities for America's innovators, we urge you to continue to make reducing investment barriers and increasing transparency in Chinese regulation top priorities during this round. Building on the recent bilateral commitments from Presidents Xi and Obama, we know that improvements in these areas will be mutually beneficial, supporting innovation and long-term growth.

First, we ask you to press Chinese leaders to commit to timely negotiation of a high-standard U.S.-China Bilateral Investment Treaty (BIT) and build off of the Chinese government's openness to broader protection for investments and reform agenda. Over 100 industry sectors are restricted from U.S. investment - including manufacturing, services, and agriculture - have onerous conditions for U.S. businesses, such as mandating local sourcing or technology transfers. A strong BIT would require China to treat U.S. companies the same as Chinese companies and level the playing field for American businesses in China.

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At the same time, we also urge you to reiterate that China should seek to significantly reduce foreign investment barriers immediately, rather than waiting until a BIT is finalized. Positive and timely action by China will significantly help build confidence in the U.S. Congress that China is genuinely committed to market reforms, helping to pave the way for Congressional approval of BIT. U.S.-China Working Groups are constantly helping to educate our colleagues on the bilateral relationship. We need to have clear evidence that progress is happening. In a recent survey of its membership, the U.S.-China Business Council found that 97 percent of companies indicated that they lacked the financing advantages, access to contracts and ease of licensing that Chinese state-owned enterprises received. Specifically, eliminating the “foreign-invested enterprise” classification and governing all legally-established companies in China under the same laws as state-owned enterprises are critical to promoting U.S. companies and increasing jobs at home.

Second, we also urge you to push the Chinese government to increase regulatory transparency and enforcement. American companies have relied on past assurances from the Chinese government that rules would be promulgated and enforced. In many instances, US companies have invested considerable sums to create technologies to comply with new rules only to find that incumbent Chinese competitors are allowed to flout regulations. Regulatory and policy-making procedures shape the investment environment for foreign and domestic companies, so strong attention should be placed on ensuring that environmental rules and other similar standards come into force as the government announced. China’s adherence to its bilateral commitments on transparent rule-making is critical to all American exporters and the companies dedicated to producing specific products that conform to unique Chinese requirements. Recent reports indicate that China’s State Council and regulatory bodies continue to fall far short of issuing timely draft rules and regulations for 30-day public comment periods. Uniform and consistent implementation of Chinese laws and regulations would go a long way in maintaining a stable and prosperous economic relationship for U.S. businesses. Accountability will only come from an independent judiciary that provides effective oversight and regulation without undue influence by the political process. We hope you will renew the Congress’s pledge to assist in developing an independent judiciary through professional exchange and common evaluation standards.

As one of the most important Congressional organizations dedicated to strengthening the US-China relationship, we are excited that this year’s JCCT presents an opportunity to continue progress on expanded economic ties between the world’s two economic superpowers. We firmly believe it is the U.S. government’s role to continue to stress meaningful ways to grow and strengthen the immense benefits of this relationship. The United States should use the momentum following President Xi Jinping’s September visit to the United States to build on this important bilateral relationship. We respectfully ask

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you to respond to us in writing with a firm commitment to raise the issues outlined in this letter at the JCCT, which will help to sustainably advance the U.S.-China economic relationship. So too, please know that we stand ready to support you in this negotiation and would be delighted to serve as a resource to you and your colleagues

Sincerely,



Mark Kirk
U.S. Senator



Rick Larsen
U.S. Representative

Charles W. Boustany, Jr. MD
U.S. Representative