

March 20, 2018

The Honorable Wilbur L. Ross  
Secretary of Commerce  
United States Department of Commerce  
Washington, DC 20230

Dear Secretary Ross:

As members of the U.S. Investment Advisory Council (IAC), we would like to express our appreciation for the opportunity to partner with the U.S. Department of Commerce on strategies and programs to ensure the United States remains the preeminent destination for foreign direct investment (FDI). The IAC was created in 2016 to advise the Secretary of Commerce on matters relating to the promotion and retention of FDI in the United States. FDI is a vital part of our economy with more than 6.8 million Americans working for inbound companies. These employees account for nearly 20 percent of the U.S. manufacturing workforce and impressively, produce nearly 23 percent of all U.S. exports.

Support for FDI is more important than ever as we seek to advance job and economic growth in the U.S. If we market our strengths to foreign investors in a more targeted approach and ensure our business climate strongly welcomes this growth, we believe these companies will continue to invest in the U.S., significantly contributing to our country's economic success.

Our committee has reviewed several recommendations, focusing primarily on actionable initiatives that can be considered by the Department to attract new, and retain current, FDI. These areas of focus are summarized as follows:

### **1) Federal regulations and activities impacting FDI**

Investment into the United States, and its accompanying benefits, will be increased by certain changes to regulations. We appreciate the President's and your leadership in this regard. In particular, inbound investment would benefit from the repeal of the Section 385 Regulations and the streamlining of the Foreign Investment in Real Property Tax Act (FIRPTA).

#### **a. Section 385 Regulations**

The Section 385 Regulations introduced in September 2016 continue to create great uncertainty and have increased the costs associated with investing and conducting businesses, making the U.S. a less attractive location for foreign investment. We appreciate the action taken last year by the Treasury Department to reduce the burden associated with the Regulation's documentation requirements. However, at the time of this announcement, the Department elected to retain the distribution regulations pending tax reform.

#### Recommendation:

- The Council recommends advocating for the complete and immediate repeal of all Section 385 Regulations given the inclusion of strong provisions included in the Tax Cuts and Jobs Act related to base erosion.

#### **b. Foreign Investment in Real Property Tax Act (FIRPTA)**

Inbound investment would benefit from streamlining of the Foreign Investment in Real Property Tax Act (FIRPTA). The way the law is structured makes it extremely cumbersome for a foreign investor to comply and creates a disincentive for foreign investment in real property.

Recommendation:

- The Council recommends streamlining FIRPTA requirements to ease the ability of foreign investors to invest in and transfer real property in the United States.

**c. The Committee on Foreign Investment in the United States (CFIUS)**

As a key member of CFIUS, the Department has an established and important voice in Committee proceedings. The CFIUS review process can impact the flow of FDI into the United States and as such, should remain narrowly focused on reviewing transactions for any threat to national security.

Recommendation:

- Should legislation be enacted to reform CFIUS, or should regulatory action be taken in lieu of statutory updates, we recommend the Secretary encourage the Administration to keep CFIUS narrowly focused on addressing national security concerns in order to support the open investment policy of the United States.

**d. Other Federal activities impacting FDI**

For many years, the President of the United States has issued a written statement promoting our nation's open investment policy - signaling that the United States welcomes inbound investment.

Recommendation:

- We recommend the Department work with the Administration to issue an Open Investment Policy Statement.

The Department can serve as an advocate for economic growth in the U.S. by clarifying that U.S. subsidiaries should be regarded as part of the U.S. business community for purposes of federal government support, services, and promotion in the United States and around the world. Specifically, the Department can support removing the prohibition which excludes the representatives of U.S. subsidiaries from serving on Industry Trade Advisory Committees (ITACs). Given inbound companies produce nearly a fourth of all U.S. exports, they should have an active role in government-business dialogue guiding our business environment.

Recommendation:

- The Council recommends that the Secretary support the executives of U.S. subsidiaries becoming formally, and more actively considered for business engagement opportunities including representation on advisory groups such as ITACs, roundtables, and trade missions with senior U.S. government officials.

This Council recognizes the tremendous value of SelectUSA and the impact its programming and staff have had on attracting FDI to the United States. States and regions have begun to place significant resources to align themselves with SelectUSA by participating in the SelectUSA annual summit, by attending international roadshows and other events and by connecting with the global network of Department specialists.

Recommendations:

- The Council recommends SelectUSA continue forward with its ambitious mission, while ensuring that existing resources are deployed in a focused and prioritized manner, and in coordination with state and regional objectives and strategies.
- We further support efforts to ensure SelectUSA continues to receive dedicated funding for its operations that allow for long-term planning and execution of initiatives that span multiple fiscal years.

## **2) Streamline and enhance resources and tools to better support investors and U.S. localities' FDI strategies.**

Once a foreign company decides to invest in the US, it must make an important strategic decision as to where in the US it should look to locate its operation(s). The complexity faced by foreign companies in identifying and comparing different localities cannot be underestimated. Therefore, we recommend that the Department launch a web-based self-help tool that will foster increased and more rapid investment by facilitating the process of collecting and analyzing information that is most relevant to a company's investment decision.

Moreover, given that state and local government procurement accounts for billions of dollars of spending each year and that every state, and even some counties and cities within the same state, each have their own separate purchasing processes, regulations and departments, we further recommend that this web portal also provide support for companies looking to sell goods and services to state and local governments.

### Recommendations:

- We recommend that the Department streamline and enhance its web presence using FDI stakeholder input to accomplish two objectives:
  - Ensure that the data and information that companies need to properly assess which US localities may be best suited for their business objectives are easily available on one public website that is organized in a logical and streamlined manner for the ease of end-users; and
  - Provide the most current available information to end users concerning specific localities, and their EDOs, available programs, training opportunities and other incentives, by enabling EDOs and other appropriate local organizations to populate the portal with useful information.

We believe that focus groups comprised of EDOs, foreign companies and other appropriate stakeholders are best positioned to submit recommendations to achieve these objectives *from the end user's perspective*. Areas of input may include:

- Organization of content to improve website navigation;
  - Content updates to improve clarity;
  - Inclusion of new resources, data and information; and
  - Use of technology to ease usability and access to information, such as searchable forms and tools programmed with predefined categories of information and data to be populated on the portal.
- We also recommend that the Department use this web portal to support companies seeking to do business with state and local governments, in a manner similar to the way in which the GSA's Federal Business Opportunities website ([www.fbo.gov](http://www.fbo.gov)) organizes Federal solicitations. By establishing and maintaining a catalogue of state and local procurement offices and combining open solicitations and existing opportunities from these offices into one portal that can be searched easily by end users, we believe the Department's web portal would be a powerful tool for end user companies (both foreign and domestic) seeking to invest in these markets.

### 3) Strategic approach to marketing of workforce development and technical training.

Access to a plentiful and productive workforce has long been an advantage for the U.S. and a compelling reason for foreign companies and entrepreneurs to consider the U.S. as a place to manufacture, innovate, and provide services. It is more important than ever for the U.S. to retain and further this advantage. There are several roles for the Department of Commerce to assist in this national effort.

#### Recommendations:

- Leverage the Department's communication channels and interagency partnerships to promote and amplify workforce development opportunities and programs to support American workers. In particular, increasing the awareness of:
  - Career opportunities in high-demand, high-wage, occupations with a goal to increase workforce participation and the number of qualified, skilled workers.
  - STEM/STEAM occupations, including careers in advanced manufacturing, as an excellent opportunity for youth and adult career changers.
  - New and existing apprenticeship programs, highlighting successful models of those provided by foreign companies operating in the United States through case studies.
- Advocate for fully funding the U.S. Department of Labor's American Job Centers. These centers provide talent attraction assistance to foreign investors and domestic companies, resulting in a single-point of contact for companies in need of workforce development assistance.
- Retain STEM/STEAM degree holding foreign born students to join the workforce:
  - Provide preference for these students to stay within the U.S. to work in high-demand, high-skill jobs, particularly in advanced manufacturing and information technology sectors.
  - Provide preference for those that participate in and successfully complete registered apprenticeship programs to reinforce mastery of key skills and aptitudes.
- Provide incentive for national partners with aligned goals and workforce development programs.
  - Provide competitive grant opportunities for states and private sector/non-profit organizations that can reinforce goals above.
  - Provide supplemental dollars to successful privately driven national workforce initiatives for in-demand, technology-oriented careers.
- Accelerate successful state-driven models that serve private sector clients (examples include Georgia QuickStart, Louisiana FastStart, etc.) through the Department's communication channels and programs.

Respectfully submitted,



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Chair



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