

THE PRESIDENT'S EXPORT COUNCIL  
WASHINGTON, D.C. 20230

June 10, 2015

President of the United States of America  
The White House  
Washington, DC 20500

Dear Mr. President,

As you know, our economic relationship with China is vital to the health of U.S. companies, to consumers, and to our economy as a whole. Indeed, our relationship with China arguably will be the most important bilateral relationship of the 21<sup>st</sup> century. It is therefore essential that we continue to develop policies to deepen and maintain balance in our economic relationship, foster global stability, and preserve U.S. economic leadership in the decades ahead.

The negotiations for a bilateral investment treaty (BIT) with China are of critical importance in this ongoing effort. The conclusion of a high-standard BIT that builds upon the U.S. model BIT would have a significant and lasting impact on the trajectory of the U.S.-China commercial relationship, and create a more equitable framework to guide it forward. A high-standard BIT should include key elements, such as: clear rules preventing discrimination against companies on the basis of nationality; core internationally-recognized protections for investments and investors; strong rules to prevent performance requirements relating to goods, services, and intellectual property; and protections for cross-border data flows for legitimate commerce.

The agreement must also include: strong commitments that guarantee meaningful transparency, due process, and procedural fairness in regulatory, administrative, and judicial enforcement; rules against localization barriers to trade; effective arbitration of disputes, including strong enforcement provisions through a rigorous Investor-State Dispute Settlement (ISDS) arbitration system that does not exempt coverage of disputes on intellectual property; and a variety of other important commitments drawn from the U.S. model that will ensure a level playing field for U.S. companies competing in China's transitioning economy.

A high-standard BIT will also constitute a meaningful market access agreement, particularly for America's services investors. Since the United States already has one of the most open investment and services markets in the world, U.S. firms have the most to gain from a high standard agreement. As you know, China currently maintains investment restrictions in about one-hundred business sectors, some very broadly defined. Those restrictions limit and in many cases entirely foreclose market access for U.S. companies. If China is willing to commit to significantly reduce these investment restrictions and further open its markets to U.S. manufacturers, agriculture producers, and service investors, the opportunities for global economic growth – and China's own economic reforms – will be significantly improved.

China sent a major signal that it was committed to achieving a meaningful BIT when it agreed two years ago to accept the "negative list" approach used by the United States, meaning the default rule will be that of an open investment environment. It is now time for the governments

to negotiate the limited exceptions to the rule in the coming weeks as China tables its initial offer. This will be a critical opportunity for China to demonstrate its commitment to an ambitious BIT by making a serious offer.

We urge you to keep as a top priority for the remainder of your Presidency the attainment of a high-standard BIT that embodies the foregoing objectives. And, we sincerely hope that this will be a significant focus during your bilateral meeting with PRC President Xi Jinping this fall.<sup>1</sup>

Sincerely,

A handwritten signature in black ink, appearing to read "Jim McNerney". The signature is fluid and cursive, with a large initial "J" and "M".

Jim McNerney

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<sup>1</sup> Please note this letter was prepared by the private sector appointed members of the PEC.