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Congress of the United States

U.S. House of Representatives

COMMITTEE ON WAYS AND MEANS

1102 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-3625

Washington, DC 20515-6348

<http://waysandmeans.house.gov>

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JANICE MAYS,
MINORITY CHIEF COUNSEL

April 27, 2012

The Honorable Timothy Geithner
Secretary of Treasury
U.S. Department of Treasury
1500 Pennsylvania Ave, N.W.
Washington, D.C. 20520

The Honorable Hillary Clinton
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20220

The Honorable John Bryson
Secretary of Commerce
Herbert Clark Hoover Building
1401 Constitution Ave, N.W.
Washington, D.C. 20230

The Honorable Ron Kirk
United States Trade Representative
Office of the United States Trade Representative
600 17th St, N.W.
Washington, D.C. 20508

Dear Secretaries Geithner, Clinton, and Bryson and Ambassador Kirk:

We write to you ahead of next month's U.S.-China Strategic and Economic Dialogue (S&ED) to share some of the key issues that the Ways & Means Committee has identified for the economic track of the dialogue. The S&ED is a particularly important, and effective, forum to address key issues in the U.S.-China economic relationship. This year's meeting provides a valuable opportunity to address a number of longstanding concerns as China begins to undergo a significant political transition. The Administration must ensure that it takes full advantage of the opportunities presented by this forum.

We strongly support the rebalancing agenda that the Administration has pursued through the G20, S&ED, and other bilateral and multilateral forums. While this agenda establishes important macro-level ambition, the United States should not settle for high-level promises when impenetrable market access barriers remain in place that inhibit U.S. exports and provide an unfair advantage to Chinese companies in China and in overseas markets, including the United States. China's rebalancing will not be complete until these barriers are removed.

The Administration should focus its efforts at this year's S&ED on addressing significant and systemic market access barriers that impede U.S. exports and investment. These unfair barriers take various forms, but all cost U.S. jobs. China's barriers are particularly troublesome because they generally provide disproportionate benefit to Chinese state-owned enterprises.

China's continued barriers to U.S. investment significantly harm U.S. export efforts, particularly in the services sector. Last year China issued a revised version of its Catalogue Guiding Foreign Investment that included no significant liberalization and maintains significant foreign ownership restrictions in 100 manufacturing and service sectors. China must commit to – and implement – reforms to open up closed sectors, particularly in the service sector. The Administration should also seek to address investment barriers through the resumption of bilateral investment treaty negotiations, which have been unduly delayed for more than three years.

To give added weight to its commitment to rebalance, and to show a commitment to removing market access barriers, China should open its financial sector, including by lifting equity caps and eliminating other restrictions that limit foreign participation. This liberalization will undoubtedly benefit China and is strongly advocated in the World Bank's recent report, *China 2030*. At the S&ED, the Administration should seek a clear timeline for achieving this goal and hold China accountable if it does not make adequate progress.

Market access is also hindered by China's non-transparent, and often discriminatory, regulatory and licensing procedures. According to recent studies, fewer than 50% of China's ministries provide 30 days for comments when promulgating rules and regulations. In addition, China's regulations and licensing requirements often discriminate against foreign companies. For example, China imposes "seasoning" requirements on financial services firms that require foreign firms to demonstrate five years of experience before seeking approval to provide certain services in China.

Moreover, China's discriminatory standards impede U.S. market access and provide an unfair advantage to Chinese entities. For example, U.S. industry estimates that obtaining a mandatory China Compulsory Certification for certain products can delay those U.S.-made products from reaching the market by six months or more, while Chinese-made products face no delay. China also continues to maintain sanitary and phytosanitary standards (SPS) that are not supported by science and severely limit – and in some cases prohibit – exports of U.S. agriculture products.

Market access problems are further exacerbated by discriminatory government procurement policies, indigenous innovation policies, and China's continued refusal to submit a meaningful offer to accede to the WTO Government Procurement Agreement. China should fully implement its commitment from last year to sever the link between government procurement and indigenous innovation and finalize implementing regulations for the 2010 Government Procurement Law that ensure the equal treatment of U.S. companies. China must also get serious about GPA accession.

China's currency misalignment also continues to be a serious problem and an important element of the Administration's rebalancing initiative. In this regard, continued pressure at the S&ED can supplement ongoing multilateral efforts through the IMF, G20, and WTO. Appreciating the RMB together with other necessary financial sector reform – including lifting equity caps, ensuring equal treatment for foreign investors, and liberalizing the capital account – will help China realize its stated priority of increasing domestic consumption and rebalancing its economy. While recent reforms have been encouraging, more needs to be done. China must let the RMB appreciate and move toward allowing market supply and demand to determine the value of its currency.

As China embarks on a leadership transition, the S&ED is an opportunity to revisit other longstanding challenges, such as China's continued failure to protect intellectual property rights. China's failure to protect U.S. intellectual property rights is both a barrier to U.S. exports and investment and a subsidy to Chinese enterprises. Despite numerous and significant commitments in the S&ED and the JCCT, progress is still elusive. In fact, the trend appears to be worsening. Recent stories of corporate cyber-espionage originating in China are particularly worrisome because it appears that IPR stolen through those efforts are being shared with Chinese entities, and in particular, Chinese state-owned enterprises. China must halt such behavior immediately.

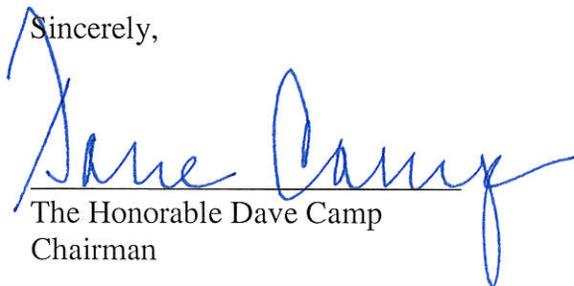
In a similarly alarming vein, China continues to provide substantial WTO-inconsistent subsidies to its state-owned enterprises. Last year the United States counter-notified over 200 Chinese subsidies to the World Trade Organization. China must show serious progress in removing these barriers and greater transparency in identifying subsidies going forward, as it is required to under the WTO.

The S&ED is also an opportunity to highlight and condemn three disturbing trends that have become more pronounced over the past year. First, there appears to be an uptick in mandatory technology transfer requirements that require U.S. companies to forfeit IPR to gain access to the Chinese market. Second, Chinese use of trade remedy laws for retaliatory purposes appears to be increasing, in clear violation of China's WTO obligations. Third, China continues to impose export restraints on raw materials, including rare earth minerals, despite the WTO Appellate Body's clear finding that export restraints on raw materials are inconsistent with China's WTO obligations. China must reverse course on all three of these alarming trends.

In addition, as a new phase of multilateral negotiations at the WTO begins, China continues to be a serious obstacle to progress. China has benefited from globalization and the market liberalization secured through the WTO. In turn, China should recognize these gains and participate fully in encouraging further multilateral liberalization through WTO negotiations.

Finally, as we have noted several times in the past, we encourage the Administration to use objective criteria to assess progress on S&ED commitments and to continue to be diligent in its verification of results from past summits. We urge the Administration to take full advantage of the unique opportunity of this year's S&ED, to take stock of progress on past commitments, and to set ambitious new goals.

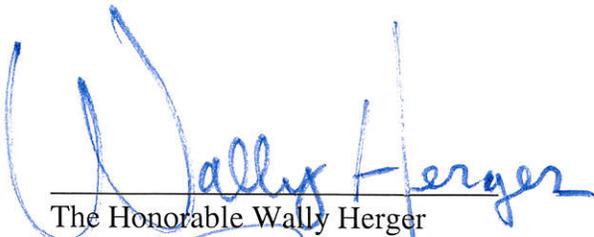
Sincerely,

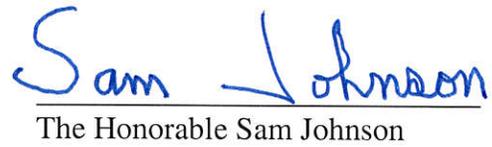


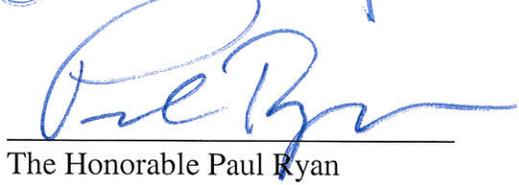
The Honorable Dave Camp
Chairman

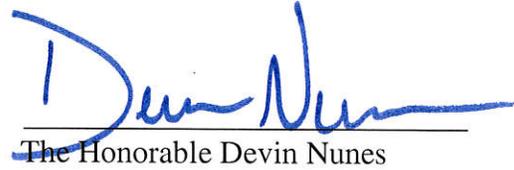


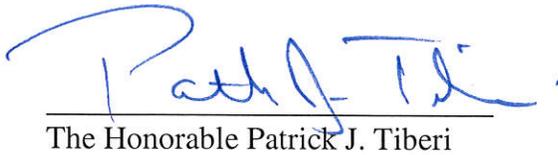
The Honorable Kevin Brady
Trade Subcommittee Chairman


The Honorable Wally Herger


The Honorable Sam Johnson


The Honorable Paul Ryan


The Honorable Devin Nunes

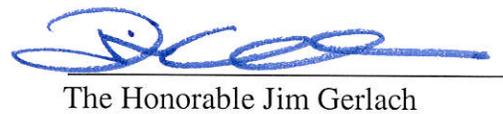

The Honorable Patrick J. Tiberi

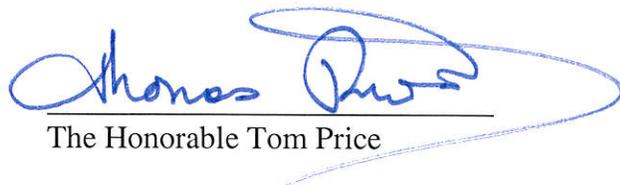

The Honorable Geoff Davis


The Honorable David G. Reichert

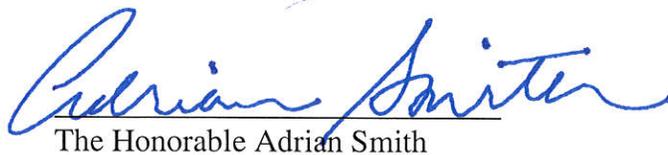

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The Honorable Peter Roskam


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The Honorable Tom Price


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The Honorable Kenny Marchant


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