United States Senate

COMMITTEE ON FINANCE
WASHINGTON, DC 20510–6200

May 2, 2012

The Honorable Timothy Geithner
Secretary of Treasury
U.S. Department of Treasury
1500 Pennsylvania Ave., N.W.
Washington, D.C. 20220

The Honorable Hillary Clinton
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

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

The Honorable Ron Kirk
U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

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

The upcoming Strategic & Economic Dialogue (S&ED) in China must achieve results and resolve ongoing commercial issues between our two countries in order to lay the foundation for a balanced and mutually beneficial U.S.-China economic relationship. As each country approaches a time of political transition, this week's meetings will set the tone of the debate and the scope of ambition to address long-standing trade and investment disputes between the largest and second-largest economies in the world. The stakes could not be higher, and the Obama Administration's track record on China policy could not be more mixed.

We write you to highlight the critical importance of setting a new path that will anchor our economic relationship upon a level commercial playing field, a commitment to play by the rules, and a rebalancing of trade and investment between the United States and China. During the Obama Administration's term in office, the list of unresolved commercial issues continues to grow, while concrete and commercially meaningful successes have been few and far between.

We strongly urge you to use the S&ED meetings in China to convey our serious concerns that China continues to embrace economic nationalism and industrial planning to the detriment of American businesses as well as to the detriment of China's own economy. For the past three years we have seen too much back-sliding on commitments in China and an alarming change in China's economic trajectory away from economic reforms and fair competition – and towards State-led capitalism and support for national champions. If both the United States and China are to grow and thrive in the global economy, the S&ED must achieve concrete results and develop a record of success on a range of issues including those outlined below.

As China moves from export-led growth towards a more balanced consumption-led growth economic model, China must adopt significant domestic economic reforms and investment liberalization. Although China's domestic market offers great potential for American businesses and farmers, its extensive investment, regulatory, and market access barriers significantly limit these opportunities. China must allow American firms to compete on a level playing field so that they can sell goods and services in China's domestic market, and China must also reduce barriers to trade so the United States can export more goods and services. Only through these significant reforms can the current account and trade deficit with China be rebalanced.

The theft of American intellectual property in China continues unabated and is unacceptable. The United States' economic strength centers on the power of our ideas and our innovations. We cannot allow China – or any country – to steal the value of our intellectual property for its own gain, or we risk losing our greatest advantage in the global marketplace. Although we are encouraged that China has agreed to make permanent its campaign against intellectual property theft, protecting intellectual property rights requires more than just campaigning, it requires action. China's protection of intellectual property must be measured by the results on the ground, not by the rhetorical or institutional commitments of your Chinese counterparts. Until China demonstrates its commitment to protecting intellectual property rights in this way, the issue will continue to create substantial strain in our economic relationship.

We are encouraged that after three years of inexcusable delay, the Obama Administration has finally concluded its Model Bilateral Investment Treaty (BIT) negotiations. We reject, however, the Administration's decision to add unrelated and counterproductive social agenda items to its Model BIT – additions that may threaten the viability of the BIT program. We do support aggressively restarting BIT negotiations with China that have languished since President Obama took office. A commercially meaningful BIT could provide American enterprises with the protections and market access that they need in the growing China market.

The continued growth in U.S. agriculture exports to China exemplifies the mutually beneficial potential of the U.S.-China economic relationship. American farmers and ranchers are the most competitive in the world, and they can help feed the large Chinese population as per-capita income and caloric intake improves across the country. But to reach these new markets, China must abide by science-based international food and safety standards. China must not erect arbitrary sanitary and phytosanitary barriers to prevent American agriculture exports from reaching the Chinese market. Erecting such barriers in retaliation for unrelated U.S. policies continues to harm America's competitiveness and farmers and ranchers.

China must further reform its banking sector and liberalize its financial services sector if the goals of economic rebalancing are to be achieved. China's massive intervention into its currency market and its sterilization practices are only possible because of the extensive capital controls and investment restrictions it places on the financial sector. As Secretary Geithner recently stated, "China's financial system is still dominated by large state-owned banks, who favor lending to large state enterprises, with comprehensive controls on deposit interest rates…" This model must be reformed. For China to reach a consumption-led growth model, it must loosen its controls on Chinese banks and financial markets, which will in turn loosen China's control of its currency. Achieving these reforms will increase China's growth, increase opportunities for American financial firms, and begin to unwind China's manipulation of its currency.

When China joined the World Trade Organization (WTO) 10 years ago, it committed to join the Government Procurement Agreement (GPA). China's GPA offers to date have been woefully inadequate. China's refusal to table meaningful government procurement offers effectively blocks American goods and services from competing for China's procurement projects. China's refusal to meaningfully engage on GPA accession also inhibits the United States efforts to get other WTO members to join the GPA.

Many of the problems and challenges American businesses face competing in the Chinese market and against Chinese companies around the world centers on China's State-led capitalist model. China's insistence upon owning and assisting most of the commercial enterprises in its market significantly distorts trade, investment, and pricing. Moreover, by adopting policies that support domestic national champions, China often designs its industrial policies to discriminate against American businesses and other foreign firms. Finally, China's aggressive use of subsidies, tax and licensing preferences, cheap credit, free land, and regulatory favoritism further constrain the ability of American firms to compete on a level playing field. Any significant rebalancing of the U.S.-China trade and investment relationship must address these issues.

The U.S. economy depends upon the power of our ideas and innovation, the liquidity of our markets, and the transparency and openness of our commerce. A State-led capitalist model threatens the very foundations upon which our economy and the global economy are built. As you meet with your counterparts in China, we urge you to convey the critical importance of China adopting reforms that will benefit China, the United States, and the world. Please also warn your counterparts that if they refuse to take on the serious economic leadership responsibilities incumbent upon being the world's second largest economy, such a course will breed resentment and could threaten global economic stability and prosperity.

As China's new leaders assume their positions during the remainder of this year and into 2013, and with our own general elections approaching in the Fall, we must all convey a common message that the economic progress and success of both the United States and China depends upon China adopting policies that promote fair competition, a level playing field, the rule of law, and open markets. We cannot simply wait and hope China will do the right thing, even if it is in its own interest. We must insist upon it. Although some progress has been made, the scope and scale of positive economic reforms in China over the past three years have been too slow. Moreover, too many commitments made by the Chinese over the years have failed to be implemented, or have proven ineffective. We encourage you to work with your counterparts to embrace meaningful reform and to fully implement all of China's commitments.

Sincerely,

Orrin G. Hatch
Ranking Member

Charles E. Grassley
United States Senator

Jon Kyl
United States Senator

John Thune
United States Senator

John Cornyn
United States Senator

Olympia J. Snowe
United States Senator

Michael B. Enzi
United States Senator

Pat Roberts
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Mike Crapo
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