

DAVE CAMP, MICHIGAN,  
CHAIRMAN

WALLY HERGER, CALIFORNIA  
SAM JOHNSON, TEXAS  
KEVIN BRADY, TEXAS  
PAUL RYAN, WISCONSIN  
DEVIN NUNES, CALIFORNIA  
PATRICK J. TIBERI, OHIO  
GEOFF DAVIS, KENTUCKY  
DAVID G. REICHERT, WASHINGTON  
CHARLES W. BOUSTANY, JR., LOUISIANA  
PETER J. ROSKAM, ILLINOIS  
JIM GERLACH, PENNSYLVANIA  
TOM PRICE, GEORGIA  
VERN BUCHANAN, FLORIDA  
ADRIAN SMITH, NEBRASKA  
AARON SCHOCK, ILLINOIS  
LYNN JENKINS, KANSAS  
ERIK PAULSEN, MINNESOTA  
KENNY MARCHANT, TEXAS  
RICK BERG, NORTH DAKOTA  
DIANE BLACK, TENNESSEE  
TOM REED, NEW YORK

JON TRAUB,  
STAFF DIRECTOR

# 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>

November 17, 2011

SANDER M. LEVIN, MICHIGAN, RANKING MEMBER  
CHARLES B. RANGEL, NEW YORK  
FORTNEY PETE STARK, CALIFORNIA  
JIM McDERMOTT, WASHINGTON  
JOHN LEWIS, GEORGIA  
RICHARD E. NEAL, MASSACHUSETTS  
XAVIER BECERRA, CALIFORNIA  
LLOYD DOGGETT, TEXAS  
MIKE THOMPSON, CALIFORNIA  
JOHN B. LARSON, CONNECTICUT  
EARL BLUMENAUER, OREGON  
RON KIND, WISCONSIN  
BILL PASCARELL, JR., NEW JERSEY  
SHELLEY BERKLEY, NEVADA  
JOSEPH CROWLEY, NEW YORK

JANICE MAYS,  
MINORITY CHIEF COUNSEL

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 17<sup>th</sup> St, N.W.  
Washington, D.C. 20508

Dear Secretary Bryson and Ambassador Kirk:

The United States and China both have a significant role to play in restoring global economic health. Both countries have stressed the need to maintain positive economic and financial relations and to fight against trade protectionism. The upcoming meeting of the U.S.-China Joint Commission on Commerce and Trade (JCCT) provides an important opportunity to further that goal by addressing longstanding and specific concerns, improving U.S. market access in China, and furthering China's efforts to rebalance its economy. In addition to addressing specific barriers, the JCCT should help to supplement the broader effort by China to rebalance its economy away from export dependence.

As shown clearly at the Committee's hearing last month, the list of concerns with China is long. These concerns include WTO-inconsistent subsidies including directed lending, imposition of harmful "indigenous innovation" policies, persistent failure to adequately protect intellectual property, currency undervaluation and failure to liberalize the capital account, a lack of regulatory transparency, export restraints, adoption of sanitary and phytosanitary measures that are not supported by science and block U.S. agriculture exports, and other barriers to U.S. exports and investment. While we recognize progress is difficult to make on every issue at each meeting, it is important that the JCCT process be used – throughout the year – to make progress in each of these areas and that the trajectory of change is always in the direction of improved market access for U.S. companies, ranchers, farmers, and workers.

Before the JCCT meeting last December, Members of this Committee wrote expressing concern that, for too long, China's commitments have failed to lead to commercially meaningful market access for U.S. companies. As we said then, the Administration must ensure that progress is measured not just in the number of laws repealed. In our view, the United States should: (1)

develop commercially meaningful metrics to measure the effectiveness of commitments, such as increased market opportunities for U.S. exports to and sales in China, which would increase U.S. jobs; (2) measure progress with China against those metrics; and (3) where sufficient progress fails to materialize, develop new approaches to these longstanding issues.

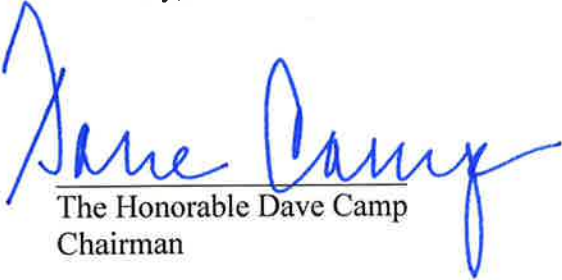
The enforcement of intellectual property rights is a classic example of how China's commitments have failed to lead to real market access for U.S. companies, as well as the need to measure progress based on commercially meaningful metrics. China has been on USTR's Priority Watch List every year for the past seven years, and the United States has been raising concerns about China's unacceptable levels of software piracy, the need for meaningful enforcement of U.S. intellectual property rights with respect to products sold in and exported from China, and unwarranted restrictions on market access for U.S. innovative products into China since at least 2004. Last year at the JCCT, the United States and China focused on software piracy, and China agreed to: adopt software asset management systems for government agencies; make budgetary allocations for purchasing legal software; and commit thirty major Chinese state-owned enterprises to participate in the same program. But, one year later, full implementation has not occurred, and we understand that U.S. companies have not seen a meaningful increase in the market share held by legitimate software, as would be expected from these commitments.

In the same vein, we noted in our letter last year the various trade-distorting policies in China's renewable energy sector. While China agreed to eliminate its WTO-inconsistent local content requirement for wind-power equipment at the 2009 JCCT meeting, we noted that U.S. companies continue to face myriad other market access barriers that have rendered the removal of the local content requirement moot. Among these, we have significant concerns with expanding tech transfer requirements that force U.S. companies to forfeit their intellectual property rights. Unfortunately, while USTR continues to investigate these issues, little commercially meaningful progress appears to have been made in opening this sector and providing a truly level playing field for U.S. companies.

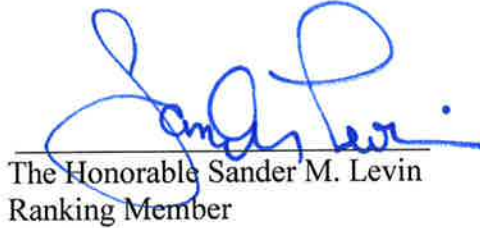
Similarly, last year China made important commitments at the JCCT and at the Strategic & Economic Dialogue (S&ED) to repeal indigenous innovation policies that required U.S. companies to develop their intellectual property in China in order to gain access to China's vast government procurement market. But it is unclear whether Chinese procuring entities, particularly at the sub-central level, have truly opened procurement to U.S. companies that developed their intellectual property outside of China. Moreover, government procurement is only one aspect of China's web of indigenous innovation policies that discriminate against U.S. companies. China also uses standard-setting and product certification processes that require U.S. companies to forfeit their intellectual property rights as a requirement for doing business. This web of discriminatory policies is now being applied to prevent U.S. companies from selling electric vehicles and other next generation auto technology in China. We hope that the upcoming meeting of the JCCT will provide an opportunity for stocktaking and further progress on these issues.

In conclusion, we once again urge you to measure progress with China using commercially meaningful metrics and benchmarks and to press China at the JCCT on that basis. Where progress fails to materialize, the Administration, working with Congress and stakeholders, should seek to develop new approaches to these longstanding issues.


Sincerely,



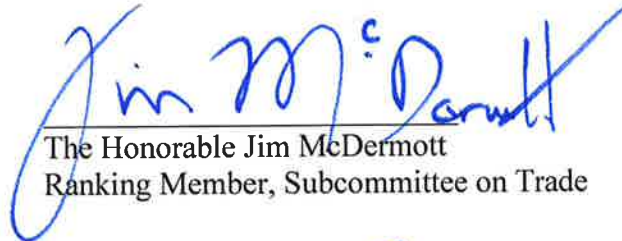
The Honorable Dave Camp  
Chairman



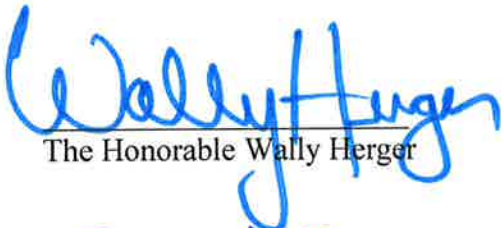
The Honorable Sander M. Levin  
Ranking Member



The Honorable Kevin Brady  
Chairman, Subcommittee on Trade



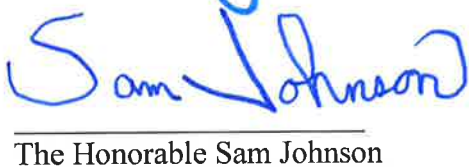
The Honorable Jim McDermott  
Ranking Member, Subcommittee on Trade



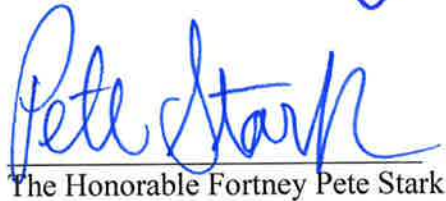
The Honorable Wally Herger



The Honorable Charles B. Rangel



The Honorable Sam Johnson



The Honorable Fortney Pete Stark



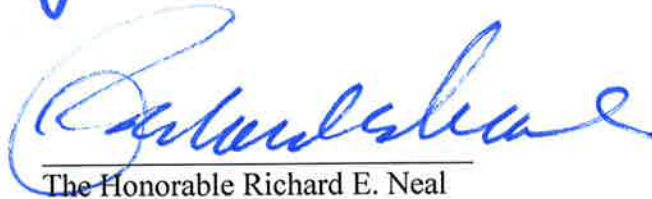
The Honorable Paul Ryan



The Honorable John Lewis




The Honorable Devin Nunes



The Honorable Richard E. Neal

  
The Honorable Patrick J. Tiberi

  
The Honorable Xavier Becerra

  
The Honorable Geoff Davis

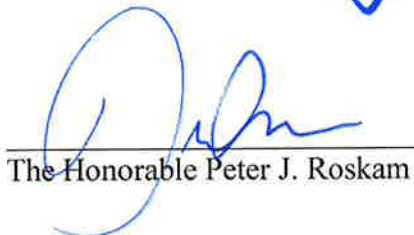
  
The Honorable Lloyd Doggett

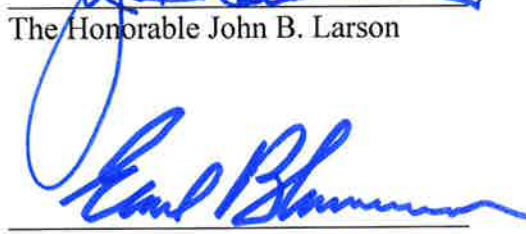
  
The Honorable Dave G. Reichert

  
The Honorable Mike Thompson

  
The Honorable Charles W. Boustany, Jr.


  
The Honorable John B. Larson

  
The Honorable Peter J. Roskam

  
The Honorable Earl Blumenauer

  
The Honorable Jim Gerlach

  
The Honorable Ron Kind

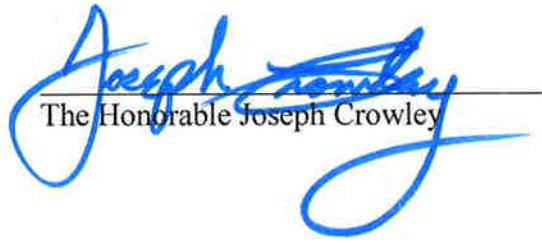
  
The Honorable Tom Price

  
The Honorable Bill Pascrell, Jr.

  
The Honorable Vern Buchanan

  
The Honorable Shelley Berkley

  
The Honorable Adrian Smith

  
The Honorable Joseph Crowley


  
The Honorable Aaron Schock

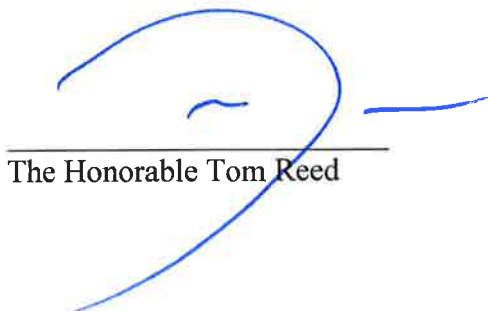
  
The Honorable Lynn Jenkins

  
The Honorable Erik Paulsen

  
The Honorable Kenny Marchant

  
The Honorable Rick Berg

  
The Honorable Diane Black

  
The Honorable Tom Reed