

# United States Senate

WASHINGTON, DC 20510

February 13, 2019

The Honorable Donald J. Trump  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear President Trump:

For decades, China has used unfair trade practices to undermine American jobs and innovation. While the United States Trade Representative's (USTR) Section 301 investigation did not address all the threats unfair Chinese trade practices pose to the U.S., it did identify several serious concerns faced by American workers and businesses. As you approach the final weeks of negotiations with China, we urge you to insist that the deal make substantial, verifiable, and enforceable progress to address the myriad threats identified in USTR's investigation.

Any acceptable agreement must, at a minimum, commit China to cease the predatory practices identified in the Section 301 investigation. As you noted in your March 22, 2018 Presidential Memorandum, the investigation found four main methods by which China attempts to coerce or steal U.S. intellectual property.<sup>1</sup> First, China uses investment restrictions and licensing procedures to require or pressure technology transfer. Second, China imposes restrictions and intervenes in U.S. firms' investment and activities, often leading to technology licensing terms that unfairly favor Chinese firms. Third, China directs and facilitates the acquisition of U.S. companies and assets to obtain cutting-edge American technology. And fourth, China orchestrates state-sponsored cyber-theft to gain access to critical U.S. intellectual property. Your negotiations should seek to extract meaningful commitments from China on each of these elements and end the threats that these policies pose to the U.S. economy and national security.

Furthermore, a satisfactory agreement must include a clear and transparent monitoring and enforcement mechanism that allows the United States to hold China accountable. USTR's Section 301 Report found that despite at least eight previous commitments by China to not use technology transfer as a condition for market access, "China's technology transfer regime continues, notwithstanding repeated bilateral commitments and government statements."<sup>2</sup> There is no reason to expect that this time will be different. The only way to hold the Chinese government to its word is to lay out clear metrics by which we can judge compliance.

For too long, China has used the predatory practices described in USTR's Section 301 Report to undermine American jobs and innovation. Ending those practices is therefore a critical step towards reversing the damage such policies have had on the U.S. economy and restoring balance

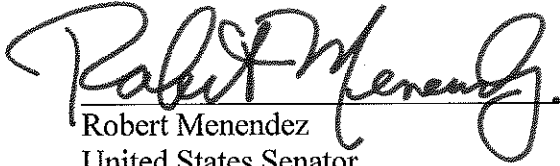
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<sup>1</sup> Presidential Memorandum on the Actions by the United States Related to the Section 301 Investigation. March 22, 2018. <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-actions-united-states-related-section-301-investigation/>.


<sup>2</sup> Findings of the Investigation into China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation under Section 301 of the Trade Act of 1974. Office of the United States Trade Representative. March 22, 2018. <https://ustr.gov/sites/default/files/Section%20301%20FINAL.PDF>.


to the U.S.-China trade relationship. We hope that you will use these final weeks of negotiations to achieve a deal that makes substantial, verifiable, and enforceable progress to address these concerns.


Sincerely,


  
Robert Menendez  
United States Senator

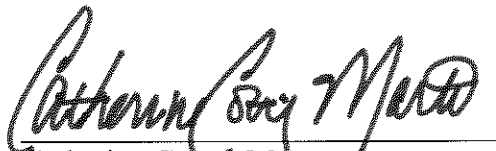
  
Sheldon Whitehouse  
United States Senator

  
Mark R. Warner  
United States Senator

  
Margaret Wood Hassan  
United States Senator

  
Benjamin L. Cardin  
United States Senator

  
Michael F. Bennet  
United States Senator

  
Catherine Cortez Masto  
United States Senator

Cc: The Honorable Robert Lighthizer, United States Trade Representative