

December 10, 2009

The Honorable Wan Gang
Minister of Science and Technology

The Honorable Xie Xuren
Minister of Finance

The Honorable Zhang Ping
Chairman of the National Development and Reform Commission

Dear Minister Wan, Minister Xie and Chairman Zhang:

As heads of associations representing a wide array of companies and industries around the world, we are committed to fostering strong ties with China as it continues its more than 30-year path of economic reform. We are, therefore, deeply troubled by the joint circular (Notice No. 618) posted November 15, 2009 that would implement an Indigenous Innovation Product Accreditation system. Implementation of this system will restrict China's capacity for innovation, impose onerous and discriminatory requirements on companies seeking to sell into the Chinese government procurement market, and contravene multiple commitments of China's leadership to resist trade and investment protectionism and promote open government procurement policies.

We strongly believe that implementation of this program will undermine the more positive relationship that our countries have been working so hard to achieve with China.

The Indigenous Innovation Product Accreditation Program will hinder, rather than promote, China's own goals of advancing its science and technology capabilities. Access to the best products and services from around the world is critical to spurring technological progress in all sectors of the economy, overall economic growth and higher living standards. Not only is the compressed application deadline of December 10, 2009 unworkable, but the very restrictive and discriminatory program criteria would make it virtually impossible for any non-Chinese supplier to participate—even those non-Chinese companies that have made a substantial and long-term investments in China, employ Chinese citizens, and pay taxes to the Chinese government. The result will be less efficient and more costly purchases of innovative products and services by the Chinese government and a slowing of the very technological development that China is pursuing.

Further, the criteria of Notice 618 diverge markedly from global practices and include unique requirements that the product's intellectual property be developed and owned in China, and that any trademarks be originally registered in China. By contrast, quality, performance and value are given only a minimal role. China and the international community have a common interest in ensuring robust protection of intellectual property rights as we forge a closer economic agenda. China's new criteria fail to recognize the truly collaborative, cross-border and global nature of R&D that produces innovation and that few if any products are developed in a single national territory. Establishing local intellectual property ownership as a market access condition would run counter to free and open trade and to fostering collaborative innovation.

The Accreditation Program also runs directly counter to the commitment of President Hu and other world leaders to pursue open trade and investment policies and avoid protectionism. Additionally, it would dilute, if not effectively nullify China's commitment at the July 2009 U.S.-China Strategic and

Economic Dialogue in which China clarified that its procurement policies were open to foreign-invested enterprises (FIEs) and recognized the importance of non-discriminatory procurement policies.

For all of these reasons, we strongly urge the Chinese government not to proceed with the requirements of the joint circular. We would very much appreciate the opportunity to exchange views and share our experiences with your government on how best to advance your science and technology goals and to promote innovation through a fair and transparent selection process.

Respectfully,

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President
American Chamber of Commerce in China
(AmCham-China)

Richard Vuylsteke
President
American Chamber of Commerce in Hong Kong
(AmCham Hong Kong)

Brenda Foster
President
American Chamber of Commerce in Shanghai
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Harley Seyedin
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American Chamber of Commerce in South
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Dennis Slater
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Cc: The Honorable Chen Deming, Minister of Commerce