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# Why an Investment Treaty with China Matters

By John Frisbie

We are starting to hear a lot about a bilateral investment treaty (BIT) with China. Here's hoping we hear a lot more.

The United States and China restarted BIT negotiations last summer when China agreed to include key equal treatment principles advocated by the US-China Business Council and others.

The United States already has an open investment environment and we see the benefits on a daily basis. Foreign investment, including investment from China, creates American jobs, increases local tax revenues, and boosts our overall economic growth.

A BIT with China wouldn't change the rules in the United States. Chinese companies will still be required to adhere to US law; we will still have a review process in place to make sure US national security is not harmed by Chinese (or other foreign) investment.

However a BIT with China would change the rules for US companies in China. China maintains ownership restrictions on American and other foreign companies in about 100 sectors, including manufacturing, services, energy, and agriculture. American ownership in auto plants is limited to 50 percent. Life insurance 50 percent. Cloud computing 50 percent. Soybean oil (used in kitchens in every Chinese home) 49 percent. The list goes on.

These ownership barriers keep American companies from reaching more customers in China. USCBC's annual surveys show that 90 percent of US companies invest in China to sell more in China. US government statistics show the same thing. Seventy-five percent of the sales made by American companies with operations in China stay in China. Another 17 percent is sold in other markets. Only 7 percent of the products made by American companies in China is sent back to the United States.

To put it simply, investment barriers in China are market access barriers. A BIT would significantly open markets for American companies.

Investment openings are particularly important because not every company can make something in the United States and successfully export to China. Transportation costs and long lead times can make a product uncompetitive. Sometimes you need to be closer to your customer to get the business.

In other cases, being in the same location as your customer is simply the nature of business. Services companies need to be where they provide the service. It's hard to sell insurance in China from a desk in New York.

A meaningful BIT – one that significantly dismantles ownership restrictions in China – would help American companies grow sales in what will soon be the world's largest economy.

What about China's state-owned enterprises (SOEs) and their unfair advantages? The good news is that the US model BIT covers SOE concerns. The Obama administration conducted a three-year review of the US model BIT and updated it to address SOEs and other issues. As a result, US negotiators can focus on what matters – whittling down the long list of China's ownership barriers.

These ownership restrictions impact more than just market access, though. A top US concern in China – protecting technology – would also be improved by a BIT. It's a lot easier to protect your technology when you own 100 percent of your operation in China than if you are required to share it with a partner. In addition, BITs bar countries from requiring technology transfer and from providing unfair preferences for domestic technology. All of these provisions will provide meaningful improvements for American companies operating in China.

Can we trust China to honor such an agreement? On the whole, China has a decent albeit not perfect record of complying with agreements that it has signed onto, but the BIT provides an additional way to ensure that it does. It gives the US government and American companies enforceable rules that they can use when China fails to meet its commitments under the BIT.

USCBC's board met with a senior Chinese government leader in Beijing last fall. He acknowledged that China's list of ownership restrictions is too long and invited BIT negotiations with the United States to help drive change. I heard this request again from Chinese officials on my trip to Beijing last week. We should take these requests seriously.

BIT negotiations with China should be a high priority for the Obama administration. Let's see if China is willing and able to move forward with opening its economy to American companies.

If not, we can focus on other things.

But if so, we have an opportunity to change the rules of the relationship with China that would address a set of increasingly troublesome and outdated market access barriers for American companies looking to stay strong in the global economy.

That's why an investment treaty with China matters.

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