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# 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

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JANICE MAYES,  
MINORITY CHIEF COUNSEL

June 20, 2013

President Barack Obama  
The White House  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Dear Mr. President:

We write to you ahead of next week's U.S.-India Strategic Dialogue (SD) to urge you to raise several pressing trade and investment issues and to resume the Trade Policy Forum, which has not been held since 2010.

The past few years have seen a broad enhancement of overall relations between the United States and India. India has risen rapidly in the wake of its significant market opening reforms in the early 1990s. Its GDP has grown from \$189 billion in 1980 to \$1.8 trillion in 2011, lifting millions out of poverty and creating the largest, growing middle class in the world.

At the same time, we have seen a disturbing trend in which India is turning inward and erecting barriers to trade and investment – directly and negatively affecting the ability of U.S. manufacturers, farmers, and ranchers to sell to, enter, and operate in India and access 1.2 billion new customers. India is at a crossroads to determine whether it will continue market liberalizing policies that have led to its strong growth and rapid rise over the past twenty years or turn back the clock. As a result, this year's meetings provide a particularly timely opportunity to encourage India to pursue market-based policies and reforms instead of erecting barriers that hurt U.S. exporters, investors, and workers as well as its own citizens.

We urge the Administration to focus its efforts at this year's SD on deepening and expanding the long-term trade and investment relationship by addressing urgent systemic bilateral market access issues. As India strives to prepare its economy for the challenges of its changing demographics – around one-half of the population is under 25 years of age – and in the context of a growing current account deficit and dropping inward investment and growth rates, the country is putting in place barriers to shield Indian manufacturing industries and agricultural

production from foreign competition. These barriers take various forms, but all hurt U.S. workers and businesses and cost U.S. jobs.

For example, apart from applying some of the highest tariff rates in the world, India hinders our access to its market through non-transparent, and often discriminatory, regulatory and licensing procedures. The most blatant have been a variety of forced localization measures. For example, the Indian central government has imposed through the Preferential Market Access (PMA) policy extensive local content requirements on procurement of electronic products by the government and private sector entities in the information and communications technology sector, a marked departure from India's previously market-oriented incentive policies. Another example is India's National Solar Mission, which promotes the use of solar energy in India, including through inhibiting investments by foreign firms. We support the Administration's decision to challenge these solar policies through World Trade Organization (WTO) litigation not only because we believe the measures are inconsistent with India's WTO obligations, but because the action more broadly conveys U.S. concerns about forced localization policies, including the PMA.

India's intellectual property rights regime has also suffered from forced localization, and India's pharmaceutical IP climate has become increasingly difficult. To date, India has issued compulsory licenses (CLs) or revoked patents for eight drugs, in addition to enacting challenging drug pricing policies. The direct beneficiary of these policies is India's generic pharmaceutical industry, one of the largest in the world. India's critics have noted that, while India has considerable health care challenges, these policies set a troubling precedent and have a chilling effect on foreign investment. While the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), as interpreted by the Doha Declaration on the TRIPS Agreement and Public Health (Doha Declaration), permits the issuance of CLs under limited circumstances, it makes clear that countries cannot use them in a manner that discriminates against imports or in favor of domestic manufacturing. India's actions thus appear to contravene India's WTO obligations and the Doha Declaration. As 40 million U.S. workers are employed directly or indirectly in IP-intensive industries, India's policies also have a very real, negative impact on jobs and investment in the United States. At the SD, we urge the Administration to communicate the detrimental effects of the policies and convey that high standards of IP protection are essential if India is to become an innovation economy.

In addition, India provides paltry market access for U.S. agriculture exports, leaving us with a significant deficit. India imports very little U.S. grain and few U.S. protein exports, and even bans poultry and dairy. High tariffs, non-science-based sanitary and phytosanitary measures, and burdensome import licensing procedures prevent U.S. farmers and ranchers from selling their world-class products in the Indian market. We support your Administration's WTO challenge of India's poultry market access policies and urge you to ensure that India more broadly reduces its unwarranted barriers to U.S. agriculture exports.

Another area ripe for additional engagement is investment. Two-way foreign direct investment (FDI) between the U.S. and India has risen substantially in recent years, but not to its full potential. While India has largely opened its economy to foreign investment, it continues to maintain a complex system of caps on foreign investment in many key sectors. We believe India



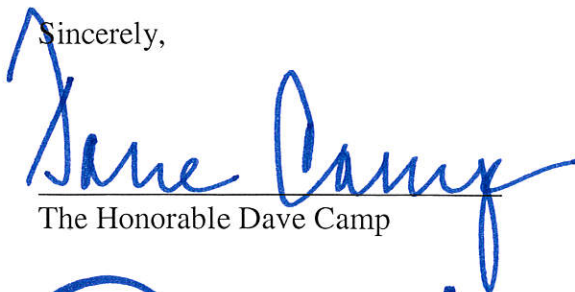
should commit to and implement reforms to open up closed sectors. We urge you to address these and other investment barriers by pressing to resume the bilateral investment treaty negotiations as soon as possible.

India has played an increasingly unproductive role in multilateral negotiations, particularly at the WTO. India has resisted efforts to develop a positive negotiating agenda in Geneva – even when the issues being negotiated, such as trade facilitation, expansion of the Information Technology Agreement, and the Trade in Services Agreement, would be to its benefit. At the SD, we urge the Administration to convey that India, which has benefitted from globalization and market liberalization secured through the WTO, should recognize these gains and participate constructively in these multilateral and plurilateral trade liberalization efforts.

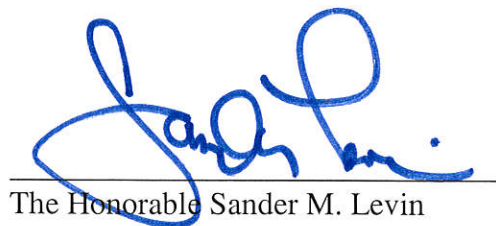
When the United States and India kicked off the SD framework in 2009, there were high hopes that a predictable schedule of engagement would lead to economic gains for both countries. However, we have not seen adequate results on trade and investment matters, and India's lack of engagement at the highest levels has severely impeded the United States' ability to raise and address important bilateral trade and investment issues. In addition to focusing on the immediate issues at hand, we strongly encourage the Administration to use this SD to map out a bilateral trade and investment engagement strategy led by your U.S. Trade Representative and to schedule a Trade Policy Forum as soon as possible. Sustained opportunities for dialogue at specific intervals can improve the ability of U.S. businesses and workers to receive the full benefit of our bilateral economic relationship.

India is a leader among emerging markets, making it all the more imperative that it choose a market-based path to development. However, the recent trends give us much pause. As programs such as the Generalized System of Preferences, of which India remains the largest beneficiary, face reauthorization, we see growing concerns about the bilateral economic relationship. As strong supporters of that relationship, we hope that the trade and investment problems that our businesses and workers face in the Indian market are resolved quickly. We urge your Administration to take full advantage of this year's SD to address these significant bilateral concerns, take stock of the state of the U.S.-India economic relationship, and set ambitious new goals.

Sincerely,

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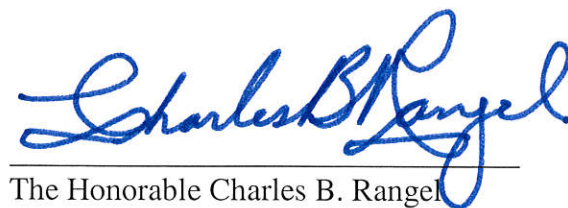
The Honorable Dave Camp

A handwritten signature in blue ink, appearing to read "Sander M. Levin", written over a horizontal line.


The Honorable Sander M. Levin


A handwritten signature in blue ink, appearing to read "Devin Nunes", written over a horizontal line.

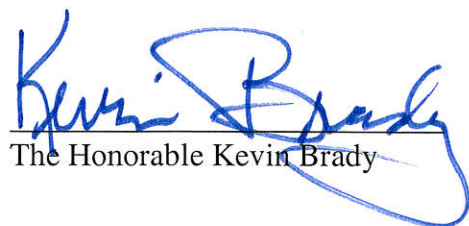
The Honorable Devin Nunes

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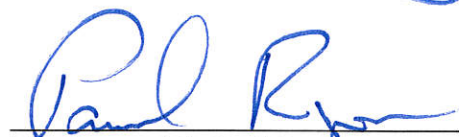
The Honorable Charles B. Rangel

  
The Honorable Sam Johnson

  
The Honorable Jim McDermott

  
The Honorable Kevin Brady

  
The Honorable Xavier Becerra


  
The Honorable Paul Ryan

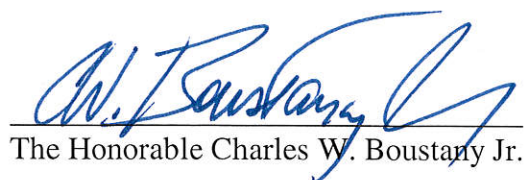
  
The Honorable Mike Thompson

  
The Honorable Pat Tiberi

  
The Honorable John B. Larson

  
The Honorable Dave G. Reichert

  
The Honorable Earl Blumenauer

  
The Honorable Charles W. Boustany Jr.

  
The Honorable Ron Kind

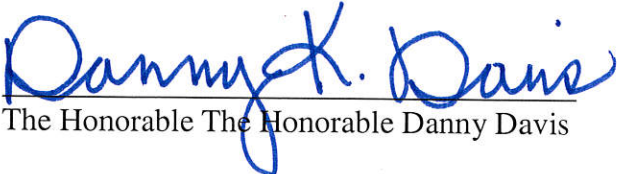
  
The Honorable Peter J. Roskam

  
The Honorable Bill Pascrell Jr.

  
The Honorable Jim Gerlach

  
The Honorable Allyson Schwartz

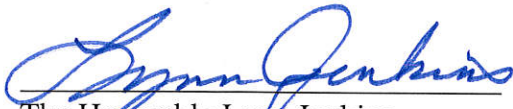
  
The Honorable Vern Buchanan

  
The Honorable The Honorable Danny Davis

  
The Honorable Adrian Smith

  
The Honorable Linda Sánchez

  
The Honorable Aaron Schock

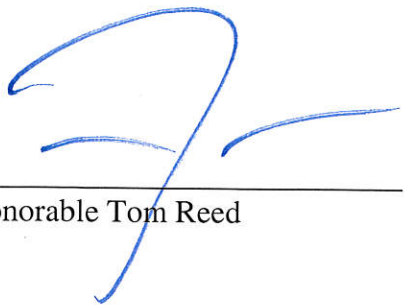
  
The Honorable Lynn Jenkins

  
The Honorable Erik Paulsen

  
The Honorable Kenny Marchant

  
The Honorable Diane Black





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The Honorable Tom Reed




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The Honorable Todd Young



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The Honorable Mike Kelly



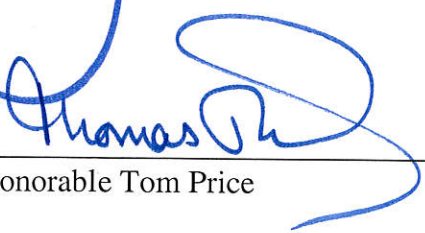
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The Honorable Tim Griffin



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The Honorable Jim Renacci



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The Honorable Tom Price

Cc: The Honorable John Kerry, Secretary of State  
The Honorable Jacob J. Lew, Secretary of the Treasury  
The Honorable Tom Vilsack, Secretary of Agriculture  
The Honorable Michael Froman, United States Trade Representative  
The Honorable Cameron F. Kerry, Acting Secretary of Commerce