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Contact: Dan Hockensmith (202) 454-5108  
[dhockensmith@citizen.org](mailto:dhockensmith@citizen.org)

## **Proposed U.S.-China Bilateral Investment Treaty Would Expose U.S. Laws to Extrajudicial Attacks by Chinese Corporations Operating Here, Incentivize More Offshoring of American Jobs**

### ***Chinese Acquisitions, Establishment of U.S. Subsidiaries Growing at 80 Percent Annual Rate with 820 Major Deals Totaling More Than \$37 Billion Since 2000***

WASHINGTON, D.C. — At a time of rapid growth in Chinese acquisition of U.S. firms, establishing the U.S.-China Bilateral Investment Treaty (BIT) discussed during this week’s U.S.-China Strategic and Economic Dialogue is an especially terrible idea, said Public Citizen.

The treaty’s investor-state dispute settlement provisions (ISDS) would empower Chinese corporations invested here to directly challenge U.S. public interest safeguards before extrajudicial tribunals that could order payment of U.S. Treasury dollars to compensate the firms for U.S. laws that they claim violate their new treaty rights.

Over the past five years, there has been a [surge in Chinese corporations acquiring or creating U.S.-based subsidiaries](#), with such deals growing at an annual rate of 80 percent. Since 2000, Chinese corporations have acquired or installed about 820 U.S.-based firms in deals totaling more than \$37 billion. Nearly 90 percent of these deals, by value, were Chinese takeovers of existing U.S. companies. Not included in these numbers are many instances of Chinese firms purchasing controlling shares of U.S. companies’ stock.

“How could it be in our interest to empower the ever-greater number of Chinese firms operating here – many owned by the Chinese government – to circumvent U.S. courts and challenge our financial, environmental, health and other public interest policies before foreign tribunals empowered to order payment of our tax dollars to these Chinese firms?” said Lori Wallach, director of Public Citizen’s Global Trade Watch. “A U.S.-China BIT would invite a wave of attacks on our domestic laws by Chinese corporations through a system of private foreign tribunals that are a threat to our sovereignty and solvency.”

By providing new special protections and rights for U.S. firms that relocate to China, the treaty would remove many of the costs and risks of relocating and incentivize another wave of American job offshoring to China.

Under a U.S.-China BIT’s investor state dispute settlement provisions, Chinese corporations with U.S.-based operations and firms with significant Chinese investment would be empowered to

drag the U.S. government before extrajudicial tribunals and demand taxpayer compensation for a broad array of non-trade-related policies. These tribunals, composed of three private attorneys, would be authorized to order unlimited U.S. taxpayer compensation for alleged losses to the Chinese firms' "expected future profits" on the basis of claims that U.S. policies violated the firms' sweeping, BIT-granted foreign investor "rights" not available to U.S. firms.

For example, thanks to its purchase [last year of Virginia-based Smithfield Foods](#), the largest pork producer in the world, the Chinese corporation Shuanghui International could take advantage of a U.S.-China BIT's investor privileges to challenge new U.S. food safety standards before a foreign tribunal. And Sinopec, a Chinese corporation that acquired a 50 percent stake [in 850,000 acres of oil and natural gas leases](#) owned by Chesapeake Energy last year, could use a U.S.-China BIT to skirt U.S. domestic courts and directly challenge future climate or fracking regulations.

Corporations directly controlled by the Chinese government have been responsible for [about half](#) of the Chinese acquisitions and other investments in U.S.-based firms to date. Experts have testified before Congress that expanded Chinese [control of U.S.-based companies is guided not only by market forces, but also by Chinese government strategy](#). Under a U.S.-China BIT, the Chinese government would be able to use state-owned enterprises doing business in the United States to directly challenge U.S. domestic laws on the basis of substantive investor "rights" that are even more expansive, and more threatening to domestic regulations, than those found at the World Trade Organization.

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