The U.S.-China Bilateral Investment Treaty (BIT)

Expanding Job Outsourcing and Corporate Attacks on Our Laws

The U.S.-China Bilateral Investment Treaty (BIT) would make it easier for multinational corporations to outsource more American jobs to China. It would allow Chinese corporations operating in the United States to demand unlimited U.S. taxpayer compensation for U.S. laws and policies that they claim violate their new treaty rights. At the core of the China BIT are the investor outsourcing protections that were also at the heart of the Trans-Pacific Partnership (TPP) and that the Trump administration has proposed to eliminate from the North American Free Trade Agreement (NAFTA). So why hasn't the Trump administration ended negotiations on the dangerous China BIT?

More Job Outsourcing

The U.S.-China BIT includes incentives to outsource American jobs and a corporate tribunal system that can order U.S. taxpayers to compensate foreign corporations. The U.S.-China BIT includes special investor protections for U.S. corporations that seek to outsource production to China that make that choice cheaper and less risky. This includes guarantees of privileged treatment in China for firms that relocate, as well as a way to resolve problems with the Chinese government without having to rely on Chinese courts. This would remove many of the costs and risks of relocating and incentivize another wave of American job-outsourcing to China.

New Rights for Chinese Firms to Demand U.S. Taxpayer Compensation

The deal would also grant new rights to Chinese multinational corporations operating within the United States to bypass domestic courts and directly "sue" the U.S. government before a panel of three corporate lawyers. These lawyers can award the corporations unlimited sums to be paid by America's taxpayers, including for the loss of expected future profits. These corporations need only convince the lawyers that a U.S. law or safety regulation that we rely on for a clean environment, essential services, and healthy communities violates their new treaty rights. These decisions are not subject to outside appeal and the amount they can order taxpayers to give corporations has no limit. This dangerous tribunal regime is formally known as Investor-State Dispute Settlement (ISDS).

This deal would newly empower hundreds of corporations to challenge U.S. laws. For example, the Chinese corporation Shuanghi International that purchased Virginia-based Smithfield Foods – the largest pork producer in the world – would be empowered to challenge new U.S. food safety standards. Similarly, the Chinese corporation Sinopec that acquired a 50 percent stake in 850,000 acres of oil and natural gas leases owned by Chesapeake Energy could challenge future climate or fracking regulations. Moreover, many of these corporations are not truly private actors. Over one-third of the Chinese firms that would be newly empowered to challenge our laws are directly controlled by the Chinese government. 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.

Current Status of Negotiations

The U.S.-China BIT negotiations started in 2008 under the George W. Bush administration. The Obama administration had been rushing to finish the deal by the end of 2016, holding negotiating sessions every two weeks. President Trump – who promised voters that he would fix our broken trade policy, particularly with China – has conspicuously not announced U.S. withdrawal from the China BIT negotiations. (He also failed to deliver on his promise to declare China a currency manipulator on his first day in office.) Because China BIT negotiations have been conducted in secret, it is unclear how much more time would be needed to finalize the deal. If it were completed, the treaty would require a two-thirds Senate majority vote to be approved.

Reviving the TPP's Worst Elements Via the China BIT

The TPP's corporate tribunals and incentives to outsource American jobs were key reasons the TPP could never gain a majority in the U.S. Congress after years of civil society activists campaigning against it. President Trump issued an Executive Order formally removing the United States from the dead-on-arrival TPP. But the China BIT takes this most controversial aspects of the TPP and expands it to China – in stark contrast to Trump's "get tough on China" rhetoric.

Stopping the U.S.-China BIT Should Be a No-Brainer for Trump – So Why Hasn't He Denounced It Yet?

The answer may well lie in Trump's Cabinet, which he has filled with employees from scandal-riddled Goldman Sachs, a banking giant that has been lobbying for the China BIT for years. Goldman Sachs has been a leading booster for the China deal. Trump's top economic advisor, former Goldman Sachs CEO Gary Cohn, received a $285 million departure package from the corporation before joining the administration. Cohn cultivated a chummy relationship with the previous U.S. Trade Representative (former Citigroup executive Michael Froman) while lobbying for the China BIT and other corporate-rigged deals. In March 2017, Cohn reportedly succeeded in quashing a pending executive order to terminate China BIT negotiations. And Treasury Secretary Steven Mnuchin informed the U.S.-China Business Council in June that the administration plans to revive China BIT negotiations.

If concluded, the China BIT would be a dangerous expansion of corporate power, threatening consumers, workers and the environment. That's why the Citizens Trade Campaign – a coalition of environmental, labor, consumer, family farm, and faith groups representing 12 million members – has called for an end to negotiations.

TAKE ACTION:

Call your Senators at (202) 224-3121. Urge them to demand an end to the China BIT negotiations and any negotiations that could expand the dangerous ISDS system. Instead, our government should replace past trade and investment deals, starting by removing ISDS.