Congress of the United States
Washington, DC 20510

August 19, 2026

The Honorable Todd Blanche
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable Marco Rubio
Secretary
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Attorney General Blanche and Secretary Rubio:

We write to urge the Department of Justice, in consultation with the Department of State, to open a formal investigation into whether signed agreements and other institutionalized engagements between the State of California, including its regulatory agencies and the University of California (UC) system, and organs and entities of the People's Republic of China (PRC or China) and the Chinese Communist Party (CCP), China's dominant political institution, constitute agreements or compacts with a foreign power prohibited by, or requiring congressional consent under, Article I, Section 10 of the Constitution, and whether they unlawfully intrude on the President's conduct of foreign policy.[1] The National Association of Scholars' latest report, *Behind the Climate Curtain*, documents an alleged years-long pattern in which Governors Jerry Brown and Gavin Newsom tied California's climate regulators to Beijing's Party-State, embedded PRC-linked institutions inside the state's regulatory apparatus, and deliberately structured these arrangements to circumvent President Trump's decisions in climate diplomacy.[2] These individuals appear to have engaged in unlawful, unconstitutional activity, and their efforts to support Communist China's strategic aims – at the expense of America's – must be confronted.

Article I, Section 10 prohibits any state from entering any "Treaty, Alliance, or Confederation" and bars any "Agreement or Compact" with a foreign power absent congressional consent. Chief Justice Taney, writing for a plurality, explained that the Framers chose the broadest possible words in order "to cut off all connection or communication between a state and a foreign power[.]"[3] The Supreme Court has interpreted the Compact Clause to require Congressional consent for arrangements tending to increase state power in ways that "encroach upon or interfere with the just supremacy of the United States[.]"[4] Critically, the U.S. State Department applies this test in the context of state arrangements with foreign powers.[5] The Court has also

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[1] U.S. CONST. art. I, § 10; Stephen P. Mulligan, *Constitutional Limits on States' Power over Foreign Affairs*, Cong. Rsch. Serv., LSB10441 (August 15, 2022), https://www.congress.gov/crs-product/LSB10808.
[2] Ian Oxnevad, *Behind the Climate Curtain: China's Hidden Role in California's Energy Mandates and University Partnerships*, National Association of Scholars (May 18, 2026), https://www.nas.org/report/behind-the-climate-curtain/full-report/.
[3] *Holmes v. Jennison*, 39 U.S. (14 Pet.) 540, 572 (1840) (opinion of Taney, C.J.).
[4] *Virginia v. Tennessee,* 148 U.S. 503, 519 (1893).
[5] Sally J. Cummins and David P. Stewart, eds., *Digest of United States Practice in International Law 2001*, International Law Institute, at 205 (2002), https://2009-2017.state.gov/documents/organization/139600.pdf.

stated that "[p]ower over external affairs is not shared by the States[,]"[6] and that even state action with a mere "direct impact upon foreign relations"[7] may be unconstitutional.

Similarly, in *Crosby v. National Foreign Trade Council,*[8] the Court unanimously struck down a state law that compromised the President's capacity for effective diplomacy called for in a federal statute, and in *American Insurance Association v. Garamendi*[9], the Court reaffirmed that "at some point an exercise of state power that touches on foreign relations must yield to the National Government's policy," which may even include foreign policy embodied in executive agreements rather than statute.[10] In these and many other cases, the Court has regularly emphasized the importance of federal supremacy in foreign affairs. Instead of recognizing its own limitations under the United States Constitution, however, California's pro-CCP state leadership decided to dig in and engage more closely with our foremost national enemy.

California has routinely employed the instrumentalities of its state government, including its university system, in service of inappropriate bilateral relations with Communist China. In 2013, then Governor Jerry Brown signed a memorandum of understanding with Xie Zhenhua, then head of China's central planning agency, the National Development and Reform Commission (NDRC), the first agreement of its kind between the PRC and a U.S. state; this agreement committed California to joint work with Beijing on carbon reduction, emissions trading, and electric vehicles. The California Air Resources Board (CARB) signed its own memorandum with the NDRC that year, building on ties to the Beijing Environmental Protection Bureau dating to 2005. CARB Chairwoman Mary Nichols personally attended the launch of China's cap-and-trade pilot in Shenzhen, and CARB soon began co-leading a zero-emission vehicle "Policy Lab" with a PRC government automotive research center through UC Davis.[11] In 2015, the UC system signed a memorandum with Tsinghua University, a PRC government academic institution, aimed at shaping bilateral climate commitments. Tsinghua University, often described as "China's MIT" and from which Xi Jinping graduated, is "strongly and institutionally committed to military-civil fusion and to supporting the advancement of military applications of AI."[12] It hosts advanced defense laboratories engaged in missile technology, rocket systems, and projects linked to China's nuclear weapons program.[13] According to the NAS report, Tsinghua has also been tied to cyberattacks (including against Alaska's state government), and the building of surveillance tools used in Xinjiang Uyghur Autonomous Region (XUAR).[14]

In 2017, President Trump lawfully announced the United States' withdrawal from the Paris Climate Agreement. Governor Brown's response was to fly to Beijing. Then Governor Brown

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[6] *United States v. Pink*, 315 U.S. 203, 233 (1942).
[7] *Zschernig v. Miller*, 389 U.S. 429, 441 (1968).
[8] *Crosby v. National Foreign Trade Council*, 530 U.S. 363, 381 (2000).
[9] *American Insurance Ass'n v. Garamendi*, 539 U.S. 396, 413 (2003).
[10] *Id.*
[11] Oxnevad, *supra* note 2, at ch. 1 (discussing the 2013 Brown–NDRC MOU; the CARB–NDRC MOU; the CARB–Beijing EPB relationship since 2005; Nichols at Shenzhen; and the UC Davis ZEV Policy Lab with CATARC).
[12] *Technology, Trade, and Military-Civil Fusion: China's Pursuit of Artificial Intelligence, New Materials, and New Energy: Hearing Before the U.S.-China Econ. & Sec. Rev. Comm'n,* 116th Cong. (June 7, 2019), https://www.uscc.gov/sites/default/files/2019-10/June%207,%202019%20Hearing%20Transcript.pdf.
[13] Oxnevad, *supra* note 2, at ch. 1 (Australian Strategic Policy Institute, China Defense Universities Tracker, s.v. "Tsinghua University," https://unitracker.aspi.org.au/universities/tsinghua-university).
[14] *Id.*

met behind closed doors with China's leader, Xi Jinping, and signed an agreement with China's Minister of Science and Technology (MOST) to bypass the President's withdrawal from the Paris Agreement. That same week, Brown signed multiple agreements with PRC officials, including MOST and Jiangsu and Sichuan provinces, focusing on the establishment of a California-China Clean Technology Partnership Fund (as well as agreements to promote general green energy technology and energy cooperation).[15][16] Meanwhile, then-CARB Chairwoman Nichols, the regulator responsible for enforcing California's vehicle emissions standards, pitched those same mandates to BYD, Geely, Great Wall, and other PRC EV manufacturers, positioning these firms to profit from the new California requirements.[17] What California's political leadership has been able to do over the years is nothing short of an obscene abuse of power; they appear to have fused state regulatory power, and all associated national-level consequences, with a foreign adversary's industrial strategy.

Consider that California, by nature of its economic size, can easily drive U.S. national standards and policies, as well as corporate behaviors, purely by nature of what it sets for state requirements.[18] This sort of outsized influence gives the PRC all the incentive needed to promote subnational agreements – especially if the end result will result in amending U.S. policy on terms that support Communist China's strategic aims. As part of their Made in China (MIC) 2025 initiative, the PRC has sought to achieve technological breakthroughs in key sectors deemed necessary to secure global economic and technological leadership, including electric vehicles.[19] The manner in which the PRC has gained global market share of these sectors includes massive government subsidies, structural excess capacity, forced technology transfer and IP theft, market access restrictions, tax preferences, forced joint ventures and partnerships, and several other tactics that have reinforced their disproportionate market share in multiple industries. Any U.S. state, including California, would be well served by vigilance against China's efforts to leverage its growing market influence to influence U.S. domestic and foreign policy.

In 2021, Governor Newsom signed Assembly Bill 39, codifying the California-China Climate Institute (CCCI) into state law and directing it, in partnership with Tsinghua University, to shape U.S. and subnational climate policy.[20] The CCCI, housed at UC Berkeley, was initially launched in 2019 under the co-chairmanship of former Governor Brown and Xie Zhenhua, former head of

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[15] News Release, Office of Governor Edmund G. Brown Jr., *China Day 3: Governor Brown Meets with President Xi of the People's Republic of China, Signs Agreement with National Government to Boost Green Technology* (June 6, 2017), https://archive.gov.ca.gov/archive/gov39/2017/06/06/news19832/index.html.

[16] Oxnevad, *supra* note 2, at ch. 1. *See also* Memorandum of Understanding on California-Jiangsu Clean Technology Partnership between State of California of the United States of America And Province of Jiangsu of the People's Republic of China (June 5, 2017), https://archive.gov.ca.gov/archive/gov39/wp-content/uploads/2017/09/6.5.17_Jiangsu_MOU.pdf.

[17] News Release, California Air Resources Board, *California and China Team Up to Push Millions More Zero-Emission Vehicles* (June 6, 2017), https://ww2.arb.ca.gov/news/california-and-china-team-push-millions-more-zero-emission-vehicles/printable/print

[18] News Release, U.S. Env't Protection Agency*, EPA Fulfills Statutory Obligation by Transmitting Four California Waiver Rules to Congress*, (June 12, 2026), https://www.epa.gov/newsreleases/epa-fulfills-statutory-obligation-transmitting-four-california-waiver-rules-congress.

[19] Karen M. Sutter, *Made in China 2025 and China's Industrial Policies*, Cong. Rsch. Serv., IF10964 (updated 2026), https://crsreports.congress.gov/product/pdf/IF/IF10964.

[20] Assemb. B. 39, 2021-2022 Leg., Reg. Sess. (Cal. 2021-2022), *Climate Change: California-China Climate Institute*, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB39.

China's central planning agency, the NDRC[21], and the CCP's longtime chief global climate envoy; Brown continues to lead the Institute today, with Nichols as Vice Chair. By its own account, the CCCI has helped integrate PRC experts into California's regulatory agencies.[22] Between 2021 and 2022, the CCCI and Tsinghua convened private, off-the-record discussions on the design of California's carbon market in which the head of the state's cap-and-trade program participated. Those sessions were financed by the Berggruen Institute and the China Institute for Innovation and Development Strategy, an organization founded by a career CCP propaganda official whose leadership has included a former head of a Ministry of State Security bureau. Jamestown Foundation research has separately identified Tsinghua and China's Ministry of Ecology, California's counterparty on 2018 and 2022 memoranda, as organizations operating under the CCP's United Front Work Department and related PRC efforts to target U.S. climate policy.[23] **Entities proximate to PRC intelligence financed closed-door sessions at which California regulators discussed California regulatory design with PRC counterparts**.

Governor Newsom, whose love affair with Beijing dates to a 2005 memorandum he signed as mayor with then-Shanghai mayor Han Zheng, has made the CCCI project his own. In October 2023, he met with Xi Jinping, Wang Yi, and Han Zheng, and signed a memorandum[24] with the NDRC charging CARB, the California EPA, the Natural Resources Agency, and the Energy Commission to develop a joint action plan with China's central planners. The trip yielded the first-ever Declaration of Enhanced Subnational Climate Action[25] between China and a subnational government, with the CCCI brokering the meetings. The Hewlett Foundation paid $300,000[26] for the delegation's travel while granting millions to the CCCI (and even more to Energy Foundation China, a China-based climate nonprofit).[27]

The years-long ties between California and China in climate policy have produced cascading effects, none of them good. San Francisco and Los Angeles bought Chinese BYD buses under state mandates, BYD America received $120 million in cap and trade funds[28], and Governor Newsom signed a $1 billion no-bid pandemic mask contract with BYD (later extended by

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[21] Kara Manke, *UC Berkeley, Former Gov. Jerry Brown Partner with China to Spur Climate Action*, Berkeley News (September 23, 2019), https://news.berkeley.edu/2019/09/23/uc-berkeley-former-gov-jerry-brown-partner-with-china-to-spur-climate-action/.

[22] *Id.*

[23] Oxnevad, *supra* note 2, at ch. 3 (documenting the off-the-record dialogues of September 2021 through April 2022, the founding of CIIDS and its Ministry of State Security ties, and Jamestown Foundation findings on Tsinghua and the Ministry of Ecology as United Front umbrellas).

[24] Memorandum of Understanding on Enhancing Cooperation on Strengthening Low-Carbon Development and Green Transition Between the National Development and Reform Commission of the People's Republic of China and The Government of the State of California of the United States of America (Oct. 25, 2023), https://www.energy.ca.gov/sites/default/files/2023-11/Ca-China-MOU-10-25-23_NDRC_ada.pdf.

[25] Declaration of Enhanced Subnational Climate Action Between the State of California and the National Development and Reform Commission of the People's Republic of China, Office of the Governor (Oct. 25, 2023), https://www.gov.ca.gov/wp-content/uploads/2023/10/JOINT-STATEMENT-10.25.docx.pdf.

[26] Thomas Catenacci, *Left-Wing Hewlett Foundation Bankrolled Gavin Newsom's Trip to China, Records Show,* The Washington Free Beacon (July 24, 2025), https://freebeacon.com/california/left-wing-foundation-that-funds-ccp-affiliated-green-groups-in-china-also-paid-for-gavin-newsoms-trip-to-china-records-show/.

[27] *Id.*

[28] Oxnevad, *supra* note 2, at chs. 1-2 (documenting the BYD bus procurements and $120 million in cap-and-trade funds to BYD America).

another $316 million) while BYD gave $40,000 to his campaign funds.[29] On June 8, 2026, the Department of War added BYD to its Section 1260H list of Chinese military companies operating in the United States.[30] This is the predictable result of the left's mandate-driven climate program: with Beijing controlling roughly 90 percent of rare-earth refining and roughly 70 percent of global electric vehicle production, California's gas car bans and net zero mandates risk forcing American dependency on Chinese supply chains while raising costs on millions of Californians.[31] So much for affordability.

If Governor Newsom would like to assume foreign affairs authorities constitutionally vested in the federal government, that option, however quixotic, ill-conceived, and downright laughable, is theoretically available to him. As it stands, however, he is likely violating the Constitution, serving as China's useful pawn while destroying the pocketbooks of millions of hardworking Americans. We believe these arrangements between California and Communist China exhibit many features the Supreme Court has deemed constitutionally significant: reciprocal commitments,[32] standing institutional machinery, designated state agencies executing joint plans with foreign ministries, and an avowed purpose of sustaining an agreement the President has twice repudiated, all in dual-use domains central to China's military-civil fusion strategy.[33] We therefore respectfully request that the Department of Justice, in coordination with the Department of State, as appropriate, consider the following requests:

1. Open a formal investigation, in conjunction with the Department of State, into whether California's climate, energy, and technology engagements with Communist China-linked entities, including the 2013 Brown-NDRC and CARB-NDRC memoranda, the 2015 UC-Tsinghua memorandum, the 2017 Ministry of Science and Technology, Jiangsu, and Sichuan agreements, the 2018 and 2022 Ministry of Ecology memoranda, the 2023 NDRC, provincial, and municipal agreements and the Declaration of Enhanced Subnational Climate Action, and the CCCI under Assembly Bill 39, violate Article I, Section 10 or otherwise impermissibly infringe on federal foreign affairs authorities.

2. Evaluate, if necessary, the need for civil litigation against the State of California and the UC Regents.

3. Issue requests for information to the Governor's Office, CARB, the California EPA, the Energy Commission, the Natural Resources Agency, the UC Regents, the CCCI, and the UC Davis ZEV Policy Lab for all agreements, action plans, correspondence, funding and

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[29] Lauren Rosenhall and Dan Morain, *Amid pandemic, Newsom faces scrutiny over $1B face-mask deal,* CalMatters (Apr. 14, 2020), https://calmatters.org/health/coronavirus/2020/04/california-coronavirus-face-masks-gavin-newsom-byd/; Katy Grimes, *Little Scrutiny Two Years After Gov. Newsom's Odious $1B China BYD Mask Deal,* California Globe (May 4, 2022), https://californiaglobe.com/articles/little-scrutiny-two-years-after-gov-newsoms-odious-1b-china-byd-mask-deal/.

[30] *Entities Identified as Chinese Military Companies Operating in the United States,* Office of the Secretary of War (June 8, 2026).

[31] Oxnevad, *supra* note 2, at chs. 1-2 (documenting the roughly $1.3 billion in no-bid PPE contracts, the $40,000 BYD contribution to the Governor's campaign accounts, and PRC rare-earth and electric-vehicle market shares).

[32] *Northeast Bancorp, Inc. v. Governors, FRS,* 472 U.S. 159, 175 (1985).

[33] *Entities Identified as Chinese Military Companies Operating in the United States*, Office of the Secretary of War (June 8, 2026); Foreign Agents Registration Act of 1938, 22 U.S.C. §§ 611 et seq.; 20 U.S.C. § 1011f.

travel records, minutes of the 2021 and 2022 off the record dialogues, and records identifying Communist China-linked personnel given access to California regulatory proceedings or non-public regulatory information.

4. Conduct a Foreign Agents Registration Act (FARA) review of whether current or former officials, CCCI personnel, or intermediary organizations, including the China Institute for Innovation and Development Strategy, the Berggruen Institute's China programs, and Energy Foundation China, acted as unregistered agents of the PRC, and refer any documented access of Ministry of State Security-linked and United Front-linked entities to California regulators to the FBI for counterintelligence assessment. As part of this review, we further request that the Department identify (a) any PRC-directed or PRC-linked activity documented in the course of the review that, while raising influence or counterintelligence concerns, falls outside the scope of FARA's registration requirements or its existing exemptions; and (b) any resulting statutory gaps, including in FARA, that Congress should consider addressing through legislation.

5. Coordinate with the Department of Commerce and others on export control and deemed export review of technology exchanges under these agreements in batteries, grid management software, offshore wind, hydrogen, and connected vehicles. This review can also assess where current safeguards fall short in addressing Science and Technology collaboration with the PRC more broadly, including in Department of Energy research security policies, the sharing of U.S. intellectual property and know-how, and joint policy and standards development that existing restrictions don't reach.

For two decades, Governors Brown and Newsom have treated Beijing as a partner and the elected government of the United States as an obstacle. The Constitution entrusts the conduct of foreign affairs to the federal government. Where state officials enter sustained institutional arrangements with foreign governments that may implicate Article I, Section 10 or interfere with the Nation's foreign policy, those arrangements warrant careful federal review. We cannot allow a rogue state government to place its regulators and flagship university in the service of a hostile power's industrial strategy.

CC: The Honorable Howard Lutnick, Secretary, Department of Commerce
The Honorable Jeffrey Kessler, Undersecretary, Bureau of Industry and Security
The Honorable Chris Wright, Secretary, Department of Energy
The Honorable Lee Zeldin, Administrator, Environmental Protection Agency

Sincerely,

Rick Scott
United States Senator

Young Kim
Member of Congress

Marsha Blackburn
United States Senator

Mike Lee
United States Senator