



## 2012 JCCT Recommendations

Each year, the US-China Business Council (USCBC) compiles and submits to the US government specific lists of recommended items that the United States and China should address within the context of the annual Joint Commission on Commerce and Trade (JCCT). Through an ongoing dialogue with USCBC member company representatives, USCBC has created the following list of issues and concerns that member companies have recommended as their top priorities to address in 2012 through the JCCT process—including JCCT working group meetings, vice minister-level meetings, and the JCCT plenary session. This list provides a summary of specific action items for China, and is not intended to provide a detailed overview of each issue. USCBC and its members can provide additional detail and background on any of these recommendations as necessary.

USCBC's membership covers all major sectors of the US economy, and this submission does not prioritize action items for any one industry over another. USCBC, however, encourages the US Department of Commerce and the Office of the US Trade Representative to focus on cross-cutting issues that are at the heart of many of the recommendations that follow. In addition to the important negotiations to resolve specific disputes, USCBC believes these broad topics offer the opportunity for enhanced policy dialogue between the United States and China under the JCCT. Many of these issues also are specified in the USCBC Board of Directors Statement of Priorities in the US-China Commercial Relationship.

USCBC's top cross-cutting priorities include:

- **Government procurement** China in 2010 drafted domestic content rules for government procurement and Government Procurement Law implementing regulations that have yet to be finalized. Modifications to both drafts are needed to address shortcomings on the treatment of information technology products as well as some other key elements to bring China's policies in line with international practice. With those changes made, however, finalization of China's Administrative Measures for the Government Procurement of Domestic Products (USCBC's first priority) and Government Procurement Law Implementing Regulations would ensure equal treatment of all companies in China, regardless of ownership. China should also fully implement its 2011 commitments and continue efforts to delink "indigenous innovation" preferences from procurement catalogues at all levels of government.
- **Investment restrictions** Foreign investment barriers in China are market access barriers. US companies overwhelmingly invest in China to sell goods and services in China, not export. The US Bureau of Economic Analysis confirms this—less than 10 percent of US affiliate sales in China in 2008, for instance, were for exports back to the US market. China's Catalogue Guiding Foreign Investment was revised in 2011, but maintained foreign ownership restrictions in nearly 100 manufacturing and services sector categories in China. These restrictions inhibit foreign investment in key sectors and prevent the full economic benefits of foreign investment from being realized. Progress can be made in areas where investment restrictions remain, including agriculture, energy and environmental technology, cloud computing, financial services, healthcare, intellectual property rights (IPR), legal services, media, and telecom.

- **Intellectual property rights** IPR protection remains a top challenge that foreign companies face as they seek to expand their business and investment in China. IPR protection is also increasingly important to Chinese companies as they seek to develop their own innovation capabilities. Yet inadequate IPR protection in China continues to limit the technologies that companies are willing to research, commercialize, manufacture, and sell in China. USCBC encourages China to take proactive steps to strengthen IPR protection by eliminating value-based thresholds on counterfeit goods for criminal prosecution and allowing criminal penalties to be applied in cases of commercial scale. Progress can be made not only in the IPR area, but also in the agriculture, energy and environmental technology, media, pharmaceutical, and telecom sectors.
- **Transparency** Despite commitments upon its World Trade Organization (WTO) accession and subsequently in bilateral discussions with the United States, China's rule-making and government decision-making remain largely opaque. Based on USCBC analysis, State Council ministries' compliance with its transparency requirements is insufficient – only 60 percent of ministries issued draft rules and regulations for comment in the past year, and less than half of those did so for 30 days. Lack of transparency makes it more difficult for companies to receive necessary licenses, protect their IPR, participate in the standards and conformity assessment process, and ensure they are being treated the same as domestic companies.
- **Standards** China's standards setting processes restrict participation of some foreign companies and inhibit products from getting to market in a timely manner. Specifically, China Compulsory Certification (CCC) impacts more than 20 percent of US product exports to China. This process adds significant expense to doing business in China because of overly bureaucratic procedures and duplicative testing requirements, and adds an additional six months or more for US products to come to market versus Chinese competitors. The program also denies access to US testing and certification services. In addition, China's Multi-Level Protection Scheme (MLPS) and other similar restrictions limit foreign companies' ability to sell telecom products in China. These programs should be eliminated.

#### **Abbreviations of Relevant JCCT Working Groups**

AGWG – Agriculture Working Group/Sanitary and Phytosanitary Working Group

CLWG – Commercial Law Working Group and the Legal Exchange

EWG – Environment Working Group

HTWG – High-Technology and Strategic Trade Working Group

ICWG – Industries and Competitiveness Dialogue

ID – Insurance Dialogue

IIWG – Information Industry Working Group

IPRWG – Intellectual Property Rights Working Group

PMDWG – Pharmaceuticals and Medical Devices Working Group

TIWG – Trade and Investment Working Group

TRWG – Trade Remedies Working Group

TTWG – Travel and Tourism Working Group

## Cross-Cutting Concerns

### Administrative Licensing

Foreign companies in China must often jump a wide variety of bureaucratic hurdles to establish and operate their businesses. Companies report that managing the licensing process in China requires an inordinate amount of their time and resources. These challenges include approvals for new or modified products, office licenses and renewals, approvals for different aspects of projects or investments, and licensing for various business administrative functions. Inconsistencies in implementation across different agencies, levels of government, and regions create uncertainties that undermine business planning. Often the licensing requirements for foreign entities differ from those for Chinese companies, raising questions about China’s national treatment obligations.

Fully implement the 2003 Administrative Licensing Law, which provides strong protections for applicants and aims to streamline many of China’s burdensome and duplicative licensing and approval processes. In particular, China should actively enforce provisions that require agencies to accept and act upon applications within specific timelines and provide written guidance to applicants during the approval process.	CLWG
Set up one-stop licensing approval procedures for all routine administrative licensing, especially business licensing renewal.	CLWG
Improve e-governance (especially the online licensing application process) to regularize and streamline routine licensing procedures online.	CLWG

### Customs and Trade

The high profile – and high volume – of US-China trade ensures that there will be numerous challenges with customs inspections and clearance, testing and certification, transshipments and fraudulent imports, and quality and safety issues for imports and exports.

Isolate antidumping and countervailing duty case decisions from political pressures for retaliation.	TIWG TRWG
Establish a US-China government-industry working group to address customs bottlenecks in the supply chain, which, among other things, hamper the growth of US imports to China. For example, General Administration of Customs (GAC) Order No. 33 (2010) essentially bars individuals and smaller traders in China from importing goods via a cumbersome importer registration system.	TIWG
Collaborate with the US government and the express delivery service (EDS) industry to develop GAC measures that enable EDS providers to effectively connect other points in China to their hubs and major markets, and to sort shipments on those connecting flights at those locations, consistent with US cargo carriers’ aviation rights under the US-China air transport agreement.	TIWG
Ensure that measures and standards that do not conform to global practice (e.g., World Customs Organization guidelines and standards) are made voluntary rather than mandatory.	TIWG
Establish “low value” and <i>de minimis</i> customs clearance levels consistent with US levels and with China’s position as one of the world’s largest participants in global trade.	TIWG
Establish a user-fee system similar to the United States’ to enable the 24/7 customs handling China’s trade activity requires.	TIWG
Remove the GAC’s proposed and State Post Bureau’s (SPB) existing 100 percent open-box inspection requirements for express delivery packages, as well as provisions that	TIWG

shift liability for inaccurate descriptions of a shipment's contents from shippers/recipients to transportation service providers.	
Remove the GAC's proposed restrictions on EDS providers' use of agents for pick-up/delivery and other related services, as well as its proposed requirement for EDS firms to use a China-specific air waybill rather than the branded air waybills they use throughout the rest of their global networks.	TIWG
Remove GAC's four-hour "prior to loading" advanced commercial information requirement for export goods and standardize China's export requirements with international norms and industry practices.	TIWG
Strictly monitor and inspect Chinese exports and fully enforce export and import rules to prevent transshipments of products that use fraudulent country of origin identification, fraudulent product identification, or other means designed to bypass US antidumping duties, working more closely with US Customs and Homeland Security as needed.	TIWG CLWG
Extend duty-free status for imported equipment to equipment used for industrial gases and related industries to promote fair competition among Chinese and domestic vendors and to support the development of targeted industries – such as coal production and advanced coal technologies – particularly in central and western China.	EWG TIWG

### Government Procurement

China's massive government procurement market is an increasingly important market. All companies, foreign and domestic, would greatly benefit from more open and fair procurement policies. Such a shift would also prepare China to fulfill its commitment of joining the WTO Agreement on Government Procurement (GPA).

Complete the process of removing indigenous innovation preferences in pricing and product evaluation from all government procurement-related laws and regulations and other rules, including those at the national, provincial, and local levels.	TIWG
Finalize and issue the Government Procurement Law Implementing Regulations this year and include changes made to the draft released in January 2010 that address concerns identified in comments USCBC submitted to the PRC Ministry of Finance (MOF) in February 2010.	TIWG
Finalize and issue the Draft Administrative Measures for the Government Procurement of Domestic Products this year, making appropriate changes to the draft released in May 2010 that correspond to USCBC's comments to MOF.	TIWG
Join the GPA under meaningful terms, such as expanding the sectors and levels of government that are subject to the agreement.	TIWG
Ensure greater transparency on indigenous innovation policies at the national, provincial, and local levels, including open consultation with stakeholders and public comment periods of at least 30 days for all laws and regulations, policies, and technical regulations.	ICWG

### Human Resources and Labor

Human resources remains one of the most important cross-cutting issues US companies in various sectors face in China, encompassing both regulatory and operating issues. In addition to longstanding concerns about how to deal with a tight labor market in China, companies are concerned about new PRC regulations and policy trends as they seek to navigate the new labor environment. Outstanding issues such as collective bargaining, unionization, and wage increases

affect not only the company bottom line, but also the environment in which US companies seek to hire and train Chinese employees.

Remove the mandatory requirement on foreign nationals working in China to participate in the Chinese social insurance system, given that each multinational company has its own system to provide for the social welfare and benefits of expatriates.	TIWG
Adopt a systematic and predictable methodology for minimum wage increases that is linked to specific market mechanisms, and release the methodology publicly to ensure a more transparent process.	TIWG
Consistently interpret and standardize the implementation of China’s labor laws and regulations, including the Labor Contract Law, across jurisdictions.	CLWG

### Intellectual Property Rights

IPR protection remains a top challenge that foreign companies face as they seek to expand their business and investment in China and is also increasingly important to Chinese companies as they seek to develop their own innovation capabilities. Yet IPR protection in China remains inadequate. More must be done to improve interagency coordination, enforcement, laws, and judicial channels.

<b>INTERAGENCY COORDINATION</b>	
Empower the new State Council-level leading group tackling IPR infringement and counterfeiting, and its permanent office in MOFCOM, to be an effective coordinator to boost enforcement of IPR and meaningfully implement nationwide enforcement tactics used during the 2010-11 IPR Special Campaign, and to establish regular, consistent feedback and communication mechanisms to facilitate communication between companies and relevant agencies on IPR-related matters.	IPRWG
Enhance cooperation between the Chinese Customs authorities and Public Security Bureau (PSB) officials on anti-counterfeiting cases. Allow the Customs officials to transfer cases directly to the PSB when criminal thresholds under Chinese law are met.	IPRWG
Strengthen communication links between IPR stakeholders – including between central- and local-level government agencies, between government and Chinese IP owners, and between enforcement agencies and PRC legislators – to facilitate the exchange of experiences and best practices between IPR regulators at various levels and to promote more consistent IPR enforcement across regions and jurisdictions.	IPRWG
Work closely with Chinese academics and the US government to conduct a study that measures economic and other impacts of counterfeiting, piracy, and trade secret violations, and that proposes reforms.	IPRWG
<b>ENFORCEMENT</b>	
Eliminate value-based thresholds on counterfeit goods for criminal prosecution and allow criminal penalties to be applied in cases of commercial scale.	IPRWG
Increase the effective level of administrative fines and civil damages for IPR infringement by imposing a statutory minimum and raising or eliminating the statutory maximum on fines and damages for IPR infringement, and by encouraging local regulators and judges to levy larger fines that will serve as more effective deterrents.	IPRWG
Increase resources for IPR enforcement personnel at all levels, including enforcement officials and IPR regulators and judges. In particular, increase resources and authority for local public security bureaus and industry and commerce administrations to proactively tackle counterfeiting and IPR infringement.	IPRWG

Conduct regular, targeted, and continual professional training for IPR personnel – including IPR enforcement officials and judges and patent and trademark examiners – on common IPR legal issues, including trademark oppositions, trademark cancellations, and patent invalidation, to ensure reasonable, consistent, and accurate application of the law.	IPRWG
Fully implement commitments made at the 2010 JCCT and in the January 2011 joint statement made by PRC President Hu Jintao and US President Barack Obama to protect IPR by “conducting audits to ensure that government agencies at all levels use legitimate software and publishing the auditing results as required by China’s law” no later than the 2011 JCCT plenary session.	IPRWG
Mandate that infringing goods – and the equipment used to produce them – be destroyed upon seizure and not be permitted to enter the market under any circumstances.	IPRWG
Implement a framework for the forwarding of infringement notices by ISPs to subscribers identified as distributing infringing content using peer-to-peer systems, including measures to deter repeated acts of infringement.	IPRWG
<b>LAWS</b>	
Finalize the revised PRC Trademark Law and ensure that that final version adequately accounts for comments made by USCBC and other stakeholders, including an expanded scope for trademark infringement, increased authority for local enforcement officials, proactive steps to limit bad-faith trademark filings, and higher penalties for trademark infringement.	IPRWG
Release a draft of the revised PRC Copyright Law for public comment reflecting comments made by USCBC and other stakeholders, including balanced protection for copyrights in the online space, proper protection for films, published materials, and TV broadcasts (including sporting events), an expanded definition of copyright infringement, and increased penalties for copyright infringement.	IPRWG
Promote the legal use of software among SOEs and private enterprises by fully implementing existing regulations and policies (such as the PRC Government Legal Operation System Procurement Requirements and the Enterprise Legalization Plan) and setting additional detailed steps and guidance for companies to follow.	IPRWG
Implement MOFCOM Minister Chen Deming’s commitment that PRC authorities will not permit unjustified requirements for technology and IP transfer by reviewing existing rules and regulations, whether as part of government procurement qualifications, certification schemes (such as source code disclosure requirement for China Compulsory Certification [CCC] mark approval), compulsory licensing, or as a pre-condition for any other projects or activities requiring government approval, to ensure compliance.	IPRWG
Explicitly state that SIPO will use the patent review guidelines under which the patent was originally reviewed when considering requests for patent invalidations.	IPRWG PMDWG
Revise SIPO’s current Guidelines for Patent Examination to remove requirements that pharmaceutical companies must provide all data when filing for a patent and restore language used in the 1993 version of these guidelines that instead require companies to provide available data at the time of filing and to supplement with additional data as development.	IPRWG PMDWG
Commit that provisions in the PRC Patent Law that concern IP abuse will not include the legitimate exercise of IPR, regardless of the size or nationality of the IPR owner.	IPRWG
Require provincial and municipal governments to publicly and fully disclose their own initiatives to implement IPR protection under the guidance of the Interagency IPR	IPRWG

Working Group, and their specific efforts to implement its directives.	
<b>JUDICIAL CHANNELS</b>	
Convene stakeholders for discussion of best practices to develop enforceable guidelines for online hosting and linking services to prevent use of their services as platforms for copyright infringement and for payment processors and advertisers to ensure they are not providing services to sites primarily engaged in infringement.	IPRWG
Allow and admit other forms of evidence (such as affidavits, brochures of infringers, and live testimonies) besides documentary evidence to prove infringement in judicial proceedings.	IPRWG
Ensure that court judgments from Hong Kong are recognized and enforceable in mainland China, and vice versa.	IPRWG
Provide local courts with more regular and detailed guidance on handling IPR cases, including model cases and judicial interpretations.	IPRWG
Release and publish all IPR-related decisions – administrative, civil, and judicial – through a unified channel on a regular basis.	IPRWG
Establish a new patent appeals court (a court of second instance) to review all appellate patent cases to ensure uniform application of the PRC Patent Law, as is the practice in the United States and Japan.	IPRWG
Remove or lower hurdles for enforcing trade secrets by making third-party evidence and infringers’ promotional materials admissible to prove infringement.	IPRWG

## Investment

China’s leadership has repeatedly affirmed its commitment to further open China to foreign investment and to the principle of nondiscrimination in investment regulation. Foreign investment is central to creating high-quality, well-paying jobs, a topic of primary concern to PRC leaders. Loosening restrictions on foreign investment in China would accelerate the development of a modern services economy, stimulate domestic consumption, improve the local tax base, and lower unemployment rates.

Resume negotiations on a meaningful bilateral investment treaty (BIT) with China that includes strong national treatment provisions, applies to new and existing investments (“pre-establishment”), and applies to all investments except those specifically excluded in the agreement (“negative list” approach). The PRC leadership has expressed interest in negotiating a BIT, and doing so provides one of the best opportunities to further open markets for US companies and improve protection for American investments in China.	TIWG
Reduce or eliminate investment restrictions in a variety of sectors listed in China’s recently revised Catalogue Guiding Foreign Investment, as the final catalogue contained few meaningful openings for foreign companies.	TIWG
Increase provincial approval limit on investment projects from US \$300 million to US \$500 million.	TIWG
Allow foreign-invested enterprises (FIEs) to repatriate their registered capital once retained earnings have been paid out as dividend and bank loans have been paid off.	TIWG
Create mechanism for foreign companies to participate in the consultation process for the development of China’s sectoral five-year plans.	TIWG
Allow wholly foreign-owned enterprises (WFOEs) to manufacture equipment for electric transmission and transformers, new energy power-generation, and railway transportation.	TIWG

Allow foreign companies to establish WFOEs in large-scale coal and chemical product manufacturing and ethane manufacturing with annual production of 800,000 tons or more.	TIWG
Publish clear guidelines on the foreign ownership limit in a local credit ratings agency. Any foreign ownership cap should not be lower than the existing cases of 49 percent.	TIWG
Allow market research firms to be 100 percent foreign owned.	TIWG
Strengthen efforts to crack down on commercial fraud and corruption by increasing resources and budgets of enforcement agencies, enforcing anticorruption laws among the top management and lower levels of staff, creating leniency and whistleblower programs for companies and employees to encourage reporting of corruption, and making commercial anticorruption enforcement part of the national agenda and China's five-year plans.	CLWG
Develop guidelines for local State Administration of Industry and Commerce branches to use in interpreting and implementing commercial bribery cases, to reduce unwarranted cases of bribery and resulting fines against US companies following appropriate commercial behavior.	CLWG

### Standards and Conformity Assessment

US companies are global leaders in innovation, research and development (R&D), and other technical fields, and have a strong desire to work with China to develop advanced standards and conformity assessment procedures that are harmonized with international standards and practices and meet China's needs. Promoting greater transparency and participation in setting standards and standards-related policies, closer alignment with international standards, and increased market access for foreign conformity assessment bodies would allow products manufactured in China to better compete in global markets and increase the quality and efficiency of product testing and certification.

STANDARDS-SETTING	
Eliminate the Multi-Level Protection Scheme (MLPS) and related restrictions that limit foreign companies' ability to sell telecom products in China and to bolster China's ICT infrastructure.	ICD IPRWG
Actively seek to include foreign companies in the setting of standards, standards policies, and conformity assessment regulations across sectors, and remove barriers that prevent their involvement in emerging areas, such as NEVs, health products, and cloud computing. Establish greater transparency in the standard-setting and enforcement processes.	ICD TIWG
Ensure that voluntary standards regimes, such as China's framework for restrictions on hazardous substances (RoHS), remain voluntary and do not become de facto mandatory standards due to other technical regulations.	EWG TIWG
Allow foreign companies to appropriately participate in standards-setting groups and activities, such as government-sponsored or government-led standards development initiatives, based on membership criteria that do not discriminate against companies based on their nationality.	TIWG
Ensure the quality of awarded patents by directing financial incentives away from low-quality "junk patents" and towards patents that are truly innovative in nature, and committing that such incentive policies will be open to all applicants regardless of ownership--in line with China's innovation goals.	TIWG
Broaden China's 2010 JCCT commitment on an open and transparent process for implementing smart grid-related standards to include additional information and	TIWG

communications technology products.	
Engage a broad cross-section of stakeholders, including foreign industry representatives, in drafting and implementing current and future laws, regulations, and documents related to testing and certification for China's RoHS regime.	IIWG
Ensure that voluntary standards regimes, such as China RoHS, are not made mandatory by provisions that require their use, or through programs like tax incentives or government procurement programs that limit market access only to compliant products.	IIWG
Minimize unnecessary burdens within the certification process for China RoHS, such as adopting a risk-based approach for test-subject selection, and take concrete steps to shorten the timeline and reduce time delays in RoHS certification to ensure that Chinese consumers do not face undue delays in having access to innovative products.	IIWG
Eliminate policies that unduly withhold access to participation or voting rights in standards-setting groups based on where the company or organization is headquartered.	TIWG
<b>INTERNATIONAL HARMONIZATION</b>	
Align PRC standards – including national, industrial, and provincial standards – with international standards and base PRC standards and regulations on international standards wherever practical. China should modify international standards only where permitted and when justified to achieve legitimate objectives, such as to protect consumer safety, the environment, health, or national security.	ICD TIWG
Extend China's 2004 JCCT commitment – reiterated in 2006 – to provide tech neutrality for 3G standards to include next-generation 4G technology, stating that telecom service providers will be allowed to make independent decisions about which standard they choose to adopt, issue licenses for all 4G standards in a manner that does not give advantage to one standard over others, and that the PRC government will not interfere with commercial contracts for 4G licenses.	TIWG
Implement the innovation principles agreed to at APEC 2011 and be sure they apply to current and emerging technologies such as cloud computing.	TIWG
Provide notification of all relevant standards and standards-related laws, policies, and regulations (such as those related to China's RoHS regime) through the WTO's Technical Barriers to Trade (WTO/TBT) committee for at least 90 days before standards are finalized and implemented. Ensure that proper notification of all standards and standards-related laws, policies, and regulations that fall under the WTO/TBT umbrella occurs, regardless of the drafting government body or organization.	IIWG
Collaborate with the United States to protect certification marks' IPR.	TIWG
<b>CONFORMITY ASSESSMENT</b>	
Permit qualified foreign organizations to be accredited and designated to conduct product testing, initial inspections, follow-up audits, and certification work for mandatory and voluntary governmental conformity assessment regimes, including the China Compulsory Certification (CCC) scheme.	TIWG
Implement all previous JCCT commitments to eliminate duplicative testing and certification regimes, including overlapping certification regimes in China and Chinese testing and certification regimes that unnecessarily require many foreign and imported products to be retested and certified in China. Such regimes include telecom and medical device testing regimes.	TIWG
Certify and designate internationally recognized certification companies to provide testing and certification services in China for Chinese conformity assessment programs,	TIWG

such as CCC.	
Certify and assign US-accredited labs to companies to provide testing and certification services in China for mandatory and voluntary testing and certification regimes.	TIWG
Accredit – and designate – qualified foreign conformity assessment bodies to test for, and certify compliance with, all relevant existing standards related to China RoHS certification in order to alleviate time and delays in certification and broaden the options for foreign and domestic industry players.	IIWG

## Tax

China is updating and refining its tax regime to better regulate economic activity and ensure a steady stream of government income. Yet companies continue to experience issues with tax policies and implementation and investigation of tax cases. Addressing these issues to create a more consistent and transparent tax system will benefit companies and regulators.

Revise high- and new-technology enterprise (HNTE) status rules to allow all legal entities that develop and use high-tech products, IP, R&D, and technology to apply for and receive HNTE status, and to recognize existing practices in promoting R&D regardless of where the IP is held.	TIWG HTWG
Allow for the transfer of minority equity for reorganizational purposes under the same corporate umbrella without incurring capital gains taxes just as corporations are allowed when they seek to reorganize their wholly-owned investments after receiving relevant approvals.	TIWG
Increase transparency and consistency for interpretation and implementation of PRC tax laws and regulations – including by increasing the lead time for new and revised taxes and releasing changes to tax laws and regulations for a public comment period of at least 30 days – to allow smooth compliance for all taxpayers and uniformity across different regions and cities.	TIWG

## Transparency

A transparent legislative and regulatory process is an important factor in catalyzing economic growth and enabling a country to become an effective and respected partner in the global economic community. In contrast, limited transparency creates uncertainty and confusion for all stakeholders and limits stakeholders' ability to make and carry out business decisions. Transparency consistently ranks as one of the top issues that USCBC member companies face in China.

Improve PRC State Council and sub-agencies' record of compliance with commitments to issue draft regulations for a 30-day public comment period. USCBC's March 2012 PRC Transparency Tracking report found that, at best, roughly 60 percent of PRC rules and regulations issued from March 2011 to March 2012 were posted for public comment and less than 60 percent of those allowed the full 30 days for comment submissions.	CLWG
Increase policy transparency by consulting and engaging with foreign companies and keep policy drafts open for comment for the full 30-day period.	CLWG
Translating all laws, regulations, or other measures – including standards and technical regulations – related to trade in goods or services and issued by all levels of government into one or more of the WTO languages no later than 90 days after they are implemented or enforced, as China committed during its WTO accession.	CLWG TRWG
Provide notification of all relevant standards and standards-related laws, policies, and regulations through the WTO's Technical Barriers to Trade (WTO/TBT) committee for	CLWG TRWG

at least 90 days before standards are finalized and implemented. Ensure that proper notification of all standards and standards-related laws, policies, and regulations that fall under the WTO/TBT umbrella occurs, regardless of the drafting government body or organization.	
Improve the frequency of updates to government websites, including the speed of posting laws, regulations, and policy documents.	CLWG
Increase the efficiency of government hotlines designed to provide government information to the public.	CLWG

### Visa Policies

As bilateral ties between the United States and China increase, bilateral travel will also rise. Facilitating US nationals' travel and work in China will boost economic activity in all sectors and promote better political and cultural understanding between the two countries.

Improve interagency coordination and shorten wait times for administrative review of certain categories of Chinese visa applicants.	TTWG
Establish a five-year visa reciprocity agreement with China that includes business visas.	TTWG

## Sector-Specific Issues

### Agriculture

China has stated its interest in developing a modern and competitive agriculture sector. US companies are at the forefront of this sector and can help China achieve these goals if allowed greater market access. In addition, increased compliance with international standards and practices can help expose Chinese agriculture to internationally accepted best practices and technologies, thus making the industry more competitive in domestic and international markets.

Establish maximum residual levels for ractopamine hydrochloride in pork product imports in accordance with draft standards from Codex Alimentarius.	AGWG
Adhere to World Organization for Animal Health (OIE) guidelines when applying or maintaining bans on US states such as Arkansas, Minnesota, and Virginia because of low-pathogenic avian influenza.	AGWG
Promulgate and implement a PRC trade regulation for forestry products that discourages illegal logging and irresponsible harvesting. That regulation should harmonize with international regulatory standards set by the laws of other countries, such as the US Lacey Act and EU due diligence requirements.	AGWG
Allow imports of US beef from cattle less than 30 months of age.	AGWG
Remove oilseeds, corn, rice, wheat processing, seed production, genetically modified seeds, grain origination and storage, and non-grain biofuels from the restricted or prohibited lists for foreign investment, and allow majority ownership by foreign investors (via WFOEs or joint ventures [JVs]) in these industries.	AGWG
Remove or raise tariff rate quotas (TRQ) for corn and other commodities and make the list and volumes of TRQ holders publicly available.	AGWG
Establish a science-based threshold for low-level presence of genetically modified organism events to facilitate trade and meet food safety requirements. China currently has a zero tolerance policy for the presence of genetically modified material in crops.	AGWG
Lift the prohibition on biotech seeds to promote innovation and investment to	AGWG

modernize agriculture.	
Eliminate the requirement that biotech products be fully approved for cultivation in the country of origin before companies may apply for import approval in China, and revise existing rules to harmonize with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. These measures stipulate that approval procedures be undertaken and completed without undue delay and in no less favorable manner for imported products than for like domestic products.	AGWG
Eliminate value-added tax rebates for Chinese manufacturers that export glyphosate.	AGWG
Postpone the implementation of the PRC Inspection and Quarantine Supervision and Administrative Measures for Importing and Exporting Meat Products (Order 136), which require inner labels of US meat and poultry products to include a “lot number,” to enable more time for US and PRC parties to find common ground on these rules.	AGWG
Promote full use of existing legal and judicial channels to prevent food speculation and hoarding in China, which disrupt market order and create food and commodity inflation that encourages the violation of existing international and PRC contractual obligations.	CLWG AGWG

### Banking, Securities, and Electronic Payments

US banks and securities firms continue to face high regulatory barriers and licensing challenges in China, as well as significant restrictions to investment. Further opening China’s banking and securities markets to foreign companies would increase access to finance and promote domestic consumption, benefiting the Chinese economy as a whole. Allowing foreign electronic payments providers to offer consumers a broader range of spending options would support domestic consumption and provide new business opportunities in China.

Remove the five-year “seasoning requirement” that prevents foreign securities firms from obtaining approval to engage in additional brokerage, proprietary trading, and fund management services in China.	TIWG
Improve the branch approval process by allowing foreign banks to select branch locations of their choice based on consumer demands.	TIWG
Eliminate foreign ownership restrictions that limit the share of investment in Chinese banks.	TIWG
Remove the 33 percent cap on foreign ownership in securities firms and the 49 percent cap on foreign ownership in asset management firms.	TIWG
Allow foreign securities firms to sell and trade A shares (buying and selling in renminbi [RMB] on behalf of Chinese clients and investors in the domestic market).	TIWG
Implement China’s 2011 Strategic and Economic Dialogue (S&ED) commitment to approve foreign banks and non-bank entities – such as the finance arms of industrial companies – to trade and underwrite corporate and enterprise bonds in the exchange-traded market, just as local banks are permitted.	TIWG
Permit the underwriting of short-term and medium-term notes, as foreign banks can now trade but not underwrite these notes.	TIWG
Reduce the time, cost, and burden of applying for qualified domestic institutional investor (QDII) program quota approvals to develop a fluid, streamlined, and transparent approval process that is more in line with the business needs of QDIIs that use the program.	TIWG
Implement China’s 2011 S&ED commitments to increase total quotas under the qualified foreign institutional investor (QFII) program and to allow US and other foreign banks incorporated in China to sell mutual funds, obtain licenses to act as	TIWG

mutual fund custodians, and act as Margin Depository Banks in QFII futures transactions.	
Reduce current QFII restrictions using an agreed-upon timetable for progress on liberalization, and implement China's 2010 S&ED commitments, which would increase demand for Chinese equity instruments and reduce pressure on China's real estate markets.	TIWG
Eliminate foreign currency payment restrictions or increase the non-trade foreign currency payment cap from \$30,000 to \$100,000.	TIWG
Harmonize capital requirements for foreign bank branches with those for domestic banks.	TIWG
Allow foreign brokerages to participate in the derivatives market.	TIWG
Allow foreign banks to offer customers more products and services, such as credit and debit cards supported by payment brands of their choice and online banking.	TIWG
Implement China's fifth-year WTO commitment to open the domestic market to foreign-owned electronic payment card systems.	TIWG
Issue final regulations (such as the Payment Settlement Organization Regulations) and pass final laws (such as the Bank Card Law) to provide greater legal clarity for all participants – including foreign providers – in the electronic payment services industry.	TIWG
Remove the 33 percent foreign ownership cap for “investment advisory firms,” or at minimum remove “securities research firms” from this category.	TIWG

## Energy and the Environment

Central, provincial, and local governments have numerous plans designed to improve energy efficiency, natural resource use, environmental protection, and the deployment of new energy resources. Taking the steps outlined below will enable governments to meet their assigned targets more rapidly by creating market-based demand and high-quality supply for energy and environmental technology goods and services.

Enforce energy efficiency standards in PRC regulations evenly across China, regardless of jurisdiction or ownership.	TIWG
Fully implement China's 2010 JCCT commitment on Smart Grid standards by making processes for developing all standards related to smart-grid products and technologies open, transparent, and based on relevant international standards, regardless of whether such standards are actual national standards or function as <i>de facto</i> national standards, and by providing foreign stakeholders with opportunities to participate in developing these standards, technical regulations, and conformity assessment procedures on terms no less favorable than those afforded to domestic stakeholders.	IIWG IPRWG
Ratify the Convention on Supplemental Compensation for Nuclear Damage.	TIWG
Establish national energy policy framework and local regulatory frameworks that promote clean-coal technologies, including innovative low-carbon coal conversion technologies.	EWG TIWG
Create a mechanism to encourage and facilitate productive stakeholder consultation for potential policies related to a carbon tax and an emissions trading scheme.	EWG
Allow foreign majority-controlled companies to register for Clean Development Mechanism projects.	TIWG
Allow foreign majority-controlled companies to participate in the offshore wind market. The February 2010 Provisional Regulations for the Exploration of Offshore Wind-Power Construction Projects permit only Chinese majority-controlled companies	TIWG

to participate in the market.	
Allow foreign majority-controlled JVs and WFOEs to construct and operate refinery factories.	TIWG
Allow WFOEs to participate in the survey, development, and extraction of oil and natural gas deposits.	TIWG
Allow WFOEs to participate in the manufacture of parts or finished components for power generation in solar, wind, and other renewable energy sectors.	TIWG
Allow foreign-controlled JVs and WFOEs to construct and operate electricity networks.	TIWG
Allow foreign majority-owned companies to participate in large-scale ethylene manufacturing.	TIWG
Fully open retail sales of petroleum products to foreign companies, without equity caps.	TIWG

### Health Industries: Healthcare, Medical Devices, and Pharmaceuticals

China is undergoing a comprehensive set of reforms to its healthcare system, rewriting the playbook for healthcare suppliers, providers, and consumers. US companies have substantial experience developing and operating healthcare infrastructure and solutions in global markets and are committed to making sizable investments in the China market. Allowing broader foreign participation in China's healthcare markets and more engagement in its reform process would allow Chinese consumers greater access to innovative technology and products, international best practices, and high-quality services, thus accelerating the reform process.

Implement China's October 2009 JCCT commitment to accept prior approval documents for medical devices issued by foreign countries, regardless of the devices' origin, to satisfy prior approval registration requirements.	PMDWG
Permit internationally recognized certification companies to provide testing and certification services for medical devices.	PMDWG TIWG
Implement State Food and Drug Administration (SFDA) Regulation 2009 (17) (7 January 2009), which enables priority approval ("fast track approval") of new treatments for rare diseases.	PMDWG
Allocate sufficient resources and personnel to the SFDA with a view to reduce the clinical trial approval times to three months for chemical and biologic medicine. The reduced approval period will enable companies to include China in global clinical trials in order to bring innovative products to Chinese patients in a timely manner	PMDWG
Accept qualified foreign clinical trials during the product approval process as being equally valid as local clinical trials.	PMDWG
Avoid price control measures, including price ceilings, as a way to promote innovation and technology advancement in health industries. Promote a transparent process and ensure all pricing cuts observe the same principles, standards, and procedures. Provide companies facing price cuts with a gradual process, including a transitional period for implementing cuts.	PMDWG
Exempt products that have not undergone substantial changes affecting safety or efficacy from type testing and consider adopting a scientific method, such as a quality management system, as the basis of the regulatory system.	PMDWG
Remove prior approval from the country of origin requirement for the drug component of combination drug and medical device products.	PMDWG
Allow SFDA to register "combination" medical and pharmaceutical devices to allow market access.	PMDWG
Remove the ban on importing fetal bovine serum into China.	PMDWG

Reduce onerous import requirements for human and animal origin materials intended solely for laboratory research use – including antibodies, cells, culture media, and sera – that are critical requirements for fundamental biological research. Such requirements – administered by various PRC agencies, such as the Administration of Quality Supervision, Inspection, and Quarantine, the General Administration of Customs, the Ministry of Health, and SFDA – include import permits frequently required on a shipment-by-shipment basis, restrictions on the types of companies that can apply for and obtain such permits, and restrictions on the types of materials that can be imported into China.	PMDWG
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## Insurance

US companies remain discouraged by the PRC government’s market barriers to the insurance industry, including regulations that make it difficult for companies already in China to expand domestically. As China seeks to expand its social safety net, increase domestic consumption, and develop the insurance sector, its citizens would benefit from the diversity of products and services that would come from an open and competitive insurance market.

Eliminate caps on foreign equity ownership in Chinese life insurance companies and allow Chinese JV partners to sell their stakes to foreign partners.	ID
Award enterprise annuity (EA) licenses to appropriate foreign financial services entities to allow US financial services firms, including insurance companies, to participate in the EA market through the investment vehicle of their choice (including WFOE).	ID
Issue a regulatory clarification, in line with verbal statements made at the 2011 S&ED and in other fora, that foreign-invested insurers are able to submit multiple applications for provincial branch approval and that the China Insurance Regulatory Commission (CIRC) will approve qualified foreign-invested insurers’ provincial branches concurrently.	ID
Allow foreign-invested insurance companies to apply directly for provincial branch business licenses using the same procedures as domestically owned insurers and not through CIRC’s International Department in Beijing.	ID
Allow foreign insurance companies to work with mutual fund companies (several of which have foreign partners) to leverage their extensive experience and global best practice on fund management.	
Fully and swiftly implement commitments made at the 2011 S&ED and during the 2012 visit of Chinese Vice President Xi Jinping to open up the market for mandatory third-party auto liability insurance (MTPL) to foreign companies and ensure that the commitment is implemented on a non-discriminatory basis.	ID
Treat private and government-owned hospitals equally when approving basic medical insurance coverage.	ID PMDWG
Allow WFOEs to participate in the health services provisioning sector and receive reimbursement from basic medical insurance on the same basis as domestically owned service providers.	ID PMDWG
Encourage Chinese companies to purchase liability insurance to protect their balance sheets and make such insurance mandatory for companies bidding on government contracts, in line with the goals of the new PRC Tort Liability Law.	ID
Adopt global best practices for information technology requirements and rules regarding claims, finance, and compliance personnel for new branches. CIRC currently requires that companies set up each new branch as if it were a subsidiary, leading to more compliance personnel nation-wide than if all branches were treated as part of the	ID

same subsidiary and thus increasing costs for US insurance providers.	
Announce that qualified foreign-invested insurers will be granted Insurance Asset Management licenses and that the PRC State Administration of Foreign Exchange will approve foreign-invested insurers to use their parents as “overseas advisors” without being subject to asset thresholds that cannot be satisfied on the basis of international experience and global assets.	ID
Allow foreign insurance brokers the same scope of business activities as domestic firms, including claims handling, risk management services and consulting, handling of application processes and placement services, and reinsurance brokerage. Allow foreign insurance brokers to provide client services for small and medium enterprises, group life and health businesses, and affinity programs.	ID
Allow captive insurance agents the ability to convert to becoming brokers.	ID

## Legal

Many foreign law firms have significant expertise and experience that can facilitate transactions among businesses operating in China. Despite the opportunity presented by their services, however, foreign law firms face significant market access restrictions that inhibit the economic contributions they can make in China.

Issue a Ministry of Commerce (MOFCOM) circular permitting foreign law firms to attend and represent clients in all meetings with PRC government officials on all topics, including antitrust and trade, relevant to their work with those clients.	CLWG
Allow Chinese lawyers licensed to practice PRC law to retain their license after being hired by foreign law firms.	CLWG
Treat foreign law firms as pass-through entities for income tax purposes at rates equal to those of domestic law firms.	CLWG

## Logistics

The logistics industry is an essential component of China’s developing modern national infrastructure and makes important contributions to overall economic growth. The international logistics industry – including freight, shipping, and express delivery services – has made significant investments in China’s infrastructure and helps Chinese businesses connect with global markets.

Without further delay, issue SPB express delivery permits to EDS providers pursuant to their respective, longstanding applications and China’s applicable law and regulations.	TIWG
Clarify that China’s Postal Law and related SPB measures allow foreign EDS providers to contract with Chinese domestic delivery permit holders to provide local pick-up and delivery services.	TIWG
Remove restrictions in China’s Postal Law that prevent foreign EDS providers from providing their Chinese customers with domestic document delivery services.	TIWG
Improve coordination between China’s Civil Aviation Administration (CAAC) and GAC to ensure their respective rules and policies are consistent with China’s commitments in the US-China air transport agreement and to ensure that major markets and Chinese industry in Beijing, the Pearl River Delta, and the Yangtze River Delta are effectively and efficiently connected to global express cargo networks.	TIWG
Consistent with China’s commitments under the US-China air transport agreement, remove CAAC restrictions on co-terminalized flights between Beijing, Guangzhou and Shanghai.	TIWG
Provide transparency and improved certainty for slot coordinators and carriers by	TIWG

reforming China's slot allocation procedures to meet IATA Worldwide Scheduling Guidelines and to ensure fair and equal rights for airlines to compete in the international air services market.	
Increase airport and airspace capacity by: <ul style="list-style-type: none"> <li>• Opening significantly more of China's airspace to civilian air operations;</li> <li>• Improving coordination between civilian and military airspace authorities;</li> <li>• Appropriately prioritizing resources to expand airports and other infrastructure in China's highest demand markets rather than directing resources first to lower demand markets; and</li> <li>• Improving air traffic control capacity, capabilities and flexibility to meet ever-increasing demand in China's airspace.</li> </ul>	TIWG
Simultaneously update and improve China's Air Traffic Management Bureau (ATMB) policies and procedures to provide more flexibility and responsiveness to an increasingly time-sensitive market, especially with regard to necessary flight plan changes and schedule modifications resulting from severe weather, mechanical and maintenance issues, and other unforeseeable circumstances.	TIWG

### Media and Publishing

Inadequate IP enforcement, limited market access, and inconsistent and subjective application of censorship regulations for foreign media and entertainment-related goods and services contribute to a large and growing black market for foreign content in China. These factors have increased costs for foreign and domestic media and entertainment companies that have stunted legitimate market development.

Eliminate the ban on airing foreign cartoons on domestic television stations during given time periods (17:00-22:00).	TIWG
Lift the ban on foreign companies and JVs producing and distributing TV programs or films in China.	TIWG
Stop imposing arbitrary blackout periods of foreign films.	TIWG

### Motor Vehicles

China has made developing its motor vehicles sector a priority. US companies are significant investors in the sector and view China as a major component of their global sales and operations. The development and transparency of internationally recognized standards on emissions, fuel, noise, and other motor vehicle technologies is essential to achieving mutual goals.

Remove "mastery" designation requirements that may necessitate foreign automakers to contribute their IP to Chinese JV operations in order to fully participate in the new-energy vehicle (NEV) industry or enter the NEV market from any current or draft laws, regulations, policies, or regulatory practices. In the draft development plan for new energy vehicles, all JV parties were required to demonstrate proficiency in electric vehicle batteries, control systems, or motors to receive the "mastery" designation.	ICD
Ensure that locally produced foreign nameplates (makes and models of autos developed and copyrighted by foreign auto firms) and the foreign original equipment manufacturers that supply parts to these vehicles are extended the same privileges and incentives as domestic nameplates, so that companies are inclined to launch their latest technologies in China.	TIWG
Consistently and uniformly implement auto and motorcycle laws and regulations across national, provincial, municipal, and local jurisdictions. Such measures include	TIWG

electric vehicle and alternative-power train development plans, emissions and safety regulations, fuel economy standards, incentive policies, and vehicle scrappage schemes.	
Allow foreign companies to own more than 50 percent in complete auto manufacturing enterprises and decouple ownership of distribution rights from the manufacturing JVs.	TIWG
Remove or mitigate current municipal-level regulations that ban or restrict motorcycle registration and riding in urban areas.	TIWG
Develop a special registration category for heavyweight motorcycles (with engine capacities of more than 700-800 ccs) to allow them reasonable access to city streets in urban areas and access to elevated roads and highways.	TIWG
Remove duplicate vehicle emission registration and approvals at the national and municipal levels (for example, Beijing).	TIWG
Expand capability at national, provincial, and local levels to enforce environmental and emissions standards consistently.	EWG TIWG
Use fiscal and tax incentives to encourage oil refineries to increase the production of high-quality, ultra-low sulfur diesel fuel and the production and consumption of diesel autos.	TIWG
Accelerate the establishment and consistent enforcement of advanced standards for sulfur content in diesel fuel and for overall fuel quality.	TIWG

## Retail

Foreign companies are increasingly major investors in the growing retail sector and bring to China technology, management techniques, and international best practices that promote the sector's further development. Though China has made some positive reforms, such as devolving authority for the approval process for retail licenses to the provincial level, further reforms are needed. Enforcing equal treatment for foreign and domestic companies in various areas – including branching, capital requirements, types of permissible merchandise, and zoning restrictions – will ensure that the sector becomes more competitive and efficient, an important factor as China seeks to boost consumption in the long term.

Eliminate the requirement that approval authorities must seek local-government opinion or hold public hearings on FIE zoning plans before approving new store applications for foreign investors only.	TIWG
Clarify rules for branch applications and develop more streamlined application procedures, such as eliminating the requirement that foreign retailers must receive MOFCOM approval to sell printed publications.	TIWG
Eliminate the restriction that prohibits foreign commercial enterprises from conducting wholesale or retail tobacco business.	TIWG
Lift requirements related to the sale of publications and audiovisual products, which stipulate that only Chinese-foreign cooperative JVs (mostly Chinese-controlled) can sell audiovisual products in China.	TIWG
Establish a carve-out provision that allows financially sound companies to be exempt from contributing to compulsory escrow accounts for prepaid cards in the final version of MOFCOM's prepaid card regulations.	TIWG
Remove e-commerce from the restricted category of the Catalogue Guiding Foreign Investment in Industry, and treat foreign and domestic retailers equally regarding minimum registered capital requirements in China's e-commerce infrastructure and logistics sector.	TIWG

## Telecommunications

China's telecom market is one of the world's largest, but it is also one of the most restrictive for foreign businesses, despite the considerable expertise and technology that foreign companies have to offer Chinese consumers. Such restrictions prevent valuable involvement by US firms that would foster market innovation, provide better overall service to Chinese consumers, and create a sophisticated and modern telecom infrastructure to support China's rapidly developing economy.

Release a draft of China's revised catalogue of value-added telecom services that reflects new market realities for public comment, and ensure that all stakeholders have an opportunity to review and provide comments during a comment period of at least 30 days.	TIWG
Eliminate foreign investment equity caps to allow foreign firms to acquire majority interest in telecom JVs. (China currently caps foreign interest in JVs offering value-added telecom services at 50 percent, and basic telecom services at 49 percent).	ICD TIWG
Establish more objective and transparent guidelines for IP-VPN services that designate them as value-added services and that provide more opportunities for foreign company market access.	TIWG