



China's 2004, 2005, and 2006 JCCT Commitments

(As of October 20, 2006)

Intellectual Property

2006	Status
China agreed to or has proceeded to:	
1. Take action against 14 factories producing illegal optical disks, to step up enforcement in this area to combat piracy of films, music, and software, and to explore new ways to strengthen cooperation with the United States in this area.	China took action against 14 factories before the April 2006 JCCT meeting.
2. Issue a notice requiring the pre-loading of legal operating system software on all computers produced in or imported into China and a notice requiring government agencies to purchase computers with legitimate pre-loaded software.	Regulation issued April 2006. At least four Chinese manufacturers have signed agreements to purchase and pre-load US operating system software.
3. Launch efforts to ensure that legal software is used in Chinese government agencies and enterprises and discuss US proposals regarding government and enterprise software asset management in the JCCT IPR Working Group (i.e. budgeting and auditing to produce a paper trail to prove that government bodies are buying legitimate software).	See also 2006 #2 and 2005 #5.
4. Intensify efforts to ensure that public markets are free of infringing products and announce enforcement actions in several major cities.	Some progress. Press reports of heightened enforcement as part of 2006 "Summer Campaign."
5. Help ensure that individual IPR cases raised by the US government against China will be vigorously pursued.	Ongoing.
6. Announce a broad action plan to improve enforcement of IPR, including steps in the areas of enforcement, legislation, and education.	China's 2006 IPR Action Plan was released on March 14, 2006.

2005	Status
China agreed to:	
1. Increase the number of criminal prosecutions for IPR violations relative to the total number of IPR administrative cases.	Final Opinion on Promptly Transferring Suspected Criminal Cases during Administrative Investigation, released in March 2006, is directed at increasing criminal prosecutions. See also 2005 #2.
2. Have MPS and PRC Customs issue regulations to ensure the timely transfer of cases for criminal investigation.	Completed. Final opinion released in March 2006 includes provisions on the transfer of cases for criminal investigation.

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3. Establish a joint US-PRC bilateral IPR law-enforcement working group whose members would cooperate on enforcement activities to reduce cross-border infringement activities.

FBI, DOJ, and US Customs joined trade officials at the November 2005 JCCT IPR working group meeting, but no formal working group has been established. See also 2004 #10.
4. Aggressively counter movie piracy by dedicating teams to pursue enforcement actions against pirates and regularly instruct enforcement authorities nationwide that copies of films and audiovisual products still under censorship or import review, or otherwise not yet authorized for distribution, are deemed pirated and subject to stricter enforcement.

July 2005 MOU with MPA commits China to crack down on pirated copies of the 20 foreign films that are distributed legally in China each year.

March 2006 MOU between MPA and CFCA created framework for increased cooperation on IPR enforcement and joint antipiracy efforts.
5. Complete, by the end of 2005, a legalization program to ensure that all central-, provincial-, and local-government offices are using only licensed software and to extend the program to all enterprises, including SOEs, in 2006.

In November 2005 IPR Working Group meetings, PRC government reported that recent audit of PRC government offices found no pirated software on office computers.

2006 IPR Protection Action Plan includes plans to promote the use of legal software by companies and for SOEs to purchase computers only with pre-installed legal software.
6. Appoint an IPR ombudsman at the PRC Embassy in Washington, DC, to serve as the point of contact for US companies.

Completed. Ombudsman in place at PRC Embassy in January 2006.
7. Ensure that the relevant PRC agencies, including MOFCOM, China Trademark Office, SIPO, and NCA, strengthen their efforts to improve IPR enforcement at trade shows and issue new regulations to achieve this goal.

Completed. Regulations, released in January 2006, took effect in March 2006. The 2006 IPR Protection Action Plan includes nationwide campaign for compliance with the regulations.
8. Submit, by June 30, 2006, to the NPC the legislative package needed for China to accede to the WIPO Internet Treaties.

In July 2006, regulations for on-line IPR protection took effect, but China has not yet finalized its accession to the treaties.
9. Immediately begin a nationwide crackdown on Internet piracy, including enforcement at Internet cafés.

May 2005 online copyright measures allow for administrative fines against Internet service providers that refuse to remove copyright-infringing material. See also 2004 #4.

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2004	Status
China agreed to:	
1. Significantly reduce IPR infringement levels.	Incomplete.
2. Subject a greater range of IPR violations to criminal investigations and criminal penalties.	Completed, but impact unclear. December 2004 PRC judicial interpretation lowered thresholds to apply criminal sanctions. Final opinion released in March 2006 includes provisions on the transfer of cases for criminal investigation. See also 2005 #1.
3. Apply criminal sanctions on the import, export, storage, and distribution of pirated and counterfeit products.	Some progress. See 2005 #1 and #2.
4. Apply criminal sanctions on online piracy.	Some progress. February 2006 draft regulation applies criminal statutes in some circumstances. See also 2005 #9.
5. Conduct nationwide enforcement actions against piracy and counterfeiting; stop the production, sale, and trade of infringing products; and punish violators.	Ongoing. The 2006 IPR Protection Action Plan indicates regulations will be issued on cross-provincial enforcement.
6. Increase customs enforcement actions against the import and export of infringing products and make it easier for rights-holders to secure effective enforcement at the border.	MPS and Customs jointly issued rules in March 2006 to boost coordination in IPR cases. See also 2005 #2.
7. Ratify and implement the WIPO Internet Treaties as soon as possible.	Pending. See 2005 #8.
8. Extend an existing ban on the use of pirated software in PRC central- and provincial-government agencies to include local governments.	Pending. See 2005 #5.
9. Launch a national campaign to educate PRC citizens about the importance of IPR protection.	Completed and ongoing.
10. Establish an IPR working group under the JCCT. Under this working group, US and PRC trade, judicial, and law enforcement authorities will consult and cooperate on the full range of issues described in China's IPR action plan.	Completed. Most recent meeting held in Beijing in August 2006. See also 2005 #3.

Market Access in Services

2006	Status
China agreed to:	
1. Make appropriate adjustments to registered capital requirements for telecom service providers, though the PRC statement said only that “consideration would be given” to such adjustments.	The JCCT Telecommunications Dialogue met in August 2006 to discuss this commitment.
2. Ensure that the issuance of new rules, including the postal law, will not negatively affect the regulatory environment for express delivery services by foreign companies.	Unclear. US industry continues to seek improvements to market access for express delivery services.
3. Launch a new dialogue between PRC government officials and foreign-invested direct selling companies to address market access concerns, with US government participation possible following the initial rounds.	Two meetings have been held in China with MOFCOM, SAIC, and industry representatives. US industry is evaluating its options.
2005	Status
China agreed to:	
1. Convene another meeting of the US-China Insurance Dialogue before the end of 2005 to discuss regulatory concerns and barriers to further liberalization of the sector.	Completed. Third dialogue in series was held in December 2005. Next meeting is expected to be held in November 2006.
2. Ensure that the final Regulations on Management of Direct Selling conform to China’s applicable WTO obligations, including requirements concerning distribution of imported goods and fixed locations.	Completed, but with restrictions that may limit implementation of the international direct sales business model.
3. A new dialogue under the JCCT Information Technology Working Group to discuss capitalization requirements, resale services, and other issues agreed to by both sides.	Completed. First dialogue held in Beijing in January 2006.
2004	Status
China agreed to:	
1. Implement its WTO trading rights obligations by July 1, 2004—six months ahead of the scheduled WTO commitments.	Completed.
2. Provide distribution rights to US companies in China on schedule by December 2004.	Completed late, in 2005.
3. Open its market to US shippers through a Bilateral Maritime Agreement signed during the JCCT—allowing US carriers to open full branches in China and to operate without restrictions.	Ongoing. Licenses have been granted to US shippers and branches opened. Consultations held in March 2006.

Agriculture

2006	Status
China agreed to:	
1. Reopen its market to US beef exports subject to the completion of a technical protocol.	Two rounds of technical negotiations have been held. China issued regulations on August 30, 2006 that US beef exporters have indicated are inadequate to address their concerns.
2. Create a structure that allows sanitary and phytosanitary and food safety issues to be addressed before they become barriers to trade.	MOU signed between AQSIQ and USDA at the 2006 JCCT.
2005	Status
China agreed to:	
1. Cooperate via AQSIQ and USDA on animal and plant health and safety issues and improve efforts to expand US access to China's markets for agricultural commodities.	Ongoing.
2004	Status
China agreed to:	
1. Issue final safety certificates for US biotech soybeans.	Completed.
2. Announce biotech approvals for seven US canola and four US corn "events" and review the remaining two US corn events submitted for approval when its technical committee meets in May 2004.	Completed.
3. Make it easier to export US wheat, cotton, corn, and other products subject to tariff-rate quotas to China by providing the names of its domestic quota holders to US exporters upon request.	Unclear. According to USTR, the PRC government has provided at least partial lists of its domestic quota holders.

Other JCCT Commitments

2006	Status
China agreed or has proceeded to:	
1. Begin formal negotiations to join the WTO Government Procurement Agreement by no later than the end of 2007, with technical consultations to continue in the interim.	Technical discussions to prepare for accession negotiations ongoing.
2. Require that all laws and regulations affecting trade in goods, services, intellectual property, or foreign exchange be published in the MOFCOM Gazette.	Notice issued by the PRC State Council in March 2006.
3. Eliminate duplicative testing and certification requirements applicable to imported medical devices, with the completion of this effort expected by the end of May 2006.	Initial regulations were issued on April 30, 2006, but do not appear to fully meet the industry's concerns.
4. Reiterate its commitment to technology neutrality for 3G standards, ensure that telecom service providers will be allowed to make independent decisions regarding which standard they choose to adopt, and issue licenses for all 3G standards in a manner that does not advantage one standard over others.	Commitment reiterated at April 2006 JCCT.
5. Discuss industry concerns regarding the production of active pharmaceutical ingredients (or bulk chemicals) under the JCCT Medical Devices and Pharmaceutical Subgroup.	Subgroup meeting held in August 2006.
6. Hold a follow-up meeting of the JCCT Steel Dialogue with industry participation later this year.	Meeting will be held in October 2006.
2005	Status
China agreed to:	
1. Delay issuing draft regulations on software procurement, as it further considers public comments and makes revisions in light of WTO rules.	Completed, but status of revisions unclear.
2. Accelerate its efforts to join the WTO Government Procurement Agreement and, toward this end, will initiate technical consultations with other WTO members.	Technical consultations initiated. See also 2006 #1.
3. Provide a detailed accounting of its subsidies to the WTO by the end of 2005.	Report submitted to the WTO on April 7, 2006.
4. Intensify bilateral discussions on structural issues related to China's status as a nonmarket economy under US antidumping law, including a review of China's subsidy practices.	Ongoing.
2004	Status
China agreed to:	
1. Suspend indefinitely its proposed implementation of WAPI as a mandatory wireless encryption standard.	Mandatory standard suspended, but MII and NDRC announced in December 2005 a proposed government procurement policy giving "preference" to equipment using WAPI technology.

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2. Work to revise its WAPI standard, taking into account comments received from Chinese and foreign firms.	Unclear. ISO rejected WAPI as an international standard in March 2006. BWIPS, the PRC body promoting WAPI, filed an appeal with ISO in April 2006 accusing the US Institute of Electrical and Electronic Engineers of using “unethical activities” in the voting process on the WAPI standard. ISO has indicated it will investigate the case.
3. Participate in international standards bodies on WAPI and wireless encryption for computer networks.	Ongoing.
4. Allow telecom service providers in China to choose which standard to adopt, according to their individual needs.	Unclear. USTR’s 2006 review of telecom policies cites concerns that a government policy to influence standards decisions may exist.
5. Remove PRC regulators from involvement in negotiating royalty payment terms with relevant IPR holders.	Unclear. According to the US Embassy in Beijing, MII officials have stated that PRC regulators are uninvolved. USTR’s 2006 NTE report says PRC regulators interfered with commercial negotiations for 3G telecom royalties.
6. Have MOFCOM cooperate with DOC in end-use verification for US exports of controlled dual-use items.	Some progress.
7. Provide logistical support, via the China Council for the Promotion of International Trade, for DOC trade missions.	Completed.
8. Have AQSIQ and CPSC exchange information on product safety regulations.	Ongoing. At 2004 JCCT, AQSIQ and CPSC signed an MOU that covers exchange of regulatory and technical information, joint participation in training laboratory and inspection personnel, and consultation on product safety issues. CPSC and AQSIQ held first Biennial Consumer Product Safety Summit in August 2005 to discuss progress on addressing consumer safety issues.
9. Allow imports of US cosmetics via AQSIQ and have AQSIQ accept export certificates issued by two US trade associations documenting that the products do not contain any animal products prohibited in China.	The Cosmetic, Toiletry, and Fragrance Association and the Independent Cosmetic Manufacturers and Distributors Association are authorized to issue export certificates.

Other JCCT Initiatives

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| <ul style="list-style-type: none"> • The United States and China agreed to establish a US-China High Technology and Strategic Trade Working Group under the JCCT to review export control cooperation and facilitate high technology trade. | <p>Established and ongoing. Meeting held in Washington in September 2006.</p> |
| <ul style="list-style-type: none"> • The JCCT Tourism Working Group agreed to discuss visa issues for Chinese tourist groups to the United States. | <p>Ongoing. Working group agreed to a work program in April 2006. Next meeting expected to be in early 2007.</p> |
| <ul style="list-style-type: none"> • The United States and China signed three protocols concerning the export of certain Chinese plants to the United States and the export of US and Alaskan timber to China. | <p>Completed.</p> |
| <ul style="list-style-type: none"> • The United States agreed to lift a ban on the importation of cooked poultry meat from China. | <p>Completed. In July 2006, USDA seized 2,000 pounds of chicken imports from China that did not meet the criteria of the new rule.</p> |

Sources: Office of the US Trade Representative, US Department of Commerce, PRC Ministry of Commerce

Abbreviations

3G	Third generation
AQSIQ	Administration of Quality Supervision, Inspection, and Quarantine (PRC)
BWIPS	Broadband Wireless Internet Protocol Standard Group (PRC)
CFCA	Chinese Film Copyright Association
CPSC	Consumer Product Safety Commission (US)
DOC	Department of Commerce (US)
DOJ	Department of Justice (US)
FBI	Federal Bureau of Investigation (US)
IEC	International Electrotechnical Commission
IPR	Intellectual property rights
ISO	International Organization for Standardization
JCCT	Joint Commission on Commerce and Trade
LAN	Local area network
MII	Ministry of Information Industry (PRC)
MOFCOM	Ministry of Commerce (PRC)
MOU	Memorandum of understanding
MPA	Motion Picture Association
MPS	Ministry of Public Security (PRC)
NCA	National Copyright Administration (PRC)
NDRC	National Development and Reform Commission (PRC)
NPC	National People's Congress (PRC)
NTE	National Trade Estimate report
SAC	Standards Administration of China (PRC)
SIPO	State Intellectual Property Office (PRC)
SOE	State-owned enterprise
USDA	Department of Agriculture (US)
WAPI	Wireless Local Area Network Authentication and Privacy Infrastructure
WIPO	World Intellectual Property Organization
WTO	World Trade Organization