



China's JCCT Commitments, 2004–09

(As of June 9, 2010)

A glossary of all abbreviations that appear in the chart can be found at the end of the document.

Intellectual Property

| 2009 (as reported by the USTR/DOC Fact Sheet) | Status |
|---|--|
| China agreed to: | |
| 1. Take appropriate action to investigate and punish copyright infringement of US medical and scientific journals by libraries. | NCAC, MOC, and MOE issued a public notice on October 28, 2009 conveying the importance of strengthening protection of copyright-protected academic and medical journals. |
| 2. Use more resources to address Internet piracy concerns; specifically, impose maximum administrative penalties for criminals using the Internet as a platform for IPR infringement. | China concluded a four-month campaign in November 2009 to clamp down on Internet piracy. |
| 3. Work closely with the United States to resolve online music distribution concerns stemming from a September 3, 2009 Ministry of Culture circular that requires distributors of foreign digital music to get advanced censorship approval by December 31, 2009. | The United States and China held a joint workshop on this issue in December 2009 and discussed it most recently during the April 2010 meeting of the JCCT IPR Working Group. |
| 4. Hold a joint public-private program with the United States to discuss intermediary legal liability on the Internet. | The United States and China co-hosted a workshop on this issue in April 2010, immediately before the JCCT IPR Working Group meeting. |
| 5. Exchange information with the United States about handling bad-faith trademark registration practices through seminars and forming a task force under the JCCT IPR Working Group. | The United States and China plan to hold a fall 2010 multilateral workshop with the European Union and Japan on trademark squatting and bad-faith trademark registrations. |
| 2008 | Status |
| China agreed to: | |
| 1. Continue to pursue cooperative activities, in addition to formal IPR Working Group meetings, that involve IPR and innovation, such as China's development of guidelines on IPR and standards; public-private discussions on copyright and Internet-piracy challenges, including infringement on user-generated content sites; reduction of the sale of pirated and counterfeit goods at wholesale and retail markets; and other issues of mutual interest. | See 2009 #4 and 2009 #5. The United States and China plan to hold a fall 2010 workshop on the implementation of the PRC Patent Law and Patent Law Implementing Regulations. |

Intellectual Property

2. Sign two IPR MOUs on strategic cooperation as soon as possible, but no later than by the end of 2008, to improve the administration and effectiveness of copyright and trademark protection and enforcement.

NCAC, USPTO, and the US Copyright Office on October 26, 2008 signed a memorandum of agreement on strategic cooperation on copyright issues. The agreement calls for regular information exchanges, training, and public education.

SAIC and USPTO on October 26, 2008 also signed a memorandum of agreement on strategic cooperation on trademark issues.

3. Continue to close loopholes that allow the sale of bulk chemicals to downstream drug counterfeiters.

At the April 2009 meeting of the JCCT Pharmaceutical and Medical Device Task Force, the United States and China agreed to hold a meeting on issues surrounding bulk chemicals and active pharmaceutical ingredients. This meeting has not yet occurred.

2007

Status

China agreed to:

1. Exchange information on customs seizures of counterfeit goods to further focus China's enforcement resources on companies that export such goods.

US Customs and Border Protection and PRC General Administration of Customs authorities in May 2007 signed a memorandum of cooperation that provides for the exchange of nominal information on intellectual property-related seizures in both countries.

In one of the first successful cases of strong bilateral cooperation, PRC and US customs officials cooperated in 2008 to confiscate cross-border counterfeit Nike, Inc. footwear, resulting in the seizure of counterfeit shoes worth \$4 million.

2. Strengthen enforcement of laws against company-name misuse and cooperate on case-by-case enforcement against such company-name misuse.

In December 2007, SAIC completed a four-month campaign targeting the unauthorized use of well-known trademarks and company names in the company registration process, which included more than 6,000 cases involving domestic and foreign companies. In April 2008, SAIC stated that it would issue guiding opinions on administrative enforcement in these cases, though these guidelines have not yet been released. Additionally, the PRC Supreme People's Court released provisions in February 2008 designed to strengthen court handling of cases dealing with company name and trademark misuse.

3. Address specific loopholes in its regulation of bulk chemicals used as active pharmaceutical ingredients. (Bulk chemicals are used as the underlying source of many counterfeit drugs.)

HHS and SFDA signed an agreement as part of the third SED designed to allow China to combat counterfeits and strengthen the quality and safety of finished drugs, active pharmaceutical ingredients, and excipients exported to the United States.

See also 2008 #3.

2006

Status

China agreed to or has proceeded to:

1. Take action against 14 factories that produce illegal optical disks and to combat film, music, and software piracy and explore new ways to strengthen cooperation

China took action against 14 factories before the April 2006 JCCT meeting.

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with the United States in this area.

2. Issue a notice that requires the pre-installation of legal operating system software on all computers produced in or imported into China and a notice that requires government agencies to purchase computers with legitimate, preinstalled software.

3. Launch efforts to ensure that PRC government agencies and enterprises use legal software and discuss US proposals on government and enterprise software-asset management in the JCCT IPR Working Group, such as budgeting and auditing to produce a paper trail to prove that government bodies are buying legitimate software.

4. Intensify efforts to ensure that public markets are free of infringing products and announce enforcement actions in several major cities.

5. Help ensure that individual IPR cases raised by the US government against China will be vigorously pursued.

6. Announce a broad action plan to improve IPR enforcement that includes taking steps to improve enforcement, legislation, and education.

7. Discuss industry concerns regarding the production of active pharmaceutical ingredients (or bulk chemicals) under the JCCT Medical Devices and Pharmaceutical Subgroup.

Regulation issued April 2006. At least four Chinese manufacturers have signed agreements to purchase and preinstall US operating system software. The policy was reiterated in China's 2007 and 2008 IPR Action Plans, though not in its 2009 plan.

At the 2006 JCCT IPR working group meeting, China reaffirmed its prior commitments to ensure the use of legal software at all levels of PRC government and adopt procedures to ensure that enterprises use legal software, beginning with state-owned enterprises and other large enterprises.

See also 2006 #2 and 2005 #5.

Some progress. In February 2008, SIPO announced the launch of the "Thunderstorm Campaign" against IPR infringement and counterfeiting, which ran from March to November 2008. NCA and MOE launched a campaign in late 2006 against pirated textbooks on university campuses. PRC ministries of Culture and Public Security led a 100-day campaign against piracy from July through November 2007.

Cases raised by the US government were addressed until the US filed IPR-related WTO cases against China in 2007. Cooperation has not resumed.

In a separate step to address specific cases, China opened 50 IPR-complaint service centers in early 2007.

China has released IPR action plans each spring since 2006, most recently on April 29, 2009.

Subgroup meeting held in August 2006.

See also 2008 #3 and 2007 #3.

2005

China agreed to:

1. Increase the number of criminal prosecutions for IPR violations relative to the total number of IPR administrative cases.

2. Have MPS and PRC Customs issue regulations to ensure the timely transfer of cases for criminal investigation.

Status

Final Opinion on Promptly Transferring Suspected Criminal Cases during Administrative Investigation, released in March 2006, is directed at increasing criminal prosecutions. Statistics through 2009, however, show that few cases are transferred from administrative to criminal investigation.

See also 2005 #2.

Completed. The final opinion released in March 2006 includes provisions on the transfer of cases for criminal investigation.

Intellectual Property

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

Formal cooperation established in the US-China Joint Liaison Group.

China's 2007 IPR Action Plan noted the creation of the US-China IPR Criminal Enforcement Working Group under the Joint Liaison Group. Though the IPR Criminal Enforcement Working Group was designed to coordinate with the JCCT IPR Working Group, law enforcement officials have not complied as well as hoped and the group has not been mentioned in subsequent IPR action plans.

In 2007, the MPS and FBI organized "Operation Summer Solstice," which resulted in the seizure of more than 290,000 counterfeit software disks valued at more than \$500 million.

See also 2004 #10 and 2007 #1.

4. Aggressively counter movie piracy by dedicating teams to pursue enforcement actions against pirates and regularly instructing 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.

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

A March 2006 MOU between MPA and CFCA created a framework for increased cooperation on IPR enforcement and joint antipiracy efforts.

5. Complete a legalization program by the end of 2005 to ensure that all central, provincial, and local government offices use only licensed software, and to extend the program to all enterprises, including SOEs, in 2006.

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

The 2006 IPR Protection Action Plan included plans to promote the use of legal software by companies and for SOEs to purchase computers with only preinstalled, legal software.

The subsequent 2009 IPR Protection Action Plan continues to promote the use of legal software by companies.

6. Appoint an IPR ombudsman at the PRC Embassy in Washington, DC, to serve as the point of contact for US companies.

The first IPR ombudsman began work at the PRC Embassy in January 2006. But the position has been unfilled since mid-2008.

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

Completed. Regulations were released in January 2006 and took effect in March 2006. The 2006 and 2007 IPR Protection Action Plans included a nationwide campaign for compliance with the regulations.

8. Submit to the NPC by June 30, 2006 the legislative package needed for China to accede to the WIPO Internet treaties.

Completed. NPC approved accession to treaties in December 2006. The treaties took effect in China on June 9, 2007.

9. Immediately begin a nationwide crackdown on Internet piracy, including enforcement at Internet cafés.

NCA launched a three-month campaign from August to October 2007 to fight Internet piracy, following a similar campaign in 2006.

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A July 2006 regulation granted authorities the power to levy administrative fines of up to RMB 100,000 (\$13,333) for copyright infringement of works that are transmitted via networks.

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

See also 2004 #4.

2004

China agreed to:

1. Significantly reduce IPR infringement levels.
2. Subject a greater range of IPR violations to criminal investigations and criminal penalties.
3. Apply criminal sanctions on the import, export, storage, and distribution of pirated and counterfeit products.
4. Apply criminal sanctions on online piracy.
5. Conduct nationwide enforcement actions against piracy and counterfeiting; stop the production, sale, and trade of infringing products; and punish violators.

Status

Infringement levels remain high even as PRC agencies have implemented a number of projects in recent years to crack down on pirated goods. After a WTO dispute settlement body found China in violation of IPR enforcement (DS 362), China on April 15, 2009 announced its intentions to implement the panel's ruling.

A December 2004 PRC judicial interpretation lowered thresholds to apply criminal sanctions. The final opinion, released in March 2006, includes provisions on the transfer of cases for criminal investigation. Thresholds were lowered again in April 2007 by a judicial interpretation.

Despite these actions, the application of criminal penalties appears to be insufficient. The United States challenged China's IPR laws at the WTO in April 2007. The WTO issued a ruling in January 2009 in a WTO case on IPR enforcement that found the United States did not provide sufficient evidence to support its complaint on criminal thresholds in China, though the United States won on other issues in the case (see 2004 #1).

See also 2005 #1.

Some progress. See 2005 #1 and #2.

Some progress. The State Council passed regulations in May 2006 that applied criminal statutes in some circumstances.

See also 2005 #9.

Ongoing. China's 2009 IPR Action Plan mentioned the continuation of several IPR campaigns, including the "Thunderstorm" Campaign against patent infringement and the "Skynet Campaign" against patent fraud, as well as stepped-up campaigns to address IPR infringement in animation markets, copyright infringement by counterfeiting networks, software verification, and online piracy.

Intellectual Property

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| <p>6. Increase customs enforcement actions against the import and export of infringing products and make it easier for IPR rights-holders to secure effective enforcement at the border.</p> | <p>In 2006, PRC Customs launched two campaigns dealing with imports and exports of fake goods, concentrating on those shipped through mail and express delivery channels and in the Yangzi River Delta region. MPS and Customs also jointly issued rules in March 2006 to boost coordination in IPR cases.</p> <p>See also 2005 #2 and 2007 #1.</p> |
| <p>7. Ratify and implement the WIPO Internet Treaties as soon as possible.</p> | <p>Completed. See 2005 #8.</p> |
| <p>8. Extend an existing ban on the use of pirated software in PRC central- and provincial-government agencies to include local governments.</p> | <p>Pending. See 2005 #5.</p> |
| <p>9. Launch a national campaign to educate PRC citizens about the importance of IPR protection.</p> | <p>Launched and ongoing.</p> |
| <p>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.</p> | <p>Completed. Meetings stalled after the United States initiated a WTO case on IPR enforcement against China in April 2007 but resumed in September 2008 and continued in October 2009.</p> <p>See also 2005 #3.</p> |

Market Access in Services

| 2008 | Status |
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| China agreed to: | |
| <p>1. Reduce basic telecom services minimum-capitalization levels.</p> | <p>Some progress. Although the PRC State Council released revised Foreign-Invested Telecom Enterprise Regulations in September 2008, which reduced capital requirements from roughly \$220 million to \$146 million, companies believe requirements remain too high.</p> |
| <p>2. Delegate the authority for foreign retail-outlet approvals to the provincial level.</p> | <p>Completed. In September 2008, MOFCOM released new regulations that delegated approval of foreign-invested commercial enterprises in most industries to the provincial level.</p> |
| 2007 | Status |
| China agreed to: | |
| <p>1. Confirm that it will lower registered capital requirements for US telecom service providers to operate in China.</p> | <p>See 2008 #1.</p> |
| 2006 | Status |
| China agreed to: | |
| <p>1. Make appropriate adjustments to registered capital</p> | <p>The JCCT Telecommunications Dialogue met in</p> |

Market Access in Services

requirements for telecom service providers, though the PRC statement said only that “consideration would be given” to such adjustments.

2. Ensure that new rules, including the PRC Postal Law, will not negatively affect the regulatory environment for the express-delivery services of foreign companies.

3. Launch a new dialogue between PRC government officials and foreign-invested direct selling companies to address market-access concerns, perhaps with US government participation following the initial rounds.

August 2006 to discuss this commitment.

See also 2008 #1.

The final PRC Postal Law, which was passed by the NPC and took effect October 1, 2009, includes numerous provisions that appear to disadvantage foreign express-delivery companies. Because implementing regulations for the Postal Law have not yet been released, the effects of the new law on foreign companies remain unclear.

Two meetings were held in 2006 in China with MOFCOM, SAIC, and industry representatives. Several direct-selling companies have been approved to operate in China.

At the 2009 JCCT, China stated it was in the process of concluding its licensing procedures for certain qualified direct selling services companies. This has not yet occurred.

2005

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 liberalize the sector.

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.

3. A new dialogue under the JCCT Information Industry Working Group to discuss capitalization requirements, resale services, and other issues agreed to by both sides.

Status

Completed. The most recent meeting of the Insurance Dialogue was held in Dalian, Liaoning on September 10, 2009.

Completed. Yet the regulations contain restrictions that may limit implementation of the international direct-sales business model. Multiple direct-selling companies have been approved to operate in China.

Completed. The first dialogue was held in Beijing in January 2006. These issues are discussed regularly in subsequent Information Industry Working Group meetings, the latest of which occurred in Beijing on March 11, 2010.

2004

China agreed to:

1. Implement its WTO trading-rights obligations by July 1, 2004—six months ahead of the scheduled WTO commitments.

2. Provide distribution rights to US companies in China on schedule by December 2004.

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.

Status

Completed.

Completed late, in 2005.

Ongoing. Licenses have been granted to US shippers and branches have opened. Consultations were held in March 2006.

Healthcare

2009 (as reported by the USTR/DOC Fact Sheet)

Status

China agreed to:

1. Ensure product recall regulations will not be duplicative or redundant, stating that MOH and SFDA are the relevant authorities for medical device recalls.

China announced in October 2009 that MOH and SFDA would serve as the relevant regulatory authorities for medical device recalls, and that SFDA would not implement the home-country registration requirement.

2. Adopt a risk-based approach that will not automatically lead to clinical trials for medical devices and to consider using results from clinical trials conducted outside of China in place of local clinical trials.

Though SFDA is updating and revising its clinical trials guidance and regulations—Order 16 (Annex 12) is currently under revision—SFDA reviewers still request foreign manufacturers to submit new clinical trial data when robust scientific data from clinical trials conducted outside of China already exists.

3. Accept prior approval documents for medical devices issued by foreign countries regardless of its origin to satisfy any prior approval registration requirements.

Little progress has been made and new regulations are incompatible with the 2009 JCCT discussions.

4. Consider exemptions of requiring product samples to be tested in Chinese labs prior to approval if the manufacturer demonstrates compliance with international standards by providing sound scientific evidence.

Pending.

5. Strive toward implementing policies that are consistent with guidance documents for medical devices issued by the Global Harmonization Task Force and the Asia Harmonization Working Party.

China continues to implement increasing numbers of international technical standards, and SFDA has promised to consider Global Harmonization Task Force standards when compiling medical device-related documents, but SFDA may ultimately tailor new standards to fit the Chinese landscape.

6. Strengthen its oversight and enforcement of active pharmaceutical ingredients (APIs) and counterfeit pharmaceuticals.

SFDA now requires manufacturers to register with them, but China needs more regulatory controls.

7. Identify SFDA as its single point of contact for the Interagency Coordination Conference for Fighting the Production and Sales of Counterfeit Drugs.

Completed.

8. Share information with FDA on the Interagency Coordination Conference.

Pending.

2008

Status

China agreed to:

1. Update its National and Regional Drug Reimbursement Lists comprehensively every two years, as stipulated in its domestic regulations, to enable US companies to sell more advanced pharmaceuticals to Chinese hospitals and consumers.

MOHRSS released an updated reimbursement list in November 2009.

2. Require only one test, one fee, and one factory inspection for medical devices.

AQSIQ released Notice 94 on September 10, 2008. The notice designates testing labs for eight types of medical device products and requires that those labs conduct one test, with one fee, for those products. There has been no further word on other categories of medical devices.

Healthcare

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| 3. Seek input from the US government and relevant stakeholders on its revised draft medical-pricing policy. | Limited progress has occurred. NDRC circulated draft pricing rules to some stakeholders but did not release documents for public comment. In October 2009, NDRC released and implemented the final version of the pricing guidelines for essential drugs. NDRC's interaction with US stakeholders on pricing of other medical products and services remains limited. |
| 4. Hold discussions with the US government and relevant stakeholders on China's tendering policies to ensure that the process is fair and transparent and that the quality and innovation of medical devices are given adequate consideration in purchasing decisions. | DOC has raised this issue several times with MOH and expects a tender for imaging or capital equipment in June 2009 that will shed more light on China's progress in this area. |

2007

Status

China agreed to:

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| 1. Eliminate remaining redundancies in its testing and certifications requirements for imported medical devices. | In addition to suspending Decree 95 (see #3 below), China also committed to eliminating the remaining redundancies. |
| 2. Implement a "one test, one fee" policy for medical devices, establishing a single conformity assessment system. | See also 2008 #2. See 2008 #2. |
| 3. Suspend implementation of AQSIQ Decree 95, which would have produced additional testing and inspection redundancies that target imported medical devices. | AQSIQ issued a notice on December 12, 2007 that temporarily suspended Decree 95, but no further notice has been released. |

2006

Status

China agreed to:

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| 1. Eliminate duplicative testing and certification requirements on 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 did not fully meet the industry's concerns. New regulations were passed in June 2007 that again appeared to increase the testing requirements for imported medical devices, but implementation of the regulation was suspended in December 2007. See 2009 #3 and 2009 #4, 2008 #2, and 2007 #1 and #2. |
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Agriculture

2009 (as reported by the USTR/DOC Fact Sheet)

Status

China agreed to:

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| 1. Lift its H1N1-related ban on pork and live swine imports from the United States. | Complete. AQSIQ published a circular on December 1, 2009 that terminated previous circulars that restricted pork imports from the US, Mexico, and Canada as an emergency response to the H1N1 virus. |
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Agriculture

2. Sign a MOU with the United States that renewed the Joint Committee on Cooperation in Agriculture (JCCA)

Completed and ongoing

2008

Status

China agreed to:

1. Lift its avian influenza-related bans on poultry imports from six US states—Connecticut, Nebraska, New York, Pennsylvania, Rhode Island, and West Virginia—and agreed to work to remove bans on those states.

Incomplete. China lifted bans on states included in the commitment but has added bans on imports from Arkansas, Pennsylvania, Texas, Virginia, and two other undisclosed states.

2. Immediately allow seven US poultry processing plants to resume exports to China.

Incomplete. All but one plant, in Arkansas, have been allowed to resume exporting to China. Avian influenza issues need to be resolved to lift ban.

3. Conduct expert-level discussions on sanitary and phytosanitary standards.

A low-level meeting was held in December 2008, but no official meetings have been held since September 2008 because of delays in the PRC's completion of a pathogens-risk assessment. USDA held a seminar with MOH to set guidelines for pathogens of raw meat in September 2009. China is still drafting pathogen standards.

2007

China agreed to:

1. Allow six US pork processing facilities to resume exports to China.

Incomplete. An AQSIQ technical group visited the US facilities in December 2007 and announced the plants would be relisted only if the companies agreed to stop the use of ractopamine, a feed additive that helps pigs reach market weight faster, which is not feasible for US plants. In addition, AQSIQ announced that three new plants were delisted from shipping to China as of May 7, 2008.

China is reportedly working on developing a scientific protocol standard limit on ractopamine. USDA and AQSIQ have an ongoing dialogue to pursue PRC approval of ractopamine, but work is on hold while the new US administration gets up to speed on the issue. China is conducting risk assessments but is reportedly waiting for Codex to provide a draft standard China can approve. The draft standard was not ratified at the 2009 Codex meeting and the issue will be looked at again in the summer 2010 meeting.

One company has agreed to offer a ractopamine-free product and has been relisted.

2. Remove "contract value" requirements from draft agricultural licensing regulations that would require US farmers and exporters to disclose confidential business information.

Completed.

3. Eliminate the requirement to submit viable biotech seeds for testing, a requirement that increases the risk that the patented technology will be illegally copied.

Completed.

Agriculture

2006

Status

China agreed to:

1. Reopen its market to US beef exports subject to the completion of a technical protocol.

Incomplete. Two rounds of technical negotiations have been held. China issued regulations on August 30, 2006 that US beef exporters indicated are inadequate in addressing their concerns.

In May 2007, the World Organization for Animal Health ruled that the United States is a "controlled risk" for bovine spongiform encephalopathy (BSE). The PRC has expressed concerns about these findings and, as a result, has not yet allowed imports of US beef.

In August 2007, China offered to accept US boneless beef, bone-in beef, and most offal from cattle from cows younger than 31 months. China excluded certain high-value offal from the offer. The United States rejected China's offer and stated that China must follow World Organization for Animal Health guidelines to open its market to US beef regardless of age, as long as specified risk materials for BSE are removed.

USDA and AQSIQ signed an MOU in 2008 to promote an information-notification mechanism between both countries related to meat, poultry, and egg products trade. The process includes acquiring data on tests, virus samples, and shipping information to verify and quarantine infected shipments. Negotiations were launched during the third SED.

2. Create a structure that allows sanitary, phytosanitary, and food safety issues to be addressed before they become barriers to trade.

MOU signed between AQSIQ and USDA at the 2006 JCCT. Discussions are ongoing.

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 agricultural commodities' access to China's markets.

Launched during the third SED, USDA-AQSIQ negotiations to form an agreement on meat, poultry, and egg products trade are 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.

Agriculture

3. Make it easier to export US wheat, cotton, corn, and other products that are 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

2009 (as reported by the USTR/DOC Fact Sheet)

Status

China agreed to:

1. Issue a formal guideline clarifying that FIEs operating in China are eligible for government procurement programs.

Pending. Article 10 of China's draft Implementing Regulations for the Government Procurement Law appears to define domestic products and services in a way that grants FIEs eligibility for government procurement programs. Shortly before the May 2010 meeting of the S&ED, China released a draft set of regulations that provides for a 50 percent domestic-content threshold for designating products as "domestic" and a formula for calculating that ratio. The rules, however, continue to reference product catalogues and fail to clearly delink government procurement from indigenous innovation. Neither regulation is finalized, and implementation is pending.

2. Eliminate its 70 percent local content requirement for wind-power equipment.

NDRC announced in January 2010 that it removed the local content requirements in the fall of 2009.

3. Submit an improved WTO GPA offer to the WTO.

China committed at the May 2010 meeting of the S&ED to submit a revised offer in July 2010.

4. Confirm that China's Compulsory Certification (CCC) testing and certification rules for 13 categories of information security products only apply to government procurement.

Completed.

2008

Status

China agreed to:

1. Submit an improved offer to the WTO with respect to accession to the WTO GPA.

To date, no revised offer has yet been tabled. See 2009 #4.

2. Reiterate its commitment to ratify the Cape Town Convention on International Interests in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment

Completed. China ratified the treaty on February 3, 2009. It took effect June 1, 2009.

3. Clarify that formal and informal policies related to software purchases by all Chinese private and state-owned enterprises will be based solely on market terms without PRC government direction.

No update available.

4. Delay publication of final rules on information-security certification that would bar several types of US products from China's market.

The final rule was delayed and took effect May 1, 2010.

5. Clarify to which entity or subsidiary R&D expenditure thresholds apply when companies apply for high- and new-tech enterprise (HNTE) status and what implementation of a

MOST provided some clarification at the 2008 JCCT meeting, but questions remain.

Other JCCT Commitments

five-year exclusivity agreement for licensing entails.

| 2007 | Status |
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| <p>China agreed to or has proceeded to:</p> <ol style="list-style-type: none"> 1. Confirm that it will submit, by the end of 2007, its initial offer on PRC government agencies that will be covered by the WTO GPA. 2. Join the Cape Town Convention on International Interests in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment. | <p>Completed. China submitted its initial offer on December 28, 2007. This offer was viewed by GPA members as being inadequate and they requested an improved offer. See 2009 #4 and 2008 #1.</p> <p>See 2008 #2.</p> |
| 2006 | Status |
| <p>China agreed or has proceeded to:</p> <ol style="list-style-type: none"> 1. Begin formal negotiations to join the WTO GPA by no later than the end of 2007, with technical consultations to continue in the interim. 2. Require that all laws and regulations that affect trade in goods, services, intellectual property, or foreign exchange be published in the MOFCOM <i>Gazette</i>. 3. Reiterate its commitment to technology neutrality for 3G standards, ensure that telecom service providers will be allowed to make independent decisions about which standard they choose to adopt, and issue licenses for all 3G standards in a manner that does not give advantage to one standard over others. 4. Hold a follow-up meeting of the JCCT Steel Dialogue with industry participation later this year. | <p>See 2007 #1.</p> <p>China pledged at SED IV in June 2008 to post all trade and economic-related administrative regulations and department rules for comment for at least 30 days on the State Council Legislative Affairs Office information website. Compliance with this commitment has been uneven.</p> <p>A January 2010 State Council notice required public comment solicitation for all proposed administrative rules and regulations, including those drafted by various ministries. According to the notice, which also reported on the State Council work plan, drafts of administrative documents must be posted for comment on the State Council Legislative Affairs Office information website. This requirement goes beyond China's SED IV commitment, which calls for only those documents that are "economic" in nature to be posted for comment.</p> <p>This commitment was reiterated at the April 2006 JCCT. China issued 3G licenses in January 2009 and gave its domestic standard (TD-SCDMA) to China Mobile, China's largest operator. China Unicom and China Telecom received W-CDMA and CDMA-2000, respectively.</p> <p>The latest meeting was held in Beijing on October 23–24, 2008. No meeting has currently been scheduled for 2010.</p> |
| 2005 | Status |
| <p>China agreed to:</p> <ol style="list-style-type: none"> 1. Delay issuing draft regulations on software procurement, as it further considers public comments and makes revisions | <p>Completed.</p> |

Other JCCT Commitments

in light of WTO rules.

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|---|---|
| 2. Accelerate its efforts to join the WTO GPA and, toward this end, to initiate technical consultations with other WTO members. | See 2007 #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, though some WTO member countries have questioned whether the submission includes all covered subsidies. |
| 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:

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| 1. Suspend indefinitely its proposed implementation of WAPI as a mandatory wireless encryption standard. | The mandatory standard was suspended, but the Ministry of Information Industry (now MIIT) and NDRC announced in December 2005 a proposed government procurement policy that gives "preference" to equipment that uses WAPI technology. Companies report that they are now facing pressure to produce WAPI-compatible chipsets. |
| 2. Work to revise its WAPI standard, taking into account comments received from PRC and foreign firms. | ISO rejected WAPI as an international standard in March 2006. |
| 3. Participate in international standards bodies on WAPI and wireless encryption for computer networks. | Ongoing. China has increased its participation in many international standards-setting bodies, moving from observers to full participants in many cases. |
| 4. Allow telecom-service providers in China to choose which standard to adopt according to their individual needs. | When China launched 3G services in early 2009, market leader China Mobile was given the Chinese-developed TD-SCDMA standard, and China Unicom and China Telecom were given W-CDMA and CDMA-2000. |
| 5. Remove PRC regulators from negotiations over royalty payment terms with relevant IPR holders. | No update available. |
| 6. Have MOFCOM cooperate with DOC in end-use verification for US exports of controlled dual-use items. | Ongoing. In 2007, DOC established the Validated End-User program, which allows preapproved companies to receive controlled goods without a license. MOFCOM is involved in the approval process. To date, seven companies have been approved. |
| 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 the 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. A second |

Other JCCT Commitments

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| 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. | MOU, covering several key product areas, was signed at the second Biennial Consumer Product Safety Summit in September 2007. |
| | Completed. The Cosmetic, Toiletry, and Fragrance Association and the Independent Cosmetic Manufacturers and Distributors Association are authorized to issue export certificates. |

Other JCCT Initiatives

| 2009 (as reported by the USTR/DOC Fact Sheet) | Status |
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| 1. China and the United States agreed to support the launch of the new public-private forum called the US-China Energy Cooperation Project (ECP) with the US Trade and Development Agency to promote clean-energy solutions in China. Focus areas include smart-grid development, renewable-energy, energy-efficiency, and clean-energy technologies. | Completed. |
| 2. China and the United States agreed to hold a Green Building Standards Seminar. | Held in Beijing on March 30, 2010. |
| 3. China and the United States agreed to hold the second US-China Environmental Industries Forum. | Both sides plan to hold a forum in New Orleans in October 2010 that will focus on water. |
| 4. China and the United States agreed to hold the second US-China E-Scrap Recycling Summit. | Held in San Diego in May 2010. |
| 5. China and the United States agreed to launch a vice-minister level dialogue on industrial and innovation policies to assess broad commercial policies inadequately covered in the S&ED. | Vice minister-level mid-year review occurred May 26–27 in Beijing. The discussion included industrial and innovation policies. |
| 6. China and the United States agreed to establish a working group to discuss government and SOE procurement, as well as private parties that make purchases in accordance with national strategic objectives. | Pending. |
| 7. China agreed to establish a dialogue with the United States regarding global practices for trade in information security products. | Pending. |
| 8. China and the United States agreed to hold an exchange on information on dietary supplement regulation. | Planned to occur by March 31, 2010. |
| 9. China and the United States agreed to implement Phase II of the MOU to promote Chinese tourism signed at JCCT 2007. | The number of locations permitted in China to organize US-bound tour groups was expanded from 9 to 21. China and the United States held a high-level meeting of the JCCT Tourism Working Group in January 2010 in Sanya, Hainan, to sign a program of work that will enhance travel under the MOU. |
| | See 2007 #2. |
| 10. China and the United States agreed to hold a forum addressing the expansion of travel distribution services in China, including computer reservation system technology. | Pending. |

Other JCCT Initiatives

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| 11. China and the United States agreed to hold the US-China Legal Exchange. | Planned for fall 2010. |
| 12. China and the United States agreed to hold a public-private meeting on standards and conformity assessment procedures. | Originally planned for spring 2010, pending agreement on an agenda. TDA also plans to fund additional workshops on priority standards issues over the next three years. |
| 13. China and the United States agreed to continue cooperation on transparency and administrative rulemaking. | Both sides formulated a 2009-10 work plan to enhance transparency and predictability. The most recent transparency dialogue was held in May 2010. |

2008 (as reported by USTR/DOC Fact Sheet)

1. China and the United States welcomed plans to conduct further cooperative meetings regarding China's Patent Law amendments, pharmaceutical data protection, and the Memorandum of Cooperation on Strengthened Cooperation in Border Enforcement of IPR.

2. China and the United States agreed that both sides will work toward ensuring that the US-invested firms in China and Chinese-invested firms in the United States will be able to participate in their respective government markets.

Status

Ongoing. China and the United States agreed to continue the dialogue on pharmaceutical data protection at JCCT 2009. See also IPR 2008 #1.

US and PRC officials share information about each other's investment regimes under the bilateral Investment Forum—the latest meeting of which took place in May 2010. Shortly before the May 2010 meeting of the S&ED, China released a draft set of regulations that provide for a 50 percent domestic-content threshold for designating products as "domestic" and a formula for calculating that ratio. The rules, however, continue to reference product catalogues and fail to clearly delink government procurement from indigenous innovation. Implementation is pending.

China announced at the May 2010 meeting of the S&ED that it plans to resubmit its bid to join the WTO GPA in July 2010.

See also "Other JCCT Commitments," 2009 #1.

2007

1. The US HHS and PRC SFDA signed a memorandum of agreement on active pharmaceutical ingredients (see IPR 2007 #3).

2. The United States and China signed an MOU to increase Chinese tourist travel to the United States and to allow US travel destinations to market freely in China.

3. The United States and China agreed to investment-related legal exchanges to address concerns about investment and implementation of China's Antimonopoly Law and merger and acquisition regulations.

Status

Completed.

Ongoing. See 2009 #9.

Ongoing. Both sides reaffirmed commitment at JCCT 2009.

2006

1. 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-tech trade.

Status

Completed and ongoing.

Other JCCT Initiatives

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| 2. The JCCT Tourism Working Group agreed to discuss visa issues for Chinese tourist groups to the United States. | Ongoing. See 2007 #2 and 2009 #9. |
| 3. The United States and China signed three protocols on the export of certain Chinese plants to the United States and the export of US, including Alaskan, timber to China. | Completed. |
| 4. The United States agreed to lift a ban on the import of cooked poultry meat from China. | Completed. USDA approved a program for cooked poultry imports from China in 2006, but US congressional action had prevented implementation. In September 2009, USDA, USTR, and Congress reached an agreement allowing imports of cooked poultry meat from China as long as the products are tested using scientifically proven methods. The WTO case China filed against the United States on this matter in April 2009 remains unresolved. |

Sources: Office of the USTR, DOC, and MOFCOM

Abbreviations

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| 3G | Third generation |
| AQSIQ | Administration of Quality Supervision, Inspection, and Quarantine (PRC) |
| BWIPS | Broadband Wireless Internet Protocol Standard Group (PRC) |
| CFCA | China Film Copyright Protection Association |
| CNCA | China National Copyright Administration (PRC) |
| CPSC | Consumer Product Safety Commission (US) |
| DOC | Department of Commerce (US) |
| DOJ | Department of Justice (US) |
| DOS | Department of State (US) |
| DOT | Department of Transportation (US) |
| FBI | Federal Bureau of Investigation (US) |
| FDA | Food and Drug Administration (US) |
| FIE | Foreign-invested enterprise |
| GPA | General Procurement Agreement |
| HHS | Department of Health and Human Services (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 |
| MIIT | Ministry of Industry and Information Technology (PRC) |
| MOC | Ministry of Culture (PRC) |
| MOE | Ministry of Education (PRC) |
| MOFCOM | Ministry of Commerce (PRC) |
| MOST | Ministry of Science and Technology (PRC) |
| MOU | Memorandum of understanding |
| MPA | Motion Picture Association |
| MPS | Ministry of Public Security (PRC) |
| NCAC | National Copyright Administration of China (PRC) |
| NDRC | National Development and Reform Commission (PRC) |
| NPC | National People's Congress (PRC) |
| NTE | National Trade Estimate report |
| R&D | Research and development |
| SAC | Standards Administration of China (PRC) |
| SAIC | State Administration of Industry and Commerce (PRC) |
| SED | Strategic Economic Dialogue |
| S&ED | Strategic and Economic Dialogue |
| SFDA | State Food and Drug Administration (PRC) |
| SIPO | State Intellectual Property Office (PRC) |
| SOE | State-owned enterprise |
| TDA | Trade and Development Agency (US) |
| USDA | Department of Agriculture (US) |
| USPTO | US Patent and Trademark Office (US) |
| USTR | Office of the United States Trade Representative (US) |
| WAPI | Wireless Local Area Network Authentication and Privacy Infrastructure |
| WIPO | World Intellectual Property Organization |
| WTO | World Trade Organization |