

China's List of Outcomes from the 23rd US–China Joint Commission on Commerce and Trade

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A. [Outcomes] Highly appreciated by both sides (1 item)

The Joint Commission on Commerce and Trade (JCCT) has played an important role in facilitating mutually beneficial cooperation between China and the United States. Both sides highly appreciate the positive results achieved by the JCCT and its affiliated working groups over the past five years.

B. Bilateral Agreements (14 items)

[The two sides agreed to:]

1. Increase interaction and cooperation between civil aviation authorities in both countries; develop the US Federal Aviation Administration's (FAA) work to evaluate the capacity of the Civil Aviation Administration of China (CAAC) to judge the airworthiness of transport aircraft, using the Chinese-developed feeder aircraft ARJ21-700 as a basis; use appropriate bilateral activities to increase the airworthiness of transport aircraft in both countries.
2. Comprehensively launching the *US-China Strategic Cooperation Plan on Agriculture* and strengthen cooperation in eight key fields.
3. Establish working groups and confirm points of contact in the three key areas of cooperation in agricultural science and technology that have already been set, and prepare for the signing of a *Memorandum of Understanding (MOU) on Scientific and Technological Cooperation in Agriculture between China and the US*.
4. Seek to realize two-way trade in pears early in 2013.
5. Hold dialogue and exchange to strengthen cooperation on areas related to strategic and emerging industries (SEIs).
6. Enhance exchange on cybersecurity, and hold constructive consultations on the topic.
7. Continue to develop legal exchange activities based on the successful 2012 US–China Legal Exchange on commercial law.

8. In accordance with the actual situation, host the third Administrative Licensing Dialogue, having already held the second dialogue in Beijing in December 2012.
9. Discuss future work plans based on previous comprehensive discussions on the updated outcomes of research on statistical differences in US–China goods trade.
10. Further develop cooperation and promote the global use of detection technology for unsafe drugs.
11. Continue to strengthen exchange and cooperation on China’s classification for in-vitro diagnostic reagents.
12. Further conversations on value-added tax (VAT) policies.
13. Hold further technical consultations on issues related to importing US beef to the Chinese market.
14. Maintain close contact through existing channels on bad faith trademark registration, and promote solutions to the problems.

C. China’s Pledges (22 items)

1. When cultivating and developing SEIs, China will fulfill its WTO commitments and follow market principles. All of the Chinese government’s policies to promote SEI development will treat qualified foreign enterprises equally.
2. Relevant Chinese authorities will at an appropriate time modify the *Notice on Promoting Key SEI Technologies and Products (First Batch)* [also known as Notice 318] based on careful research and on public comments.
3. The Chinese government pays great attention to intellectual property rights (IPR) protection and work on software legalization. At present, all central and provincial governmental offices have already completed software legalization work, and municipal and county governmental offices will complete [these requirements] by the end of 2013. Large state-owned enterprises (SOEs) and major financial institutions have basically implemented efforts to legalize software. The Chinese government has already issued a document requiring all centrally controlled SOEs and large state-owned financial institutions to set plans and goals to strengthen funding guarantees and adopt feasible measures to purchase and use legitimate software. The above institutions are not permitted to use pirated software.
4. China has already asked relevant authorities to strengthen links between administrative enforcement and criminal justice. When administrative enforcement authorities are legally investigating counterfeiting and infringement cases and find circumstances where they suspect crimes, they should transfer cases to public security authorities in accordance with relevant regulations.

5. China will begin revising the *Administrative Measures for Information Security Levels* [known as the MLPS Administrative Measures] at an appropriate time and will carefully research comments submitted by different parties. China is willing to learn about the United States' regulations and measurements on the protection of information security, and to communicate with US information security authorities at an appropriate level in accordance with related regulations.
6. The State Council has already required administrative enforcement authorities to include legal handling of infringement and counterfeiting cases within the scope of government information disclosure. After the end of investigation for such cases, the relevant authorities should publish the punishments for those cases.
7. The Supreme People's Court published the *Rules on Certain Applied Legal Issues in Hearing Civil Disputes on Infringement of Broadcast Rights over Information Networks* on December 26, 2012.
8. China is researching the inclusion of graphical user interfaces (GUI) into the scope of protection for industrial designs.
9. China has submitted a new, comprehensive offer that responded to demands raised by WTO Government Procurement Agreement members to the WTO Government Procurement Committee before its last meeting in 2012.
10. China issued the *Notice on Work to Further Standardize Market Entry for Internet Data Center (IDC) and Internet Service Provider (ISP) Services* to clarify the application criteria for operational and review process for operating licenses. Companies can apply for operating licenses based on the requirements mentioned in this notice.
11. China has notified the WTO of its *Notice on Strengthening the Administration of Network Access of Smart Mobile Terminals*, and has published it online for public comment. Based on careful consideration, evaluation, and comment from all parties, the notice will be further modified and improved.
12. China will not set mandatory requirements for specific encryption standards when deploying LTE networks. Relevant Chinese departments will fully listen to comments and suggestions from all related parties, including the US, when researching the implementation of the ZUC encryption algorithm.
13. China will pay attention to comments from relevant parties on the *Administrative Details for the Selection of Official Vehicles Used by Party and Government Organs*, and is willing to continue dialogue with the US side on these issues. China will delay issuing the *2012 Party and Government Organ Official Use Vehicle Selection Catalogue*.
14. China will continue working to simplify examination and approval processes for foreign investment, and will create a fairer, friendlier business environment for foreign investors in China. If the US has particular concerns related to foreign investment in China, it can discuss it

with the Chinese side under the JCCT Trade and Investment Working Group and the US-China Investment Forum.

15. Relevant departments are in the process of preparing to establish a public service platform for electronic auctions.

16. China will continue to explore and improve regulations and policies for clinical trials, and gradually reduce the examination and approval times for clinical trials of small molecule drugs and biological products.

17. In order to promote scientific development and build an effective system for regulatory data protection, China agrees to define new chemical entities in a manner consistent with international research and development practices, thus ensuring that regulatory data for pharmaceutical products are protected against unfair commercial use and unauthorized disclosure.

18. China is paying great attention to the work of the International Electrotechnical Commission to revise the third edition of the standard for medical device safety (IEC 60601-1). China has already drafted an agenda for the revision process and begun to conduct relevant research. China preliminarily plans to complete modifications to its national standard on medical device safety (GB 9706.1:2007) in 2014.

19. China has already modified its *Medical Equipment Catalogue* based on its acceptance of international experience with advanced regulation, downgrading some areas such as Doppler ultrasonic equipment, blood flow Doppler ultrasound equipment, X-ray diagnostic equipment above 200 ma while upgrading others such as ultrasonic probes for intravascular and transeophageal surgery and ophthalmology probes. Such adjustments can help those products to comply with Chinese regulations on medical equipment.

20. China implemented administrative regulations on production quality for medical devices in sterile and implantable medical device production companies starting on January 1, 2011. This work has already been added into the *12th Five-Year Plan on Drug Safety*.

21. The State Food and Drug Administration has published its draft *Catalogue on In Vitro Diagnostic Reagents* on its website for public comments.

22. China sent representatives to participate into the Governmental/Authorities Meeting on Semiconductors (GAMS) held in September 2012 in Berlin, Germany.

D. China's Clarifications (8 items)

1. In work to designate certification bodies and laboratories for the China Compulsory Certification (CCC), China confirms that foreign-invested entities that are established in China in accordance with conditions and that have legal person status shall be granted equal treatment with Chinese domestic entities.

2. Technology transfer and technology cooperation are the autonomous decisions of enterprises. The Chinese government will not make this a precondition for market access. If US investors encounter compulsory technology transfer issues in China, they can report to relevant authorities. China will conscientiously research those issues and correct them.
3. China reaffirms that compulsory certification requirements for 13 types of information security products are mandatory only for government procurement. China's 2000 statement on the management of commercial passwords is fully consistent with the requirements for encryption use in the Multilevel Protection Scheme *Administrative Regulations for the Multilevel Protection Scheme*.
4. The new *PRC Civil Procedure Law*, valid since January 1, 2013, provides clear rules for pre-trial evidence preservation measurements including temporary injunctions. These procedures will apply to civil cases related to trade secrets.
5. Current Chinese laws and regulations do not prohibit right-holders from participating in Chinese Customs' destruction of infringing goods. According to Customs' *Provisions on Customs Protection of IPR*, fees related to the handling of infringing goods should be paid by the right-holders. Right holders can claim damages from infringers through channels such as civil actions. State and local level administrations for industry and commerce (AICs) can legally confiscate and destroy infringing goods as well as tools for producing infringing goods or labels of registered trademarks.
6. The Supreme People's Court (SPC) has published all valid intellectual property judgments and decisions documents through the China IPR Judgments & Decisions website. The SPC has issued its annual white paper, the *Status of Judicial Protection of Intellectual Property in Chinese Courts* each year since 2009. The new *PRC Civil Procedure Law*, implemented beginning on January 1, 2013, allows the public to view valid judgments and decisions if they are not related to national secrets, trade secrets, or personal privacy.
7. All information related to network access licenses and type approvals for telecommunication equipment is open and transparent in China. Companies can search for and obtain information about the requirements and approval process for network access licenses and wireless type approvals free of charge through the Ministry of Industry and Information Technology website, the network access license management website, and the State Radio Regulation website for free of charge.
8. According to the *Agreement between the Department of Health and Human Services of the United States of America and the State Food and Drug Administration of the People's Republic of China on the Safety of Drugs and Medical Devices*, China has required exporters of active pharmaceutical ingredients (APIs) designated in the agreement to register those APIs with the State Food and Drug Administration and follow Chinese regulations on drugs.

E. United States' Commitments (9 items)

1. The US will strive to promote the export of high-tech products to China for civilian purposes. US has already relaxed – and will continue to relax – controls for a portion of dual-use items based on the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Good and Technologies*, which will provide benefits to China.
2. The US will deal with applications for issues raised by China in a timely manner to support high-tech cooperation on civil-use nuclear energy between the two countries.
3. The US government welcomes Chinese companies to invest in the United States. The Committee on Foreign Investment in the United States will provide fair, equitable maltreatment for Chinese companies in handling national security reviews.
4. The US will break any ties between visa issues and illegal immigration issues, and continue to promote greater convenience in visas.
5. The US highly values China's progress on IPR protection over the past 5 years, and is willing to work with China together to implement the *US–China IPR Cooperation Framework Agreement*. Both sides agree to provide necessary resources to implement that agreement.
6. The US notes the demands of Chinese copyright holders for copyright protection in the United States. The US confirms that the US's civil action mechanism works for American, Chinese, and other foreign copyright holders. The US will continue to work with China on this issue and provide adequate responses on China's concerns.
7. The US promises to follow US law and treat IWNCOMM's patent application in the United States fairly and equitably. The US confirms that it will give review priority to those applications that need further investigation based on its newly launched process.
8. US federal courts have provided information to China on how the US courts process patent cases.
9. Relevant US authorities will listen to suggestions and comments from all parties, including China, as they draft regulations on the transportation of lithium batteries.

F. Signed documents (2 items)

1. The PRC Ministry of Commerce and the US Trade and Development Agency's *Memorandum of Understanding on US – China Trade Cooperation*.
2. The PRC Ministry of Commerce, the US Department of Commerce, and the Office of the United States Trade Representative's *Second Phase Report on the Statistical Discrepancy of Merchandise Trade between the United States and China*.