Schapiro Exhibit 110 continued

a partial VAT rebate for domestic producers of urea, a nitrogen fertilizer, through the end of 2002. The United States raised this issue bilaterally with China soon after it acceded to the WTO and in many subsequent bilateral meetings, including high-level meetings. The United States has also raised this issue at the WTO, both in regular meetings of the Committee on Market Access and during the annual transitional reviews, including in 2007. China did allow the special tax treatment for domestic urea to expire at the end of 2002, but it has refused to make any other changes. The United States will continue to press its concerns regarding this issue in 2008, although at present a larger concern for U.S. fertilizer exporters remains the out-of-control expansion of China's domestic production of fertilizer, which has saturated China's market and greatly reduced demand for imported fertilizer.

Meanwhile, several U.S. industries have continued to express concerns more generally about the unfair operation of China's VAT system. Often, Chinese producers are able to avoid payment of the VAT on their products, either as a result of poor collection procedures, special deals or even fraud, while the full VAT still must be paid on competing imports. In discussions with Chinese government officials on this issue, the United States has raised its serious concerns about the discriminatory treatment effectively accorded to foreign products. The United States has also continued to emphasize the value to China of a properly functioning VAT system as a revenue source.

China's border trade policy also continues to generate MFN and other concerns. China provides preferential import duty and VAT treatment to certain products, often from Russia, apparently even when those products are not confined to frontier traffic as envisioned by Article XXIV of GATT 1994. In June 2003, China began to address these concerns when it eliminated preferential treatment for boric acid and 19 other products. However, several other products continue to benefit from preferential treatment. During the transitional reviews before the WTO's Council for Trade in Goods, the United States has urged China to eliminate the preferential treatment for these remaining products.

National treatment concerns also continue to arise in connection with China's consumption tax regulations, which first went into effect in 1993 and apply to a range of consumer products, including spirits and alcoholic beverages, tobacco, cosmetics and skin and hair care preparations, jewelry, fireworks, rubber, motorcycles and automobiles. Under these regulations, China uses different tax bases to compute consumption taxes for domestic and imported products, with the apparent result that the effective consumption tax rate for imported products is substantially higher than for domestic products. Since China's accession to the WTO, the United States has raised this issue with China, both bilaterally and during the annual transitional reviews conducted by the WTO Committee on Market Access and the Council for Trade in Goods. To date, China has not revised these regulations.

Subsidies

Upon its accession to the WTO, China agreed to assume the obligations of the WTO Subsidies Agreement, which addresses not only the use of CVD measures by individual WTO members (see the section above on Import Regulation, under the heading of Countervailing Duties), but also a government's use of subsidies and the application of remedies through enforcement proceedings at the WTO. As part of its accession agreement, China committed that it would eliminate, by the time of its accession, all subsidies prohibited under Article 3 of the Subsidies Agreement, which includes subsidies contingent on export performance (export subsidies) and subsidies contingent on the use of domestic over imported goods (import substitution subsidies). This commitment expressly extended throughout China's customs territory, including in special economic zones and other special economic areas.

China also agreed to various special rules that apply when other WTO members seek to enforce the disciplines of the Subsidies Agreement against Chinese subsidies (either in individual WTO members' CVD proceedings or in WTO enforcement proceedings). Under these rules, in certain circumstances, WTO members can identify and measure Chinese subsidies using alternative methods in order to account for the special characteristics of China's economy. For example, in certain circumstances, when determining whether preferential government benefits have been provided to a Chinese enterprise via a loan, WTO members can use foreign or other market-based criteria rather than Chinese benchmarks to ascertain the benefit of that loan and its terms. Special rules also govern the actionability of subsidies provided to state-owned enterprises.

As previously reported, following increasing pressure from the United States and other WTO members, China finally submitted its long-overdue subsidies notification to the WTO's Subsidies Committee in April 2006. Although the notification reported on more than 70 subsidy programs, it was also notably incomplete, as it failed to notify any subsidies provided by China's state-owned banks or by provincial and local government authorities. In addition, while China notified several subsidies that appear to be prohibited, it did so without making any commitment to withdraw them, and it failed to notify other subsidies that appear to be prohibited. The United States has devoted significant time and resources to monitoring and analyzing China's subsidy practices, and these efforts helped to identify significant omissions in China's subsidy notification. In accordance with Subsidies Committee procedures, the United States submitted extensive written questions and comments on China's subsidies notification in July 2006, as did several other WTO Members, including the EC, Japan, Canada, Mexico, Australia and Turkey. China responded to those submissions in September 2007, although many of China's responses are inadequate and fail to provide much of the information required by WTO rules.

The United States began seeking changes to China's subsidies practices immediately after China submitted its subsidies notification in April 2006. Through a series of bilateral meetings in Beijing, including high-level meetings, the United States made clear that China needed to withdraw both the prohibited subsidies that it had notified and several additional prohibited subsidies that it had not notified. The subsidies at issue provide refunds, reductions and

exemptions from income tax, VAT and other payments and benefit a wide range of industries in China. In addition, they take the form of both export subsidies, which make it more difficult for U.S. manufacturers to compete against Chinese manufacturers in the U.S. market and third-country markets, and import substitution subsidies, which make it more difficult for U.S. manufacturers to export their products to China. By February 2007, it had become clear that continued bilateral dialogue would not resolve this matter, and the United States, together with Mexico, initiated WTO dispute settlement proceedings against China. Joint consultations were subsequently held in Geneva in March 2007 and then in June 2007. In July 2007, the United States and Mexico filed requests for the establishment of a panel to hear the dispute, and a panel was established at the August 2007 meeting of the WTO's Dispute Settlement Body. Three months later, in November 2007, the parties to the dispute reached a settlement in which China agreed to eliminate all of the subsidies at issue by January 1, 2008, and not to reinstate them.

Meanwhile, many U.S. industries, including the steel, paper and textiles industries, among others, continued to express concern about the injurious effects of various Chinese subsidies in the U.S. market as well as in China and third-country markets. These concerns had led to the U.S. paper industry's filing of a petition with the Commerce Department in October 2006 requesting the initiation of a CVD investigation based on allegations of subsidized imports of coated free sheet paper from China causing injury in the U.S. market. The petition requested a change to the Commerce Department's longstanding policy of not applying U.S. CVD law to China or any other country considered a "non-market economy" for antidumping purposes. The Commerce Department initiated an investigation in November 2006, and during the course of the ensuing investigation it changed its policy and began applying U.S. CVD law to China after finding that reforms to China's economy in recent years had removed the obstacles to applying the CVD law that were present in the "Soviet-era economies" at issue when the Commerce Department first declined to apply the CVD law to non-market economies in the 1980s. In its final determination, issued in October 2007, the Commerce Department found that China's paper industry benefited from a wide range of countervailable subsidies. In November 2007, however, the U.S. International Trade Commission found that imports of coated free sheet paper from China were not materially injuring the U.S. paper industry, which means that the investigation will be terminated.

In 2007, several other U.S. industries concerned about subsidized Chinese imports have filed CVD petitions. So far this year, the Commerce Department has initiated CVD investigations of steel pipe, laminated woven sacks, tires, magnets, thermal paper and sodium nitrite imports from China. The subsidies alleged in these petitions include preferential loans, income tax and VAT exemptions and reductions, the provision of goods and services on non-commercial terms, and a variety of provincial and local government subsidies.

In 2008, the United States will continue to pursue its own research and analysis of possible Chinese subsidy programs and will closely monitor the implementation of China's new *Enterprise Income Tax Law*, which becomes effective January 2008 and appears to provide preferences to high technology enterprises, among others. The United States will also continue to raise its concerns with China's subsidies practices in bilateral meetings with China, including

through future meetings of the Structural Issues Working Group and the Steel Dialogue. At the WTO, using both regular meetings and transitional reviews before the Subsidies Committee, U.S. engagement will focus on the need for China to adhere more fully to its subsidy reporting obligations. Although China has made some progress in providing information on its subsidy programs, it has failed to notify any subsidies provided by its state-owned banks or by provincial and local government authorities. This failure leaves a significant gap in China's subsidies reporting and is particularly troubling given the important role played by sub-national governments in China's banking system and in the development of Chinese industry.

Price Controls

In its WTO accession agreement, China agreed that it would not use price controls to restrict the level of imports of goods or services. In addition, in an annex to the agreement, China listed the limited number of products and services remaining subject to price control or government guidance pricing, and it provided detailed information on the procedures used for establishing prices. China agreed that it would try to reduce the number of products and services on this list and that it would not add any products or services to the list, except in extraordinary circumstances.

In 2007, China continued to maintain price controls on several products and services provided by both state-owned enterprises and private enterprises. Published through the China Economic Herald and NDRC's website, these price controls may be in the form of either absolute mandated prices or specific pricing policy guidelines as directed by the government. Products and services subject to government-set prices include pharmaceuticals, tobacco, natural gas and certain telecommunications services. Products and services subject to government guidance prices include gasoline, kerosene, diesel fuel, fertilizer, cotton, various grains, various forms of transportation services, professional services such as engineering and architectural services, and certain telecommunications services.

The United States obtained additional information about China's use of price controls from the WTO Secretariat's Trade Policy Review report on China, issued in February 2006. The United States also sought and obtained clarifications from China in connection with China's Trade Policy Review, which took place in April 2006. In addition, as in prior years, the United States sought updated information from China on its use of price controls and future plans during the transitional review before the Subsidies Committee, held in October 2007, although China provided little responsive information. The United States will continue to monitor China's progress in eliminating price controls in 2008, including in connection with China's next Trade Policy Review, scheduled for May 2008.

Meanwhile, in July 2006 and October 2007, NDRC released proposals for managing the prices of medical devices, with the stated objectives of avoiding excessive mark-ups by distributors and reducing health care costs. Among other things, the proposals impose limits on the allowable mark-ups on medical devices. The proposals also require manufacturers to provide sensitive pricing information. The United States and U.S. industry have been concerned about the

proposals' limits on price mark-ups, which would reduce competition as well as patient and physician choice, and the proposals' collection of sensitive pricing data, the publication of which could be very damaging to U.S. companies' operations in China. Indeed, municipalities such as Beijing and Shanghai moved forward with medical device procurement tendering programs in 2007 that have threatened the confidentiality of pricing information.

In 2006 and 2007, the United States and U.S. industry repeatedly raised their concerns about NDRC's proposals. U.S. industry has been able to engage in a dialogue with NDRC, and the United States has pressed China during the run-up to the JCCT meeting scheduled for December 2007. While acknowledging China's legitimate concerns regarding the need to provide effective and affordable medical devices to patients and the need to address inefficiency, excessive mark-ups and irregular business practices among wholesalers and distributors of medical devices, the United States has urged China to develop an approach that will not inhibit increased imports of the same innovative and effective health care products that China is seeking to encourage. The United States will continue these efforts in 2008.

Standards, Technical Regulations and Conformity Assessment Procedures

With its accession to the WTO, China assumed obligations under the Agreement on Technical Barriers to Trade (TBT Agreement), which establishes rules and procedures regarding the development, adoption and application of standards, technical regulations and the conformity assessment procedures (such as testing or certification) used to determine whether a particular product meets such standards or regulations. Its aim is to prevent the use of technical requirements as unnecessary barriers to trade. The TBT Agreement applies to a broad range of industrial and agricultural products. It establishes rules that help to distinguish legitimate standards and technical regulations from protectionist measures. Among other things, standards, technical regulations and conformity assessment procedures are to be developed and applied transparently and on a non-discriminatory basis and should be based on relevant international standards and guidelines, when appropriate.

In its WTO accession agreement, China also specifically committed that it would ensure that its conformity assessment bodies operate in a transparent manner, apply the same technical regulations, standards and conformity assessment procedures to both imported and domestic goods and use the same fees, processing periods and complaint procedures for both imported and domestic goods. In addition, China agreed to ensure that all of its conformity assessment bodies are authorized to handle both imported and domestic goods within one year of accession. China also consented to accept the Code of Good Practice (set forth in Annex 3 to the TBT Agreement) within four months after accession, which it has done, and to speed up its process of reviewing existing technical regulations, standards and conformity assessment procedures and harmonizing them with international norms.

In addition, in the Services Schedule accompanying its WTO accession agreement, China committed to permit foreign service suppliers that have been engaged in inspection services in their home countries for more than three years to establish minority foreign-owned joint venture

technical testing, analysis and freight inspection companies upon China's accession to the WTO, with majority foreign ownership no later than two years after accession and wholly foreign-owned subsidiaries four years after accession. China further agreed that qualifying joint venture and wholly foreign-owned enterprises would be eligible for accreditation in China and accorded national treatment.

In 2007, China's actions continued to generate concerns for the United States and other WTO members in the areas of standards, technical regulations and conformity assessment procedures, particularly with regard to transparency, national treatment, China's pursuit of unique Chinese national standards, and duplicative testing and certification requirements. In addition, new concerns arose with regard to encryption standards, mobile telephone battery standards and border inspection requirements for medical devices.

Restructuring of Regulators

As previously reported, in anticipation of its WTO accession, China made significant progress in the areas of standards and technical regulations. China addressed problems that foreign companies had encountered in locating relevant regulations and how they would be implemented, and it took steps to overcome poor coordination among the numerous regulators in China. In October 2001, China announced the creation of the Standardization Administration of China (SAC) under AQSIQ. SAC is charged with unifying China's administration of product standards and aligning its standards and technical regulations with international practices and China's commitments under the TBT Agreement. SAC is the Chinese member of the International Organization for Standardization and the International Electro-technical Commission.

China also began to take steps in 2001 to address problems associated with its multiplicity of conformity assessment bodies, whose task it is to determine if standards and technical regulations are being observed. AQSIQ was established as a new ministry-level agency in April 2001. It is the result of a merger of the State Administration for Quality and Technical Supervision and the State Administration for Entry-Exit Inspection and Quarantine. China's officials explained that this merger was designed to eliminate discriminatory treatment of imports and requirements for multiple testing simply because a product was imported rather than domestically produced. China also formed the quasi-independent National Certification and Accreditation Administration (CNCA), which is attached to AQSIQ and is charged with the task of unifying the country's conformity assessment regime.

Despite these changes, U.S. industry still has concerns about significant conformity assessment and testing-related issues in China. For example, U.S. exporters representing several sectors continue to report that China's regulatory requirements are not enforced as strictly or uniformly against domestic producers as compared to foreign producers. In addition, in some cases, China's regulations provide only that products will be inspected or tested upon entry into China's customs territory, without any indication as to whether or how the regulations will be applied to domestic producers.

Transparency

In the area of transparency, AQSIQ's TBT inquiry point, established shortly after China acceded to the WTO, has continued to be helpful to U.S. companies as they try to navigate China's system of standards, technical regulations and conformity assessment procedures. In addition, China's designated notification authority, MOFCOM, has been notifying proposed technical regulations and conformity assessment procedures to the TBT Committee so that interested parties in WTO members are able to comment on them, as required by the TBT Agreement. However, in 2007, as in prior years, almost all of the notified measures have emanated from AQSIQ, SAC or CNCA and have rarely included measures from other agencies that appear to require notification, such as the Ministry of Health, the Ministry of Information Industry (MII), the State Environmental Protection Administration (SEPA) and SFDA. Four years ago, in part to address this problem, China had reportedly formed a new inter-agency committee, with representatives from approximately 20 ministries and agencies and chaired by AQSIQ, to achieve better coordination on TBT (and sanitary and phytosanitary) matters, but progress has been inconsistent in this area.

As a result, some of China's TBT measures continue to enter into force without having first been notified to the TBT Committee, and without foreign companies having had the opportunity to comment on them or even being given a transition period during which to make necessary adjustments. In addition, as the United States has consistently highlighted during regular meetings and the annual transitional reviews before the TBT Committee, the comment periods established by China for the TBT measures actually notified continue to be unacceptably brief in some cases. In other cases, some U.S. companies reported that even when sufficient time was provided, written comments submitted by U.S. and other foreign interested parties seemed to be wholly disregarded. In still other cases, insufficient time was provided for Chinese regulatory authorities to consider interested parties' comments before a regulation was adopted.

One significant example of the transparency problems encountered by U.S. and other foreign governments and industries this year is AQSIQ's issuance of the *Administrative Measures on Examination and Supervision of Imported Medical Devices* in June 2007, with an effective date of December 1, 2007. This measure, known as Decree 95, establishes a unique examination and supervision regime for imported medical devices, but China did not notify it to the TBT Committee. Instead, China maintained that it did not have to notify this measure because the law that it implemented, the *Law on Import and Export Commodity Inspection*, had previously been notified. However, the TBT Agreement notification obligation applies regardless of whether the measure is a law or a regulation implementing a law and regardless of how a WTO member characterizes the measure under its own legal system. The United States and other WTO members routinely notify measures like Decree 95.

Standards and Technical Regulations

Shortly after its accession to the WTO, China began the task of bringing its standards regime more in line with international practice. One of its first steps was AQSIQ's issuance of rules

designed to facilitate China's adoption of international standards. China subsequently embarked on the task of reviewing all of China's existing 21,000 standards and technical regulations to determine their continuing relevance and consistency with international standards. During transitional reviews before the TBT Committee, China has periodically reported on the status of this review process and the number of standards and technical regulations that have been nullified, but it remains unclear whether these actions have had a beneficial impact on U.S. market access.

The United States continues to make efforts to assist China as it improves its standards regime through bilateral exchanges, education and training. For example, in May 2005, a new U.S. private sector standards office, using funding from the U.S. Department of Commerce, opened in Beijing. Its goals are to strengthen ties with Chinese government regulatory authorities, Chinese industry associations and Chinese standards developers and, in particular, to ensure that close communication exists between U.S. and Chinese standards developers. The United States also continued to provide technical assistance to China. Since 2004, this technical assistance has focused on broad standards-development issues, such as the relationship between intellectual property rights and standards, and specific standards in a number of industries, including information and telecommunications technology, chemicals, steel, petroleum, water conservation, energy efficiency, hydrogen infrastructure, elevators, electrical safety, gas appliances, distilled spirits, heating, ventilation and air conditioning, and building fire safety. The United States has also conducted programs addressing China RoHS and China's new chemical management system.

In 2006, the U.S. Trade and Development Agency (TDA) launched the U.S.-China Standards and Conformity Assessment Cooperation Project in Beijing. This project, with funding from TDA and U.S. industry, provides education and training to Chinese policy makers and regulators with regard to U.S. standards and conformity assessment procedures. In addition, the American National Standards Institute, with funding and participation from the U.S. Department of Commerce, announced the launching of a Standards Portal in cooperation with SAC. The Standards Portal contains dual language educational materials on the structure, history and operation of the U.S. and Chinese standards systems, a database of U.S. and Chinese standards and access to other standards from around the world.

At the same time, concern has grown over the past few years as China is actively pursuing the development of unique requirements, despite the existence of well-established international standards, as a means for protecting domestic companies from competing foreign standards and technologies. Indeed, China has already adopted unique standards for digital televisions, and it is trying to develop unique standards and technical regulations in a number of other sectors, including, for example, autos, telecommunications equipment, Internet protocols, wireless local area networks, radio frequency identification tag technology, audio and video coding and fertilizer as well as software encryption and mobile phone batteries. This strategy has the potential to create significant barriers to entry into China's market, as the cost of compliance will be high for foreign companies, while China will also be placing its own companies at a disadvantage in its export markets, where international standards prevail.

WAPI Encryption Standards

As previously reported, a particularly troubling example of China's pursuit of unique requirements arose in May 2003, when China issued two mandatory standards for encryption over Wireless Local Area Networks (WLANs), applicable to domestic and imported equipment containing WLAN (also known as Wi-Fi) technologies. These standards, which were originally scheduled to go into effect in December 2003 and were never notified to the TBT Committee, incorporated the WLAN Authentication and Privacy Infrastructure (WAPI) encryption technique for secure communications. This component of the standards differed significantly from the internationally recognized standard that U.S. companies have adopted for global production, and China was set to enforce it by providing the necessary algorithms only to eleven Chinese companies. U.S. and other foreign manufacturers would have had to work with and through these companies, some of which were their competitors, and provide them with technical product specifications, if their products were to continue to enter China's market. Focusing on the WTO compatibility of China's implementation of the standards, the United States repeatedly raised its concerns with China throughout the remainder of 2003 and made WAPI one of the United States' priority issues during the run-up to the April 2004 JCCT meeting. The United States was particularly concerned about the precedent that could be established if China were allowed to enforce unique mandatory standards in the fast-developing information technology sector. The United States and China were ultimately able to resolve the issue at the JCCT meeting, as China agreed to an indefinite delay in the implementation of the WAPI standards. China has since submitted a voluntary WAPI standard for consideration by the International Organization for Standardization (ISO). The technical merits of the WAPI standard were considered by the ISO in 2005, and its adoption as an international standard was rejected by an ISO vote in March 2006. Separately, China announced in December 2005 that products incorporating the WAPI standards should be given preference in government procurement, although the trade effects of this policy appear to be limited.

3G Telecommunications Standards

The United States also elevated another standards issue to the JCCT level beginning in 2004. The U.S. telecommunications industry was very concerned about increasing interference from Chinese regulators, both with regard to the selection of 3G telecommunications standards and in the negotiation of contracts between foreign telecommunications service providers and their Chinese counterparts. The United States urged China to take a market-based and technology neutral approach to the development of next generation wireless standards for computers and mobile telephones. At the April 2004 JCCT meeting, China announced that it would support technology neutrality with regard to the adoption of 3G telecommunications standards and that telecommunications service providers in China would be allowed to make their own choices about which standard to adopt, depending on their individual needs. China also announced that Chinese regulators would not be involved in negotiating royalty payment terms with relevant intellectual property rights holders. However, by the end of 2004, it had become evident that there was still pressure from within the Chinese government to ensure a place for China's home-grown 3G telecommunications standard, known as TD-SCDMA.

In 2005, China's regulators continued to take steps to promote the TD-SCDMA standard. It also became evident that they had not ceased their attempts to influence negotiations on royalty payments. More recently, in February 2006, China declared TD-SCDMA to be a "national standard" for 3G telecommunications, raising concerns among U.S. and other foreign telecommunications service providers that Chinese mobile telecommunications operators will face Chinese government pressure when deciding what technology to employ in their networks. As a result, the United States again raised the issue of technology neutrality in connection with the April 2006 JCCT meeting. At that meeting, China restated its April 2004 JCCT commitment to technology neutrality for 3G standards, agreeing to ensure that mobile telecommunications operators would be allowed to make their own choices as to which standard to adopt. China also agreed to issue licenses for all 3G standards in a technologically neutral manner that does not advantage one standard over others. To date, China has not issued any 3G licenses to foreign firms, yet its test market for the TD-SCDMA standard continues to expand. The United States will carefully monitor developments in this area in 2008 and engage China as necessary to ensure that China's regulators adhere to China's JCCT commitments.

Recycled Scrap

As previously reported, in 2004, AQSIQ began requiring exporters of recycled scrap to comply with a new registration system. U.S. exporters, which account for nearly $2 billion of recycled scrap exports to China annually, were concerned because AQSIQ imposed a deadline for registering, and the registration process included a number of procedural and substantive requirements that lacked clarity. Following U.S. engagement, AQSIQ provided needed clarifications and subsequently showed some flexibility by agreeing to extend the registration deadline. By the end of 2004, 87 percent of applicants, including hundreds of U.S. exporters, had reportedly become registered suppliers of recycled scrap. AQSIQ also indicated that it would institute a rolling application process, which it began in 2005. Despite these improvements, U.S. exporters reported problems with AQSIQ's registration system in 2007, such as inconsistent or unexplained rejections of license applications, rejections of shipments at the point of entry, new requirements imposed with little or no notice, and unclear procedures for license renewals. The United States will engage China as necessary in 2008 to ensure that AQSIQ's registration system for scrap exporters does not restrict legitimate trade.

Patents Used in Chinese National Standards

In late 2004, new concerns arose following SAC's issuance of a draft measure – the *Interim Regulations for National Standards Relating to Patents* – and public statements by key Chinese government officials that appeared to call for compulsory licensing of patented technologies that are used for national standards in China. Standards organizations normally require enterprises that contribute patented technology to a standard to license their patents on "reasonable and non-discriminatory" terms, which entitles them to set reasonable limits on the use of their technology and to receive reasonable compensation. Although the initial draft of this measure did not expressly call for compulsory licensing and subsequent drafts have not been released for public comment, public statements by key Chinese government officials have generated U.S. industry

concern that the final version of the measure may require foreign enterprises to share their patented technologies on a royalty-free basis in exchange for the opportunity to participate in developing standards, which is the approach that has been followed by some Chinese standards organizations on an *ad hoc* basis. While the current status of this measure is unclear, the United States has urged China to circulate an updated draft for public comment and will closely monitor developments in this area in 2008. The United States will also closely monitor China's efforts to develop a new *Standardization Law* in 2008. Reportedly, a draft of that law has been circulated among China's ministries and is undergoing vigorous debate before the State Council.

Distilled Spirits Standards

As previously reported, China notified a proposed revision of its distilled spirits standard in August 2006, after several years of bilateral engagement and discussions at the WTO during meetings of the TBT Committee. This proposed revision was welcomed by U.S. industry, as it would eliminate the requirement for tolerance levels of superior alcohols, or fusel oil, and bring China's standard in line with international norms. China issued this same standard in final form and began implementing it in 2007.

Software Encryption Standards

In August 2007, China notified to the TBT Committee a series of 13 proposed technical regulations relating to information security for various information technology products, primarily software. The proposed regulations appear to mandate the use of Chinese national standards on encryption, which may deviate from recognized international standards. It is also unclear whether use of the Chinese standards will require access to algorithms held by Chinese regulators, and if so on what basis those algorithms will be made available. The proposed regulations also appear to expand the scope of products requiring China's "China Compulsory Certification" or "CCC" mark (discussed below under the heading of Conformity Assessment Procedures) to the area of information security, which is normally not subject to conformity assessment procedures under international practice. China requested that comments be provided within 60 days, but did not specify implementation dates for the proposed regulations.

These proposed regulations generated immediate concerns for the United States and U.S. industry, in part because of past actions that China has taken in this area, including China's issuance of mandatory encryption standards for Wi-Fi technologies in 2003 (discussed above) and rules that China issued in 1999 requiring the registration of a wide range of hardware and software products containing encryption technology. U.S. industry has since submitted preliminary comments on the proposed regulations to China's TBT inquiry point, and the United States has urged China to allow time for further comments so that China can fully evaluate the technical complexities of the proposed regulations and their potential impact on U.S. industry. The United States will continue to work with U.S. industry and monitor developments in this area closely in 2008.

Mobile Telephone Battery Standards

In July 2007, U.S. industry became aware that China's Ministry of Information Industry (MII) was developing a standard that would specify requirements for the size, electrical performance, safety performance and labeling of mobile telephone batteries. MII released a draft of this standard to U.S. industry in September 2007.

Although the draft battery standard on its face is voluntary, the United States and U.S. industry are concerned that it will be integrated into a technical regulation, such as MII's type-approval scheme or the CCC mark program, thereby effectively making compliance mandatory. This result would be problematic because the draft standard appears to diverge from international standards. In addition, it would significantly hamper mobile telephone innovation by focusing on the design of the battery rather than its performance, and it would have the opposite effect of MII's stated justification of promoting consumer convenience and reducing e-waste.

Working closely with U.S. industry, the United States has raised its concerns in this area bilaterally with MII and at the WTO during the transitional review before the TBT Committee, held in November 2007. The United States will monitor developments in this area closely in 2008.

Conformity Assessment Procedures

As previously reported, CNCA regulations establishing a new Compulsory Product Certification System, issued in December 2001, took full effect in August 2003. Under this system, there is now one safety mark – the CCC mark – issued to both Chinese and foreign products. Under the old system, domestic products were only required to obtain the "Great Wall" mark, while imported products needed both the "Great Wall" mark and the "CCIB" mark. In 2007, as in prior years, U.S. companies continued to express concerns that the regulations lack clarity regarding the products that require a CCC mark. They have also reported that China is applying the CCC mark requirements inconsistently and that many domestic products required by CNCA's regulations to have the CCC mark are still being sold without the mark. In addition,

despite the changes made by the regulations, U.S. companies in some sectors continued to express concerns in 2007 about duplication in certification requirements, particularly for radio and telecommunications equipment, medical equipment and automobiles.

Meanwhile, to date, China has granted at least 146 Chinese enterprises accreditation to test and certify for purposes of the CCC mark. Despite China's commitment that qualifying minority foreign-owned (upon China's accession to the WTO) and majority foreign-owned (two years later) joint venture conformity assessment bodies would be eligible for accreditation and would be accorded national treatment, China so far has not granted accreditation to any foreign-invested conformity assessment bodies. China has also not developed any alternative, less trade-restrictive approaches to third-party certification, such as recognition of a supplier's declaration of conformity. As a result, U.S. exporters to China are often required to submit their products to Chinese laboratories for tests that may be unwarranted or have already been performed abroad, resulting in greater expense and a longer time to market. One U.S.-based conformity assessment body has entered into a Memorandum of Understanding (MOU) with China allowing it to conduct follow-up inspections (but not primary inspections) of manufacturing facilities that make products for export to China requiring the CCC mark. However, China has not been willing to grant similar rights to other U.S.-based conformity assessment bodies, explaining that it is only allowing one MOU per country. Reportedly, Japan has MOUs allowing two conformity assessment bodies to conduct follow-up inspections, as does Germany.

In 2007, as in prior years, the United States raised its concerns about the CCC mark system and China's failure to allow foreign-invested conformity assessment bodies with China bilaterally and during meetings of the WTO's TBT Committee, including the transitional review held in November 2007, where it received support from the EC and Japan. The United States will continue to be in close contact with the relevant Chinese authorities in these areas in 2008.

The United States also sought to address one of the more significant problem areas – duplicative certification requirements for imported medical equipment – through the April 2006 JCCT meeting. The United States was able to obtain China's commitment to eliminate the redundancies to which imported medical equipment has been subjected. To date, however, China has only taken steps to address duplicative product testing. China has not yet addressed the more burdensome duplicative factory audits and certification requirements applicable to imported electro-medical equipment or additional product-specific concerns, such as redundancies on border inspections for imported pacemakers. In fact, China has added a layer of redundancy with Decree 95 (discussed below). The United States raised its concerns in this area in a series of bilateral meetings in 2006 and 2007 as well as during the transitional reviews before the TBT Committee, held in November 2006 and November 2007. The United States is currently pursuing China's full implementation of this JCCT commitment during the run-up to the JCCT meeting scheduled for December 2007.

The United States continues to be concerned by China's *Administrative Measures for Controlling Pollution Caused by Electronic Information Products,* issued by MII and several other Chinese agencies effective on March 1, 2007. This regulation is modeled after an existing

European Union regulation and is known as "China RoHS." While both regulations seek to ban lead and other hazardous substances from a wide range of electrical and electronic products, there are significant differences between the two regulatory approaches. Throughout the process of MII's developing the China RoHS regulation, there was no formal process for interested parties to provide comments or consult with MII, and as a result foreign stakeholders had only limited opportunity to comment on proposals or to clarify MII's implementation intentions. China did eventually notify the regulation to the TBT Committee, but the regulation does not answer questions regarding such basic information as the specific products that will be covered. Specifically, China has neither issued the catalogue of products for which mandatory testing will be required under this measure, nor provided any details on the testing and certification protocols, although China has indicated that it will be doing so soon. U.S. and other foreign companies are concerned that they will have insufficient time to adapt their products to China's requirements and that in-country testing requirements will be burdensome and costly.

AQSIQ issued Decree 95 – the *Administrative Measures on Examination and Supervision of Imported Medical Devices* – in June 2007, with an effective date of December 1, 2007. Decree 95 is a significant measure that imposes an examination and supervision regime on imported medical devices. However, China issued Decree 95 in final form, without having notified a proposed Decree 95 to the WTO's TBT Committee and given WTO members an opportunity to comment, as required by the TBT Agreement.

In regulating imported medical devices, Decree 95 establishes three risk categories for imported medical devices, and it divides importers into three levels of trustworthiness based on their experience and other factors. Decree 95 then requires certain percentages (ranging from 10 to 100 percent) of shipments of imported medical devices to be inspected, depending on the risk category of the product and the trustworthiness of the importer. Decree 95 creates significant redundancies because its excessive inspection requirements apply to imported medical devices that have already satisfied the existing certification requirements imposed by SFDA and CNCA prior to being exported to China. Decree 95 also appears to go substantially further than common international practice, where border inspection is generally done only on a very small percentage of previously certified devices, in response to targeted concerns.

U.S. industry has expressed strong concerns about the breadth of Decree 95 and its redundancy with the certification schemes administered by SFDA and in some cases CNCA. It has also been concerned about the short amount of time that Decree 95 allows for U.S. companies to make necessary adjustments. Working closely with U.S. industry, the United States has raised these concerns with in meetings with AQSIQ and MOFCOM and during the run-up to the JCCT meeting scheduled for December 2007. The United States has also facilitated a government-industry dialogue. Through these efforts, the United States pressed China to suspend Decree 95 before its December 1, 2007 implementation date and to engage in continued dialogue with foreign governments and industry to develop alternate requirements that are more consistent with common international practice in this area. On November 30, AQSIQ issued a notice suspending the implementation of Decree 95.

As these various developments on the conformity assessment front indicate, China's regulatory authorities appear to be turning more and more to in-country testing for a broader range of products in 2007. This policy direction is troubling, as it goes in the opposite direction of global conformity assessment practices, which favor processes that accept test results from internationally recognized laboratories, mutual recognition of conformity assessment schemes, recognition of third-party accrediting bodies, the concept of a "supplier's declaration of conformity" and other similar trade-facilitating conformity assessment mechanisms. The United States is unaware of any meaningful efforts by China to move toward a system that recognizes test results or conformity assessment certifications from bodies other then Chinese government-run testing, certification, or accreditation entities. Instead, in 2007, China has developed plans to expand the CCC mark scheme and its mandatory testing requirements to "information security," an area in which most countries do not engage in government certification. China is preparing to implement in-country government testing for compliance with its China RoHS regulations. In addition, China issued a measure, which is currently suspended, establishing a burdensome new regime for government inspection of imported medical devices that have already satisfied applicable Chinese certification requirements before being exported to China. Working with U.S. industry, the United States will urge China in 2008 to reverse this trend and move in the direction of global conformity assessment practices.

Other Internal Policies

State-Owned and State-Invested Enterprises

While many provisions in China's WTO accession agreement indirectly discipline the activities of state-owned and state-invested enterprises, China also agreed to some specific disciplines. In particular, it agreed that laws, regulations and other measures relating to the purchase of goods or services for commercial sale by state-owned and state-invested enterprises, or relating to the production of goods or supply of services for commercial sale or for non-governmental purposes by state-owned and state-invested enterprises, would be subject to WTO rules. China also affirmatively agreed that state-owned and state-invested enterprises would have to make purchases and sales based solely on commercial considerations, such as price, quality, marketability and availability, and that the government would not influence the commercial decisions of state-owned and state-invested enterprises.

In the first few years after China's accession to the WTO, U.S. officials did not hear many complaints from U.S. companies regarding WTO compliance problems in this area, although a lack of available information has continued to make it a difficult area to assess. In 2006, for example, China issued a number of measures restricting the ability of state-owned and state-invested enterprises to accept foreign investment, as discussed below in the Investment section. China also announced in 2006 that it would retain "absolute control" over seven sectors, including telecommunications, coal, power production and transmission, petrochemicals and oil, shipping, civil aviation and armaments. The effect of this policy on competition and foreign investment in these sectors remains unclear.

In August 2007, after several years of development, China issued its *Anti-Monopoly Law*, which is scheduled to become effective in August 2008. Although the final version of the law contained many improvements over drafts that had been previously circulated, some provisions continue to generate concern. For example, one provision requires protection for the lawful operations of state-owned enterprises and government monopolies in industries deemed nationally important. At present, it is not clear how China will implement this policy. As China works on implementing measures, the United States has been urging China not to use its Anti-Monopoly Law to enforce industrial policy objectives. The United States has also specifically pressed China to ensure that any implementing measures do not create disguised or unreasonable barriers to trade and do not provide less favorable treatment to foreign goods and services or foreign investors and their investments.

State Trading Enterprises

In its WTO accession agreement, China agreed to disciplines on the importing and exporting activities of state trading enterprises. China committed to provide full information on the pricing mechanisms of state trading enterprises and to ensure that their import purchasing procedures are transparent and fully in compliance with WTO rules. China also agreed that state trading enterprises would limit the mark-up on goods that they import in order to avoid trade distortions. Since China's WTO accession, the United States and other WTO members have sought information from China on the pricing and purchasing practices of state trading enterprises, principally through the transitional reviews at the WTO. So far, however, China has only provided general information, which does not allow a meaningful assessment of China's compliance efforts.

Government Procurement

The WTO Agreement on Government Procurement (GPA) is a plurilateral agreement and currently covers the United States and 39 other WTO members that have joined it. The GPA applies to the procurement of goods and services by central and sub-central government agencies and government enterprises specified by each party, subject to thresholds and certain exceptions. It requires GPA parties to provide MFN and national treatment to the goods, services and suppliers of other GPA parties and to apply detailed procedures designed to ensure transparency, fairness and predictability in the procurement process.

At present, China is not a party to the GPA. It committed to become an observer to the WTO Committee on Government Procurement upon its WTO accession, and in February 2002 it became an observer. China also committed, in its WTO accession agreement, to initiate negotiations for accession to the GPA "as soon as possible."

China's government procurement market is significant in size, and U.S. firms have made clear that China's timely GPA accession is a top priority for them. As a result, shortly after China became an observer to the WTO Committee on Government Procurement, the United States began pressing China both bilaterally and in WTO meetings to move as quickly as possible

toward GPA accession. At the July 2005 JCCT meeting, China agreed to commence "technical discussions" with the United States and other WTO members in preparation for the initiation of negotiations to join the GPA. The first round of technical discussions between China and the United States took place in February 2006. During the run-up to the April 2006 JCCT meeting, the United States pressed China to commit to the initiation of negotiations for accession to the GPA by a date certain. At the ensuing meeting, China agreed to initiate GPA negotiations by December 2007, and the two sides agreed to continue preparatory technical discussions. The United States has since provided additional technical assistance to the Chinese authorities, both through face-to-face meetings and in writing, and China has re-confirmed that it will initiate GPA negotiations by December 2007. Once China initiates these negotiations, the United States will work with China and other interested WTO members in an effort to ensure that China's accession to the GPA takes place expeditiously and on robust terms.

Until it joins the GPA, China has committed in its WTO accession agreement that all of its central and local government entities will conduct their procurements in a transparent manner. China also agreed that, where it opens a procurement to foreign suppliers, it will provide MFN treatment by allowing all foreign suppliers an equal opportunity to participate in the bidding process.

In June 2002, China adopted a *Government Procurement Law*, which became effective in January 2003. This law attempts to follow the spirit of the GPA and incorporates provisions from the United Nations Model Law on Procurement of Goods. However, China's law also directs central and sub-central government entities to give priority to "local" goods and services, with limited exceptions, as China is permitted to do, because it is not yet a party to the GPA. China envisioned that this law would improve transparency, reduce corruption and lower government costs. This law was also seen as a necessary step toward reforming China's government procurement system in preparation for China's eventual accession to the GPA. Since the adoption of the *Government Procurement Law*, MOF has issued various implementing measures, including regulations that set out detailed procedures for the solicitation, submission and evaluation of bids for government contracts relating to goods and services and help to clarify the scope and coverage of the *Government Procurement Law*. MOF also issued measures relating to the announcement of government procurements and the handling of complaints by suppliers relating to government procurement.

It is notable, however, that the *Government Procurement Law* does not cover tendering and bidding for public works projects, which represent at least one-half of China's government procurement market. Those projects are subject to a different regulatory regime, established by China's *Tendering and Bidding Law* in January 2000.

As previously reported, beginning in 2003, U.S. companies expressed concerns about implementing rules on government software procurement being drafted by MOF. At a time when China's already large software market was projected to grow by more than 50 percent annually, the initial draft of these rules reportedly contained guidelines mandating that central and local governments – the largest purchasers of software in China – purchase only software

developed in China to the extent possible. The United States was concerned not only about U.S. software exporters continuing access to China's large and growing market for packaged and custom software – $7.5 billion in 2004 – but also about the precedent that could be established for other sectors if China proceeded with MOF's proposed restrictions on the purchase of foreign software by central and local governments. Working closely with U.S. industry, the United States strongly expressed its concerns to China during a series of bilateral meetings and subsequently made this issue one of its priority issues during the run-up to the July 2005 JCCT meeting. At that meeting, China took note of the United States' strong concerns and indicated that it would indefinitely suspend the drafting of implementing rules on government software procurement.

Soon afterwards, however, a similar issue arose in December 2005, when China announced that products incorporating the WAPI standards should be given preference in government procurement, as discussed above (in the Standards and Technical Regulations section). In addition, the issue of preferences for the purchase of domestic goods again appeared, when the State Council issued China's *Medium to Long-term Science and Technology Master Plan* in early 2006. The NDRC and several other ministries and agencies are in charge of developing regulations to implement this strategy, which includes preferences for the purchase of domestic goods as an important industrial policy tool. More recently, in August 2007, China issued another set of rules for government-supported e-government projects requiring priority to be given to the purchase of domestic goods and services. The United States is concerned that these measures may unfairly discriminate against U.S. firms and has therefore been closely monitoring developments in this area. However, so far, the trade effects of these measures appear to be limited.

In 2008, as in prior years, the United States will continue to monitor the treatment accorded to U.S. suppliers under China's government procurement regime and will continue to urge China to apply its new regulations and implementing rules in a transparent, non-discriminatory manner. The United States will also continue to encourage China to develop its government procurement system in a manner that will facilitate its expeditious accession to the GPA.

Investment

Upon its accession to the WTO, China assumed the obligations of the Agreement on Trade-Related Investment Measures (TRIMS Agreement), which prohibits investment measures that violate GATT Article III obligations to treat imports no less favorably than domestic products or the GATT Article XI obligation not to impose quantitative restrictions on imports. The TRIMS Agreement thus expressly requires elimination of measures such as those that require or provide benefits for the incorporation of local inputs (known as local content requirements) in the manufacturing process, or measures that restrict a firm's imports to an amount related to its exports or related to the amount of foreign exchange a firm earns (known as trade balancing requirements). In its WTO accession agreement, China also specifically agreed to eliminate export performance, local content and foreign exchange balancing requirements from its laws, regulations and other measures, and not to enforce the terms of any contracts

imposing these requirements. In addition, China agreed that it would no longer condition importation or investment approvals on these requirements or on requirements such as technology transfer and offsets.

Before its accession to the WTO, China began revising its laws and regulations on foreign-invested enterprises to eliminate WTO-inconsistent requirements relating to export performance, local content, foreign exchange balancing and technology transfer. However, six years after China's WTO accession, some of the revised laws and regulations continue to "encourage" technology transfer, without formally requiring it. U.S. companies remain concerned that this "encouragement" in practice can amount to a "requirement" in many cases, particularly in light of the high degree of discretion provided to Chinese government officials when reviewing investment applications. Similarly, some laws and regulations "encourage" exportation or the use of local content. Moreover, according to U.S. companies, some Chinese government officials in 2007 – even in the absence of encouraging language in a law or regulation – still consider factors such as export performance and local content when deciding whether to approve an investment or to recommend approval of a loan from a Chinese policy bank, which is often essential to the success of an investment project. The United States and other WTO members, including the EC and Japan, have raised concerns in this area during the annual transitional reviews conducted by the TRIMS Committee. The United States will continue to follow this situation closely in 2008.

In a separate commitment, as previously reported, China agreed to revise its Industrial Policy for the Automotive Sector to make it compatible with WTO rules and principles by the time of its accession. However, China missed this deadline, and U.S. industry reported that some local officials were continuing to enforce the WTO-incompatible provisions of the policy. Following repeated engagement by the United States and other WTO members, including the EC, Japan and Canada, China issued its new automobile industrial policy in May 2004. This policy included provisions discouraging the importation of auto parts and encouraging the use of domestic technology. It also required new automobile and automobile engine plants to include substantial investment in research and development facilities, even though China expressly committed in its WTO accession agreement not to condition the right of investment on the conduct of research and development.

In 2005, China began to issue measures implementing the new automobile industrial policy. One measure that generated strong criticism from the United States, the EC, Japan and Canada was the *Measures on the Importation of Parts for Entire Automobiles*, which was issued by the NDRC in February 2005 and became effective in April 2005. These rules impose charges that unfairly discriminate against imported auto parts and discourage automobile manufacturers in China from using imported auto parts in the assembly of vehicles. Specifically, the rules require all vehicle manufacturers in China that use imported parts to register with China's Customs Administration and provide specific information about each vehicle they assemble, including a list of the imported and domestic parts to be used, and the value and supplier of each part. If the number or value of imported parts in an assembled vehicle exceeds specified thresholds, the regulations require the vehicle manufacturer to pay a charge on each of the imported parts in an

amount equal to the tariff on complete automobiles (typically 25 percent), which is substantially higher than the tariff applicable to auto parts (typically 10 percent). These rules appear to be inconsistent with several WTO provisions, including Article III of GATT 1994 and Article 2 of the TRIMS Agreement, as well as the commitment in China's accession agreement to eliminate all local content requirements relating to importation.

Repeated and high-level engagement by the United States, including at the July 2005 JCCT meeting, made clear that China was not prepared to address the United States' concerns and revise the rules on auto parts. Similar efforts by the EC, Japan and Canada were also unsuccessful. In late March and early April 2006, the United States, the EC and Canada initiated dispute settlement against China by filing formal WTO consultations requests. Joint consultations were held in May 2006. However, these consultations did not lead to any serious discussion of possible agreed resolutions. In September 2006, the United States, the EC and Canada filed requests for the establishment of a panel to hear the dispute. A panel was established at the October 2006 meeting of the WTO's Dispute Settlement Body. Proceedings before the WTO panel took place in May and July 2007, and the panel is scheduled to issue its decision in 2008.

China issued another major industrial policy – the Steel and Iron Industry Development Policy – in July 2005. Although many aspects of this new policy have not yet been implemented, it still includes a host of objectives and guidelines that raise serious concerns. As previously reported, this policy restricts foreign investment in a number of ways. For example, it requires that foreign investors possess proprietary technology or intellectual property in the processing of steel. Given that foreign investors are not allowed to have a controlling share in steel and iron enterprises in China, this requirement would seem to constitute a *de facto* technology transfer requirement, in conflict with the commitment in China's accession agreement not to condition investment on the transfer of technology. This policy also appears to discriminate against foreign equipment and technology imports. Like other measures, this policy encourages the use of local content by calling for a variety of government financial support for steel and iron projects utilizing newly developed domestic equipment. Even more troubling, however, it calls for the use of domestically produced steel-manufacturing equipment and domestic technologies whenever domestic suppliers exist, apparently in contravention of the commitment in China's accession agreement not to condition the right of investment or importation on whether competing domestic suppliers exist.

This policy is troubling because it attempts to dictate industry outcomes and involves the government in making decisions that should be made by the marketplace. It prescribes the number and size of steel producers in China, where they will be located, the types of products that will and will not be produced, and the technology that will be used. This high degree of government direction and decision-making regarding the allocation of resources into and out of China's steel industry raises concerns not only because of the commitment that China made in its WTO accession agreement that the government would not influence, directly or indirectly, commercial decisions on the part of state-owned or state-invested enterprises, but also more generally because it represents another significant example of China reverting to a reliance on

government management of market outcomes instead of moving toward a reliance on market mechanisms. Indeed, it is precisely that type of regressive approach that is at the root of many of the WTO compliance problems encountered by U.S. industry.

The United States has raised its various concerns with China's new steel policy, both bilaterally and at the WTO. In March 2006, the United States and China held the inaugural meeting of a new JCCT dialogue on the steel industry, made critical by the continuing rapid expansion of China's steel capacity and production and the sharp increase in steel exports from China that began in 2005. The two sides held a second Steel Dialogue meeting in October 2006, with participation from U.S. and Chinese steel industry officials, with the objectives of increasing mutual understanding of the challenges faced by each industry and discussing strategies for addressing trade imbalances, including the benefits of increased reliance on market mechanisms. A third Steel Dialogue meeting was held in August 2007. At the WTO, the United States continued to press its concerns, in regular meetings and through the transitional reviews before the Committee on Import Licensing, the TRIMS Committee, the Subsidies Committee and the Council for Trade in Goods in 2005, 2006 and 2007, with support from other WTO members, including Canada, Mexico, the EC and Japan. The United States also focused on China's steel policy in connection with China's first Trade Policy Review at the WTO, held in April 2006. The United States will continue to closely scrutinize China's steel policy and its implementation in 2008.

Meanwhile, in January 2005, as previously reported, the State Council issued a revised *Sectoral Guidelines Catalogue for Foreign Investment.* Like the prior version of this catalogue, issued in March 2002, the revised catalogue generally reflects China's decision to adhere to its commitments to open up certain sectors to foreign investment, although notable exceptions involved the importation and distribution of copyright-intensive products such as theatrical films, DVDs, music, books and journals (as discussed above in the Trading Rights and Distribution Services sections). In addition, while China continued to allow foreign investment in a number of sectors not covered by its WTO accession agreement, one notable exception to this progress continues to be the area of production and development of genetically modified plant seeds, which China still places in the "prohibited" category.

In 2007, the United States learned that China had begun work on a revised foreign investment catalogue. The United States requested, both bilaterally and in connection with the transitional review before the TRIMS Committee in October 2007, that China provide an opportunity for public comment on the revised catalogue before the State Council finalized it. However, the State Council issued the revised catalogue in final form in November 2007 without having provided an opportunity for public comment. The November 2007 catalogue places new restrictions on industries on several industries, including chemicals, auto parts, rare earths processing, biofuel production and edible oil processing, while the prohibitions and restrictions facing copyright-intensive products and genetically modified plant seeds remain in place. It also moves the mining of raw materials such as antimony, fluorite, molybdenum, tin and tungsten from the "restricted" category to the "prohibited" category. From a positive standpoint, the catalogue encourages foreign investment in highway cargo transport and modern logistics, while