UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VIACOM INTERNATIONAL INC., ET AL.,	)	
	)	
Plaintiffs,	)	ECF Case
v.	)	
	)	Civil No. 07-CV-2103 (LLS)
YOUTUBE, INC., ET AL.,	)	
	)	
Defendants.	)	
	)	
THE FOOTBALL ASSOCIATION PREMIER LEAGUE LIMITED, ET AL., on behalf of themselves and all others similarly situated,	)	ECF Case
	)	Civil No. 07-CV-3582 (LLS)
Plaintiffs,	)	
v.	)	
	)	
YOUTUBE, INC., ET AL.,	)	
	)	
Defendants.	)	

SUPPLEMENT TO DECLARATION OF ANDREW H. SCHAPIRO IN FURTHER SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Schapiro Exhibit 110 continued

Pacific Economic Cooperation Forum (APEC) also brings increased importance to APEC's work to develop regional IPR best practices.

The United States has also continued to pursue a comprehensive initiative to combat the enormous global trade in counterfeit and pirated goods, including exports of infringing goods from China to the United States and the rest of the world. That initiative, the Strategy Targeting Organized Piracy (STOP!), was announced in October 2004. It is a U.S. government wide effort to stop fakes at the U.S. border, to empower U.S. businesses to secure and enforce their intellectual property rights in overseas markets, to expose international counterfeiters and pirates, to keep global supply chains free of infringing goods, to dismantle criminal enterprises that steal U.S. intellectual property and to reach out to like minded U.S. trading partners in order to build an international coalition to stop counterfeiting and piracy worldwide. China's share of infringing goods seized at the U.S. border stood at 81 percent in mid-year 2007, according to data from U.S. customs authorities.

China is making genuine efforts to improve IPR enforcement. U.S. industry has confirmed that some of China's special campaigns, such as the "Mountain Eagle" campaign against trademark infringement crimes that ended in 2006, have in fact resulted in increased arrests and seizures of infringing materials, although the disposition of seized goods and the outcomes of criminal cases remain largely obscured by lack of transparency. The 2007 Action Plan announced that China will launch more special crackdown efforts with regard to various IPR infringement problems. The United States has urged China to use its implementation of such efforts as an opportunity to tackle emerging enforcement challenges, particularly the sale of pirated and counterfeit goods on the Internet. In addition, the United States has suggested that China use this opportunity to examine the potential benefits of specialized national IPR courts and prosecutors, providing faster trademark examination, and ensuring that the resources available to local administrative, police, and judicial authorities charged with protecting and enforcing intellectual property rights are adequate to the task. The United States will continue to pursue these efforts in 2008.

Nevertheless, despite its many positive efforts to improve IPR enforcement, China pursues other policies that continue to impede effective enforcement. These policies led the United States to resort to the WTO dispute settlement mechanism earlier this year, where it is seeking needed changes to China's legal framework that would facilitate the utilization of criminal remedies, improve border enforcement and provide copyright protection for works during the period when they are awaiting censorship approval. These changes should be an important objective for China, given the lack of deterrence clearly evident in China's current enforcement regime. At the same time, other changes are needed on the market access side. As discussed above, China maintains market access barriers, such as import and distribution restrictions, which discourage and delay the introduction of numerous types of legitimate foreign products into China's market. These barriers create additional incentives for infringement of copyrighted products like theatrical films, DVDs, music, books and journals and inevitably lead consumers to the black market, again compounding the severe problems already faced by China's enforcement authorities.

Services

The commitments that China made in the services area begin with the General Agreement on Trade in Services (GATS). The GATS provides a legal framework for addressing market access and national treatment limitations affecting trade and investment in services. It includes specific commitments by WTO members to restrict their use of those limitations and provides a forum for further negotiations to open services markets around the world. These commitments are contained in national services schedules, similar to the national schedules for tariffs.

In its Services Schedule, China committed to the substantial opening of a broad range of services sectors through the elimination of many existing limitations on market access, at all levels of government, particularly in sectors of importance to the United States, such as banking, insurance, telecommunications and professional services. These commitments are far-reaching, particularly when compared to the services commitments of many other WTO members.

China also made certain "horizontal" commitments, which are commitments that apply to all sectors listed in its Services Schedule. The two most important of these cross-cutting commitments involve acquired rights and the licensing process. Under the acquired rights commitment, China agreed that the conditions of ownership, operation and scope of activities for a foreign company, as set out in the respective contractual or shareholder agreement or in a license establishing or authorizing the operation or supply of services by an existing foreign service supplier, will not be made more restrictive than they were on the date of China's accession to the WTO. In other words, if a foreign company had pre-WTO accession rights that went beyond the commitments made by China in its Services Schedule, that company could continue to operate with those rights.

In the licensing area, prior to China's WTO accession, foreign companies in many service sectors did not have an unqualified right to apply for a license to establish or otherwise provide services in China. They could only apply for a license if they first received an invitation from the relevant Chinese regulatory authorities, and even then the decision-making process lacked transparency and was subject to inordinate delay and discretion. In its accession agreement, China committed to licensing procedures that were streamlined, transparent and more predictable.

After six years of China's membership in the WTO, challenges still remain in securing the benefits of many of China's services commitments. Over the past year, China implemented relatively minor additional commitments required by December 11, 2006, in the areas such as wholesale and retail distribution services, insurance services and architectural and engineering services. Problems developed, however, with regard to the scheduled implementation of important commitments in the area of banking services, where China's timely implementing regulations generated immediate concerns, and in the area of electronic payments services, where China had still made no attempt at implementation as of early December 2007. China also has not yet implemented further liberalization scheduled for the telecommunications sector by December 11, 2006.

In 2007, China also continued to maintain or erect high or cumbersome terms of entry in some sectors that prevent or discourage foreign suppliers from gaining market access. For example, excessive and often discriminatory capital requirements continued to restrict market entry for foreign suppliers in many sectors, such as insurance, banking, motor vehicle financing, securities, asset management, telecommunications and construction services, among others. In addition, in sectors such as banking, insurance and legal services, branching restrictions have been put into effect that call into question commitments made by China in its Services Schedule. In other sectors, particularly financial information services and construction services, problematic measures appear to be taking away previously acquired market access rights.

The *Administrative Licensing Law*, which took effect in July 2004, has increased transparency in the licensing process, while reducing procedural obstacles and strengthening the legal environment for domestic and foreign enterprises. As a result, the licensing process in many sectors continued to proceed in a workman-like fashion in 2007, although national treatment concerns remained, particularly in the banking and insurance sectors. In addition, in some sectors, such as insurance and telecommunications services, the licensing process was characterized by inordinate delays.

China is scheduled to implement the last of its services commitments by December 11, 2007. These commitments involve the areas of taxation services, management consulting services, mobile voice and data services, travel and tourism services, and rail transport services. The United States will monitor developments in these areas in 2008, while continuing its efforts to obtain China's full compliance with previously matured commitments.

Financial Services

Banking

Prior to its accession to the WTO, China had allowed foreign banks to conduct foreign currency business in selected cities. Although China had also permitted foreign banks, on an experimental basis, to conduct domestic currency business, the experiment was limited to foreign customers in two cities.

In its WTO accession agreement, China committed to a five-year phase-in for banking services by foreign banks. Specifically, China agreed that, immediately upon its accession, it would allow U.S. and other foreign banks to conduct foreign currency business without any market access or national treatment limitations and conduct domestic currency business with foreign-invested enterprises and foreign individuals, subject to certain geographic restrictions. The ability of U.S. and other foreign banks to conduct domestic currency business with Chinese enterprises and individuals was to be phased in. Within two years after accession, foreign banks were also to be able to conduct domestic currency business with Chinese enterprises, subject to certain geographic restrictions, which were to be lifted gradually over the following three years. Within five years after accession, foreign banks were to be able to conduct domestic currency business with Chinese individuals, and all geographic restrictions were to be lifted. Foreign banks were also to be permitted to provide financial leasing services at the same time that Chinese banks are permitted to do so.

Since its accession to the WTO, China has taken a number of steps to implement its banking services commitments. At times, however, China's implementation efforts have generated concerns, and there are some instances in which China still does not seem to have fully implemented particular commitments.

As previously reported, shortly after China's accession to the WTO, the People's Bank of China (PBOC) issued regulations governing foreign-funded banks, along with implementing rules, which became effective February 2002. The PBOC also issued several other related measures. Although these measures appeared to keep pace with the WTO commitments that China had made, it became clear that the PBOC had decided to exercise extreme caution in opening up the banking sector. In particular, it imposed working capital requirements and other prudential rules that far exceeded international norms, both for the foreign banks' headquarters and branches, which made it more difficult for foreign banks to establish and expand their market presence in China. Many of these requirements, moreover, did not apply equally to foreign and domestic banks. For example, a foreign bank branch licensed to conduct business in all currencies for both corporate and individual clients had to satisfy an operating capital requirement of RMB 500 million ($67.5 million), while a domestic bank branch with the same business scope needed only RMB 300 million ($40.5 million) in operating capital. In addition, the PBOC allowed foreign-funded banks to open only one branch every 12 months.

In several bilateral meetings following China's WTO accession, the United States urged the

PBOC to reconsider its prudential requirements and to bring them in line with international norms. Together with other WTO members, the United States also raised these same concerns during meetings of the WTO's Committee on Trade in Financial Services, including the transitional reviews held in 2002 and 2003. In December 2003 and July 2004, some progress took place, as the PBOC reduced working capital requirements for various categories of foreign banks. With the issuance of the *Implementing Rules for the Administrative Regulations on Foreign-Invested Financial Institutions* in July 2004, the China Banking Regulatory Commission (CBRC) also removed the restriction that had limited foreign-funded banks to opening only one new branch every 12 months. Nevertheless, the United States, along with Australia, Canada, the EC and Japan, continued to urge China to make its banking sector more accessible to foreign banks, as reflected in the annual transitional reviews before the Committee on Trade in Financial Services, including in 2007.

Meanwhile, China kept up with its commitments regarding the lifting of geographic restrictions on foreign banks conducting domestic currency business with foreign enterprises and individuals and Chinese enterprises. In December 2004, CBRC opened up five additional cities to foreign banks, including two cities (Xian and Shenyang) one year ahead of the commitment in China's Services Schedule. In December 2005, CBRC announced the opening of seven additional cities, five more than the two cities (Shantou and Ningbo) scheduled to be phased in by that time, bringing the total to 25 Chinese cities in which foreign banks were able to conduct business.

One area in which China has fallen behind in its WTO commitments involves the establishment of Chinese-foreign joint banks. In the Services Schedule accompanying its WTO accession agreement, China agreed that qualified foreign financial institutions would be permitted to establish Chinese-foreign joint banks immediately after China acceded, and it did not schedule any limitation on the percentage of foreign ownership in these banks. To date, however, China has limited the sale of equity stakes in existing state-owned banks to a single foreign investor to 20 percent, while the total equity share of all foreign investors is limited to 25 percent. The United States and other WTO members have urged China to relax these limitations during the annual transitional reviews before the Committee on Trade in Financial Services. In addition, the United States pressed China on this issue at the May 2007 SED meeting and the Joint Economic Committee meeting in September 2007, without achieving any progress. The United States is again raising this issue in connection with the SED meeting scheduled for December 2007.

Despite high capital requirements and other continuing impediments to entry into the domestic currency business, the business that foreign banks were most eager to pursue in China, participation of U.S. and other foreign banks in the domestic currency business has expanded tremendously. According to the PBOC and the CBRC, the domestic currency business of foreign banks grew rapidly in the first two years after China's WTO accession, albeit from a low base level, even though the foreign banks' clients were then limited to foreign-invested enterprises and foreign individuals. Following the PBOC's December 2003 announcement that foreign banks would be permitted to conduct domestic currency business with Chinese enterprises subject to geographic restrictions allowed by China's WTO commitments, the rate of growth in U.S. and other foreign banks' domestic currency business further accelerated. By the

end of 2006, when foreign banks were scheduled to begin engaging in domestic currency business with Chinese individuals, 260 foreign banks, including a number of U.S. banks, had branches or representative offices in China, although only large banks had sufficient resources to satisfy the entry requirements. In addition, the total assets of foreign banks in China had reportedly reached $123 billion, representing just over 2 percent of the total banking assets in China. In some coastal cities, the percentage was higher.

The five-year phase-in period for banking services by foreign banks ended on December 11, 2006. By that time, China was supposed to have removed remaining geographic limitations and to have allowed foreign banks to conduct domestic currency business with Chinese individuals. These commitments have been anticipated for some time, as U.S. and other foreign banks should benefit tremendously from new business opportunities, and China should realize important benefits from having greater access to world-class banking services.

In November 2006, however, the State Council issued implementing regulations – the *Regulations for the Administration of Foreign-Funded Banks* – which generated some immediate concerns. For example, the regulations mandated that only foreign-funded banks that have had a representative office in China for two years and that have total assets exceeding $10 billion can apply to incorporate in China. After incorporating, moreover, these banks only become eligible to offer full domestic currency services to Chinese individuals if they can demonstrate that they have operated in China for three years and have had two consecutive years of profits. The regulations also restricted the scope of activities that can be conducted by foreign banks seeking to operate in China through branches instead of through subsidiaries. In particular, the regulations restricted the domestic currency business of foreign bank branches. While foreign bank branches can continue to take deposits from and make loans to Chinese enterprises in domestic currency, they can only take domestic currency deposits of RMB 1 million ($135,000) or more from Chinese individuals and cannot make any domestic currency loans to Chinese individuals. In addition, unlike foreign banks incorporated in China, foreign bank branches cannot issue domestic currency credit and debit cards to Chinese enterprises or Chinese individuals.

Other problems arose once the new regulations went into effect in December 2006. For example, Chinese regulators did not act on the applications of foreign banks incorporated in China to issue domestic currency credit and debit cards, or to trade or underwrite commercial paper or long-term listed domestic currency bonds.

In 2007, working closely with U.S. banks, the United States pressed China in an attempt to improve the access of U.S. banks to the domestic currency business. The United States principally used the May 2007 SED meeting, the U.S.-China Joint Economic Committee meeting in September 2007 and the SED meeting scheduled for December 2007 to seek these improvements. At the May 2007 SED meeting, China committed to act on the applications of foreign banks incorporated in China seeking to issue their own domestic currency credit and debit cards. Nevertheless, while the CBRC has since approved the banks' applications, the PBOC has so far withheld its approval, citing technical issues. The banks' continuing inability

to issue their own credit and debit cards has hindered the banks' ability to attract Chinese individuals as new customers.

At the SED meeting scheduled for December 2007 and, if necessary, in 2008, the United States will continue to press China to allow U.S. banks full access to the domestic currency business. The United States will make every effort to ensure that China fully implements its domestic currency business commitments and that U.S. banks realize the full benefits to which they are entitled.

Motor Vehicle Financing

In its WTO accession agreement, China agreed to open up the motor vehicle financing sector to foreign non-bank financial institutions for the first time, and it did so without any limitations on market access or national treatment. These commitments became effective immediately upon China's accession to the WTO.

As previously reported, China did not open up this sector to foreign financial institutions upon its accession, leaving China's commercial banks as the only financial institutions able to offer auto loans. Despite extensive engagement by the United States and other WTO Members, it was not until October 2004, nearly three years after its accession to the WTO, that China finally implemented the measures necessary to allow foreign financial institutions to obtain licenses and begin offering auto loans.

Insurance

Prior to its accession to the WTO, China allowed selected foreign insurers to operate in China on a limited basis and in only two cities. Three U.S. insurers had licenses to operate, and several more were either waiting for approval of their licenses or were qualified to operate but had not yet been invited to apply for a license by China's insurance regulator, the China Insurance Regulatory Commission (CIRC).

In its WTO accession agreement, China agreed to phase out existing geographic restrictions on all types of insurance operations during the first three years after accession. It also agreed to expand the ownership rights of foreign companies. Upon accession, foreign life insurers were to be permitted to hold 50 percent equity share in a joint venture. Foreign property, casualty and other non-life insurers were to be permitted to establish as a branch or as a joint venture with 51 percent foreign equity share upon accession, and they also had to be able to establish as a wholly foreign-owned subsidiary two years after accession. In addition, foreign insurers handling large scale commercial risks, marine, aviation and transport insurance, and reinsurance were to be permitted 50 percent foreign equity share in a joint venture upon accession, while they had to be able to own 51 percent three years after accession and establish as a wholly foreign-owned subsidiary five years after accession. China further agreed that all foreign insurers were to be permitted to expand the scope of their activities to include health, group and pension/annuities lines of insurance within three years after accession.

China also made additional significant commitments relating specifically to branching. China scheduled a commitment to allow non-life insurance firms to establish as a branch in China upon accession and to permit internal branching in accordance with the lifting of China's geographic restrictions. China further agreed that foreign insurers already established in China that were seeking authorization to establish branches or sub-branches would not have to satisfy the requirements applicable to foreign insurers seeking a license to enter China's market.

As previously reported, CIRC issued several new insurance regulations shortly after acceding to the WTO, including ones directed at the regulation of foreign insurance companies. These regulations implemented many of China's commitments, but they also created problems in three critical areas – capitalization requirements, transparency and branching. In particular, the capitalization requirements imposed by the regulations were significantly more exacting than those of other populous countries with no less an interest in preserving a healthy insurance market, and they limited the ability of foreign insurers to make necessary joint venture arrangements. The regulations also lacked adequate transparency, as they continued to permit considerable bureaucratic discretion and to offer limited predictability to foreign insurers seeking to operate in China's market. Meanwhile, notwithstanding several important commitments on branching, the regulations are vague on foreign insurers' branching rights, and CIRC has often been reluctant to provide clarifications.

In close consultation with U.S. insurers, the United States first raised these issues in 2002 in several bilateral meetings with CIRC, MOFTEC and the State Council and at WTO meetings, with support from Canada, the EC, Japan and Switzerland. Following high-level bilateral meetings during the run-up to the October 2002 Summit between Presidents Bush and Jiang, China began to show some flexibility. CIRC agreed to establish a working group, composed of U.S. regulators and insurers, to discuss insurance issues, with a particular focus on appropriate capitalization requirements and other prudential standards. The first meeting of the working group took place in December 2002.

Following further bilateral meetings, China issued draft implementing rules in August 2003. Although this draft demonstrated some progress with regard to capitalization requirements and transparency, more progress was needed. The United States also continued to press its concerns, particularly with regard to branching, in high-level meetings in September, October and November 2003, and at the transitional review before the Committee on Trade in Financial Services in December 2003. In May 2004, CIRC issued final implementing rules, the *Detailed Rules on the Regulations for the Administration of Foreign-Invested Insurance Companies.* These rules lowered capital requirements for national licenses from RMB 500 million ($67.5 million) to RMB 200 million ($27 million) and for branch offices from RMB 50 million ($6.75 million) to RMB 20 million ($2.7 million). These changes were welcomed by some U.S. insurers, but others still considered the capital requirements to be too high. The rules also streamlined licensing application procedures and shortened approval times, although some procedures remained unclear. Meanwhile, the rules did not adequately address branching rights, as many aspects of this area remained vague. The rules also did not address another issue that U.S. and other foreign insurers had begun to complain about – in practice, it appeared that

established Chinese insurers were being granted new branch approvals on a concurrent basis, meaning more than one branch at a time, while foreign insurers had only received approvals on a consecutive basis, meaning one branch at a time. In addition, while the rules provide some guidance regarding foreign non-life insurers wishing to apply for approval to convert from a branch to a subsidiary, CIRC has continued to have difficulty adhering to its own regulatory requirement that it act on applications within 60 days, as long delays are routine.

At the April 2004 JCCT meeting, the United States had sought and obtained a commitment from China to re-start the CIRC working group, so that U.S. regulators and insurers could discuss the range of insurance issues with CIRC officials. The United States attempted to schedule these discussions shortly after the May 2004 implementing rules were issued, but without success. Later in the year, the United States raised its concerns in the insurance area during the transitional review before the Committee on Trade in Financial Services, held in November 2004, with support from Canada and Japan. At about the same time, CIRC agreed to schedule the next working group meeting in early 2005. The CIRC working group meeting finally took place in April 2005. It provided a useful forum for U.S. and Chinese industry experts to join U.S. and Chinese government representatives in a discussion of a broad range of concerns. Not long thereafter, at the July 2005 JCCT meeting, China agreed to make CIRC available for another working group meeting by the end of 2005. That meeting took place in December 2005, and another meeting took place in November 2006. Through those meetings and additional bilateral engagement, the United States obtained assurances from CIRC that it was China's policy to grant foreign insurers new branch approvals on a concurrent basis, as has been done for domestic insurers, but in practice it has not been happening. The United States has also obtained useful clarifications regarding the status of China's draft Insurance Law. In addition, CIRC has provided useful information regarding the *Regulations on the Administration of the Reinsurance Business*, which were issued in late 2005 without prior notice or the opportunity for public comment. However, there continued to be uncertainty about these regulations, including with regard to the issue of whether they effectively require insurers in China to conclude contracts only with reinsurers invested in China, a requirement that would raise questions about China's compliance with its WTO commitments, which permit the insurers the flexibility to source reinsurance from cross-border suppliers.

In 2007, despite these ongoing problems, the operations of foreign insurers in China continued to grow, with all remaining geographic restrictions and business scope restrictions having been removed. As of July 2007, 45 foreign insurers were operating in China, including a large number of U.S. insurers. Foreign insurers had only a four percent share of the national market, but they continued to capture encouraging market shares in major coastal municipalities and were working to broaden their presence in China.

The United States used the SED meeting in May 2007 to try to make progress on some of the troublesome issues facing U.S. insurers. At that meeting, China committed to eliminate the backlog of U.S. non-life insurers' applications for conversion from a branch to a subsidiary by August 2007, and CIRC followed through on that commitment. However, China refused to address other issues raised by the United States. Because of the limited progress made at the

May 2007 SED meeting, the United States is also raising insurance issues during the run-up to the JCCT and SED meetings scheduled for December 2007, including the need for China to establish non-discriminatory procedures allowing U.S. companies to submit applications for internal branches on a concurrent or consecutive basis, at their choice, with timely action on those applications by China's regulatory authorities.

In 2008, as in prior years, the United States will continue to use both bilateral and multilateral engagement to address issues of concern to U.S. insurers. The United States is committed to seek market access for U.S. insurers on a transparent, fair and equitable basis.

Financial Information Services

In its WTO accession agreement, as noted above, China committed that, for the services included in its Services Schedule, the relevant regulatory authorities would be separate from, and not accountable to, any service suppliers they regulated, with two specified exceptions. One of the services included in China's Services Schedule – and not listed as an exception – is the "provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services."

Nevertheless, China has still not established an independent regulator in the financial information services sector. Xinhua, the Chinese state news agency, is both a major market competitor of, and the regulator of, foreign financial information service providers in China. As problems with Xinhua's regulation of this sector mounted following China's WTO accession, U.S. and other foreign financial information service providers began to call for the establishment of an independent regulator. The United States and the EC both raised concerns about this issue during the transitional review before the WTO's Committee on Trade in Financial Services, held in September 2005. The United States continued to press China on this issue bilaterally in 2006, as did the EC.

In September 2006, a major problem developed when Xinhua issued, without an opportunity for prior public comment, the *Administrative Measures on News and Information Release by Foreign News Agencies within China*. These rules abolished the *Measures for Administering the Release of Economic Information in China by Foreign News Agencies and Their Information Subsidiaries*, which had been issued in 1996. Among other things, under the 2006 rules, Xinhua now precludes foreign providers of financial information services from contracting directly with or providing financial information services directly to domestic Chinese clients. Instead, foreign financial information service providers must operate through a Xinhua-designated agent, and the only agent designated to date is a Xinhua affiliate. These new restrictions do not apply to domestic financial information service providers and, in addition, contrast with the rights previously enjoyed by foreign information service providers since the issuance of the 1996 rules, well before China's accession to the WTO in December 2001. The United States immediately raised strong concerns with the new rules during a series of bilateral meetings in Beijing, as did the EC, as a number of potential WTO concerns were implicated, including China's national treatment obligation, commitments that China made in its GATS Schedule and China's

commitment to establish an independent regulator. In response to these complaints, Premier Wen publicly promised that the new rules would not change how foreign financial information service providers did business in China. Shortly thereafter, Xinhua told foreign financial information service providers that the new rules would not be applied to them until after an implementing measure was issued. The United States reiterated its concerns about these rules during the transitional review before the WTO's Committee on Trade in Financial Services in November 2006. The United States also raised this issue on the margins of the December 2006 SED meeting.

In 2007, working closely with the U.S. and European industries and the EC, the United States established a regular dialogue with Xinhua on this issue, securing Xinhua's agreement to maintain the status quo until this issue can be resolved. The United States also raised this issue in connection with the May 2007 SED meeting and is currently pressing for a resolution of this issue during the run-up to the JCCT meeting scheduled for December 2007. The United States will take further actions in 2008, including the initiation of WTO dispute settlement, if appropriate, in an effort to ensure that U.S. suppliers are able to provide financial information services in China in a manner consistent with the commitment that China made in its Services Schedule.

Electronic Payments Processing

In the Services Schedule accompanying its Protocol of Accession, China committed to remove market access limitations and provide national treatment for foreign suppliers providing payment and money transmission services, including credit, charge, and debit cards, with this commitment becoming effective with regard to the domestic currency business of retail clients. China also committed to allow the provision and transfer of financial information, financial data processing and advisory, intermediation and other financial services auxiliary to payments and money transmission services. These electronic payments processing commitments were to be implemented by no later than December 11, 2006.

Under its existing rules, China restricts foreign credit card companies' access to its market. It only permits China Union Pay (CUP), an entity created by the PBOC and owned by participating Chinese banks, to provide electronic payments processing services for domestic currency credit card transactions. Foreign credit card companies can only provide these services for foreign currency transactions.

In the second half of 2006, a number of troubling proposals were attributed to CUP and apparently supported by the PBOC. The common theme of these proposals was that CUP would be designated as a monopoly provider of electronic payments processing services for Chinese consumers for RMB processing, and that no other providers would be able to enter this market. Through a series of bilateral meetings beginning in September 2006, the United States cautioned China that none of the proposals being attributed to CUP would satisfy the commitments that China had made to open up its market to foreign credit card companies. The United States reinforced this message during the transitional review before the Committee on Trade in

Financial Services, held in November 2006. The United States also raised this issue on the margins of the first SED meeting, held in December 2006, without achieving any resolution.

In 2007, the United States continued to press China to implement its electronic payments processing commitments. The United States raised this issue in connection with the May 2007 SED meeting and other bilateral meetings as well as at the WTO during the transitional review before the Committee for Trade in Financial Services, without making progress.

The United States is currently raising this issue during the run-up to the JCCT meeting scheduled for December 2007. The United States will continue to pursue this issue vigorously in 2008, if necessary, and will take further appropriate actions seeking to ensure that U.S. credit card companies enjoy the full benefits of the market-opening commitments that China made in its Services Schedule.

Legal Services

Prior to its WTO accession, China had imposed various restrictions in the area of legal services. It maintained a prohibition against representative offices of foreign law firms practicing Chinese law or engaging in profit-making activities of any kind. It also imposed restrictions on foreign law firms' formal affiliation with Chinese law firms, limited foreign law firms to one representative office and maintained geographic restrictions.

China's WTO accession agreement provides that, upon China's accession to the WTO, foreign law firms may provide legal services through one profit-making representative office, which must be located in one of several designated cities in China. The foreign representative offices may act as "foreign legal consultants" who advise clients on foreign legal matters and may provide information on the impact of the Chinese legal environment, among other things. They may also maintain long-term "entrustment" relationships with Chinese law firms and instruct lawyers in the Chinese law firm as agreed between the two law firms. In addition, all quantitative and geographic limitations were to have been phased out within one year of China's accession to the WTO, which means that foreign law firms should have been able to open more than one office anywhere in China beginning on December 11, 2002.

As previously reported, the State Council issued the *Regulations on the Administration of Foreign Law Firm Representative Offices* in December 2001, and the Ministry of Justice issued implementing rules in July 2002. While these new measures removed some market access barriers, they also generated concern among foreign law firms doing business in China. In many areas, these measures were ambiguous. Among other things, it appears that these measures create an economic needs test for foreign law firms that want to establish offices in China, which raises WTO concerns, given China's GATS commitments. In addition, the procedures for establishing a new office or an additional office are unnecessarily time-consuming. For example, a foreign law firm may not establish an additional representative office until its most recently established representative office has been in practice for three consecutive years. Furthermore, new foreign representatives must go through a lengthy approval process that can take more than

one year, during which time they must leave the country monthly to file for a renewal visa. These measures also seem to take an overly restrictive view of the types of legal services that foreign law firms may provide – which impedes their efforts to secure enforcement of China's IPR laws and other legal rights accorded to foreign businesses by the terms of China's WTO accession. In particular, foreign attorneys may not take China's bar examination, and they may not hire registered members of the Chinese bar as attorneys, which prohibits them from providing advice on Chinese law to clients. In addition, foreign law firms are placed at a considerable disadvantage in relation to domestic law firms. The MOJ refuses to fully license Chinese attorneys that work in foreign law firms, but allows them to engage in the full range of practice areas in domestic law firms. Foreign law firms are also subject to taxes at both the firm and individual levels, while domestic law firms are only taxed as partnerships. Foreign law firms additionally are not permitted to repatriate profits earned because, as representative offices, they are not permitted to convert profits from domestic currency into foreign currency.

The United States has raised its concerns both bilaterally and at the WTO during the annual transitional reviews before the Council for Trade in Services, with support from the EC and Japan. To date, although a number of U.S. and other foreign law firms have been able to open a second office in China, little progress has been made on the problematic aspects of the new measures, particularly the economic needs test, the unreasonable restrictions on the types of legal services that can be provided and the unnecessary delays that must be endured when seeking to establish new offices. In 2007, these obstacles continue to prevent foreign law firms from participating fully in China's legal market. The United States will continue to engage China in 2008 in an attempt to resolve these outstanding concerns.

Telecommunications

In the Services Schedule accompanying its WTO accession agreement, China committed to permit foreign suppliers to provide a broad range of telecommunications services through joint ventures with Chinese companies, including domestic and international wired services, mobile voice and data services, value-added services (such as electronic mail, voice mail and on-line information and database retrieval) and paging services. The foreign stake permitted in the joint ventures is to increase over time, reaching a maximum of 49 percent for most types of services. In addition, all geographical restrictions are to be eliminated within two to six years after China's WTO accession, depending on the particular services sector.

Importantly, China also accepted key principles from the WTO Reference Paper on regulatory principles. As a result, China became obligated to separate the regulatory and operating functions of MII (which had been both the telecommunications regulatory agency in China and the operator of China Telecom) upon its accession. China also became obligated to adopt pro-competitive regulatory principles, such as cost-based pricing and the right of interconnection, which are necessary for foreign-invested joint ventures to compete with incumbent suppliers such as China Telecom, China Netcom and China Unicom.

Even though China has nominally kept to the agreed schedule for phasing in its WTO commitments, no meaningful market-opening progress took place in the telecommunications services sector through 2007. As discussed below, MII's imposition of excessive capital requirements and MII's reclassification of value-added services as basic services, together with MII's lengthy license application process, have continued to present formidable barriers to market entry for foreign enterprises. Indeed, as China nears the end of its sixth year of WTO membership, the United States is unaware of any domestic or foreign application for a license to provide basic services that has completed the MII licensing process. As a result, the number of suppliers of basic services appears to be frozen, limiting the opportunities for new joint ventures and reflecting a level of competition that is extraordinarily low given the size of China's market.

Central to the absence of meaningful progress in opening China's telecommunications sector is the reality that, six years after its accession to the WTO, China has not yet established a truly independent regulator. The current regulator, MII, while nominally separate from the current telecommunications operators, maintains extensive influence and control over their operations and continues to use its regulatory authority to disadvantage foreign firms.

As previously reported, the State Council issued regulations on the administration of foreign-invested telecommunications enterprises in December 2001. These regulations implemented China's commitments by providing for the establishment of foreign-invested joint ventures, and they set forth relatively clear procedures and requirements for the joint ventures when applying for approval to commence operations, although, as in several other services sectors, they also established high capital requirements (particularly for basic services) that pose a significant barrier to entry for many potential foreign suppliers. Then, in April 2003, MII issued its Catalogue of Telecommunications Services, which reclassified several telecommunications services from the value-added category to the basic category, contrary to widely accepted international practice. MII also placed restrictions on what new services could be classified under the value-added category. These moves limited the ability of U.S. firms to access China's telecommunications market because, under China's Services Schedule, basic services were on a slower liberalization schedule than value-added services, and China subjects basic services to higher capitalization requirements. Indeed, China requires suppliers of basic services to satisfy an excessive registered capital requirement of RMB 2 billion ($270 million). A review of capital requirements around the world shows essentially no capital requirements in many WTO member markets, including, for example, Argentina, Australia, Brazil, Chile, the member States of the European Union, Japan and the United States. Where capital-related requirements do exist, they typically only take the form of guarantees.

If China takes the initiative, its planned new *Telecommunications Law* could be a vehicle for addressing these existing market access barriers and other problematic aspects of China's current telecommunications regime. A draft of this long-awaited law began to circulate among Chinese ministries and agencies in 2004. However, to date, China has not made a draft available for public comment, despite repeated requests from the United States and other WTO members.

Over the years, the United States has raised its many concerns in the telecommunications area with China, using both bilateral engagement and WTO meetings, including the annual transitional reviews before the Council for Trade in Services, where it has received support from the EC and Japan. In 2005, the United States elevated its concerns to the level of the JCCT. At the July 2005 JCCT meeting, the United States was able to persuade China to commit its telecommunications regulator, MII, to a bilateral working group to discuss capitalization requirements, resale services and other issues agreed to by the two sides. The first meeting of this working group took place in January 2006. Subsequently, the United States focused on making progress on the issue of high capital requirements during the run-up to the April 2006 JCCT meeting. At that meeting, China specifically committed to make appropriate adjustments to its registered capital requirements for providers of basic services, and it was agreed by the two sides that a working group would meet to discuss China's implementation of this commitment. The United States subsequently discussed this commitment in the working group and in bilateral meetings with MII and MOFCOM, but one year later China still had taken no steps to fulfil this commitment. The United States then used the May 2007 SED meeting to urge China to implement this commitment, but continued to see no progress. The United States is currently pressing China to implement this commitment in advance of the JCCT meeting scheduled for December 2007.

In 2008, the United States will continue to press China to implement its commitment to adjust the capitalization requirements for providers of basic services, if necessary. The United States will also continue to engage China on the range of other issues that contribute to the absence of meaningful market-opening progress in China's telecommunications sector.

Construction and Related Engineering Services

Upon its WTO accession, China committed to permit foreign service suppliers to supply construction and related engineering services through joint ventures with foreign majority ownership, subject to the requirement that those services only be undertaken in connection with foreign-invested construction projects and subject to registered capital requirements that were slightly different from those of Chinese enterprises. Within three years of accession, China agreed to remove those conditions, and it also agreed to allow wholly foreign-owned enterprises to supply construction and related engineering services for four specified types of construction projects.

As previously reported, in September 2002, the Ministry of Construction and MOFTEC jointly issued the *Rules on the Administration of Foreign-Invested Construction Enterprises* (known as Decree 113) and the *Rules on the Administration of Foreign-Invested Construction Engineering Design Enterprises* (known as Decree 114). These decrees provide schedules for the opening up of construction services and related construction engineering design services to joint ventures with majority foreign ownership and wholly foreign-owned enterprises. The necessary implementing rules for Decree 113 were issued in April 2003, but Decree 114 implementing rules were delayed until early 2007.

Decrees 113 and 114 created concerns for U.S. and other foreign firms by imposing new and more restrictive conditions than existed prior to China's WTO accession, when they were permitted to work in China on a project-by-project basis pursuant to Ministry of Construction rules. In particular, these decrees for the first time require foreign firms to obtain qualification certificates. In addition, these decrees for the first time require foreign-invested enterprises to incorporate in China, and they impose high minimum registered capital requirements and technical personnel staff requirements that are difficult for many foreign-invested enterprises to satisfy. In consultation with U.S. industry, the United States, in a high-level intervention, pressed its concerns about Decrees 113 and 114 and sought a delay before the decrees' problematic requirements would become effective. While Decree 114 still had no implementation date because implementing rules had not been issued, the Ministry of Construction agreed to extend the Decree 113 implementation date from October 2003 until April 2004. The United States and U.S. industry used this extension to pursue these issues further with the Ministry of Construction and MOFCOM.

In April 2004, Decree 113 went into effect. However, in September 2004, the Ministry of Construction and MOFCOM issued Circular 159, which permitted foreign providers of construction services and related construction engineering design services to continue operating on a project by-project basis until July 2005, effectively extending the effective date of the incorporation-related requirements. Since the expiration of Circular 159 in July 2005, however, U.S. and other foreign companies have faced a great deal of uncertainty when contemplating participation in projects in China.

Implementing rules for Decree 114 were finally issued, and became effective, in January 2007. These implementing rules were generally positive, as they temporarily lifted foreign personnel residency and staffing requirements imposed by Decree 114, and recognized the foreign qualifications of technical experts when considering initial licensing. However, they also contained restrictions that may limit market access by U.S. and other foreign companies, as they, for example, only "temporarily" lifted foreign residency and personnel requirements, required two years of domestic experience before companies can apply for higher-level licenses and imposed more stringent initial qualification requirements for foreign companies than domestic companies in the area of design services.

Meanwhile, in November 2004, the Ministry of Construction issued a measure – the *Provisional Measures for Construction Project Management* – that restricts the provision of project management services. This measure, known as Decree 200, became effective in December 2004 and appears to preclude the same company from providing construction services and project management services on a single project. This aspect of Decree 200 raises concerns because U.S. companies often provide integrated construction services packages – combining management, design, and construction services – in project delivery systems in overseas markets. Decree 200 also imposes burdensome requirements by, for example, not allowing foreign companies to provide project management services without already holding a license in one of six categories, which include construction, design, costing, tendering, supervision and surveying. No implementing rules for Decree 200 have been issued to date.

In 2007, as in prior years, the United States engaged China, both bilaterally and at the annual transitional reviews before the Council on Trade in Services, in an effort to obtain improvements in Decrees 113 and 114 and related measures, including three new measures issued by the Ministry of Construction in June 2007. In addition, the United States and China held an initial useful exchange on international best practices in the construction sector. This exchange, which took place in June 2007, allowed U.S. Government officials and U.S. industry representatives to share ideas with Ministry of Construction officials, officials from other relevant ministries and agencies and representatives of China's construction industry about how China's regulatory regime could be improved to the benefit of both the United States and China. A second best practices exchange is tentatively scheduled for early 2008.

Express Delivery Services

The specific commitments that China made in the area of express delivery services did not require China to take implementation action upon its accession to the WTO. Basically, China agreed to increase the stake allowed by foreign express delivery companies in joint ventures over a period of years, with wholly foreign-owned subsidiaries allowed within four years of accession.

Nevertheless, as previously reported, shortly after becoming a WTO member in December 2001, China issued two problematic measures. These measures required Chinese and foreign-invested international express delivery companies, including those that were already licensed by MOFTEC to provide international express delivery services (except for the delivery of private letters), to apply for and obtain so-called "entrustment" authority from China's postal authority, China Post, their direct competitor, if they wanted to continue to provide express delivery services. The measures also placed new weight and rate restrictions on the letters that the companies could handle, in apparent contravention of China's horizontal "acquired rights" commitment (discussed above at the beginning of the Services section).

Following sustained engagement by the United States and other affected WTO members, particularly the EC and Japan, China revised these measures in September and October 2002 and implemented a more streamlined – but still unnecessarily burdensome – entrustment application process. While U.S.-invested express delivery companies were able to continue to operate without significant disruption and even to expand their operations in China, it was not until more than four years later, following the SED meeting in May 2007, that China agreed to require only a single entrustment certificate covering a foreign-invested express delivery company and all of its branches in China.

In 2003, as previously reported, China began selectively circulating draft amendments to its *Postal Law*, which generated immediate concerns. First, the draft amendments purported to give China Post a monopoly over the delivery of letters under 500 grams, which would have constituted a new restriction on the scope of activities of existing foreign-invested express delivery companies, again raising WTO concerns, given China's horizontal "acquired rights" commitment. Second, the draft amendments did not address the need for an independent

regulator. Third, the draft amendments appeared to create a new, more burdensome licensing process to replace the existing entrustment process, and they also seemed to require express couriers to pay four percent of their revenue from the delivery of letters into a fund for universal mail service in China.

In 2004, the United States made express delivery services one of its priority issues during the run-up to the April JCCT. The United States focused its engagement with China on the weight restriction, which would cut back on the scope of activities that foreign-invested express delivery companies had been licensed to provide prior to China's WTO accession. At the JCCT meeting, Vice Premier Wu committed that old problems, like the weight restriction, would not resurface as new problems. Nevertheless, in July 2004, the State Council circulated another set of draft amendments to the *Postal Law* that continued to include a weight restriction, now reduced from 500 grams to 350 grams, and did little to address other U.S. concerns.

Over the next two years, the United States continued to raise its concerns in bilateral meetings and during the annual transitional reviews before the WTO's Council for Trade in Services, with support from the EC, while China continued to work on further drafts of the *Postal Law*. In 2006, as reports of problematic provisions continued, the United States raised its concerns during the run-up to the April 2006 JCCT meeting. At that meeting, China reiterated its commitment that the regulatory environment for express delivery services by foreign companies would not be negatively impacted by the issuance of new rules, including the *Postal Law*. Later that year, however, China circulated an "eighth" draft of the *Postal Law* among some Chinese stakeholders, and this draft generated serious new concerns, as it reportedly would completely exclude foreign service providers from the domestic express delivery market in China.

The United States understands that China is now selectively circulating a "ninth" draft of the *Postal Law*. Like prior drafts, China has not circulated this draft for public comment. Nevertheless, this draft reportedly contains many provisions that cause serious concern for U.S. companies. In particular, it appears that foreign-invested express delivery companies would not be allowed to handle packages containing letters or other documents in the domestic express delivery market in China, as China Post would have a monopoly on documents weighing less than 150 grams, and only China Post and other domestic companies – but not foreign-invested companies – could deliver documents weighing 150 grams or more. In addition, it appears that this draft of the *Postal Law*, like prior drafts, continues to include an unspecified tax obligation on express delivery companies to help fund China Post's universal mail service obligation.

Meanwhile, in August 2006, the State Council reportedly finalized its Postal Reform Plan, which reportedly separates China's postal operations from the administrative function of regulating China's postal system, with the State Postal Administration (SPA) to serve as the regulator and a new state-owned enterprise – the China Post Group Corporation – to be set up to conduct postal business. In September 2006, SPA announced the establishment of 31 provincial-level Postal Management Bureaus to assist in the regulatory effort, while the China Post Group Corporation was established in December 2006. The United States remains disappointed that the State Council has not made public its Postal Reform Plan and that the September 2006 announcement

launching the provincial-level regulatory bureaus did not clarify certain of the outstanding issues, such as whether providers of express delivery services will be asked to pay into a fund to support universal mail service in China.

In 2007, the United States continued to work closely with U.S. express delivery companies in pressing China to increase transparency, both with regard to the draft *Postal Law* and the Postal Reform Plan, and to urge China to develop a sensible and WTO-consistent set of amendments to the *Postal Law*. The United States raised these concerns in connection with the SED meeting in May 2007, without making tangible progress, and is currently raising them again during the run-up to the JCCT meeting scheduled for December 2007.

Finally, in September 2007, a new issue arose when China issued express delivery "standards." It is not yet clear whether these "standards" are mandatory, but they do contain many elements that appear to impose undue burdens on the operations of foreign-invested express delivery companies and may also result in the establishment of provincial-level regulatory bodies that could further hinder growth in the operations of foreign-invested express delivery companies' operations in China. The United States is attempting to clarify how these "standards" will be implemented during the run-up to the JCCT meeting scheduled for December 2007.

Aviation Services

As previously reported, China took a significant step in July 2004 to increase market access for U.S. service providers of air transport services, an area that for the most part falls outside the scope of the GATS and is normally the subject of bilateral agreements. At that time, China signed a landmark bilateral aviation agreement with the United States that will more than double the number of U.S. airlines operating in China and that will increase by five times the number of flights providing passenger and cargo services between the two countries over the next six years. The agreement also allows each countries' carriers to serve any city in the other country, provides for unlimited code-sharing between them, expands opportunities for charter operators, grants cargo carriers the right to provide door-to-door delivery services, and eliminates government regulation of pricing as of 2008. U.S. airlines and U.S. express delivery companies have since obtained additional routes and increased flight frequencies, as envisioned by the agreement.

Meanwhile, an important commitment enshrined in the July 2004 agreement calls for the commencement of negotiations toward further liberalization through a bilateral Open Skies Agreement. The first round of these negotiations took place in April 2006. The United States and China exchanged views and agreed to hold a second round of negotiations during the second half of 2006. However, China subsequently postponed the second round of negotiations, citing the designation of a Chinese company under Executive Order 13382, which addresses the proliferation of weapons of mass destruction.

Bilateral engagement with China resumed in 2007 following the SED meeting held in December 2006, as the United States and China set out to improve the existing bilateral aviation agreement.

Multiple rounds of negotiations took place between January and May 2007 and yielded an amended agreement, which should bring significant economic benefits to the U.S. aviation industry, passengers, shippers and local communities. The agreement allows for significantly expanded air service and should further facilitate trade, investment, tourism and cultural exchanges between the United States and China. Among other things, the agreement will add ten new daily passenger flights that U.S. carriers may operate to the Chinese gateway cities of Beijing, Shanghai and Guangzhou between 2008 and 2012, allow unlimited U.S. cargo flights to any point in China and an unlimited number of U.S. cargo carriers to serve the China market as of 2011, increase from six to nine the number of U.S. passenger carriers that may serve the China market by 2011, and expand opportunities for U.S. carriers to code-share on other U.S. carriers' flights to China. The agreement also commits the United States and China to launch Open Skies negotiations in 2010.

Maritime Services

As previously reported, even though China made no WTO commitments to open up its maritime services sector, it took a significant step in December 2003 to increase market access for U.S. service providers. The United States and China signed a far-reaching, five-year bilateral maritime agreement, which gives U.S.-registered companies the legal flexibility to perform an extensive range of additional shipping and logistics activities in China. U.S. shipping and container transport services companies, along with their subsidiaries, affiliates and joint ventures, are also able to establish branch offices in China without geographic limitation.

Other Services

In its accession agreement, China agreed to give foreign service suppliers increased access in several other sectors, including several types of professional services, tourism and travel-related services, educational services and environmental services. In each of these sectors, China committed to the phased elimination or reduction of various market access and national treatment limitations. To date, the United States has not discovered significant problems with China's implementation of the commitments made in these sectors, and U.S. companies confirm that the relevant laws and regulations are generally in compliance with China's WTO commitments.

In a few sectors, China has actually gone beyond its commitments. For example, even though China had only committed to permit majority foreign-owned joint ventures in the convention services sector, MOFCOM opened this sector to wholly foreign-owned enterprises in February 2004. In addition, at the May 2007 SED meeting, China agreed to gradually expand the business scope of joint venture securities companies to allow them to engage in securities brokerages, proprietary trading and asset management.

In other sectors, however, China has been less willing to increase market access for foreign service providers, even when it would help to achieve other important objectives that China has set for itself, such as improved IPR enforcement. For example, China continues to interpret its audio-visual services commitments restrictively, despite the fact that this approach encourages

the illegal copying and sale of foreign films in China. In particular, China continues to treat its commitment to allow the importation of 20 foreign films for theatrical release on a revenue-sharing basis per year as a ceiling rather than a floor and further constrains the timely release of these films through distribution and marketing restrictions and lengthy film approval requirements. The United States has raised its concerns in this area with China at high levels since 2004, including through the July 2005 JCCT meeting and in extensive bilateral discussions leading up to the filing of WTO dispute settlement proceedings in April 2007 on IPR enforcement and on China's restrictions on the importation and distribution of copyright-intensive products such as theatrical films, DVDs, music, books and journals. However, little progress has been made to date.

Legal Framework

In order to address major concerns raised by WTO members during its lengthy WTO accession negotiations, China committed to broad legal reforms in the areas of transparency, uniform application of laws and judicial review. Each of these reforms, if fully implemented, will strengthen the rule of law in China's economy and help to address pre-WTO accession practices that made it difficult for U.S. and other foreign companies to do business in China.

Transparency

Official Journal

In its WTO accession agreement, China committed to establish or designate an official journal dedicated to the publication of all laws, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS or the control of foreign exchange. China also committed to publish this journal on a regular basis and to make copies of all issues of this journal readily available to enterprises and individuals.

Following its accession to the WTO, China did not establish or designate an official journal. Rather, China relied on multiple channels, including ministry websites, newspapers and a variety of journals, to provide information on trade-related measures. In bilateral meetings and at the WTO, the United States urged China to adopt a single official journal, explaining that the establishment or designation of a single journal would greatly enhance the ability of WTO members to track the drafting, issuance and implementation of trade-related measures. The United States also noted that the use of a single journal to request comments on proposed trade-related measures, as envisioned in China's WTO accession agreement, would facilitate the timely notification of comment periods and submission of comments.

In early 2006, as previously reported, the United States elevated this issue to the level of the JCCT, pressing its concerns during the run-up to the JCCT's April 2006 meeting. In March 2006, the State Council issued a notice directing all central, provincial and local government entities to begin sending copies of all of their trade-related measures to MOFCOM for immediate publication in the *MOFCOM Gazette*. The United States has been monitoring the effectiveness