CHINA

TRADE SUMMARY

U.S. goods exports in 2013 were $122.0 billion, up 10.4 percent from the previous year. Corresponding U.S. imports from China were $440.4 billion, up 3.5 percent. The U.S. goods trade deficit with China was $318.4 billion in 2013, up $3.3 billion from 2012. China is currently the 3rd largest export market for U.S. goods.

U.S. exports of private commercial services (*i.e.*, excluding military and government) to China were $30.0 billion in 2012 (latest data available), and U.S. imports were $13.0 billion. Sales of services in China by majority U.S.-owned affiliates were $35.2 billion in 2011 (latest data available), while sales of services in the United States by majority China-owned firms were $1.4 billion.

The stock of U.S. foreign direct investment (FDI) in China was $51.4 billion in 2012 (latest data available), down from $55.3 billion in 2010. U.S. FDI in China is led by the manufacturing, wholesale trade, banking, and finance/insurance sector.

KEY TRADE BARRIERS

The United States continues to pursue vigorous and expanded bilateral and multilateral engagement to increase the benefits that U.S. businesses, workers, farmers, ranchers, service providers and consumers derive from trade and economic ties with China. In an effort to remove Chinese barriers blocking or impeding U.S. exports and investment, the United States uses outcome-oriented dialogue at all levels of engagement with China, while also taking concrete steps to enforce U.S. rights at the WTO as appropriate. At present, China's trade policies and practices in several specific areas cause particular concern for the United States and U.S. stakeholders. The key concerns in each of these areas are summarized below. For more detailed information on these concerns, see the 2013 USTR Report to Congress on China's WTO Compliance, issued on December 24, 2013 at http://www.ustr.gov/sites/default/files/2013-Report-to-Congress-China-WTO-Compliance.pdf.

Intellectual Property Rights

Overview

In 2013, inadequacies in China's intellectual property rights (IPR) protection and enforcement regime continued to present serious barriers to U.S. exports and investment. China was again placed on the Priority Watch List in the 2013 Special 301 report, and named in USTR's 2013 Out-of-Cycle Review of Notorious Markets Report, which identifies Internet and physical markets that exemplify key challenges in the global struggle against piracy and counterfeiting.

Trade Secrets

The protection and enforcement of trade secrets in China is a serious problem that has attained a higher profile in recent years. Thefts of trade secrets that benefit Chinese companies have occurred both within China and outside of China. Offenders in many cases continue to operate with impunity, while the Chinese government too frequently has failed to recognize serious infringements of IPRs that violate Chinese law. Most troubling are reports that actors affiliated with the Chinese government and the Chinese military have infiltrated the computer systems of U.S. companies, stealing terabytes of data, including the companies' intellectual property. In order to help address these challenges, the United

States has urged China to update and amend its trade secrets laws and regulations, particularly the Anti-Unfair Competition Law; to take actions to address this problem across the range of state-sponsored actors; and to promote public awareness of this issue. At the December 2013 U.S.-China Joint Commission on Commerce and Trade (JCCT) meeting, China committed to adopt and publish an action plan to address trade secrets protection and enforcement for 2014, as well as to work with the United States on proposals to amend China's trade secrets laws and regulations.

Legitimate Goods and Services

Due to the serious obstacles in China to the effective protection and enforcement of IPR in all forms, sales of legitimate IP-intensive goods and services, including software and audiovisual products, remain disproportionately low compared to similar markets with stronger IPR protection and enforcement. The United States continues to work with China on its 2013 U.S.-China Strategic and Economic Dialogue (S&ED) and JCCT commitments to foster a better IP environment that will facilitate increased sales of legitimate IP-intensive goods and services. Sales of legitimate software to the Chinese government by U.S. companies have seen only a modest increase, while losses to U.S. software companies from the use of pirated software by Chinese state-owned enterprises (SOEs) and other enterprises remain very high. The United States continues to call on China to fulfill its existing commitments with regard to software legalization, including those made most recently at the 2013 S&ED meeting, and to urge all levels of the Chinese government, SOEs, and state-owned banks to take necessary steps to ensure the use of legitimate software.

Online Piracy and Counterfeit Goods

Online piracy in China is widespread and continues on a large scale, affecting industries distributing legitimate music, motion pictures, books and journals, software and video games. Similarly, although rights holders report increased enforcement efforts by Chinese government authorities, counterfeiting in China, affecting a wide range of goods, remains widespread. In addition, increased enforcement activities have yet to slow online sales of counterfeit goods. The United State also continues to press China to regulate the manufacture of active pharmaceutical ingredients to prevent their use in counterfeit and substandard medications.

Patents and Technology Transfer

The United States continues to engage China on a range of patent and technology transfer concerns. During Vice President Biden's trip in early December 2013 and at the JCCT meeting held later that month, China committed to permit supplemental data supporting pharmaceutical patent applications. Unresolved concerns include the need to address a surge in low quality patents, to provide effective protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and to provide effective enforcement against infringement of pharmaceutical patents.

The United States also worked with China to eliminate government actions that disadvantage foreign IPR holders. While some longstanding concerns regarding technology transfer remain unaddressed, and new ones have emerged, China committed at the December 2013 JCCT meeting not to finalize or implement a selection catalogue and rules governing official use vehicles. The catalogue and rules would have interfered with independent decision making on technology transfer and would have effectively excluded vehicles produced by foreign and foreign-invested enterprises from important government procurement opportunities.

Industrial Policies

Overview

China continued to pursue industrial policies in 2013 that seek to limit market access for imported goods, foreign manufacturers and foreign service suppliers, while offering substantial government guidance, resources and regulatory support to Chinese industries. The principal beneficiaries of these policies are SOEs, as well as other favored domestic companies attempting to move up the economic value chain. In 2014, the United States will continue to pursue vigorous and expanded bilateral engagement to resolve the serious concerns that remain over many of China's industrial policy measures. The United States also will continue to seek the elimination of China's export restraints on rare earths and other key raw material inputs through the dispute settlement case that it has brought at the WTO.

Indigenous Innovation

In 2013, policies aimed at promoting "indigenous innovation" continued to represent an important component of China's industrialization efforts. Through intensive, high-level bilateral engagement, the United States previously secured a series of critical commitments from China that generated major progress in de-linking indigenous innovation policies at all levels of the Chinese government from government procurement preferences, culminating in the issuance of a State Council measure mandating that provincial and local governments eliminate any remaining linkages by December 2011. Since then, the principal challenge has been to begin addressing a range of discriminatory indigenous innovation preferences proliferating outside of the government procurement context. Using the U.S.-China Innovation Dialogue, the United States was able to persuade China to take an important step in this direction at the May 2012 S&ED meeting, where China committed to treat IPR owned or developed in other countries the same as IPR owned or developed in China. The United States also used the 2012 JCCT process to press China to revise or eliminate specific measures that appeared to be inconsistent with this commitment. Throughout 2013, China reviewed specific U.S. concerns, and the United States and China have intensified their discussions.

In a positive development, at the December 2013 JCCT meeting, China committed not to finalize or implement two measures that would have excluded vehicles manufactured by foreign enterprises or foreign-invested enterprises from procurement by the Chinese government and the Chinese communist party. Moreover, dialogue during the past year reversed a troubling proposed measure, which China's Food and Drug Administration (CFDA) had released for public comment, relating to the approval of new medical devices. This measure, among other things, sought to limit eligibility for priority treatment to medical device manufacturers holding domestically developed intellectual property. Using the JCCT process, the United States persuaded China to revise the measure to bring it into compliance with China's JCCT and S&ED commitments.

Import Substitution

In October 2010, China's State Council issued a decision on "accelerating the cultivation and development of Strategic Emerging Industries (SEI)" that called upon China to develop and implement policies designed to promote rapid growth in government-selected industry sectors viewed as economically and strategically important for transforming China's industrial base into one that is more internationally competitive in cutting-edge technologies. China subsequently identified the following seven sectors for focus under the SEI initiative: (1) energy-saving and environmental protection; (2) new generation information technology; (3) biotechnology; (4) high-end equipment manufacturing; (5) new energy; (6) new materials; and (7) new-energy vehicles. To date, import substitution policies have been included in some SEI development plans at the sub-central government level. For example, a development plan for the LED industry issued by the Shenzhen municipal government included a call to support research and development in products and technologies that have the ability to substitute for imports. Shenzhen rescinded the plan following U.S. Government intervention with China's central government authorities. As China continues to develop and issue SEI policies and industrial policies in other sectors, the United States will closely monitor measures that could potentially be implemented in a manner that is inconsistent with China's WTO or bilateral commitments and will continue to engage with China on ways to develop its industries in ways that promote mutual benefit.

Import Ban on Remanufactured Products

China prohibits the importation of remanufactured products, which it typically classifies as used goods. China also maintains restrictions that prevent remanufacturing process inputs (known as cores) from being imported into China's customs territory, except special economic zones. These import prohibitions and restrictions undermine the development of industries in many sectors in China, including mining, agriculture, healthcare, transportation and communications, among others, because companies in these industries are unable to purchase high-quality, lower-cost remanufactured products produced outside of China.

Aircraft Tariffs

In August 2013, China increased the import tariff on narrow body aircraft with an empty weight of between 25 tons and 45 tons from 1 percent to the bound rate of 5 percent. Because the tariff for narrow body aircraft weighing more than 45 tons remains at 1 percent, and many comparable narrow body aircraft have an empty weight of between 40 tons and 50 tons, this change is having the unintended consequence of encouraging Chinese airlines to purchase heavier, less fuel-efficient aircraft in order to fall within the 1 percent tariff category and thereby save millions of dollars on the purchase price. This change also could adversely affect U.S.-manufactured narrow body aircraft in particular, as they tend to be lighter and more fuel-efficient than competing aircraft. The United States continues to urge China to revise its tariff policy.

Export Restraints

China continues to deploy a combination of export restraints, including export quotas, export licensing, minimum export prices, export duties and other restrictions, on a number of raw material inputs where it holds the leverage of being among the world's leading producers. Through these export restraints, it appears that China is able to provide substantial economic advantages to a wide range of downstream producers in China at the expense of foreign downstream producers, while creating incentives for foreign downstream producers to move their operations, technologies and jobs to China. Effective January 2013, China removed its export quotas and duties on several raw material inputs of key interest to the U.S. steel, aluminum and chemicals industries after the United States won a dispute settlement case against China at the WTO. In late March 2014, the United States expects a decision in a second WTO case, where the claims focus on China's export restraints on rare earths, tungsten and molybdenum, which are key inputs for a multitude of U.S.-made products, including hybrid automobile batteries, wind turbines, energy-efficient lighting, steel, advanced electronics, automobiles, petroleum, and chemicals.

Export Subsidies

China has continued to provide a range of injurious subsidies to its domestic industries, some of which appear to be prohibited under WTO rules. The United States has addressed these subsidies both through countervailing duty proceedings conducted by the Commerce Department and through dispute settlement proceedings at the WTO. For example, in September 2012, the United States brought a case challenging numerous types of subsidies provided by the central government and various sub-central governments in China to automobile and automobile parts enterprises located in regions in China known as "export bases." The United States and other WTO members also have continued to press China to notify its subsidies to the WTO in accordance with its WTO obligations. Since joining the WTO 12 years ago, China has yet to submit to the WTO a complete notification of subsidies maintained by central, provincial and local governments.

Excess Capacity

Chinese government actions and financial support in manufacturing industries like steel and aluminum have contributed to massive excess capacity in China, with the resulting over-production distorting global markets and hurting U.S. producers and workers. For example, from 2000 to 2012, China accounted for nearly 77 percent of global steelmaking capacity growth. Currently, China's capacity alone exceeds the combined steelmaking capacity of the EU, Japan, the United States, and Russia. China has no comparative advantage with regard to the energy and raw material inputs for steelmaking, yet China's capacity is expected to continue to grow from an estimated 915 million metric tons (MT) in 2012 to an unprecedented one billion MT in 2015, despite weakening demand domestically and abroad. China's excess steelmaking capacity is currently estimated to exceed 200 million MT, nearly double the United States' total steelmaking capacity of 117 million MT. China's steel exports have grown to be the largest in the world, at 62 million MT in 2013, an 11 percent increase over 2012 levels, despite sluggish growth in steel demand abroad. Excess capacity in China – whether in the steel industry or other industries like aluminum – hurts U.S. industries and workers not only because of direct exports from China to the United States, but because lower global prices and a glut of supply make it difficult for even the most competitive producers to remain viable.

Value-Added Tax Rebates and Related Policies

As in prior years, in 2013, the Chinese government attempted to manage the export of many primary, intermediate and downstream products by raising or lowering the value-added tax rebate available upon export. China sometimes reinforces its objectives by imposing or retracting export duties. These practices have caused tremendous disruption, uncertainty and unfairness in the global markets for some products, particularly downstream products where China is a leading world producer or exporter, such as products made by the steel, aluminum and soda ash industries. These practices, together with other policies, such as excessive government subsidization, also have contributed to severe excess production capacity in these same industries. Domestic industries in many of China's trading partners have continued to respond to the effects of these trade-distortive practices by petitioning their governments to impose trade remedies such as antidumping and countervailing duties.

Standards and Technology

In the standards area, Chinese government officials in some instances have reportedly pressured foreign companies seeking to participate in the standards-setting process to license their technology or intellectual property on unfavorable terms. In addition, China has continued to pursue unique national standards in a number of high technology areas where international standards already exist. To date, bilateral engagement has yielded minimal progress in resolving these matters. For more information on these and other concerns in the area of standards and technical barriers to trade, see USTR's 2014 Report on Technical Barriers to Trade.

Government Procurement

The United States continues to press China to take concrete steps toward fulfilling its commitment to accede to the WTO's Government Procurement Agreement (GPA) and to open up its vast government procurement market to the United States and other GPA parties. To date, however, the United States, the EU, and other GPA parties have viewed China's offers of coverage as highly disappointing in scope and coverage. In 2013, the United States secured two commitments from China in an effort to expedite China's accession to the GPA while continuing to push for robust terms that are comparable to the coverage of the United States and other GPA parties. At the July 2013 S&ED meeting, China agreed to submit by the end of 2013 a new revised offer to join the GPA that would take the requests of the GPA parties into consideration and that would lower coverage thresholds and increase coverage of sub-central entities, among other improvements. At the December 2013 JCCT meeting, China further agreed to accelerate its GPA accession negotiations and submit in 2014 an additional revised offer that is on the whole commensurate with the coverage of GPA parties. China submitted its most recent offer in December 2013, shortly after the JCCT meeting. This fourth revised offer showed some progress in areas consistent with China's July 2013 S&ED commitment, including by lowering thresholds and increasing sub-central entities coverage and other coverage, but it fell short of U.S. expectations and remains far from acceptable to the United States and other GPA Parties.

China's domestic government procurement regime is governed by two important laws. The Government Procurement Law, which is administered by the Ministry of Finance, governs purchasing activities conducted with fiscal funds by state organs and other organizations at all levels of government in China. The Tendering and Bidding Law falls under the jurisdiction of the National Development and Reform Commission and imposes uniform tendering and bidding procedures for certain classes of procurement projects in China, notably construction and works projects, without regard for the type of entity that conducts the procurement. Both laws cover important procurements that GPA parties would consider to be government procurement eligible for coverage under the GPA. The United States will continue to work with the Chinese government to ensure that China's future GPA offers include coverage of government procurement regardless of which law it falls under, including procurement conducted by both government entities and other entities, such as SOEs.

Investment Restrictions

China also seeks to protect many domestic industries through a restrictive investment regime, which adversely affects foreign investors in numerous manufacturing sectors, as well as services sectors, such as financial services, telecommunications services and express delivery. In addition to prohibitions and restrictions imposed through China's foreign investment catalogue or other means, China can readily impose additional constraints on investment through its foreign investment approval processes, where Chinese government officials can use vaguely defined powers on an *ad hoc* basis to delay or restrict market entry. For example, foreign enterprises report that Chinese government officials may condition investment approval on a requirement that a foreign enterprise conduct research and development in China, transfer technology, satisfy performance requirements relating to exportation or the use of local content, or make valuable, deal-specific commercial concessions.

The United States has repeatedly raised concerns with China about its restrictive investment regime. To date, however, this sustained bilateral engagement has not led to a significant relaxation of China's investment restrictions, nor has it appeared to curtail *ad hoc* actions by Chinese government officials. At the same time, the United States is closely monitoring developments related to the Shanghai Free Trade Zone, a pilot project established in September 2013 in which China plans to pursue significant trade and investment liberalization, including, among other things, the lifting of investment restrictions.

Since the issuance of the "Decision on Major Issues Concerning Comprehensive and Far-Reaching Reforms" at the Third Plenum of the 18th Central Committee of the Chinese Communist Party in November 2013, China has been giving increased attention to possible ways to reform and streamline its administrative system for the review and approval of foreign investment. The National Development and Reform Commission (NDRC) recently issued a revised Catalogue of Investment Projects Subject to Government Ratification, with related draft implementing rules for foreign investment project approvals, but these rules do not appear to represent significant reform. The scope of the Catalogue is limited to "fixed asset" investments, but only certain foreign investment fixed asset projects would, in theory, be allowed to enter under a record filing system. Further, the proposed implementing rules would seem to provide the NDRC with significant discretion not to approve a particular foreign investment record-filing application. Even more importantly, since the Ministry of Commerce (MOFCOM) and other sectoral regulators continue to impose their own approval or review requirements for a much broader scope of foreign investments, the effect of the NDRC reform, by itself, does not seem to be that significant.

The United States also continues to pursue negotiations with China for a bilateral investment treaty (BIT). These negotiations intensified after China committed at the July 2013 S&ED meeting to negotiate a high-standard BIT that will embrace the principles of openness, non-discrimination and transparency, provide national treatment at all phases of investment, including market access *(i.e.*, the "pre-establishment" phase of investment), and employ a "negative list" approach in identifying exceptions (meaning that all investments are permitted except for those explicitly excluded).

Anti-Monopoly Law

The Chinese government's interventionist policies and practices and the large role of SOEs in China's economy have created some uncertainty regarding how the Anti-Monopoly Law will be applied. One provision in the Anti-Monopoly Law protects the lawful operations of SOEs and government monopolies in industries deemed nationally important. To date, China has enforced the Anti-Monopoly Law against SOEs, but concerns remain that enforcement against SOEs will be more limited.

In 2013, NDRC increased its enforcement activity noticeably, particularly against foreign enterprises. In addition, U.S. industry has expressed concern about insufficient predictability, fairness and transparency in NDRC's investigative processes, including NDRC pressure to "cooperate" in the face of unspecified allegations or face steep fines. U.S. industry also has reported pressure from NDRC against seeking outside counsel, in particular international counsel, or having counsel present at meetings.

Electric Vehicles

An array of Chinese policies designed to assist Chinese automobile enterprises in developing electric vehicle technologies and in building domestic brands that can succeed in global markets continued to pose challenges in 2013. As previously reported, these policies have generated serious concerns about discrimination based on the country of origin of intellectual property, forced technology transfer, research and development requirements, investment restrictions and discriminatory treatment of foreign brands and imported vehicles. Although significant progress has been made in addressing some of these policies, more work remains to be done.

Trade Remedies

China's regulatory authorities seem to be pursuing antidumping and countervailing duty investigations and imposing duties for the purpose of striking back at trading partners that have exercised their WTO rights against China, even when necessary legal and factual support for the duties is absent. The U.S. response has been the filing and prosecution of three WTO disputes. The two disputes decided to date –

the grain oriented flat-rolled electrical steel (GOES) dispute and the chicken broiler products dispute – confirm that China failed to abide by WTO disciplines when imposing duties. The panel report in the third WTO dispute, which challenges duties that China imposed on imports of certain U.S.-made automobiles, is expected in mid-2014.

Services

Overview

The prospects for U.S. service suppliers in China are promising, given the size of China's market and the Chinese leadership's stated intention to promote the growth of China's services sectors. The United States continues to enjoy a substantial surplus in trade in services with China, as the United States' cross-border supply of private commercial services into China totaled $30 billion in 2012. In addition, services supplied through majority U.S.-invested companies in China totaled $35 billion in 2011, the latest year for which data are available. This success has been largely attributable to the market openings phased in by China pursuant to its WTO commitments, as well as the U.S. Government's comprehensive engagement with China's various regulatory authorities, including in the pursuit of sector openings that go beyond China's WTO commitments.

Nevertheless, in 2013, numerous challenges persisted in a range of services sectors. As in past years, Chinese regulators continued to use discriminatory regulatory processes, informal bans on entry and expansion, various restrictions on the cross-border supply of services, overly burdensome licensing and operating requirements, and other means to frustrate efforts of U.S. suppliers of banking, insurance, telecommunications, Internet-related, audiovisual, express delivery, legal and other services to achieve their full market potential in China. Some sectors, including electronic payment services and theatrical film distribution, have been the subject of WTO dispute settlement.

In 2014, the United States will continue to engage China on outstanding service market access issues and will continue to press China to address problematic restrictions. The United States also will closely monitor developments in an effort to ensure that China fully adheres to its WTO commitments.

Electronic Payment Services

China continued to place unwarranted restrictions on foreign companies, including the major U.S. credit card and processing companies, which supply electronic payment services to banks and other businesses that issue or accept credit and debit cards. The United States prevailed in a WTO case challenging those restrictions, and China agreed to comply with the WTO's rulings by July 2013, but China has not yet taken needed steps to authorize access by foreign suppliers to this market. The United States is actively pressing China to comply with the WTO's rulings and also is considering appropriate next steps at the WTO.

Theatrical Film Distribution

The United States and China reached an alternative solution with regard to the WTO case that the United States had won involving the distribution of theatrical films. In February 2012, the two sides reached an agreement providing for substantial increases in the number of foreign films imported and distributed in China each year, along with substantial additional revenue for foreign film producers. Significantly more U.S. films have been imported and distributed in China since the signing of the memorandum of understanding (MOU) and the revenue received by U.S. film producers has increased significantly. However, China has not yet fully implemented its MOU commitments, including with regard to opening up film distribution opportunities and fulfilling certain contract-related obligations. As a result, the United States has been pressing China for full implementation.

Banking

China has exercised significant caution in opening up the banking sector to foreign competition. In particular, China has imposed working capital requirements and other prudential rules that have made it more difficult for foreign banks to establish and expand their market presence in China. Many of these requirements, moreover, have not applied equally to foreign and domestic banks. For example, 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. Another problematic area involves the ability of U.S. and other foreign banks to participate in the domestic currency business in China. This is a market segment that foreign banks are most eager to pursue in China, particularly with regard to Chinese individuals. Under existing governing regulations, only foreign-funded banks that have had a representative office in China for 2 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 restrict the scope of activities that can be conducted by foreign banks seeking to operate in China through branches instead of through subsidiaries.

Insurance

China's regulation of the insurance sector has resulted in market access barriers for foreign insurers, whose share of China's market remains very low. In the life insurance sector, China only permits foreign companies to participate in Chinese-foreign joint ventures, with foreign equity capped at 50 percent. The market share of these joint ventures is less than 4 percent. For the health insurance sector, China also caps foreign equity at 50 percent. While China allows wholly foreign-owned subsidiaries in the non-life insurance (*i.e*., property and casualty) sector, the market share of foreign-invested companies in this sector is only 1 percent. China also limits foreign insurance brokers from providing a full scope of services, and its market for political risk insurance is completely closed to foreign participation. In addition, some U.S. insurance companies established in China continue to encounter difficulties in getting the Chinese regulatory authorities to issue timely approvals of their requests to open up new internal branches to expand their operations.

Telecommunications Services

Restrictions maintained by China on value-added telecommunications services have created serious barriers to market entry for foreign suppliers seeking to provide value-added services. In addition, China's restrictions on basic telecommunications services, such as informal bans on new entry, a requirement that foreign suppliers can only enter into joint ventures with SOEs, and exceedingly high capital requirements, have blocked foreign suppliers from accessing China's basic services market. In May 2013, China introduced rules establishing a pilot program for the resale of mobile services, which can increase competitive opportunities in China's heavily concentrated market. The United States is very concerned that foreign firms are currently excluded from the pilot program, even as China moves forward to license numerous Chinese suppliers.

Internet-Related Services

China's Internet regulatory regime is restrictive and non-transparent, affecting a broad range of commercial services activities conducted via the Internet. In addition, China's treatment of foreign companies seeking to participate in the development of cloud computing, including computer data and storage services provided over the Internet, raises concerns. For example, China has sought to impose value-added telecommunications licensing requirements on this sector, including a 50 percent equity cap on investments by foreign companies, even though the services at issue are not telecommunications services.

Audio-Visual and Related Services

China's restrictions in the area of theater services have wholly discouraged investment by foreign suppliers, and China's restrictions on services associated with television and radio greatly limit participation by foreign suppliers.

Express Delivery Services

The United States continues to raise concerns with China regarding implementation of the 2009 Postal Law and related regulations. China has blocked foreign companies' access to the document segment of China's domestic express delivery market, and it has placed troubling restrictions on foreign companies' access to the package segment of China's domestic express delivery market, including discriminatory treatment in approving their business permits.

Legal Services

China has issued measures intended to implement the legal services commitments that it made upon joining the WTO. However, these measures restrict the types of legal services that can be provided and impose lengthy delays for the establishment of new offices.

Agriculture

Overview

China is the largest agricultural export market for the United States, with $26 billion in U.S. agricultural exports in 2013. Much of this success resulted from intensive engagement by the United States with China's regulatory authorities. Notwithstanding this success, China remains among the least transparent and predictable of the world's major markets for agricultural products, largely because of selective intervention in the market by China's regulatory authorities. As in past years, seemingly capricious practices by Chinese customs and quarantine agencies delay or halt shipments of agricultural products into China. In addition, SPS measures with questionable scientific bases and a generally opaque regulatory regime frequently create difficulties and uncertainty for traders in agricultural commodities, who require as much certainty and transparency as possible.

Biotechnology Approvals

In 2013, China continued to delay approvals of agricultural products derived from biotechnology. These delays created increased uncertainty among traders and also resulted in trade disruptions for U.S. corn and dried distillers grain exports. In 2014, the United States will continue to urge China to review biotechnology products in a transparent and predictable manner and improve its regulatory process for such products.

Agricultural Support

In recent years, China has been significantly increasing domestic subsidies and other support measures for its agricultural sector. Since 2004, China has established a direct payment program, instituted minimum support prices for basic commodities and sharply increased input subsidies. More recently, China began several new support schemes for hogs and pork, and in 2011 it implemented a new cotton reserve system, based on minimum purchase prices. In October 2011, China submitted its overdue notification concerning domestic support measures for the period 2005-2008. This notification documents an increase in China's support levels, but the United States is concerned that the methodologies used by China to calculate support levels, particularly with regard to its price support policies and direct payments, result in underestimates. The United States is also concerned about the effects of domestic support measures that China has adopted since 2008, such as the cotton reserves purchasing system.

Beef, Poultry, and Pork

In 2013, beef, poultry and pork products were affected by questionable SPS measures implemented by China's regulatory authorities. Consequently, anticipated growth in U.S. exports of these products was again not realized. In 2014, the United States will continue its discussions with China on U.S. beef products, with the shared goal of achieving a resumption in market access in 2014. In addition, the United States will continue to urge China to lift the state-level restrictions on imports of U.S. poultry products. For more information on these and other SPS concerns, see USTR's 2014 Report on Sanitary and Phytosanitary Measures.

Transparency

Overview

One of the core principles reflected throughout China's WTO accession agreement is transparency. China's WTO transparency commitments in many ways required a profound historical shift in Chinese policies. Although China has made strides to improve transparency following its accession to the WTO, there remains a lot more for China to do in this area.

Publication of Trade-Related Laws, Regulations, and Other Measures

China committed to adopt a single official journal for the publication of all trade-related laws, regulations and other measures, and China adopted a single official journal, to be administered by MOFCOM, in 2006. To date, it appears that some central-government entities publish some trade-related measures in this journal. Nevertheless, these government entities tend to take a narrow view of the types of trade-related measures that need to be published in the official journal. As a result, while trade-related regulations and departmental rules are often published in the journal, it is less common for other measures such as opinions, circulars, orders, directives and notices to be published, even though they are in fact all binding legal measures. In addition, China still does not regularly publish in the journal certain types of trade-related measures, such as subsidy measures.

Notice and Comment Procedures

China also committed to provide a reasonable period for public comment before implementing new trade-related laws, regulations and other measures. China has taken several steps related to this commitment. In 2008, the National People's Congress (NPC) instituted notice-and-comment procedures for draft laws, and shortly thereafter China indicated that it would also publish proposed trade and economic related administrative regulations and departmental rules for public comment. Subsequently, the NPC began regularly publishing draft laws for public comment, and China's State Council regularly published draft regulations for public comment. However, many of China's ministries were not consistent in publishing draft departmental rules for public comment. At the May 2011 S&ED meeting, China committed to issue a measure implementing the requirement to publish all proposed trade and economic related administrative regulations and departmental rules on the website of the State Council's Legislative Affairs Office (SCLAO) for a public comment period of not less than 30 days. In April 2012, the SCLAO issued two measures that appear to address this requirement. Since then, despite continuing U.S. engagement, no noticeable improvement in the publication of departmental rules for public comment appears to have taken place.

Translations

In its Protocol of Accession to the WTO, China committed to make available translations of all of its trade-related laws, regulations and other measures in one or more of the WTO languages (English, French, and Spanish). However, China has not yet established an infrastructure to undertake the agreed-upon translations.

Legal Framework

Several other areas of China's legal framework can adversely affect the ability of the United States and U.S. exporters and investors to access or invest in China's market. Key areas include administrative licensing, commercial dispute resolution, labor laws and laws governing land use. Corruption among Chinese government officials, enabled in part by China's incomplete adoption of the rule of law, is also a key concern. For more detailed information on these concerns, see the 2013 USTR Report to Congress on China's WTO Compliance, issued on December 24, 2013.