

COMMERCIAL RULE OF LAW

Introduction

During the Commission's 2015 reporting year the Chinese government's discrimination against foreign companies,¹ targeted enforcement of vague and unwritten rules,² censorship and blocking of international websites,³ and problems engendered by a lack of government⁴ and corporate transparency⁵ appear to have continued unabated. In December 2001, China acceded to the World Trade Organization (WTO) and agreed to comply with its WTO commitments.⁶ During the 2015 reporting year, negotiations for a Bilateral Investment Treaty (BIT) between China and the United States continued,⁷ and both countries agreed to pursue a BIT that "embodies the principles of non-discrimination, fairness, openness, and transparency."⁸ China, however, has failed to comply with many similar WTO commitments.⁹ State-owned enterprises continued to play a major role in China's economy,¹⁰ the Chinese government made unprecedented interventions in the stock market in July and August 2015,¹¹ and the Chinese government significantly devalued the yuan in August 2015;¹² these developments raised concerns about the Chinese government's commitment to market-based reforms.¹³ U.S. regulators continued to face difficulties in obtaining audit documents for Chinese-based companies listed on U.S. capital markets.¹⁴ Intellectual property theft originating in China remained a significant concern,¹⁵ and in May 2015, the U.S. Department of Justice announced the indictment of three Tianjin University professors on charges that included economic espionage.¹⁶

WTO Commitments and Disputes

During this reporting year, China continued to fail to comply with many of its WTO commitments, including those related to transparency, subsidies notification, and translation. In a 1992 Memorandum of Understanding with the United States, the Chinese government agreed to "publish on a regular and prompt basis all laws, regulations, rules, decrees, administrative guidance and policies" that impacted trade.¹⁷ Further, in 2014, China asserted that it "has fully honored its extensive commitments of the WTO accession"¹⁸ and that "local governments also fulfilled the responsibility to comply with WTO rules."¹⁹ In a December 2014 report, the Office of the U.S. Trade Representative (USTR), however, noted problems related to transparency: The "absence of the rule of law in China . . . fosters the use of vague and unwritten policies and does not provide for meaningful administrative or judicial review of Chinese regulatory actions."²⁰ In February 2015, USTR and the U.S. Department of Commerce highlighted in an annual subsidies report to Congress their efforts "to hold China accountable" for its "transparency obligations under the WTO Subsidies Agreement," and noted that since April 2012, the United States has issued two "counter notifications" to the WTO detailing 300 subsidies unreported by China.²¹ The report found that China's subsidies notifications remained "significantly incomplete."²² Analysis by the US-China Business Council found that in 2014, China's compliance

with regulatory transparency commitments remained “far below China’s commitments for nearly all government entities.”²³ In March 2015, the State Council announced plans to translate trade-related measures into English.²⁴ China previously committed to do so in 2001.²⁵ In September 2014, China claimed that “constraints on administrative resources” had prevented fulfillment of this WTO commitment.²⁶

Challenging China’s noncompliance with WTO commitments has been slow and difficult for the United States and Europe, although during the reporting year USTR initiated a formal WTO dispute against China for the first time since September 2012.²⁷ As of July 2015, the United States had initiated 16 dispute proceedings against China in the WTO since 2004.²⁸ According to USTR, as of December 2014, 8 of 15 disputes initiated before February 2015 were still active, including a dispute initiated in 2007 that challenged Chinese barriers to film distribution.²⁹ On February 11, 2015, the United States initiated a 16th dispute against a Chinese export subsidy program called “Demonstration Bases—Common Service Platform”³⁰ for noncompliance with China’s commitments under the WTO Subsidies and Countervailing Measures Agreement.³¹ The Chinese government described the dispute as “groundless.”³² In July 2015, a WTO compliance report again found that China’s import duties on high-tech U.S. steel imports were inconsistent with China’s WTO commitments.³³ China began imposing the duties in April 2010 resulting in more than US\$250 million in annual export losses for U.S. producers.³⁴ In October 2014, the European Commission dropped an investigation into export subsidies for Chinese telecommunication companies Huawei and ZTE.³⁵ European officials reportedly believed that a WTO dispute would be too slow, and European companies reportedly feared retaliation in China.³⁶

Censorship and Non-Transparency of Commercial and Economic Information

During the 2015 reporting year, Chinese authorities continued to censor the Internet³⁷ in a manner that negatively impacted U.S. businesses and violated China’s WTO commitments.³⁸ An American Chamber of Commerce survey published in February 2015 found that 83 percent of surveyed companies believed Internet censorship negatively affected their business.³⁹ According to the European Union Chamber of Commerce in China, “restrictions on access to legitimate sources of information [impede] normal business functions”⁴⁰ At an April 2015 event in Shanghai municipality, U.S. Secretary of Commerce Penny Pritzker said a free and open Internet is “an absolute necessity.”⁴¹ According to a senior official quoted in China Daily in September 2014, foreign Internet companies are required to safeguard “the interests of China” and “the interests of Chinese consumers.”⁴² According to a computer industry association representative, “trade law scholars have agreed years ago that [Internet censorship] is a violation of international trade law obligations . . . the question is really whether or not the U.S. can politically afford to make a trade dispute over online censorship.”⁴³ In October 2011, USTR, under WTO rules, requested detailed information from China on Internet restrictions that allow

Chinese authorities to block websites of U.S. companies, including the possibility of administrative and judicial appeals for blocked U.S. service providers.⁴⁴ In December 2014, USTR reported that outreach to China to discuss the seemingly “arbitrary” censorship had continued, although no improvements have been reported.⁴⁵

U.S. regulators and investors continued to have difficulty obtaining accurate information on Chinese companies and China’s economy. In January 2014, the U.S. Securities and Exchange Commission (SEC) suspended activities of the Chinese affiliates of the accounting companies KPMG, PricewaterhouseCoopers, Ernst & Young, and Deloitte for refusing to provide audit documents on SEC-registered Chinese companies due to concerns over state secrets.⁴⁶ In February 2015, the SEC settled the charges against the accounting companies without including Chinese authorities in the settlement or providing for increased access to audit documents.⁴⁷ The Wall Street Journal criticized the SEC for this settlement that leaves investors in U.S. markets without “basic protection against Chinese fraudsters”⁴⁸ The Public Company Accounting Oversight Board, established by Congress to oversee public company audits, reported difficulties in its negotiations with Chinese regulators and faced difficulties obtaining legal and financial documents from China. As of October 2014, 548 China-based companies were listed in the United States.⁴⁹ Cayman Islands-registered Chinese company Alibaba Group⁵⁰ raised US\$25 billion in the largest initial public offering in history in a September 2014 offering on the New York Stock Exchange.⁵¹ During the reporting year, international media reports expressed concerns with the accuracy of Chinese economic reporting,⁵² and in July 2015, the Chinese government reportedly censored critical stock market coverage.⁵³ A June 2015 World Bank report found that the Chinese government had “formal ownership of 65 percent of commercial bank assets and de facto control of 95 percent of these assets” and quoted earlier World Bank analysis that China’s financial system is “unbalanced, repressed, costly to maintain, and potentially unstable;”⁵⁴ several days after publication, the World Bank deleted the critical chapter of the report.⁵⁵

Criminal Cases Involving Commercial Information

During this reporting year, there were developments in three corporate criminal cases involving former Chinese nationals that raised rule of law concerns. In April 2015, American geologist Xue Feng was released from a Beijing prison and deported to the United States.⁵⁶ In November 2007, Chinese authorities detained Xue and later sentenced him to eight years’ imprisonment based on charges that included illegally providing state secrets⁵⁷ related to the purchase of a commercial database containing information on 30,000 oil wells.⁵⁸ In 2011, U.S. President Barack Obama raised Xue’s case with former Chinese President Hu Jintao,⁵⁹ and U.S. embassy officials reportedly visited Xue 87 times during his detention.⁶⁰ In March 2015, a report indicated that the mining company Rio Tinto decided not to support their employee and Australian citizen Stern Hu, whom authorities detained in 2009 and later sentenced to 10 years’ imprisonment for stealing commercial secrets and bribery, due to his confession.⁶¹ Hu’s confession, however, was

reportedly based on a promise that Chinese authorities would immediately deport him to Australia if he confessed.⁶² In June 2015, British citizen Peter Humphrey and his wife, naturalized U.S. citizen Yu Yingzeng, were released from prison.⁶³ They had run a business in China helping corporate clients prevent fraud.⁶⁴ The Shanghai No. 1 Intermediate People’s Court sentenced them in August 2014 for purchasing private information.⁶⁵ Chinese officials reportedly withheld medical treatment during Humphrey’s detention and incarceration because he refused to admit guilt.⁶⁶ Humphrey described his and Yu’s televised confessions as “heavily cut and pasted” and “heavily distorted.”⁶⁷

**Draft PRC Overseas NGO Management Law and Business
Community Response**

In May 2015, the National People’s Congress published a second draft of the PRC Overseas Non-Governmental Organizations (NGO) Management Law for public comment.⁶⁸ The draft law broadly defines NGOs, places registration under the oversight of public security agencies, and requires permits for temporary activities in China.⁶⁹ In June 2015, 45 U.S. business groups submitted comments to the National People’s Congress that stated foreign non-profits play “an integral part” in their daily operations and urged revisions to the law.⁷⁰

Foreign Investment and Free Trade Zones

During the 2015 reporting year, negotiations for a Bilateral Investment Treaty (BIT) between the United States and China continued, the Chinese government published draft revisions to the PRC Foreign Investment Law, and the State Council announced new free trade zones.⁷¹ Negotiations for a BIT have been ongoing since 2008,⁷² and U.S. businesses expressed disappointment with the slow progress.⁷³ In June 2015, China reportedly provided a draft BIT “negative list” to the United States.⁷⁴ As of August 2015, China has signed a total of 130 BITs with other countries, of which 108 were in force.⁷⁵

In January 2015, the Chinese government proposed significant revisions to the PRC Foreign Investment Law⁷⁶ that may make some variable-interest entities (VIEs) illegal,⁷⁷ and made revisions to China’s foreign investment catalogue. VIEs utilize contractual agreements between offshore holding companies and Chinese companies to allow foreign investment in areas in which foreigners are restricted from directly investing.⁷⁸ As of 2013, 95 of 200 Chinese companies listed on the New York Stock Exchange reportedly used a VIE.⁷⁹ In March 2015, the Chinese government issued revisions to the Catalogue of Industries for Guiding Foreign Investment (2015 Catalogue).⁸⁰ The 2015 Catalogue classifies industries into three sectors—“encouraged,” “restricted,” and “prohibited”—and is used to promote China’s industrial policies and economic development plans.⁸¹ Although authorities reduced the number of restricted industries in the 2015 Catalogue, higher education and preschool education investments must now be Chinese-controlled.⁸² Foreign investment in media-related entities continues to be “prohibited” in the 2015 Catalogue.⁸³ According to the US-China Busi-

ness Council, the revisions “lack substantive impact.”⁸⁴ During the reporting year, the Chinese government also proposed a new cybersecurity review process that met with substantial foreign opposition.⁸⁵ In July 2015, the National People’s Congress (NPC) passed a new PRC National Security Law,⁸⁶ which according to a senior U.S. Department of the Treasury official, may block investments in China on grounds “beyond genuine national security considerations.”⁸⁷ In July 2015, the NPC also released a draft of the PRC Cybersecurity Law for public comment;⁸⁸ according to the proposed law, companies would be required to store certain types of “important information” exclusively in China.⁸⁹

In April 2015, the State Council announced more detailed plans for free trade zones (FTZ) in Guangdong and Fujian provinces and Tianjin municipality.⁹⁰ The Chinese government reportedly will give foreign investors equal treatment in FTZs outside the list of prohibited sectors, commonly referred to as a “negative list.”⁹¹ The Shanghai FTZ opened in 2013; a March 2015 survey, however, found three-quarters of U.S. respondents operating in China believed the FTZ provided “no tangible benefits.”⁹²

Administrative Enforcement Commitments and Discriminatory Practices

During this reporting year, the Chinese government reiterated its commitments to improving rule of law, transparency, and non-discrimination;⁹³ according to the Office of the U.S. Trade Representative (USTR), however, “the overall investment environment is not yet improving for [U.S.] companies.”⁹⁴ U.S. companies initially were buoyed by Chinese official statements that needed economic reforms would finally occur,⁹⁵ but by April 2015, U.S. companies reported the impact of the reforms were between “limited” and “none.”⁹⁶

In September 2014, Premier Li Keqiang claimed Chinese authorities conducted investigations “legally, transparently and fairly”;⁹⁷ domestic and foreign companies, however, believe they have been treated unfairly.⁹⁸ When China joined the World Trade Organization, the Chinese government committed to “apply and administer in a uniform, impartial and reasonable manner all its laws, regulations and other measures.”⁹⁹ In December 2014, the Chinese government further agreed that Chinese agencies would “strictly follow statutory limits on their authority, procedures, and requirements.”¹⁰⁰ U.S. officials documented, however, that Chinese authorities still provide limited transparency regarding administrative actions and warnings to “cooperate” or face “steep fines.”¹⁰¹

Amid concerns about transparency and equal treatment of overseas companies, Chinese authorities issued record fines to foreign companies in antimonopoly and corruption investigations.¹⁰² According to many companies, there is an “absence of recourse” if administrative regulators exceed their authority or do not follow the law.¹⁰³ In February 2015, Chinese authorities fined U.S.-based company Qualcomm nearly US\$1 billion, and significant restrictions were placed on Qualcomm’s China operations for alleged anti-competitive activities.¹⁰⁴ According to a U.S. expert, “the clear perception is that Qualcomm’s travails are part of an inquisition against foreign companies, particularly American ones.”¹⁰⁵ In Sep-

tember 2014, Chinese authorities fined GlaxoSmithKline nearly US\$500 million after five senior employees received sentences of up to four years' imprisonment for bribery following a one-day closed trial.¹⁰⁶ According to New York Times reporters, the GlaxoSmithKline fine may be a sign of China's "rising economic nationalism."¹⁰⁷

State-Owned Enterprises and Corruption Cases

During this past reporting year, the Chinese government committed to deepening the reform of state-owned enterprises (SOEs), although results were limited, and SOEs continued to play a major role in China's economy and stock markets. In March 2015, at the annual meetings of the National People's Congress and Chinese People's Political Consultative Congress, Premier Li Keqiang reiterated plans first announced in 2013 to take "systematic steps to implement the reform of introducing mixed ownership to SOEs"¹⁰⁸ According to the Financial Times, recent developments indicate "privatization will play at most a subsidiary role in broader efforts to boost the efficiency of SOEs," and state groups will maintain majority stakes. Unfair competition by SOEs undermines a rules-based system and creates an uneven playing field for business.¹⁰⁹ News articles noted that the merger of two of China's largest train companies and the potential merger of two of China's largest oil companies likely indicate increasing consolidation among SOEs to make them more competitive globally.¹¹⁰ In the 2015 Fortune Global 500 list, 76 of 98 Chinese companies included were SOEs.¹¹¹ As of December 2014, SOEs comprised over three-quarters of the market capitalization in two of the major Chinese stock indices.¹¹² In July and August 2015, after significant losses in the Chinese stock markets, the Chinese government made "unprecedented" interventions to support stock prices.¹¹³

Chinese anticorruption efforts focused in part on SOEs. In June 2015, Zhou Yongkang, former member of the Standing Committee of the Political Bureau of the Chinese Communist Party Central Committee, former Minister of Public Security, and also previously the general manager of China National Petroleum Company (CNPC), received a life sentence following a closed trial for crimes that included taking bribes of approximately US\$118,000 and assisting his family in accumulating assets of over US\$300 million.¹¹⁴ Zhou's position and connections with CNPC reportedly contributed to his political rise, and Zhou's family members reportedly took bribes from CNPC officials.¹¹⁵ In April 2015, the Hanjiang Intermediate People's Court in Hubei province tried Jiang Jiemin, who once oversaw state-owned companies and was previously the top official at CNPC, on corruption and abuse of power charges.¹¹⁶

Intellectual Property Rights and Cyber Theft

During the reporting year, U.S. companies faced significant difficulties related to intellectual property rights in China. In 2014, 88 percent of counterfeit goods seized by U.S. Customs and Border Protection were from China (63 percent) and Hong Kong (25 percent),¹¹⁷ compared to 93 percent in 2013 (China, 68 percent and Hong Kong, 25 percent),¹¹⁸ and 84 percent in 2012 (China, 72 per-

cent and Hong Kong, 12 percent).¹¹⁹ In 2015, China remained on the Office of the U.S. Trade Representative's (USTR) Priority Watch List for concerns including reported deficiencies in trade secret protection, "indigenous innovation" policies, and market access barriers.¹²⁰ According to USTR, "[p]hysical markets in China continue to facilitate the distribution of significant quantities of counterfeit merchandise for consumption in China and abroad."¹²¹ USTR also noted concerns voiced by Chinese regulators about counterfeit and pirated products available through Alibaba's e-commerce website Taobao.¹²²

The Chinese government continued to take steps to improve the protection of intellectual property in China. In fall 2014, Chinese authorities opened specialized intellectual property courts in Beijing and Shanghai municipalities and Guangzhou municipality, Guangdong province.¹²³ These specialized courts will have jurisdiction over certain types of patent and technology secrets cases, some civil and administrative cases, and some well-known trademark cases.¹²⁴ In 2014, Chinese courts accepted 133,863 new intellectual property cases, representing an increase of 19.5 percent from 2013.¹²⁵ In 2014, the number of trademark applications in China increased by over 21 percent compared to 2013, reaching nearly 2.3 million.¹²⁶ In April 2015, the State Intellectual Property Office began to solicit public comments on draft revisions to the PRC Patent Law.¹²⁷ According to USTR, however, the draft revisions "appear not to address concerns identified by the United States and industry."¹²⁸ In May 2015, the Beijing No. 1 Intermediate People's Court was scheduled to hold a hearing in a US\$450 million trade secrets civil lawsuit by the U.S.-based AMSC against the Chinese company Sinovel.¹²⁹

In April 2015, President Obama issued an executive order allowing for the "blocking" of transactions involving the property of individuals or entities involved in cyber theft.¹³⁰ In May 2015, the U.S. Department of Justice (DOJ) announced the indictment of six Chinese nationals, including three Tianjin University professors, for "economic espionage and theft of trade secrets" and related crimes that may benefit Chinese government-controlled companies and universities.¹³¹ The Chinese government reportedly refused to restart a bilateral cyber working group unless DOJ dropped a May 2014 indictment of five People's Liberation Army officials for cyber espionage.¹³² The Chinese state-owned enterprises State Nuclear Power Technology, Baosteel Group, and the Aluminum Corporation of China reportedly benefited from the hacking, although they were not named in the indictment.¹³³ In July 2015, the U.S. Federal Bureau of Investigation (FBI) reported that there had been a 53-percent increase in economic espionage cases under investigation over the past year¹³⁴ and that an FBI survey had found 95 percent of victim companies surveyed suspected that individuals associated with the Chinese government were responsible.¹³⁵ In January 2015, Ren Zhengfei, the chairman of the telecommunications company Huawei, stated at an online event during the World Economic Forum in Davos, that Huawei "has never been asked by [the Chinese] government to spy," but as a Chinese company, "we definitely advocate the Chinese Communist [P]arty, we love our country" ¹³⁶ In an interview with the Australian Finan-

cial Review in July 2013, General Michael Hayden, the former director of both the National Security Agency and the Central Intelligence Agency, had agreed that Huawei represented an “unambiguous national security threat” to the United States and Australia.¹³⁷ Hayden further asserted in that interview that the Chinese government defines the targets of its “legitimate espionage” to include “intellectual property, commercial trade secrets, and the negotiating positions of private entities.”¹³⁸

Record Trade Deficit and Chinese Outbound Investment

During the 2015 reporting year, the trade deficit between the United States and China reached record highs as Chinese authorities maintained currency controls. In December 2001, China acceded to the World Trade Organization (WTO) and made commitments to improve transparency, strengthen the rule of law, and open its markets.¹³⁹ In 2014, the U.S. goods trade deficit with China reached a record US\$342.6 billion, up US\$23.9 billion from 2013.¹⁴⁰ In the 12-month period from July 2014 through June 2015, U.S. goods exports to China decreased by US\$4.2 billion compared to the previous 12-month period.¹⁴¹ Between 2001 and the end of 2014, U.S. imports from China increased from US\$102 billion to US\$467 billion, while U.S. exports to China only increased from US\$19 billion to US\$124 billion.¹⁴² A December 2014 analysis by the Economic Policy Institute asserted that the growth in the U.S. goods trade deficit with China between 2001 and 2013 eliminated or displaced 3.2 million U.S. jobs.¹⁴³ According to the U.S. Department of the Treasury, the Chinese yuan remained “significantly undervalued” and in 2014, the yuan depreciated 2.4 percent against the U.S. dollar.¹⁴⁴ In May 2015, International Monetary Fund officials, based on their own analysis and following discussions with senior Chinese officials, stated that the yuan is no longer undervalued.¹⁴⁵ On August 11, 2015, the Chinese government devalued the yuan by 1.9 percent, the largest one-day decline in value in over 20 years.¹⁴⁶ According to a Chinese government official and some Chinese exporters, a depreciated yuan will increase Chinese exports.¹⁴⁷

During the reporting year, the Chinese government actively promoted foreign investment and Chinese exports. In March 2015, Premier Li Keqiang announced plans to speed up implementation of China’s “go global” strategy to support and promote foreign investment by Chinese companies.¹⁴⁸ According to a Chinese official, there will soon be a “historical turning point” when China’s outbound investment exceeds inbound investment.¹⁴⁹

Asian Infrastructure and Investment Bank (AIIB) and Other Funds

In October 2014, 21 Asian countries signed a memorandum of understanding on establishing the China-led Asian Infrastructure Investment Bank (AIIB).¹⁵⁰ In April 2015, 57 countries, including the United Kingdom, Germany, and France, were approved as AIIB founding members.¹⁵¹ The U.S. Government expressed concerns with transparency and the AIIB governance structure to Germany¹⁵² and other countries.¹⁵³ China reportedly has plans for a New Development Bank with Brazil, Russia, India, and South Africa, and a Silk Road development fund.¹⁵⁴ In March 2015, at the Boao Forum for Asia, President Xi Jinping described the potential of China's "Belt and Road" initiatives, including a Silk Road Economic Belt and a maritime Silk Road.¹⁵⁵

Food and Drug Safety

During the reporting year, food and drugs from China continued to be an issue of concern in the United States. The U.S. Food and Drug Administration (FDA) continued to have difficulty obtaining visas for inspections in China, although new implementing arrangements were signed with Chinese partners in November and December 2014, and foreign companies expressed concerns over administrative enforcement and also libel by Chinese companies.¹⁵⁶ According to a January 2015 report, in 2014 the FDA conducted 66 inspections of food facilities in China that export to the United States, up from 59 inspections in 2013.¹⁵⁷ According to the FDA, however, U.S. inspectors at times were required to rely on translators supplied by the firms being inspected.¹⁵⁸ In December 2014, the FDA sent a warning letter to an active pharmaceutical ingredients (APIs) supplier based in Wuxi municipality, Jiangsu province, that noted concerns with the "authenticity and reliability" of data collected and APIs produced by the subject company.¹⁵⁹ Reports also indicated a growing problem with the online sale of illegal drugs from China to the United States.¹⁶⁰ In summer 2014, Chinese media reported food safety violations at a Shanghai facility owned by Illinois-based OSI Group; OSI Group reportedly lost "hundreds of millions of dollars" in revenue as a result.¹⁶¹ In January 2015, OSI Group criticized the Shanghai Food and Drug Administration for a "very misleading" statement that certain OSI Group products were "questionable products."¹⁶² In June 2015, KFC filed litigation in Shanghai against three companies for posting over 4,000 messages spreading online rumors, including that KFC used genetically modified chickens.¹⁶³

In April 2015, the National People's Congress (NPC) passed amendments to the PRC Food Safety Law to include stronger penalties for violations and additional requirements.¹⁶⁴ According to Chinese media, the revised law will be "the strictest food safety law in history."¹⁶⁵ The same month, the NPC passed revisions to the PRC Advertising Law,¹⁶⁶ including higher penalties for false advertising and a specific prohibition on advertisements that claim infant formula can replace breast milk.¹⁶⁷

Notes to Section III—Commercial Rule of Law

¹American Chamber of Commerce in the People's Republic of China and Bain & Company, "2015 China Business Climate Survey Report," 11 February 15, 4, 27; European Union Chamber of Commerce in China and Roland Berger Strategy Consultants, "European Business in China: Business Confidence Survey 2015," 10 June 15, 4, 41.

²American Chamber of Commerce in the People's Republic of China and Bain & Company, "2015 China Business Climate Survey Report," 11 February 15, 25; Office of the U.S. Trade Representative, "2014 Report to Congress on China's WTO Compliance," December 2014, 49, 88.

³Reporters Without Borders, "2015 World Press Freedom Index," 12 February 15. In 2015, China ranked 176th out of 180 countries for press freedom. See also Michael Forsythe, "Alibaba Says It Relies on Markets, Not Connections," New York Times, DealBook (blog), 21 July 14. The New York Times has been blocked in China since 2012.

⁴Transparency International, "Corruption Perceptions Index 2014: Clean Growth at Risk," 3 December 14. China's ranking deteriorated in 2014 from 2013, despite China's ongoing anticorruption campaign. US-China Business Council, "China 2015 Regulatory Transparency Scorecard," March 2015.

⁵Transparency International, "Transparency in Corporate Reporting," 5 November 14, 3. Seven of the 12 worst-performing companies in the Transparency International index were Chinese, including Bank of China, Bank of Communications, Agricultural Bank of China, China Construction Bank, CNOOC Limited, China Shenhua Energy Group, and Industrial and Commercial Bank of China. See also "The SEC Caves on China," Wall Street Journal, 26 February 15.

⁶World Trade Organization, "Protocols of Accession for New Members Since 1995, Including Commitments in Good and Services," last visited 5 May 15. China became a member of the World Trade Organization (WTO) on December 11, 2001. A list of members and their dates of membership is available on the WTO website.

⁷"China, US Basically Complete Text Negotiation on BIT," Xinhua, reprinted in PRC Central People's Government, 7 March 15.

⁸Office of the Press Secretary, The White House, "Fact Sheet: U.S.-China Economic Relations," 12 November 14.

⁹World Trade Organization, Trade Policy Review Body, Trade Policy Review, China, Minutes of the Meeting, Addendum, WT/TPR/M/300/Add.1, 9 September 14, 185–237, 431–439. The United States raised 88 questions to China regarding the Secretariat Report and 8 questions regarding the Government Report, and also a total of 25 follow-up questions regarding potential areas where China was not in compliance with its trade obligations as identified in the Trade Policy Review. Office of the U.S. Trade Representative, "2014 Report to Congress on China's WTO Compliance," December 2014, 21–26.

¹⁰Scott Cendrowski, "China's Global 500 Companies Are Bigger Than Ever—And Mostly State-Owned," Fortune, 22 July 15; "Big State-Owned Enterprises Pillar of Economy in China," Xinhua, 23 August 15.

¹¹Li Xiang, "Stock Crisis Buffer Fund Proposed," China Daily, 13 July 15; Wayne M. Morrison and Gabriel M. Nelson, Congressional Research Service, "China's Recent Stock Market Volatility: What Are the Implications?" 20 July 15; Heather Timmons, "China's Stock Market Stimulus Has Cost Over \$1 Trillion So Far," Quartz, 5 August 15. Quartz cites Christopher Balding, a Peking University political economics professor, as saying that the stimulus provided to date had already reached US\$1.3 trillion. Balding described the stimulus as "far and away the largest economic support package in history." Patrick Chovanec, "China Destroyed Its Stock Market in Order To Save It," Foreign Policy, 16 July 15.

¹²James K. Jackson, Congressional Research Service, "China's Currency Devaluation," 17 August 15; "The Battle of Midpoint," Economist, 15 August 15.

¹³Chinese Communist Party Central Committee, Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms [Zhonggong zhongyang guanyu quanmian shenhua gaige ruogan zhongda wenti de jue ding], 12 November 13, sec. 1(2); Wayne M. Morrison and Gabriel M. Nelson, Congressional Research Service, "China's Recent Stock Market Volatility: What Are the Implications?" 20 July 15; U.S. Department of the Treasury, "Readout From a Treasury Spokesperson on a Call Between Secretary Jacob J. Lew and Chinese Vice Premier Wang Yang," 21 August 15.

¹⁴"The SEC Caves on China," Wall Street Journal, 26 February 15; James R. Doty, Remarks on Public Company Accounting Oversight Board (PCAOB) Standing Advisory Group Meeting Webcast, 20 November 14.

¹⁵Felicia Schwartz and Ian Talley, "U.S. Officials Warn Chinese Cyber Espionage Imperils Ties," Wall Street Journal, 23 June 15.

¹⁶Office of Public Affairs, U.S. Department of Justice, "Chinese Professors Among Six Defendants Charged With Economic Espionage and Theft of Trade Secrets for Benefit of People's Republic of China," 19 May 15. The three indicted Tianjin University professors were Hao Zhang, Wei Pang, and Jinping Chen. There were a total of six individuals indicted, including the three Tianjin University professors.

¹⁷Memorandum of Understanding Between the Government of the United States of America and the Government of the People's Republic of China Concerning Market Access, 10 October 92, art. 1.

¹⁸World Trade Organization, Trade Policy Review Body, Trade Policy Review, Report by China, WT/TPR/G/300, 27 May 14, 23.

¹⁹World Trade Organization, Trade Policy Review Body, Trade Policy Review, China, Minutes of the Meeting, Addendum, WT/TPR/M/300/Add.1, 9 September 14, 207.

²⁰Office of the U.S. Trade Representative, "2014 Report to Congress on China's WTO Compliance," 18 December 14, 88.

²¹ Office of the U.S. Trade Representative and U.S. Department of Commerce, “Subsidies Enforcement Annual Report to the Congress,” February 2015, iii.

²² *Ibid.*, 10.

²³ US-China Business Council, “China 2015 Regulatory Transparency Scorecard,” March 2015, 1.

²⁴ State Council, “China To Translate Trade-Related Rules Into English,” 23 March 15; State Council General Office, Circular on Translation of Trade-Related Measures Into English [Guowuyuan bangongting guanyu zuohao yu maoyi xiangguan bumen guizhang yingwen fanyi gongzuo de tongzhi], issued 23 March 15. The English version does not include an attachment listing the types of measures to be translated.

²⁵ World Trade Organization, Report on the Working Party on the Accession of China, WT/ACC/CHN/49, 1 October 01, 334.

²⁶ World Trade Organization, Trade Policy Review Body, Trade Policy Review, China, Minutes of the Meeting, Addendum, WT/TPR/M/300/Add.1, 9 September 14, 188. China’s WTO commitment was to make translations available in one of the official WTO languages; translation into English is not required.

²⁷ World Trade Organization, “Disputes by Country/Territory,” last visited 24 June 15; World Trade Organization, DS450, China—Certain Measures Affecting the Automobile and Automobile-Parts Industries, Request for Consultations by the United States, WT/DS450/1, WTO Doc. No. 12-506, 17 September 12; World Trade Organization, DS489, China—Measures Related to Demonstration Bases and Common Service Platforms Programmes, Request for Consultations by the United States, WT/DS489/1, WTO Doc. No. 15-1009, 11 February 15. The United States requested consultations with China for DS450 on September 17, 2012. The United States next requested new consultations with China for DS489 on February 11, 2015.

²⁸ World Trade Organization, “Disputes by Country/Territory,” last visited 24 June 15.

²⁹ Office of the U.S. Trade Representative, “2014 Report to Congress on China’s WTO Compliance,” 18 December 14, 36–37.

³⁰ Office of the U.S. Trade Representative, “United States Launches Challenge to Extensive Chinese Export Subsidy Program,” 11 February 15.

³¹ World Trade Organization, DS489, China—Measures Related to Demonstration Bases and Common Service Platforms Programmes, Dispute Settlement, WT/DS489/1, last visited 1 May 15.

³² Dinny McMahon, “China Calls U.S. Complaint on Subsidies ‘Groundless,’” Wall Street Journal, 7 March 15.

³³ Press Office, Office of the U.S. Trade Representative, “U.S. Wins Trade Enforcement Challenge to China’s Duties on Steel,” 31 July 15.

³⁴ *Ibid.*

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