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Introduction

December 11, 2016, marked 15 years since China acceded to the World Trade Organization (WTO). The Chinese government and Communist Party are bound by commitments detailed in the WTO agreements and China’s accession documents. The Commission found during its 2017 reporting year that the government and Party continued to fail to comply with key WTO commitments, including to ensure equal treatment for foreign enterprises; to practice a market economy; and to enforce the rule of law with impartiality, transparency, and uniformity. Instead, the Chinese government continued to promote preferential treatment for domestic industry, compel technology transfer, and provide significant financial and political support to outbound investment, creating an uneven playing field and altering market prices both domestically and globally. Additionally, Chinese officials continued to enforce commercial regulations inconsistently, arbitrarily, and non-transparently, making it difficult for foreign enterprises to compete or enjoy open access in the Chinese market. Chinese authorities have promoted economic reform in policy documents and official speeches, yet actual progress toward reform reportedly remains limited. The Chinese government’s implementation of its WTO commitments is a measure of the overall development of rule of law in China and of the Chinese government’s willingness to comply with its international commitments.

Evaluation of China’s Commitment to Equal Treatment

When it joined the WTO, China committed to ensure non-discrimination against foreign enterprises with respect to the procurement of goods, services, and enforcement of intellectual property rights. Despite official rhetoric claiming openness, Chinese officials continued to promote discriminatory policies that reportedly perpetuated an uneven playing field for foreign enterprises. Moreover, many reports note that private enterprises have opaque ties to the government and Party, giving these companies an unfair advantage in Chinese markets and in courts. Summarizing the current adverse climate for foreign businesses competing in China, the Office of the U.S. Trade Representative (USTR) reported in March 2017 that “China continued to pursue a wide array of industrial policies in 2016 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.” While President and Party General Secretary Xi Jinping stated in January 2017 that “China will keep its door wide open and not close it,” the American Chamber of Commerce in China (AmCham) reported in a January 2017 survey that 81 percent of foreign companies felt “less welcome in China than before” in 2016, an increase from 77 percent the previous year.
INDUSTRIAL POLICIES

During this reporting year, the Chinese government continued to promote industrial policies that reportedly disadvantage foreign enterprises and distort global markets.21 For example, authorities continued to implement “Made in China 2025,” a plan released by the State Council in May 2015,22 which is reportedly a US$300 billion plan with the goal of becoming self-sufficient in 40 percent of core components and key basic materials by 2020, and 70 percent by 2025.23 Chinese authorities’ de facto technology transfer requirements for foreign companies that want to be involved in “Made in China 2025” and the Chinese government’s promotion of indigenous innovation raise national treatment and other concerns, according to recent reports by representatives of the U.S. and European business communities.24

INTERNET CENSORSHIP

The Chinese government’s strict control over the Internet continued to serve as an indirect form of preferential treatment for domestic enterprises, as consumers’ access to global websites remained obstructed. In March 2017, USTR identified Internet censorship in China as a barrier to trade for a second year, noting that Chinese authorities blocked “11 of the top 25 global sites” and highlighting U.S. industry research that found that “up to 3,000 sites in total are blocked.”25 The March 2017 USTR report also stressed that even external sites that are not blocked must pass through the filters of China’s “Great Firewall,” in some cases slowing sites down so much as to “significantly degrade the quality of the service, in some cases to a commercially unacceptable level, thereby inhibiting or precluding the cross-border supply of certain services.”26 In October 2016, a U.S. computer industry association reported that the blocking of U.S. services in China, including Google, Facebook, Twitter, Dropbox, and LinkedIn, had resulted in the loss of billions of dollars in revenue for U.S. companies, while China-based Internet firms had an “unfair commercial advantage” as they were not blocked in China or the United States.27 AmCham’s 2017 China Business Climate Survey Report, published in January 2017, found that 87 percent of surveyed companies reported that Internet censorship negatively affected their “company’s competitiveness and operations in China,”28 and a July 2017 report by AmCham Shanghai found that for small- and medium-sized member companies surveyed, “improved [I]nternet access” was their main reform priority.29 Moreover, the Chinese government’s arbitrary and non-transparent blocking of websites may violate its WTO commitment to follow the rule of law, according to a computer industry association.30 In January 2017, USTR reported that it had continued outreach to the Chinese government to discuss its “arbitrary blocking of commercial websites.”31 In July 2017, the Chinese government reportedly requested that Apple and a Chinese partner of Amazon take actions to limit Internet users in China from downloading or using virtual private networks (VPNs) to access websites censored by Chinese authorities.32 AmCham,33 the European Chamber of Commerce in China,34 and a representative of the Hong Kong Information Technology Federa-
expression concerns that the restrictions on VPNs will negatively affect business users.

**CYBERSECURITY**

The Chinese government took regulatory steps this past year to strengthen cybersecurity, but foreign business leaders warned that some of these steps could disadvantage foreign firms. In November 2016, the National People’s Congress passed the PRC Cybersecurity Law, which took effect on June 1, 2017. In April 2017, the Cyberspace Administration of China (CAC) released draft implementing measures for the data localization requirements of the PRC Cybersecurity Law, mandating that Chinese authorities conduct a security review of certain types of data before companies can transmit the data out of China. AmCham raised concerns that these new measures on data localization would “discourage foreign investment by unnecessarily imposing prohibitively complex or expensive requirements” in order to store their data in China. In May 2017, 54 business groups sent a letter to the CAC expressing concerns regarding provisions in the draft measures, writing that the draft measures suggest “China is continuing to move away from its bilateral commitments, international obligations, and global norms.” The CAC subsequently informed business groups that enforcement of certain implementing measures of the PRC Cybersecurity Law would be postponed until December 31, 2018.

**FOREIGN INVESTMENT RESTRICTIONS**

The Chinese government continued to limit foreign investment in China, and although the government took regulatory steps to reduce investment restrictions this past year, the impact of these changes remained unclear. A May 2017 report by a research firm and non-profit organization found that the Chinese government’s restrictions on foreign investment reportedly contributed to an imbalance of acquisitions, with acquisitions by U.S. companies in China at their lowest level since 2009. In January 2017, the State Council released the Circular Regarding Several Measures on Expanding Further Openness and Active Utilization of Foreign Investment, with the stated aim of increasing foreign investment in China. In June 2017, the National Development and Reform Commission and the Ministry of Commerce jointly released a revised Foreign Investment Industrial Guidance Catalogue (2017 Catalogue). The 2017 Catalogue reduced the number of categories for which foreign investment is limited from 93 to 63; however, foreign investment in media-related entities continues to be “prohibited.” In July 2017, the European Union Chamber of Commerce in China issued a press release that criticized “[t]he continued use of such a discriminatory catalogue” that maintained the “fundamental distinction” between “domestically-invested and foreign-invested enterprises with respect to market entry and approval requirements.”

During this reporting year, AmCham identified negotiation of a U.S.-China Bilateral Investment Treaty as a priority for alleviating restrictions on foreign investment. International experts have noted that human rights concerns are becoming increasingly impor-
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tant in the drafting and enforcement of bilateral investment treaties.49

Evaluation of China’s Commitment To Practice a Market Economy

While the Chinese government committed under WTO agreements to generally “allow prices for traded goods and services in every sector to be determined by market forces,”50 it continues to distort domestic and global prices with its practice of providing what the Office of the U.S. Trade Representative (USTR) describes as “substantial subsidies” to domestic industries,51 and with its non-commercial operation of state-owned enterprises.52

CHINESE GOVERNMENT SUBSIDIES

Chinese authorities continued to provide substantial subsidies to domestic industries including steel and aluminum, resulting in overcapacity in China and distorted global markets.53 According to USTR, for example, despite declining demand and no comparative advantages in energy and raw material inputs for steel making, China’s steel capacity continued to grow.54 Some international experts point to government subsidies as a key cause of overcapacity in the steel and aluminum sectors.55 This overcapacity has led to excess global supply, distorting global market prices.56 The Chinese government has previously claimed it would allow “market forces to play a central role” in allocating resources and reducing overcapacity,57 yet output in many areas has reportedly continued to increase.58 A report commissioned by an international environmental advocacy group found that China’s steel capacity increased as many of the steel factories the Chinese government claimed it shut down as part of efforts to reduce overcapacity had already been closed or were already idle.59

This past year, the U.S. Government filed WTO disputes against the Chinese government regarding its use of subsidies to boost domestic production. In September 2016, the U.S. Government filed a dispute over Chinese subsidies for wheat, rice, and corn producers.60 In January 2017, the U.S. Government filed a WTO dispute regarding Chinese subsidies to the aluminum sector.61 In April 2017, the U.S. Government requested that the Chinese government notify the WTO about 80 government measures that provided subsidies to Chinese companies.62 The U.S. Government’s 584-page request included translations of each of the measures,63 as the Chinese government had failed to provide translations themselves, despite committing to provide translations of all its trade laws, regulations, and other measures.64 The request noted that these subsidies were part of a program that appeared to be a “successor” to China’s Famous Brands Program, which the U.S. Government successfully challenged in a WTO dispute filed in 2008.65 In addition to not providing translations, the Chinese government has not fully complied with its WTO obligations to publish all trade-related laws, regulations, and other measures, making WTO disputes more challenging.66
State-Owned Enterprises and the Communist Party

State-owned enterprises (SOEs) continue to play a key role in the Chinese economy. According to 2016 statistics, the National Bureau of Statistics of China reported that there were 133,631 SOEs and 291,263 state-holding companies operating in China. Observers note that SOEs tend to be less productive than private companies, yet Chinese government statistics showed that the number of industrial sector state-holding companies increased yearly from 2011 to 2015. According to an April 2017 International Monetary Fund (IMF) publication, SOEs accounted for over 50 percent of bank credit in China and around 60 percent of corporate debt in China. The provision of loans from state-owned banks to SOEs on a non-commercial basis serves as a major form of government subsidy in China, and according to the IMF distorts the “allocation of resources” and promotes “inefficiency.”

The Chinese Communist Party played an increasingly important role in SOEs and reportedly increased its influence over other types of corporate entities in China as well. While Chinese officials maintain that SOEs are “entitled to make independent business operation decisions,” in October 2016, President and Party General Secretary Xi Jinping stressed Party leadership is the “root” and “soul” of SOEs. In June 2017, the director of the State-Owned Assets Supervision and Administration Commission of the State Council reported that SOEs employed over 40 million workers, more than 10 million of whom were Party members. Experts note that the Party asserts a leadership role in corporate decisionmaking for SOEs. According to an August 2017 Wall Street Journal analysis, since 2016, at least 32 Hong Kong-listed SOEs have proposed amendments to their articles of association to explicitly give Party committees the authority to advise corporate boards; these companies have a combined market capitalization of approximately $1.2 trillion USD, totaling nearly one-third of the total value of stocks listed in Hong Kong. Private companies are also subject to Party control and influence, with 1.6 million non-public companies having internal Party groups, according to Party Central Committee statistics.

Evaluation of China’s Commitment to Rule of Law

Despite the Chinese government’s WTO commitments to “apply and administer in a uniform, impartial and reasonable manner all its laws, regulations and other measures,” Chinese officials continued to enforce laws and regulations, including in the commercial sphere, in an arbitrary and non-transparent manner. The American Chamber of Commerce in China’s (AmCham) 2017 American Business in China White Paper found that “inconsistent regulatory interpretation and unclear laws” were the top business challenge for the second year in a row.

Weak Intellectual Property Rights Protection and Limited Reforms

This past year, the Chinese government continued to provide ineffective protection for intellectual property rights. For example, in April 2017, the USTR again placed China on its priority watch list.
in its 2017 Special 301 Report, due to concerns including “widespread infringing activity” as well as problematic “[s]tructural impediments to civil and criminal enforcement.”88 In 2016, 88 percent of counterfeit imports seized by the U.S. Department of Homeland Security reportedly were from China (52 percent) and Hong Kong (36 percent).89 In December 2016, the USTR re-listed Taobao, a subsidiary of the Alibaba Group and the largest online shopping website in China by merchandise volume, as a “notorious market” due to “the large volume of allegedly counterfeit and pirated goods available and the challenges rights holders experience in removing and preventing illicit sales.”90 In December 2016, the National People’s Congress issued a draft PRC E-Commerce Law for public comment that, according to AmCham, may make it more difficult for trademark owners to obtain the removal of online listings for goods with infringing trademarks on e-commerce platforms.91

During this reporting year, the Chinese government also took actions that, according to some legal experts, could strengthen intellectual property protection. In December 2016, the China Trademark Office revised the Trademark Review and Examination Standards,92 and in January 2017, the Supreme People’s Court (SPC) issued provisions on administrative trademark litigation.93 Some legal experts noted that the revised standards and SPC provisions could provide greater protection in China against bad faith trademark filings.94 The SPC, in a case decided in December 2016 prior to its issuance of the provisions, ruled partially in Michael Jordan’s favor in a series of administrative trademark disputes over a Chinese company’s use of the American basketball star’s name in China.95

DUE PROCESS CONCERNS FOR BUSINESSPEOPLE

Despite official reports of progress in judicial transparency,96 certain cases involving Chinese and foreign businesspeople detained or investigated this past year highlighted ongoing transparency and due process concerns. The Bureau of Consular Affairs of the U.S. Department of State’s country information for China notes that “[t]he Chinese legal system can be opaque and the interpretation and enforcement of local laws arbitrary. The judiciary does not enjoy independence from political influence.”97
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Arbitrary Detention of Sandy Phan-Gillis

On April 25, 2017, the Nanning Intermediate People’s Court in Nanning municipality, Guangxi Zhuang Autonomous Region, reportedly sentenced American businessperson Sandy Phan-Gillis to three years and six months’ imprisonment on the charge of espionage in a closed trial. On April 29, Chinese authorities deported Phan-Gillis to the United States. In March 2015, Chinese state security agents had detained Phan-Gillis as she traveled from Zhuhai municipality, Guangdong province, to Macau. In June 2016, the UN Working Group on Arbitrary Detention found that Chinese authorities had arbitrarily detained Phan-Gillis. At a Commission hearing, Jeff Gillis, Phan-Gillis’s husband, asserted that Chinese authorities tortured his wife and denied her “many of the rights she is entitled to under Chinese and international law.” Gillis noted that “Sandy was not allowed to speak with her lawyer for well over a year. She was not charged with a crime for well over a year. For about the first year and a half, her monthly 30-minute visits with the U.S. Consul were supervised by agents of China State Security, the very people who tortured her.”

The cases of three prominent executives of Chinese firms, Xiao Jianhua, Guo Wengui, and Wu Xiaohui, highlighted the risk that businesspeople face when suspected of corruption or when dealing closely with corrupt officials. In January 2017, unidentified security personnel reportedly abducted Xiao, a Canadian citizen, from a hotel in Hong Kong and detained him at an unknown location believed to be in mainland China. In April 2017, after Guo alleged corruption involving family members of Chinese government officials, Interpol reportedly issued a “red notice” at the request of the Chinese government seeking Guo’s provisional arrest and extradition. In June 2017, Chinese authorities reportedly detained Wu Xiaohui, the chairman of Anbang Insurance, on undisclosed grounds. The Hong Kong-based newspaper South China Morning Post described “Wu’s Anbang” as “one of the most powerful and well-connected players on the domestic and overseas capital markets.” In 2014, Anbang purchased the Waldorf Astoria hotel in New York for US$1.95 billion. [For more information on the Party and government’s anticorruption efforts, see Section III—Institutions of Democratic Governance.]

FOREIGN EXCHANGE CONTROLS

Although in previous years the Chinese government intervened to devalue the yuan and thereby unfairly promote Chinese exports, recent government interventions had the goal of preventing a rapid depreciation of the yuan, according to an April 2017 report by the U.S. Department of the Treasury. The report notes that the Chinese government needs to demonstrate that its lack of intervention to devalue the yuan “over the last three years represents a durable policy shift . . . .” The U.S. Department of the Treasury and the American Chamber of Commerce in China expressed continuing concerns regarding transparency of foreign exchange interventions and capital control regulations.
Chinese officials continued to emphasize the importance of food safety this past year, as several food safety concerns came to light and exposed ongoing regulatory challenges. In March 2017, Premier Li Keqiang described the effort to strengthen food safety regulation as requiring “the utmost rigor.” According to analysis published by the Paulson Institute in April 2017, however, “microbiological hazards remain unchecked, supply chain management is weak, and policies are uncoordinated across disparate levels of the government.” According to the China Food and Drug Administration, in 2016, authorities punished violators of food safety regulations in 181,000 cases. Chinese and international media reported on a number of food safety scandals in China, including those affecting soy sauce and milk powder. In describing a scandal in Tianjin municipality involving counterfeit soy sauce made with industrial salt and unsafe tap water that was “unfit for human consumption,” a Renmin University professor said “the fact that these small food processors were able to churn out fake products worth hundreds of million [sic] of yuan undetected for years shows what little local authorities have done to weed out the problem of poor-quality food” and that it “underscores how weak law enforcement is in fighting food safety violations.” In October 2016, new food safety measures took effect, requiring online platforms to establish a system for examining vendor credentials and product quality. According to an American law firm's analysis, the new measures may make it easier for companies to determine the source and stop the sale of counterfeit food products by imposing liability and disclosure requirements on online platforms.

The American Chamber of Commerce in China noted that the existence of “complex compliance concerns” due to the “opaque nature of Party influence on government and weak regulatory transparency” and “inconsistency in [the government’s] interpretation of policies, laws, and regulations, and in standards for law enforcement” created difficulties for food companies operating in China. For example, in October 2016, the Jiading District Market Supervision and Management Bureau in Shanghai municipality reportedly revoked the food production license and issued an additional 24 million yuan (US$3.55 million) in fines to Shanghai Husi and its U.S. parent company, OSI Group, for a July 2014 food safety incident. In 2016, OSI Group had criticized the judgment in the related criminal case as “inconsistent with the facts and evidence,” claiming authorities had recognized that the case was “never” about food safety, but was influenced by accusations made in misleading media reports.

The U.S. and Chinese governments’ trade negotiations during this reporting year included a focus on food safety in the beef and poultry trade. In June 2017, the Chinese government permitted the import of American beef into China for the first time since 2003, when imports were stopped due to concerns over mad cow disease in the United States. In June 2017, the Food Safety and Inspection Service of the U.S. Department of Agriculture (USDA) published a proposed rule to permit the import of “poultry products from birds slaughtered in [China]” based on a determination that
China’s “poultry slaughter inspection system is equivalent” to that in the United States. A U.S. non-profit organization recommended that USDA withdraw the proposed rule because “China’s food safety system is simply too weak to ensure that poultry exports are safe to eat.”

Outbound Investment and Regional Trade Partnerships

During this reporting year, the Chinese government continued to provide significant financial incentives to promote outbound investment, raising concerns that the Chinese government’s lack of transparency in commercial dealings and its preferential treatment of state-owned enterprises (SOEs) may have an even greater impact on foreign markets than it has to date. In May 2017, a total of 29 foreign heads of state or government and representatives from over 130 countries gathered in Beijing municipality at the first global forum on the Chinese government’s Belt and Road (B&R) Initiative. The initiative consists of a “belt” on land from China to Europe, as well as a “road” of shipping routes from China through Southeast Asia to India and Europe, and the Chinese government envisions global “participation.” Several European Union member countries raised concerns about transparency shortcomings and a lack of social and environmental safeguards in the joint communiqué issued after the forum. SOEs have played a leading role in B&R infrastructure projects; since the announcement of B&R in 2013, 47 central SOEs have participated in 1,676 B&R infrastructure projects. For example, the SOE China Communications Construction announced US$12.6 billion in new projects in 2016, a reported 10 percent of total new B&R projects announced. Two American researchers described the B&R Initiative as “a game-changing plan to bring about the next stage of globalization,” noting that Chinese authorities plan for approximately US$1 trillion in concessionary loans for infrastructure projects through state-owned policy banks.

During this reporting year, the Chinese government played a key role in multilateral financial institutions. For example, the China-led Asian Infrastructure and Investment Bank (AIIB) played a significant role in international financing, reportedly approving over US$1.7 billion in loans in 2016. The AIIB also co-financed projects with other multilateral banks, including the World Bank and the Asian Development Bank (ADB). A U.S. human rights organization noted that in projects co-financed by the AIIB and the World Bank, ADB, or other multilateral financial institutions, “the social and environmental standards or safeguard policies of those institutions are likely to apply.”
Notes to Section III—Commercial Rule of Law


2 Information on China’s participation in the World Trade Organization (WTO), including principal accession documents, schedules, trade policy reviews, and dispute case documents, can be found on the WTO website. China’s commitments are detailed in these documents, as well as in WTO agreements applicable to all members, including the General Agreement on Tariffs and Trade and the Trade-Related Aspects of Intellectual Property Rights. World Trade Organization, “WTO Legal Texts,” last visited 5 June 17. See also U.S. Government Accountability Office (GAO), “World Trade Organization: Analysis of China’s Commitments to Other Members,” October 2002, 12–13. The GAO analysis found that China had made 685 WTO commitments, including 77 transparency-related commitments, 57 commitments related to laws and regulations, and 67 nondiscrimination-related commitments.

3 World Trade Organization, Protocol on the Accession of the People’s Republic of China, WT/L/432, 10 November 01, Part I, 3. See also China’s Compliance With WTO Commitments, Hearing of the U.S. Trade Representative Office, 5 October 14, Written Testimony of the US-China Business Council, Submitted on September 21, 2016, in Response to the Office of the U.S. Trade Representative’s Request for Comments and Notice of Public Hearing Concerning China’s Compliance With WTO Commitments, Federal Register, Vol. 81, No. 156 (16 August 16), 54646–47.


7 President Xi’s Speech at Opening of the ‘Belt and Road’ International Cooperation Forum” [Xi jinping zai ‘yidai yilu’ guoji hezuo gaofeng luntan kaimushi shang de yanjiang], Xinhua, 14 May 17; “Full Text of President Xi’s Speech at Opening of Belt and Road Forum,” Xinhua, 14 May 17. At the opening of the Belt and Road forum, Xi pledged that China would contribute an additional 100 billion yuan (US$14.5 billion) to the Silk Road Fund, as well as additional funding by the China Development Bank and the Export-Import Bank of China. See also Nadege Rolland, China’s Eurasian Century? Political and Strategic Implications of the Belt and Road Initiative (Seattle: National Bureau of Asian Research, 2017), 101–4; Tom Hancock, “China Encircles the World With One Belt, One Road Strategy,” Financial Times, 3 May 17; Li Wen Lin, “A Network Anatomy of Chinese State-Owned Enterprises,” European University Institute, Robert Schuman Centre for Advanced Studies, February 2017, 8; Greg Levesque, “China’s Evolving Economic Statecraft,” The Diplomat, 12 April 17.


19 World Economic Forum, “President Xi’s Speech to Davos in Full,” 17 January 17.


22 State Council, “Made in China 2025” [Zhongguo zhizao 2025], 19 May 15.


30 Computer & Communication Industry Association, “Comments of Computer & Communications Industry Association Regarding Foreign Trade Barriers to U.S. Exports for 2017 Reporting,” 27 October 16, 2, 6. See also Office of the U.S. Trade Representative, “United States Seeks Detailed Information on China’s Internet Restrictions, 19 October 11; California First Amend-
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12

33 See, e.g., “Apple Takes Down Apps Used by Chinese To Scale ‘Great Firewall,’” Radio Free Asia, 31 July 17; “Amazon’s China Partner Bans Use of VPNs by Customers Amid Ongoing Crackdown,” Radio Free Asia, 2 August 17; “‘This Time Appears Different’: China’s Web Users Fear Losing Tools To Bypass Censorship,” Agence France-Presse, reprinted in Hong Kong Free Press, 6 August 17; Paul Mozur, “China’s Internet Censors Play a Tougher Game of Cat and Mouse,” New York Times, 3 August 17. See also UN Office of the High Commissioner for Human Rights, Mandate of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, David Kaye, OL OTH 16/2017, 4 August 17. Special Rapporteur David Kaye wrote a letter to Apple CEO Tim Cook that asked, inter alia, whether “Chinese authorities issue[d] a request or demand, formal or informal, to remove the subject APPs from the app store?” 34 “[w]hat legal analysis led Apple to believe that it would be required by Chinese law to remove the subject applications . . .”; whether “Apple object[ed] to or otherwise delayed the application of Chinese law . . .”; and, whether Apple took “into account international instruments such as the UN Guiding Principles on Business and Human Rights or the Global Network Initiative’s Principles on Freedom of Expression . . .”
36 Ibid.
37 “Amazon’s China Partner Bans Use of VPNs by Customers Amid Ongoing Crackdown,” Radio Free Asia, 2 August 17.
41 Ibid.
47 European Union Chamber of Commerce in China, “Revised Foreign Investment Catalogue Falls Short of Expectations,” 5 July 17. See also European Union Chamber of Commerce in China and Roland Berger, “European Business in China: Business Confidence Survey 2017,” 21 May 17, 8, 39. The European Union Commerce survey found that 40 percent of respondents anticipated that “regulatory barriers” would increase over the next five years, while only 15 percent responded that they thought regulatory barriers would decrease over the next five years.
49 “Five Trends To Watch in Business and Human Rights in 2017,” Freshfields Bruckhaus Derendorf, 6 March 17. See also Lorenzo Cotula, International Institute for Sustainable Development et al., “Rethinking Investment Treaties To Advance Human Rights,” September 2016,


58. See, e.g., Henry Sanderson and Henry Foy, “Call To Tackle China’s Soaring Aluminium Output,” Financial Times, 19 March 17.


61. World Trade Organization, DSS19, China–Subsidies to Producers of Primary Aluminum, last visited 15 June 17; Office of the U.S. Trade Representative, “Obama Administration Files WTO Complaint on China’s Subsidies to Primary Aluminum Producers,” January 2017.


65. Ibid., Table 1–7.
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72 W. Raphael Lam and Alfred Schipke, International Monetary Fund, “Getting China’s ‘Trusted Sons’ Back Into Shape,” 27 April 17. See also Jay H. Bryson, “Are SOEs a Millstone Around China’s Neck?” Wells Fargo Securities, 18 May 16. Bryson reported that at the end of 2014, bank loans to SOEs totaled almost 50 percent of total business loans and 30 percent of all loans in China.


75 Xi Stresses Unwavering Party Leadership of State-Owned Enterprises at National State-Owned Enterprises Party-Building Work Meeting” [Xi jinping zai quanguo guoyu qiye zhe dang zhong ji cheng bao shi chiu qianting], Xinhua, 11 October 16; Zhou Xin, “Communist Party the Top Boss of China’s State Firms, Xi Jinping Asserts in Rare Meeting,” South China Morning Post, 13 October 16.


78 Xi Stresses Unwavering Party Leadership of State-Owned Enterprises at National State-Owned Enterprises Party-Building Work Meeting” [Xi jinping zai quanguo guoyu qiye zhe dang zhong ji cheng bao shi chiu qianting], Xinhua, 11 October 16; Zhou Xin, “Communist Party the Top Boss of China’s State Firms, Xi Jinping Asserts in Rare Meeting,” South China Morning Post, 13 October 16.


87 Ibid.


that in 2016, Alibaba had provided Chinese authorities with 4,495 criminal leads, but that those leads had only led to 33 convictions.


97 Supreme People’s Court, Provisions on Certain Issues Related to Trials of Administrative Cases Involving the Grant and Confirmation of Trademark Rights [Zuigao renmin fayuan guanyu shenli shangbiao shouquan quequan xingzheng anjian ruogan wenti de guida], issued 10 January 17, effective 1 March 17.


102 Ibid., 3. See also Letter from Julia Frifield, Assistant Secretary, Legislative Affairs, U.S. State Department, to Christopher Smith, House of Representatives, 2 December 15. According to the U.S. State Department, the Chinese government’s restrictions on communication between U.S. consular officials and Phan-Gillis were “inconsistent” with China’s obligations under the U.S.-China Consular Convention.


104 Minxin Pei, “Chinese Tycoon’s Disappearance Foreshadows Showdown in Beijing,” Nikkei Asian Review, 6 February 17; Scott Cendrowski, “Billionaire’s Disappearance in Hong Kong May Be Part of China’s Anti-Corruption Campaign,” Fortune, 6 February 17.

105 Ibid., 3. See also Letter from Julia Frifield, Assistant Secretary, Legislative Affairs, U.S. State Department, to Christopher Smith, House of Representatives, 2 December 15. According to the U.S. State Department, the Chinese government’s restrictions on communication between U.S. consular officials and Phan-Gillis were “inconsistent” with China’s obligations under the U.S.-China Consular Convention.


109 Xie Yu, “Murry Waters Surrounding Wu Xiaohui and Anbang,” South China Morning Post, 8 July 17.
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119 China Food and Drug Administration, Measures on Investigating and Punishing Illegal Conduct Related to Online Food Safety [Wangluo shipin anquan weifa xingwei chachu banfa], issued 13 July 16, effective 1 October 16. See also “New Rule Stress Online Platforms’ Responsibility in Food Safety,” Xinhua, 29 September 16.
120 Courtney Diem Macintosh and Andrew Sun, “New Online Food Trading Safety Measures Introduced in China,” Baker McKenzie, 1 October 16; China Food and Drug Administration, Measures on Investigating and Punishing Illegal Conduct Related to Online Food Safety [Wangluo shipin anquan weifa xingwei chuanchu banfa], issued 13 July 16, effective 1 October 16, arts. 18, 39–43.
123 Ibid., 238. See also European Union Chamber of Commerce in China, “European Business in China Position Paper 2016/2017,” 2016, 181. The European Chamber reported that, “Unclear laws and regulations and inconsistent interpretation and enforcement of the laws have opened up food regulation to further potential risks.”
125 OSI Group, “OSI Group February 1, 2016 Statement,” 1 February 16. See also “SPC and CFTC Jointly Introduce the Selection Results for the Ten Significant Cases Advancing Rule of Law in 2016” (Zuigaofa yangshi lianhe kaizhan “2016 nian tuodong fuzhi jinceng shi da anjian” pingxuan jieguo jiexiao), Supreme People’s Court, 23 February 16; American Chamber of Commerce in the People’s Republic of China, “2017 American Business in China White Paper,” April 2017, 8. The US-China Business Council noted that member companies had reported concerns about exaggerated media reporting and disgruntled employees providing misleading photographs to the media.
128 Ibid., 9 April 17.


Ibid.

Summer Zhen, “China To Build Colombo CBD Under ‘Belt and Road Initiative,’” South China Morning Post, 10 May 2017; Celia Chen and Peggy Sito, “Here's How Li Ka-shing Domnates Trade Along the Belt and Road Initiative,” South China Morning Post, 12 May 2017.


