Oral Statement

Of the

United States Chamber of Commerce

Before the Office of the United States Trade Representative

Hearing on China's Implementation of and Compliance with Its Commitments to the WTO

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The U.S. Chamber of Commerce appreciates the opportunity to testify this morning, and provide its list of trade and investment policy priorities and recommendations for action by the U.S. Government in the U.S.-China economic relationship.

Today's hearing comes at an important time in U.S.-China economic relations— on the eve of the opening of the Fourth Plenum of the 18th Communist Party Congress, in advance of China hosting the 2014 Asia Pacific Economic Cooperation (APEC) Leaders' Meeting, prior to an important meeting between the two presidents, and in advance of the 26th meeting of the Joint Commission of Commerce and Trade (JCCT) in December. In the context of all of these meetings, there is intense focus on the trajectory of China's future economic development as well as the opportunities and challenges for American companies in the China market.

I. Introduction

Let me begin by stating the obvious. China is a priority for our members. The country is a $500 billion market for American companies—and should be more. Meanwhile, China exported nearly $450 billion to the U.S. in 2013, as more Chinese companies look to the United States to invest. Chinese annual FDI in the U.S. now exceeds FDI by U.S. companies into China.

Yet there are serious and growing challenges—both strategic and economic—that are undermining mutual trust and could derail these positive trends. Since the opening to China in 1972, senior government officials and business leaders have shared a commitment to keep our relationship on track. We urgently need to revive that vision again—in both capitals at senior levels, supported by the two business communities.

The U.S. Chamber of Commerce is encouraged by the reforms promised in last year's Third Plenum Decision and relatively new initiatives such as a U.S.-China Bilateral Investment Treaty (BIT). China's Third Plenum Decision generated considerable hope among U.S. industry, and over the past year, we have seen indications that reform is advancing, albeit more slowly than hoped, including:

- a resolution from the Third Plenum of the 18th Party Congress that calls for experimentation with a "national treatment plus negative list" approach to

project approvals, opening of additional sectors to foreign investment, and unification of domestic and foreign investment laws and regulations;

- establishment of the China (Shanghai) Pilot Free Trade Zone (Shanghai FTZ) to implement a three-year program of deep experimental reforms aimed at promoting further financial liberalization, reforming the foreign investment management system, and supporting outbound investment;

- an announcement by the State-owned Assets Supervision and Administration Commission (SASAC) this summer regarding plans to reshuffle constituent state-owned capital investment firms, encourage mixed ownerships, change board powers and establish discipline inspection teams in their state-owned enterprise (SOEs), along with leadership-level statements about the need to speed up SOE reform by targeting the salaries of top executives;

- ongoing nationwide reform of the foreign investment management system, including devolution of approval authority to provincial and local governments for many investment projects under US $300 million, expanded use of *bei'an* company registrations, and the simplification and acceleration of the project approval application process; and

- greater transparency in the formulation of new foreign investment regulations, such as the Ministry of Commerce (MOFCOM) reaching out to solicit input on reform of the foreign investment management system.

However, and notwithstanding our strong support for many of the reform goals outlined in the Third Plenum Decision, the overall operating and investment climate in China for our members has deteriorated over the past year. As the American Chamber of Commerce in China effectively documented in its recent update to its annual Business Climate Survey, there are growing perceptions that our members and other companies are at times under selective and subjective enforcement by Chinese Government agencies using a range of regulatory, legal and extra-legal tools, including anti-monopoly, IT security, food safety, and other laws and regulations. These measures lack transparency and are at times applied to achieve protectionist outcomes only vaguely related to the ostensible purpose of the legal instrument being applied in any particular case. There are also concerns that rules are shifting again for foreign companies in ways that are highly opaque and difficult for local managers to anticipate or adapt to.

For example, in a trend seen over the last several years, China's regulatory import approval system for agricultural products derived from biotechnology has nearly shut down, and at times a de facto moratorium on approvals has been in place. This trend has adversely affected an area of bilateral trade in agriculture that has long been a bright spot in the relationship. It is clear that economic and political factors have driven this trend, which calls into question whether China is meeting its obligations under the WTO. China's use of its regulatory process to control imports has more recently resulted in a widely reported trade disruption in U.S. corn and Distillers' Dried Grain (DDG) exports. The U.S. agricultural value chain needs predictable implementation and enforcement of Chinese regulatory decisions that are based on science to maintain and grow the China market. Our trade relationship is too important for this issue among others to remain unresolved, and we hope significant progress can be achieved no later than the JCCT in December.

Improvements in these areas are imperative to encourage foreign companies to continue to invest in China's future. Foreign investment in China is now sliding. U.S. Chamber members have played a critical role in China's development, and American companies can make positive contributions to helping China achieve new drivers of the economy in higher-value manufacturing and services. Additionally, as China seeks to expand its outbound investments—with annual Chinese FDI into the U.S. now exceeding FDI by U.S. companies into China—essential fairness as well as reciprocity in investment policies is becoming increasingly important and expected.

The Chamber's submission highlights the scope of our concerns as well as our hope that the two governments will make significant progress on important regulatory and policy challenges that presently restrict the ability of American businesses to access and compete in the China market.

In my limited time, I will focus on three cross-cutting areas, which we hope the interagency team will prioritize with China in the run up to the President Obama's November visit to China and at the JCCT.

II. Seek a high level of ambition from China in international trade and investment agreements.

Bilateral Investment Treaty

The single most decisive step both sides can take to accelerate two-way investment is to conclude negotiations on a BIT. A high-standard BIT can address many of the commercial concerns in the relationship. We are pleased that both sides set a timeline for progress at the U.S.-China Strategic & Economic Dialogue (S&ED)

in July for making progress on core text and exchanging negative-list offers. China's initial negative-list offer in the negotiations will be a critical metric assessing the seriousness of its intent. To create momentum in these negotiations, it is absolutely essential that negative-list offers on both sides are sharply limited and exceptions are narrowly focused.

As the BIT negotiations accelerate, U.S. policymakers will also need to ensure that any market access gains on paper are matched in the negotiations with strengthened text in related areas such as disciplines on SOEs; coerced localization of intellectual property (IP); a narrowing of China's national security review criteria; transparency of investment reviews, including under the Anti-Monopoly Law (AML); standards setting; and informal, "non-binding" guidance that China uses to manage its economy.

To address concerns regarding SOEs, the 2012 U.S. Model BIT text contains a new footnote to provide examples of delegations of governmental authority that would be covered by the BIT. This language, however, fails to adequately capture the core concern of many U.S. companies that the Chinese Government often has informal and unwritten means of "deputizing" SOEs (and other entities) to take actions that treat foreign companies less favorably than Chinese companies, for example by discriminating in the purchase or sale of goods and services. Ultimately, to the extent that the Chinese Government uses SOEs or other state-influenced entities to carry out its policy preferences in the "commercial arena", these are in fact "governmental" actions that should fall within the framework of any BIT with China. Under a U.S.-China BIT, the scope of coverage should extend beyond delegations of authority to capture directly the behavior of enterprises that are owned by the state.

Regarding performance requirements, China in certain sectors often requires that foreign companies provide their proprietary technologies and other IP to domestic firms and entities, or that they incorporate domestically developed technologies into their production processes, not only as a condition for doing business at all, but also as a condition for receiving favorable tax, regulatory, or other treatment. However, under the U.S. Model BIT text, governments may require that foreign investors transfer technology to domestic entities or purchase or use domestic technology as a condition for receiving a benefit, such as a tax incentive. This issue, which the U.S. Government has worked to tackle through non-binding commitments at presidential summits as well as past S&EDs and JCCTs, should be addressed through a binding commitment in the BIT negotiations.

In the area of standards setting, on paper Article 11(8) of the Model BIT requires each Party to "allow the persons of the other Party to participate in the

development of standards and technical regulations by its central government bodies." However, this requirement might not work as intended in China, because the Chinese government often develops standards by exercising influence over non-governmental entities such as SOEs. In China, unlike in the United States, SOEs often have the power to set industry standards that operate as *de facto* mandatory government standards. Under the U.S.-China BIT, foreign industry should have the right to participate in this type of standards-setting as well.

Further, one of the tools that China uses to manage its economy and favor its own firms is "non-binding" guidance, such as State Council opinions and intra-ministerial guidelines regarding a variety of topics. While such measures may not have the formal force of law, it is understood by economic competitors that they are effectively legal requirements, non-compliance with which may result in penalty or economic harm to violating companies. As such, these measures create significant uncertainty and costs for U.S. companies trying to compete in China. The BIT should therefore attempt to clarify that actions such as non-binding guidance may satisfy the definition of a "measure" under the text. The U.S. Government should also consider whether China should schedule as reservations "non-binding" guidance that has the effect of being discriminatory.

Significant progress in these and other areas in the negotiations —to include new disciplines on competition policy enforcement, transparency and national security reviews—would help to ensure that the market access that is promised is realized in practice.

Even as BIT negotiations move forward, the two governments should take immediate action to promote two-way investment. In the U.S., this means keeping the door open to Chinese investment, ensuring the Committee on Foreign Investment in the United States (CFIUS) foreign investment review process continues to work efficiently, and rejecting the growing call to expand reviews to include economic benefit criteria.

The recent decision by U.S. Court of Appeals for the District of Columbia Circuit in *Ralls Corporation v. Committee on Foreign Investment in the United States*, which stipulates the need for greater transparency in CFIUS, as well as the recent decision by CFIUS to approve an acquisition by a Chinese company in the U.S. ICT sector while protecting U.S. national security, underscores the U.S. commitments to maintain the openness of our economy to foreign investment and to continue to welcome Chinese investment in the United States. The U.S. Chamber of Commerce strongly shares these commitments. Translation into Chinese of the CFIUS Annual Report to

Congress would make implementation of those commitments more widely available in China and reduce concerns that the U.S. does not welcome such investment.

We hope China, in turn, will take near-term steps—consistent with the Third Plenum Decision and that extend beyond the very limited efforts to date in the Shanghai FTZ—to remove FDI limitations and other barriers in sectors ranging from financial and electronic payments services to cloud and express delivery services. By boosting China's services economy, these steps would help pave the way for China to join Trade in Services Agreement (TISA) negotiations and ultimately the Trans Pacific Partnership (TPP). They would also create new opportunities for all companies in China, regardless of national origin and ownership, to compete equally—a critical step in China's reform agenda.

Expansion of the Information Technology Agreement

China's hosting of the APEC Leaders' Meeting in November provides a key opportunity to conclude the negotiations on ITA expansion. Despite progress, the ITA expansion talks have stumbled along in a stop-and-go mode over the past year. At issue is China's insistence that dozens of tariff lines be dropped from consideration or subjected to extraordinarily long phase-outs. Not only does China have a trade surplus in many of the product categories it has sought to exclude, it would also be the principal beneficiary of an expansion of the ITA's coverage. An ambitious outcome could save China's tech sector $8 billion in reduced tariffs on overseas sales each year.

From the perspective of the U.S. business community, reaching a final agreement on ITA expansion will be the key indicator of the success of China's APEC year. In fact, it's hard to see how the APEC meetings in Beijing will be viewed as a success without it. With just weeks remaining, now is the time for China to show leadership. In short, ITA will be a key indicator: concluding the ITA expansion agreement in time for APEC could advance a new perception that China is committed to ambitious outcomes in international trade and investment agreements and could help to ripen conditions for China to join the TISA.

Trade in Services Agreement

The U.S. Chamber welcomes China's expression of interest in joining the TISA. A commitment by China not only to an ambitious outcome in the negotiations, particularly in improving market access, but also to its existing General Agreement on Trade in Services (GATS) obligations would serve notice of the seriousness of China's intent to build a more inclusive, pro-growth services sector.

The Chamber agrees with the Administration and many in the U.S. Congress who believe China should take a number of steps to indicate its readiness to carry out the highly ambitious reforms required to participate in the TISA. First, China should make the aforementioned commitments necessary to conclude the ITA negotiations. Second, China should comply with its existing WTO obligations with respect to trade in services.

It has been over a year since China was required to comply with the 2012 WTO ruling that found that China discriminated against foreign electronic payment service providers. The time has come for China to issue regulations for public comment, and then to implement rules that allow foreign-owned companies to provide electronic payments services in China for RMB-denominated transactions.

China should also come into full compliance with its existing GATS obligations in the areas of telecommunications and express services among others areas, as part of the process by which it joins the TISA. The U.S. Chamber welcomes recent press reports on opening up the express delivery market in China, but China's discriminatory Postal Law has not changed, and both U.S. and domestic Chinese firms remain very concerned about China's burdensome and opaque express permitting regime. We hope the U.S. Government will remain attentive to any efforts to impose strict geographic restrictions or limits on the ability to use contractors through the permitting process.

III. Maintain focus on efforts to curb industrial policies, including discriminatory Anti-Monopoly Law implementation, and technology localization and preferential government procurement policies that frequently favor national champions.

Although the Chinese leadership has pledged to make the market play a "decisive role" in allocating resources, government agencies continue to intervene in the domestic economy to advance industrial policies in a systematic manner. Recent developments suggest that Chinese authorities are using a variety of policy tools—including competition law, technology standards, and IP policies—to limit prices of foreign companies' goods and IP, while protecting and promoting domestic Chinese companies and clearing the way for national champions to emerge, consolidate market power, and flourish, often at the expense of their foreign competitors, in certain key sectors.

Anti-Monopoly Law

The U.S. Chamber of Commerce appreciates the efforts of the White House and the interagency, at the highest levels, to mount a unified and comprehensive

effort to tackle head on both the substance and the process of AML decisions in China, with the aim of ensuring that the AML is not used as an industrial policy tool to undermine IP rights held by U.S. companies or otherwise disadvantage U.S. exporters, investors, or other companies seeking to compete on a level playing field both in China and in international markets.

As reflected in recent correspondence from Treasury Secretary Lew to Vice Premier Wang Yang as well as public remarks by Assistant Attorney General for Antitrust Bill Baer and Federal Trade Commission Chairman Edith Ramirez on China's AML enforcement, the U.S. Government is taking the business community's concerns very seriously. However, to date, AML enforcement trends have not shown any significant signs of improving. Accordingly, we urge the U.S. Government to maintain its focus on this issue to ensure that U.S. industry concerns regarding China's enforcement of its AML are meaningfully resolved.

Competition policy enforcement affects investors, and to the extent competition policy enforcement is used as a tool of discriminatory industrial policy, it becomes indistinguishable from trade and investment policy tools that are used for the same purpose, many of which are inconsistent with WTO rules. To be clear, the U.S. Chamber's concern with the AML is not about competition law as such. Implementation of the AML in an appropriate, non-discriminatory manner based on economically-sound principles, could in theory provide an enormous opportunity for China to accelerate its transition to a more market-driven economy by boosting competition and reducing the prominence of monopolies and oligopolies in its economy; increasing consumer welfare, choice, and consumption; and stimulating market-driven innovation. And indeed, there are many cases where China has used the AML to regulate conduct by domestic firms for legitimate competition law purposes. China's use of the AML in this way should be welcomed.

However, this is not the whole story. Rather, as our recent report "Competing Interests in China's Competition Law Enforcement" discusses in great detail, the AML too often serves to cloak industrial policy in the trappings of competition law, often at the expense of foreign companies. For example, the National Development Reform Commission (NDRC), one of the AML Enforcement Agencies (AMEAs), has repeatedly wielded its power to conduct price-based investigations under the AML to extract price reductions from foreign companies to Chinese licensees in industries like autos, infant formula, and IP licensing, even where there is no plausible evidence of anti-competitive conduct and no written explanation of the Chinese Government's theory of the case. In fact, since our report was released, an NDRC official publicly admitted that the agency rewards "proactive price reductions" with leniency under the

AML.[1] So our core concern is about AML enforcement with the objective of discriminating against foreign companies and/or eroding IP—not China's particular philosophy of competition law.

Another area where China applies the AML in a discriminatory fashion is merger reviews. Since the AML took effect in 2008, every single proposed transaction that MOFCOM has blocked or conditionally approved—26 out of 26—has involved foreign companies. And the remedies imposed through conditional approvals sometimes appear designed to curtail the IP rights of foreign companies involved, and strengthen the bargaining position of Chinese licensees. Such discrimination in the merger review context is apparently due in part to the interference of agencies other than MOFCOM in merger reviews from behind the scenes, despite the absence of any legal authority for doing so. Agencies such as NDRC, Ministry of Industry and Information Technology (MIIT), and Ministry of Agriculture (MOA) use the merger review process as an opportunity to extract concessions from foreign companies that happen to be conducting concentrations that are reviewable under the AML, often apparently to promote the interests of their most influential stakeholders: national champions.

Standards setting is another area where China appears poised to use the AML to further erode foreign companies' IP rights—and on this issue our members are deeply concerned. SAIC, another AMEA, recently released an eighth draft of the AML-related Rules on the Prohibition of Abuses of Intellectual Property Rights for the Purposes of Eliminating or Restricting Competition (Draft Rules) issued by the State Administration of Industry and Commerce (SAIC). If promulgated in their current form, the Draft Rules would among other things (i) inappropriately compel foreign companies outside of standards setting context to license their IP against their wishes; and (ii) allow a standard-setting organization (SSO)— which in China is generally affiliated with the Chinese Government—to set a standard that appropriates a company's patents by requiring that it be licensed on FRAND terms, regardless of whether the company is a member of the SSO or has otherwise participated in the standards setting process. This curtailment of IPRs would go far beyond international norms.

These patterns in AML enforcement have given rise to serious concerns about the quality and fairness of enforcement, and they raise legitimate questions about China's commitment to the global antitrust commons, which is at least as valuable to China as any other country.

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[1] *See* "China NDRC official says price cuts by investigated companies good for economy, enforcement," PaRR (Sept. 19, 2014). Another recent news report detailed how one NDRC official, nicknamed "Mr. Confession," uses heavy-handed tactics to extract such concessions from foreign companies. *See* Michael Martina & Matthew Miller, "'Mr. Confession' and his boss drive China's antitrust crusade," Reuters (Sept. 15, 2014).

China's response that only 10% of foreign companies have been subject to pricing investigations is misleading. First, it ignores the category of merger-related investigations, where (as mentioned), 100% of the transactions that have been blocked or only conditionally approved involved a foreign company. Second, with respect to price-related investigations, the problem documented in the Chamber Report is not that China fails to enforce the AML with respect to domestic companies. Indeed, as stated above, there are many cases where China applies the AML as a legitimate tool of competition policy. Rather, the problem is that when China applies the AML to foreign companies, it does so in a discriminatory, non-transparent manner to promote industrial policy goals, undercut IP protections, and promote national champions. Third, the statistic fails to distinguish between local cases and national-level cases of greater consequence, the latter of which appear to overwhelmingly target foreign companies, according to U.S.-China Business Council statistics. And fourth, the statistic appears to conflate investigations under the AML and the Pricing Law—even as it appears that the AML has been used more frequently against foreign companies.

Indeed, such discrimination is facilitated by deficiencies in transparency and due process. As noted above, due process abuses have been quite egregious in the context of price-based investigations. For example, companies have been pressured to confess to AML violations or face much more severe sanctions. Furthermore, foreign counsel has often been barred from participating alongside in-house and local counsel in meetings with AML enforcement officials, although China periodically denies this. In addition, the rationale for decisions and penalties in price-based investigations is not published. Moreover, foreign companies lack a meaningful right to appeal AML determinations, due to a pervasive fear of retribution if they challenge administrative determinations. So far as we are aware, not a single action taken by MOFCOM, NDRC, or SAIC to enforce the AML has ever been challenged judicially. The lack of transparency surrounding AML enforcement decisions in China contrasts with the much higher levels of transparency in the United States and European Union. When controversial decisions are reached in those jurisdictions, there is a healthy debate on the economic theories and evidence underlying agency decisions, in the judicial setting and/or in the public arena.

We therefore urge the U.S. Government to keep the spotlight on the AML in bilateral discussions with China, and resist any suggestion that the business community's concerns regarding the AML are the product of a reasonable disagreement about different philosophies of competition law. Rather, our concern is one that USTR and other U.S. Government agencies have been struggling with in

China and elsewhere for decades: the lack of fair and transparent enforcement of laws and regulations against foreign companies, and poor protection of IP.

In addition, we ask that the United States work to ensure that China adopt all actions laid out in the concluding section of our Report, including the following:

- officially endorse principles of competition law that will remove any industrial policy considerations from AML enforcement decisions;

- refrain from using the AML to curtail the legitimate exercise of IP rights, both in merger review and conduct investigation contexts, including by ceasing efforts to use the AML to dictate royalty rate levels and other terms of IP licenses that have been determined through arms-length negotiations. We also urge the U.S. Government to concentrate efforts on China's forthcoming IP abuse rules and the recent draft SPC draft judicial interpretation on Patent Infringement Cases (II), released July 31, 2014, both of which would, if enacted in their current form, provide SAIC and Chinese courts with great discretion to intervene in patent licensing negotiations purely based on commercial considerations between the parties, and tilt the balance in favor of the Chinese licensees within the context of industrial policies which aim to protect and support national champions at the expense of the patent holder.; and

- safeguard due process and fundamental fairness during AML proceedings, including by allowing foreign counsel to participate in AML investigation meetings along with their clients: issuing written, public determinations in the context of price-based investigations; and establishing a process to appeal AMEA's investigation-related determinations, penalties and requests for information to an AML court or judicial tribunal, without fear of retribution.

We also ask that the U.S. Government consider including provisions in a BIT with China to prevent the use of competition law to undermine the value of investments, selectively promote and protect national champions, and/or unfairly erode the value of IP. China's current approach to AML enforcement is inconsistent with the spirit of ongoing BIT negotiations, which aim to promote openness, non-discrimination and transparency in China's investment regime. The United States should seek to ensure the AML cannot be used as a tool for undermining China's obligations under the BIT or other international agreements.

Technology Localization

The U.S. Chamber of Commerce and our members respect China's ambitious innovation goals, and our members support many of government's efforts to promote an ecosystem that will foster more innovation in China. However, policies like the Strategic Emerging Industries (SEI), the High and New Technology Enterprise (HNTE) tax, and the National Integrated Circuit Industry Investment Fund, remain a concern for our members.

While such policies may represent China's aspiration to become a global innovation hub, they are also reminiscent of past industrial policies that also discriminated in favor of domestic entities. These policies consistently impede the ability of foreign companies to compete on a level playing field and appear inconsistent with China's 2012 S&ED commitment that it will not discriminate against suppliers or technology based on their nationality or the locus of their IP ownership or technology development.

Further, top-down regulations intended to drive innovation by providing tax breaks or subsidies to domestic companies may have the unintended consequence of driving innovative companies out of China—companies that have been contributing positively to China's innovation efforts. While the tax breaks and subsidies may provide a short-term advantage to domestic companies in innovative sectors, in the long run, they will close China off from global innovative networks.

The Chamber hopes that the U.S. Government will remain vigilant in working with to eliminate policies that block foreign companies from equal access and participation in China's market.

Government Procurement

The Chamber has high expectations following China's 2013 JCCT commitment that China would submit a revised offer this year that is on the whole commensurate with the coverage of the WTO Government Procurement Agreement (GPA) parties. We look forward to that revised offer later this year.

Regrettably, China's January 2014 accession offer added only six new provinces—Liaoning, Chongqing, Hebei, Hubei, Hunan, and Henan—and four new sectors—consultancy services related to installation of computer hardware, online information and database retrieval, sewage services, and maintenance and repair of motor vehicles. The offer failed to cover SOEs. In the context of a future updated offer, we encourage China to include coverage for its SOEs as well as provide lower thresholds and comprehensive sub-central coverage.

We encourage USTR and Commerce to continue their work with China to delineate what is procurement for government purposes versus what is a purchase that is commercial. This is critical to ensuring, for example, that activities by SOEs that are for public purposes are covered by China's GPA accession commitment. Securing an expedited timeline from China for its GPA accession and eliciting a credible offer that can be the basis for serious accession negotiations is also very important.

The U.S. Chamber also hopes the U.S. Government will continue its bilateral efforts to ensure foreign-invested enterprises have equal access to China's government procurement market, including access to information at the start of bidding processes and transparent and fair evaluations. We hope as well that China will update its domestic government procurement laws soon to ensure that all government procurement projects are subject to the same process in reflection of China's admission at the 2012 JCCT that some government procurement projects are not subject to the official government procurement process.

IV. Strengthen protection and enforcement of intellectual property rights.

The Chamber continues to advocate for improvements to legislative and enforcement efforts to protect the IP rights of our members in China. Our overall goal is to deter infringement and ensure consistency with global best practices.

The Chamber and its members were encouraged by commitments made last year both to Vice President Biden and at the 2013 JCCT that patent examiners would allow for supplemental data in pharmaceutical patent applications as is the international practice. Despite these high-level assurances, the commitment has not been implemented. It is critically important that the U.S. Government remains committed to the full implementation of existing commitments and address such deficiencies with their Chinese counterparts.

The Chamber continues to place a high priority on effective protection and enforcement of trade secrets. We welcomed comments by Chinese officials that it too places a high priority on developing their trade secrets regime. In order to accomplish this goal, the Chamber encourages Chinese authorities to enhance its legal process for trade secrets litigation including: easing burden of proof requirements, setting penalties and remedies to deter future theft, ensuring the protection of confidential business information, and releasing a forward-leaning Judicial Interpretation (JI) on trade secret protection. As China revises its Anti-Unfair Competition Law and considers a JI on trade secrets, the Chamber would be pleased to share the expertise

of our building and our members to contribute to a comprehensive piece of legislation.

Lastly, we recognize the huge challenge China faces to deter the production counterfeit and pirated goods. According to U.S. Customs and Border Protection, China accounted for 68% of all IPR seizures in 2013, totaling $1.1 billion. And a 2013 study by BSA | The Software Alliance found that $8.7 billion of pirated software was illegally obtained in China that year. We support continued efforts by the U.S. Government to work with China to provide criminal liability and increase remedies to provide deterrent-level enforcement.

V. Conclusion

Few issues loom as large on America's economic and foreign policy agendas as our relationship with China. The U.S.-China economic and commercial relationship is a defining global strategic issue for both countries.

The U.S. Chamber of Commerce will continue to do its part to educate both sides about the massive opportunities in the relationship as well as advocate for policy changes that will create a better environment for two-way commerce. Earlier this year, we issued an 80-page report in Chinese that assesses the opportunities for Chinese participation in U.S. infrastructure. In short, both sides must continue to look forward in this critical relationship. The U.S. Chamber will continue to vigorously support efforts to realize strong, positive and balanced commercial relations on behalf of our membership.

We thank the interagency for its collective and unrelenting efforts to safeguard and promote the interests of American businesses, farmers, ranchers, and workers in our commercial engagement with China, and we appreciate the opportunity to testify this morning. I look forward to your questions.