

RECOMMENDATIONS

Chinese State-owned Enterprises and U.S.-China Bilateral Investment

The Commission recommends that:

- Congress urge the administration to employ all necessary remedies authorized by WTO rules to counter the anticompetitive and trade-distorting effects of the Chinese government's extensive subsidies for Chinese companies operating in China and abroad.
- Congress assess the extent to which existing laws provide for effective remedies against the anticompetitive actions of Chinese state-owned or state-invested enterprises operating in the U.S. market. Appropriate remedies, if they are not readily available, should also be considered.
- Congress urge the administration to include in any bilateral investment treaty with China the principles of nondiscrimination and competitive neutrality between SOEs and other state-invested or -supported entities and private enterprises.
- Congress assess China's new national security review process for foreign investment to determine whether it is being used as a trade barrier.
- Congress direct the U.S. Department of Commerce to report annually on Chinese investment in the United States including, among other things, data on investment in the United States by Chinese SOEs and other state-affiliated entities.
- Congress direct the U.S. Securities and Exchange Commission to revise its protocols for reviewing filings by foreign entities listed on or seeking to be listed on the U.S. stock exchanges. The Securities and Exchange Commission should develop country-specific data to address unique country risks to assure that U.S. investors have sufficient information to make investment decisions. The commission should focus, in particular, on state-owned and -affiliated companies, and subsidies and pricing mechanisms that may have material bearing on the investment.
- Congress urge the administration to review federally subsidized contracts provided under the American Recovery and Reinvestment Act of 2009 and report on the extent to which Chinese-produced goods and services were procured using such funds.
- Congress urge the administration to direct the USTR to move aggressively to bring more WTO cases against China for violating its obligations under the WTO Subsidies Agreement.

- Congress urge the administration to direct the USTR to strengthen its mandated annual review of China's compliance with its WTO obligations by adding conclusions and recommendations to its annual report to Congress.

Indigenous Innovation and Intellectual Property Rights

The Commission recommends that:

- Congress request the administration to report on whether procurement catalogues are actionable under WTO obligations.
- Congress instruct the administration to insist that all procurement catalogues at all levels of government be explicitly recalled in order to comply with assurances by President Hu Jintao to separate government procurement from the catalogues.
- Congress urge the administration to raise with China in the Strategic and Economic Dialogue and the Joint Commission on Commerce and Trade and in other appropriate bilateral and multilateral venues the need for China to table a serious offer to join the Government Procurement Agreement that provides reciprocal opportunities for access to the estimated \$1 trillion in procurement controlled by central, provincial, and local governments as well as state-affiliated entities. If China fails to engage in serious negotiations, the U.S. government should restrict access to Chinese suppliers to government procurement opportunities and should coordinate policies with the states to limit procurement contracts with China.
- Congress instruct the administration to make a top priority within the Joint Commission on Commerce and Trade and the Strategic and Economic Dialogue negotiations an agreement to lower the threshold for criminal prosecution of cases of piracy and counterfeiting of business and entertainment software.
- Congress recommend the administration adopt a more reciprocal trading relationship in critical areas, such as intellectual property protection. The United States should demand the same level of treatment from its major trading partners that it provides to those other nations. The administration should identify those sectors that China has failed to open up to trade in goods and services and identify the practices that act to nullify and impair anticipated economic benefits for U.S. producers and service providers. The administration should seek the elimination of such practices in a timely manner and, if unable to gain sufficient market access, should evaluate what reciprocal actions may be appropriate.
- Congress urge the administration to insist that China audit the use of licensed software on government computers rather than just audit the budget for software procurement. The audit should be performed by the World Bank.
- Congress assess the reauthorization of Super 301 to assist in the identification of the policies and practices that China pursues that create the greatest impediment to U.S. exports entering the Chinese market and the most important policies or practices that

unfairly or unjustifiably harm U.S. producers and workers in the U.S. market. Priority should be given to addressing such practices by the United States Trade Representative under such legislation.

- The President should direct USTR to move aggressively to bring cases to the WTO to enforce intellectual property rights.

China's 12th Five-Year Plan and Technology Development and Transfers to China

The Commission recommends that:

- Congress hold hearings to assess the success of the Strategic and Economic Dialogue and the Joint Committee on Commerce and Trade in addressing Chinese actions to implement its WTO commitments, including with regard to the issue of technology transfers. In preparation for such hearings, Congress should request that the Government Accountability Office prepare an inventory of specific measures agreed to as part of these bilateral discussions and the implementation efforts of the Chinese.
- Congress direct the Government Accountability Office to undertake an evaluation of investments and operations of U.S. firms in the Chinese market and identify what federally supported R&D is being utilized in such facilities and the extent to which, and on what terms, such R&D has been shared with Chinese actors in the last ten years.

China's Internal Dilemmas

The Commission recommends that:

- The administration work with the Chinese leaders in the Strategic and Economic Dialogue and the Joint Commission on Commerce and Trade talks to identify specific commodities and products in the case where supply does not adequately meet demand in China and where enhanced access for U.S. goods might help alleviate inflationary pressures. Specific attention should be given to agricultural commodities and Chinese barriers that may limit access to the Chinese market for American goods and products.
- Congress direct the Government Accountability Office to conduct a review of efforts by the Chinese government to censor content on the Internet and identify the extent to which any foreign technology providers may be assisting the government in its efforts.

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