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Office of the U.S. Trade Representative
600 17th Street, NW
Washington, DC 20508

Re: Request for Comments Concerning China's Compliance with WTO Commitments
(Docket USTR–2015–0010)

The American Insurance Association (AIA) is pleased to submit these written comments pursuant to the Office of the United States Trade Representative's (USTR) and the Trade Policy Staff Committee's (TPSC) Request for Comments Concerning China's Compliance with WTO Commitments, published August 10, 2015.

AIA is the leading property-casualty insurance trade organization in the U.S., representing approximately 325 insurers that write more than $127 billion in premiums each year. AIA member companies offer all types of property and casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance. AIA members make up some of the most active insurers globally.

There have been important improvements in China's insurance regulatory regime since it acceded to the World Trade Organization (WTO) in 2001. China's commitments in the property-casualty insurance sector are strong, and China has largely implemented measures that have brought it into compliance with its commitments. For example, foreign property-casualty insurers are permitted to own 100% of their operations in China, per China's GATS commitments. China has also shown willingness to go beyond its WTO commitments in some limited cases. One notable development is the opening of China's statutory motor vehicle third party liability (MTPL) insurance sector to foreign insurers. In its GATS schedule, China reserved the right to prohibit foreign insurers from offering statutory insurance.

Despite China's generally strong record of implementing its WTO commitments, foreign and U.S. insurers continue to face regulatory barriers administered by the China Insurance Regulatory Commission (CIRC), some of which may be inconsistent with China's WTO commitments. These barriers help to explain the contradiction between the tiny 1.2% share of the Chinese property-casualty insurance market held by foreign insurers and the potential for significant growth opportunities.

In order to provide truly non-discriminatory treatment, CIRC would need to harmonize treatment for domestic and foreign insurers. Separate regulatory structures – one for domestic and one for foreign companies administered through CIRC's International Affairs Department – are no longer justified, are not in keeping with international best practices, and may create inadvertent discriminatory treatment of foreign and domestic insurers.

Discriminatory processes for foreign insurers in obtaining regulatory approvals from CIRC persist, limiting the ability of foreign insurers to expand and take advantage of the strong WTO commitments that China made. Foreign insurers are frequently put at a disadvantage relative to domestic insurers in applying for licenses, and in obtaining approval for multiple, concurrent, internal branches. The *de facto* limitations on branch licenses may not be consistent with China's commitment in the GATS to eliminate geographic market access restrictions within three years of accession, and its commitments on licensing. The seemingly differentiated treatment between foreign and Chinese insurers in obtaining internal branch regulatory approvals may not be consistent with China's national treatment commitments, as well. The abilities to expand geographically and diversify risk portfolios are basic, fundamentally important insurance principles. Insurance companies need to be able to develop geographic reach and risk diversification in order to avoid concentration of risk and unbalanced, over-exposed books of business. CIRC should make it clear that foreign-invested insurers are able to submit multiple applications for branch approval, and if qualified, CIRC should approve them concurrently.

Furthermore, China places requirements on branch operations that do not reflect the different nature of a branch relative to a subsidiary. Foreign branches are required to perform many back office functions in China that would generally be performed in the branch's home country. Such burdens on branches make it more difficult for foreign insurers to establish branch operations in China, limiting their ability to utilize China's WTO commitments.

We appreciate greatly the efforts of USTR and other government agencies in addressing the concerns of the U.S. property-casualty sector in the U.S.'s bilateral dialogues with China, including the U.S.-China Insurance Dialogue. The best path forward to bring about positive change in international insurance trade between the U.S. and China is continued engagement between CIRC, the Chinese Ministry of Finance, the U.S. National Association of Insurance Commissioners, USTR, and other relevant U.S. Government agencies.