

**CHINA – MEASURES AFFECTING TRADING RIGHTS AND  
DISTRIBUTION SERVICES FOR CERTAIN PUBLICATIONS  
AND AUDIOVISUAL ENTERTAINMENT PRODUCTS**

Joint Communication from China and the United States

The following communication, dated 9 May 2012, from the delegation of China and the delegation of the United States to the Chairperson of the Dispute Settlement Body, is circulated at the request of those delegations.

As noted at the meeting of the Dispute Settlement Body on 22 February 2012, China and the United States have made progress toward a resolution of the dispute *China – Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products* (WT/DS363) as it relates to films for theatrical release through preliminary arrangements set forth in a Memorandum of Understanding. China and the United States would like to inform the Dispute Settlement Body that the Memorandum of Understanding includes the following key elements and that the opportunities provided by these elements are available to all WTO Members:

1. China confirmed that enhanced format films (such as 3D and IMAX films) are not subject to the 20-film commitment set forth in the Additional Commitments under Sector 2.D. of its GATS Schedule and agreed that China will allow the importation of at least 14 enhanced format revenue-sharing films per calendar year beginning in 2012.
2. China agreed that, in a contract for the distribution of an imported revenue-sharing film, the producer of the imported revenue-sharing film will be allocated 25 percent of gross box office receipts, and the Chinese side shall be responsible for the payment of all taxes, duties and expenses.
3. In a contract for the distribution of an imported film other than a revenue-sharing film, where the two sides are not both private enterprises, China agreed that the contract will be based on commercial terms, consistent with the terms prevailing in countries whose markets are comparable to China's market based on annual box office revenue, number of screens, annual admissions and admissions per screen.
4. China confirmed that any Chinese enterprise is eligible to apply for and be granted a license to distribute imported films and that nothing in China's laws, regulations or government rules prevents any eligible Chinese enterprise from applying for and receiving a license to distribute, and operating as a distributor of, these films. China further agreed that it will promote reform in the distribution of imported films and

will actively encourage more Chinese enterprises, including private enterprises, to obtain licenses and to participate in the distribution of these films.

5. China agreed that the licensing of distributors would be conducted in a non-discretionary and non-discriminatory manner, that contracts for the distribution of imported films would reflect standard industry practices, and that other Chinese government policies or practices would not undermine the provisions of the Memorandum of Understanding.
6. After five years, China and the United States will engage in consultations regarding key elements of the Memorandum of Understanding and to discuss the matter of China implementing the DSB's recommendations and rulings with regard to films in DS363.

We request that you circulate this information to the Members of the Dispute Settlement Body.

For China:

For the United States:

(Signed)  
Yi Xiaozhun  
Ambassador

(Signed)  
Michael Punke  
Ambassador

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