

**Memorandum of Understanding Between  
the People's Republic of China and the United States of America Related to the Dispute  
*China – Measures Related to Demonstration Bases  
and Common Service Platforms Programs (DS489)***

The United States of America (“United States”) requested consultations with the People’s Republic of China (“China”) at the World Trade Organization (“WTO”) on 11 February 2015 pursuant to Articles 1 and 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes*, Article XXII:1 of the *General Agreement on Tariffs and Trade 1994*, and Articles 4 and 30 of the *Agreement on Subsidies and Countervailing Measures* regarding certain measures that appear to provide financial support to enterprises in several industries in China (DS489);

China and the United States held constructive consultations in Geneva on 13 March 2015, and on 1 April 2015 to 2 April 2015, with constructive discussions continuing thereafter;

During this process, China has provided detailed clarifications respecting certain measures contained in the consultation request and has adopted concrete actions to repeal and modify pertinent measures contained in the consultation request.

China and the United States have agreed as follows:

1. During the consultations and in subsequent discussions, the United States described its concerns regarding the funding and other financial support to Foreign Trade Common Service Platforms ("Common Service Platforms"). In this regard, China confirms that it has terminated all funding and other financial support to Common Service Platforms at the central and sub-central levels of government.
  - a. China confirms that the following measures have ceased to be in force because they are annual measures which were only valid for the pertinent fiscal years: *Ministry of Finance, Ministry of Commerce Notice on the 2014 Foreign Trade Development Special Fund Application Work*, Ministry of Finance, Ministry of Commerce, Cai Qi [2014] No. 58 (17 April 2014) and *Ministry of Finance, Ministry of Commerce Notice on Doing Well the Administrative Work of the 2013 Foreign Trade Common Service Platform Construction Fund*, Ministry of Finance, Ministry of Commerce, Cai Qi [2013] No. 101 (28 May 2013). In any event, China has issued the *Ministry of Finance, Ministry of Commerce Notice Regarding the Repeal of Instruments Relating to the Management of Foreign Trade Common Service Platform Construction Fund*, Cai Xing [2015] No. 370 (19 August 2015) to confirm this fact.
  - b. China confirms that it has issued *Ministry of Finance, Ministry of Commerce Notice on the 2015 Foreign Trade Development Special Fund Application Work*, Cai Xing [2015] No. 216 (19 June 2015), and has confirmed that the central and sub-central governments shall not use the Foreign Trade Development Special Fund to support Common Service Platforms.

- c. China further confirms that all sub-central government measures in the consultation request implementing the *Ministry of Finance, Ministry of Commerce Notice on the 2014 Foreign Trade Development Special Fund Application Work*, Ministry of Finance, Ministry of Commerce, Cai Qi [2014] No. 58 (17 April 2014) have been repealed or have ceased to be in force.
  - d. China confirms that it has issued a certain administrative notice, which directs the sub-central governments to terminate any existing financial support to Common Service Platforms.
  - e. China confirms that it has issued a certain administrative notice, which prohibits the central and sub-central governments from providing funding from the Foreign Trade Development Special Fund to Common Service Platforms supporting Demonstration Bases that have export performance as designation criteria or other projects that have export performance as application requirements.
2. During the consultations and in subsequent discussions, the United States described its concerns regarding the preferential services agreements pursuant to which Common Service Platforms provide discounted services to Demonstration Base enterprises. China confirms all existing preferential services agreements with Common Service Platforms or its service suppliers have expired or been terminated.
  3. During the consultations and in subsequent discussions, the United States described its concerns regarding the WTO-consistency of certain grants related to the central level Demonstration Bases and to other related sub-central level Demonstration Bases. In this regard, China confirms that each sub-central government has terminated the provisions in certain measures contained in the consultation request and in the panel request (Instruments 167-171 and 173-175) that provide grants to Demonstration Base enterprises.
  4. During the consultations and in subsequent discussions, the United States described its concerns regarding the Demonstration Base program.
    - a. China has explained that the purpose of the Demonstration Base program was to encourage the upgrade and transformation of foreign trade and not to channel financial support to export enterprises. China confirms that it has issued *Ministry of Commerce Notice on Doing Well the Related Work of Foreign Trade Transformation and Upgrading Base*, Shang Mao Han [2015] No. 998 (22 December 2015) (“the new central Base measure” ), which declares that the
      - *Ministry of Commerce Letter on Carrying Out the Cultivation Work for the Foreign Trade Transformation and Upgrading Demonstration Bases*, Ministry of Commerce, Shang Mao Han [2011] No. 62 (14 February 2011),
      - *Ministry of Commerce Notice on Carrying Out the Second Batch of National Foreign Trade Transformation and Upgrading Specialized Demonstration Bases Determination Work*, Ministry of Commerce, Shang Mao Han [2012] No. 208 (10 April 2012), and the

- *Ministry of Commerce Notice on Organizing the Application of the Third Batch of National Foreign Trade Transformation and Upgrading Specialized Demonstration Bases Relevant Materials*, Ministry of Commerce, Shang Mao Han [2013] No. 467 (17 July 2013)

have ceased to be in force.

- b. China confirms that the new central Base measure does not contain: (i) any language related to export performance as the purpose of the program; and (ii) any designation criteria related to export performance.
  - c. China agrees that after the issuance of the new central Base measure, the Ministry of Commerce shall review the status of all existing central level Demonstration Bases in accordance with the new central Base measure.
  - d. China further agrees that each sub-central government shall issue measures to modify the measures in the consultation request that provide for the designation of related sub-central level Demonstration Bases in accordance with the new central Base measure. China confirms that such sub-central base measures shall not contain: (i) any language related to export performance as the purpose of the program; and (ii) any designation criteria related to export performance.
  - e. China agrees that after the issuance of the sub-central level measures referred to in subparagraph (d), the relevant sub-central governments shall review the status of existing sub-central level Demonstration Bases and shall designate any new sub-central level Bases in accordance with the new central Base measure and relevant sub-central level measures.
5. During the consultations and the subsequent discussions, China has provided the United States with certain measures that are relevant to the issues referred to in paragraphs 1 through 3, including measures that repeal, confirm the expiry of, or terminate the measures at issue in this dispute. Furthermore, China agrees to provide the United States with measures to be adopted to effect the changes to the measures at issue in this dispute as envisaged under paragraph 4 periodically.
  6. China and the United States agree to exchange information periodically, through the Ministry of Commerce and the Office of the United States Trade Representative, respectively, to facilitate their mutual understanding of actions taken pursuant to this MOU. China and the United States shall regularly consult on the actions taken or needed pursuant to this MOU and will work cooperatively and expeditiously to address any concerns.

7. This MOU is without prejudice to the rights and obligations of China and the United States under the *Marrakesh Agreement Establishing the World Trade Organization*.