

A REPORT OF THE CSIS HILLS
PROGRAM ON GOVERNANCE

China's Industrial Policymaking Process



January 2013

Author

Nathaniel Ahrens



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CHINA'S INDUSTRIAL POLICYMAKING PROCESS

By Nathaniel Ahrens

Introduction

Of the many factors that have contributed to China's industrial development and technological rise, the role of government policy has been impossible to ignore. Policies adopted by the central and local governments in China continue to exert enormous influence on industry in China. While China has been gradually moving to a development model that increasingly stresses market mechanisms over central planning, the state still intervenes in significant ways. It is therefore helpful to understand the policymaking process and how this process impacts the development of firms and industries, as well as how it affects the overall direction of China's industrial development. This report gives an overview of the players, processes, and tools that comprise Chinese policymaking. Although this focuses on industrial policy, many of the descriptions and conclusions are applicable to the broader policy spectrum.

Actors

The Chinese policymaking process, while fragmented and opaque, possesses a recognizable structure and progression. Within the general structure there is also substantial room for dynamic interplay and bargaining between actors, both inside and outside the government. The following are key actors and their roles in the policy process:

The National People's Congress (NPC)

- The NPC is officially China's highest governmental authority (a legislative body, as opposed to an administrative one).¹ Most of the power of the NPC, however, is exercised by the Standing Committee, currently made up of 175 members. The NPC has the power to establish laws, ratify policies, and delegate its authority.

The State Council

- The State Council is the highest level administrative body. It formally oversees all policymaking and presents final policies to the NPC for adoption. It has both legislative and executive powers. Although the NPC is officially the highest legislative body, the State Council can issue its own administrative regulations without NPC approval, as it has done for most science and technology legislation.

1. For a more in-depth discussion of this difference, see Peter Corne, "Creation and Application of Law in the PRC," *American Journal of Comparative Law* 50, no. 2 (Spring 2002): 369–443.

State Council Leading Small Groups (LSGs)²

- When a policy being formulated concerns an area of high importance, such as the designation of a strategic industry, the State Council will form an LSG to provide overall supervision of and guidance to the lower-level ministries that help draft the policies. LSGs play key policy planning roles and are organized around topics such as informatization; science and technology education; climate change and energy conservation; health care system reform; product and food safety; poverty alleviation and development; revitalization of the Northeast and other traditional industrial bases; and Western development. More important for the understanding of the national policy process, ad hoc LSGs may be formed to deal with a specific policy under discussion. These groups are especially important in bringing together representatives of different ministries, as well as the Chinese Communist Party (CCP) and the military, to talk about policies with broad implications. See appendix IV for a current listing of active LSGs and related coordinating bodies.

The State Council Legislative Affairs Office (SCLAO)

- The State Council Legal Affairs Office (also referred to as the Legislative Affairs Office) reviews and revises drafts of new laws and regulations presented to the State Council. For a draft of policy to reach the State Council, the SCLAO must approve it first. The SCLAO also coordinates between ministries and ensures that regulations do not contradict each other.

Ministries, bureaus, agencies, and commissions

- Key, high-level ministries—such as the National Development and Reform Commission (NDRC), the Ministry of Finance (MOF), and the State-Owned Assets Supervision and Administration Commission (SASAC)—are involved in most policymaking decisions to one degree or another, and are often given at least partial responsibility for implementing new policy. Additionally, some policies that require substantial funding or those that affect national development goals may require their approval.
- The involvement and influence of functional, sector-specific ministries (as well as departments, agencies, commissions, and bureaus)—such as the Ministry of Industry and Information Technology (MIIT), Ministry of Science and Technology (MOST), Ministry of Environmental Protection (MEP)—varies depending on the policy area. As an example, the MIIT has been the primary ministry in drafting China's telecommunications policies, in cooperation with the NDRC, SASAC, and other ministries and departments. The MIIT then has taken the lead in implementing the policies once they are adopted by the NPC. When the MIIT or other ministries have responsibility for implementing new policies, they also have freedom to draft and implement policies without the approval of the State Council or the NPC.

2. These are also referred to as leading groups and steering groups, and are sometimes formalized into commissions and agencies. There are also LSGs in the PLA and Central Committee, both of which are very powerful. For a detailed analysis of these, see Alice Miller, "The CCP Central Committee's Leading Small Groups," *China Leadership Monitor*, no. 26, September 2, 2008.

Governmental and nongovernmental research institutions

- Research institutions primarily provide suggestions on policy formulation. Ministries drafting new policies regularly consult with some of these institutes during the policy process and hire them to do reports (*keti*). Examples of these include the State Council Development Research Center (DRC), the Chinese Academy of Sciences (CAS), the Chinese Academy of Engineering (CAE), and the Chinese Academy of Social Science (CASS). University think tanks are also increasing their role as their interactions with foreign experts tend to be greater than those of their governmental counterparts.

Business and industry associations (governmental and nongovernmental)

- Business and industry associations provide input on policies being drafted, lobby for changes to existing policies, and occasionally call for new policies to be considered. Examples include the China Association of Automobile Manufacturers (CAAM) and the China Renewable Energy Industry Association (CREIA).

Domestic companies, business managers, and individuals

- Domestic Chinese companies, business managers, and individuals provide input on policies being drafted, lobby for changes to existing policies, and occasionally call for new policies to be considered. The boards of state-owned enterprises are usually staffed partially with individuals who wear a CCP hat as well, and these people can be particularly influential. Business managers of companies are also sometimes selected for government positions, where they can contribute to policy discussions and suggest new policies. Individuals who are considered “famous experts” may also have an important role. These may be retired officials or academic experts who have previously led major policy developments.

Foreign associations, companies, and governments

- Foreign associations, companies, and governments often lobby the Chinese government during the policy process on specific issues. Business organizations such as the U.S.-China Business Council, the U.S. Chamber of Commerce, and American Chamber of Commerce all keep close tabs on emerging policies in China, and submit opinions and recommendations to both U.S. and Chinese governments on behalf of their members. Formal government mechanisms also exist, such as the U.S.-China Joint Commission on Commerce and Trade (JCCT) and Strategic and Economic Dialogue (S&ED).

The Chinese Communist Party³

- The CCP (also known as the Communist Party of China, or CPC) plays an outsized role in policy making at both national and local levels by setting the overall policy direction. The CCP also plays a key role in determining the appointment of officials to ministries, state-owned enterprises, and other organizations, including the State Council.

3. See the later section in this paper, “The Government and the CCP.”

Architecture of the Legislative System

Three broad categories of actors are primarily responsible for policy formation in China. One group forms the government framework through which legislation must pass; a second group is responsible for forming the proposals and policy to be passed; and a third group is formed by businesses (state-owned and private), private citizens, and other stakeholders that wish to influence proposed policy. Chen Ling identifies the three basic types of policymakers involved in this process as the political authorities, the technological bureaucrats, and the social elite.⁴

In general, the State Council is the political authority and primary body that oversees the actual formulation of national policies, both through its Legislative Affairs Office and through its subordinate ministries. In the early stages of the process, the State Council's Legislative Affairs Office is particularly important. This office serves as a gatekeeper for those wishing to enter the policy process, and its approval is required for a proposal to move on for consideration by the State Council and eventually the NPC if necessary. Once specific policies are passed on by the SCLAO, the State Council then oversees the debate and drafting of policies and their subsequent presentation to the NPC.

While under consideration in the State Council, responsibility for drafting policies in detail falls to bureaucrats within the individual ministries who have a technical background in the relevant areas. A working group (also known as a coordinating group, a steering committee, or an LSG) will be organized, staffed largely with representatives from the ministries involved and often chaired by a ministry official. The specific ministries involved in an individual policy will vary depending upon the sector involved. Based on various case studies, the NDRC and the MOF are usually involved in most policy decisions to one degree or another.

In addition to the State Council, formal ministries, and relevant working groups, numerous government, and nongovernmental think tanks and research organizations are also consulted or invited to provide comments on current policies being drafted. Many of these organizations are usually asked for input related to one set of policies. These research reports (*keti*) are often performed under tight time constraints (six months or so) and represent major collective efforts. The social elite—comprising scientists, former officials, businessmen, and others with expertise and interest in the policy—will also provide input to the ministries in charge of drafting the policy.

Business associations and individual domestic and foreign companies can also influence China's policy process.⁵ The central government has formed (or encouraged the formation of) business associations to bring together multiple companies within an industry. Today, while many of these associations remain tied to the government through different channels, newer grassroots associations in different sectors have also appeared. Most of these associations are registered with the relevant government ministries in the industry, and they submit regular reports regarding the needs of business within the sector and proposing new policies or revisions. These industry-wide associations, which often include both foreign and domestic firms, submit regular reports to state officials regarding the needs of businesses within the sector. These associations represent a grow-

4. Chen Ling, "Bureaucratic System and Negotiation Network: A Theoretical Framework for China's Industrial Policy," annex E in "OECD Reviews of Innovation Policy: China," Organization for Economic Cooperation and Development (OECD), 2008.

5. An excellent exploration of these issues and related aspects of the policymaking process is given by Scott Kennedy, *The Business of Lobbying in China* (Cambridge, Mass.: Harvard University Press, 2008), chap. 2.

ing influence on the policymaking process in China. While think tanks in the West are often seen as revolving doors for government officials, these Chinese associations often serve as temporary or retirement posts for related government officials.

Aside from industry associations, individual companies sometimes directly lobby the government on specific policymaking issues. In other cases, appointments to the State Council or government ministries are also made based on a candidate's prior achievements as a manager within a business firm. Specific companies will likely continue to have a line to policymaking through this channel, given that the Chinese government is only increasing its policy of bringing successful business managers into the bureaucracy.

A proposed policy is drafted and submitted for debate and negotiation by the ministry officials and eventually for evaluation by the State Council. Once the policy is adopted by the State Council, it becomes an administrative regulation.⁶ However, if the regulation moves on to the NPC, it will often be sent back numerous times for revision before finally being submitted to the NPC to become law.⁷

Legislation adopted by the NPC is often vague, without clear directives to make it effective. As a result, in practice the responsibility for administering and implementing policies usually falls to specific ministries. Usually, the responsible ministries will then draft and implement their own set of lower-level policies that do not necessarily receive the input of the entire State Council or CCP. The Congressional Research Service notes that "the ministries wield decisive tactical influence over policy by virtue of their role in interpreting, implementing, and overseeing what central leaders often broadly and somewhat ambiguously define as Chinese policy goals."⁸ However, while ministry leadership may have wide discretion, the eventual review of these lower-level policies occurs indirectly once the heads of these ministries are considered for promotion within the Chinese bureaucracy.⁹

Finally, some Chinese policy can skirt the national legislative process altogether. Local governments and ministries may develop and enforce their own policy directives on narrow issues.¹⁰ However, any proposed policy that has a significant budget, requires cross-government coordination, or is attached to national development goals must pass through the more formal process described above.

The Process

The following page shows a chart of the general process. It is important to note that this is a basic overview of a series of stages that do not lend themselves well to a simple process flow chart. The purpose here is to give an idea of a general flow. For a more detailed and realistic analysis, see the case studies at the end of this paper.

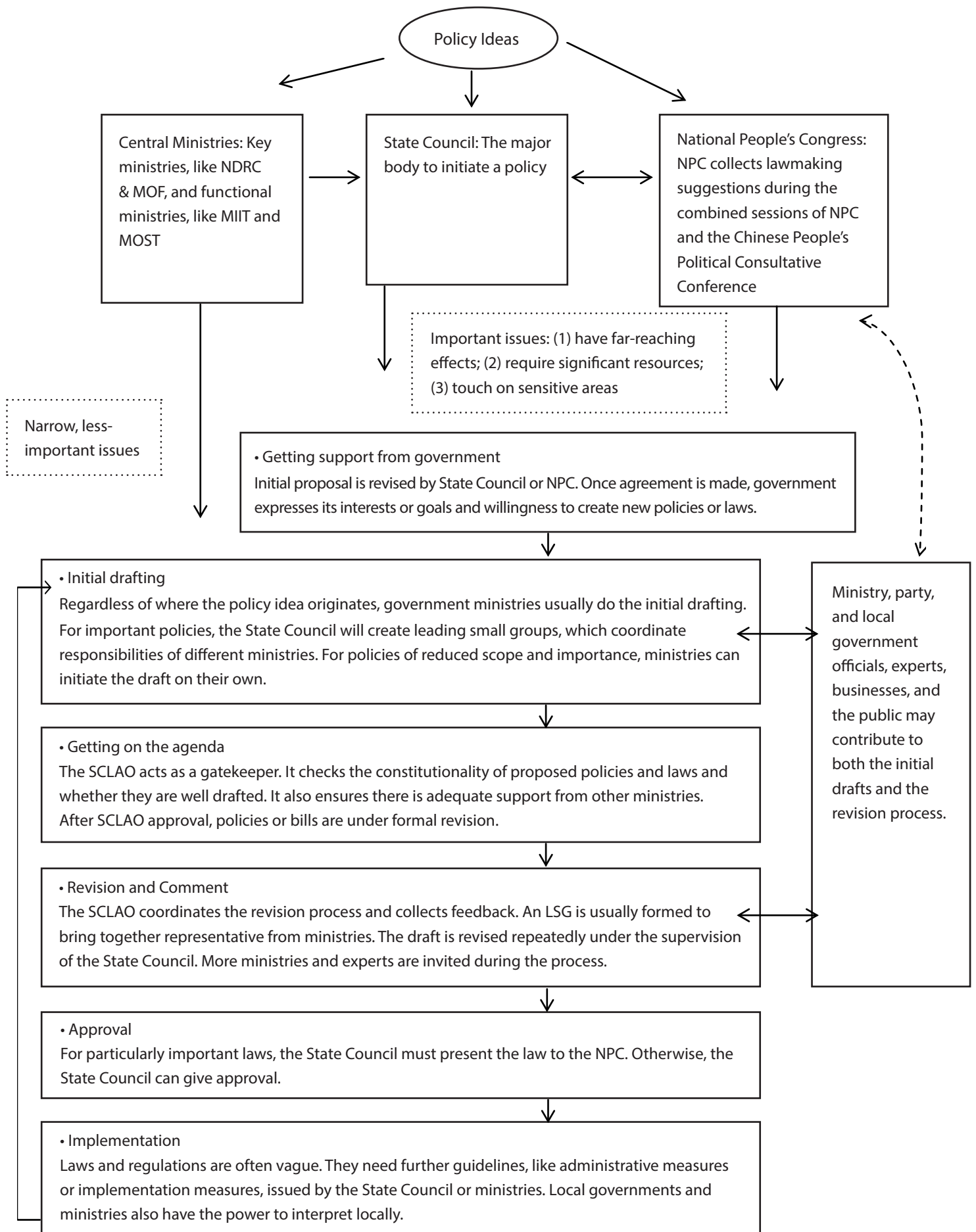
6. See "Appendix III: Categories of Legislation."

7. See "Appendix I: Categories of Legislation."

8. Michael Martin, "Understanding China's Political System," Congressional Research Service, April 14, 2010, 8.

9. Ibid.

10. See "Appendix I: Categories of Legislation."

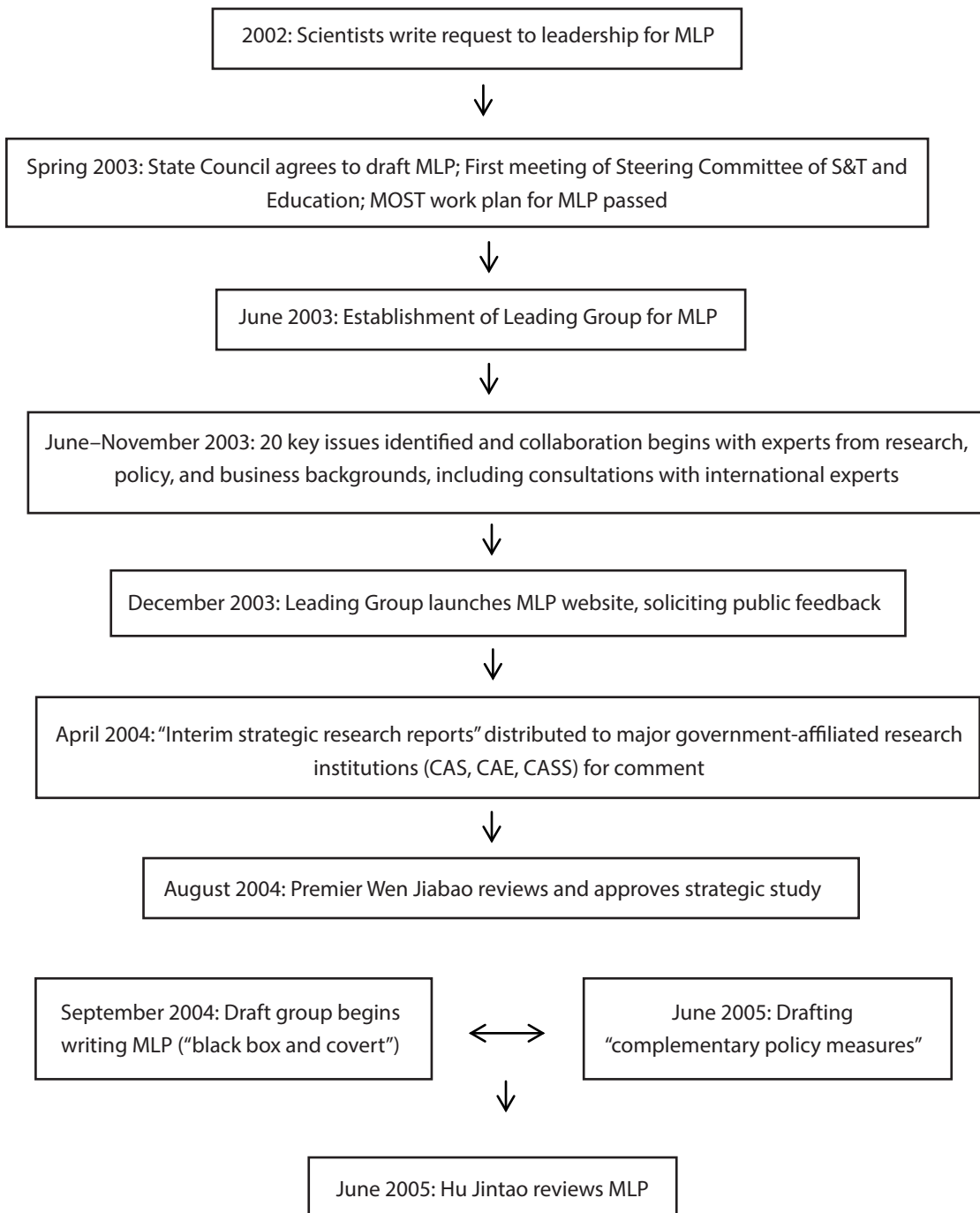


MLP Policy Process *(see graphic on following page)*

The process for the Medium- and Long-Term Plan for the Development of Science and Technology (MLP) shows in broad strokes the flow of top-level steps and illustrates the general outline given above. The MLP proposal was initiated by a group of distinguished scientists and was accepted by the State Council in 2003. Subsequently, the LSG, which was responsible for making the plan, took two years to perform research, solicit public feedback, and draft the plan. It was approved by the State Council in December 2005.

The MLP policy process example given below delivers a skeletal example of policy progression. Detailed case studies of the Strategic Emerging Industries Policy and the Environmental Tax Policy may be found in the appendices.

Policymaking Case Study: The National Medium and Long-Term Plan for the Development of Science and Technology¹¹



11. Adapted from Li Liu, "Research Priorities and Priority Setting in China," VINNOVA, November 2009, <http://www.vinnova.se/upload/EPiStorePDF/va-09-21.pdf>.

Influencing the Process

This policymaking process offers ample room for input and influence by stakeholders. While much of China's system is centralized, on the national level there is fragmentation between competing interests, and on the local level there is experimentation and flexibility in interpretation. National policies are also often initiated as a result of this local experimentation.¹² Although no single path can be used to characterize the Chinese policymaking process, the graphic above identifies the important bodies involved and some of the key points in the process through which almost all policies pass.

Policy Initiation

The policymaking process in China often starts with policy ideas or concept proposals, rather than draft bills. Proposed policy ideas can come from many sources, from the government and government research institutions to business associations, nongovernmental research institutions, and individuals. Local officials can also be a key source. These policy ideas can be recognized and discussed in official government documents, and although far from becoming law, they can still have significant influence. First, inclusion of proposed policy ideas in official documents is a signal of further action and consideration by the central government. Second, such appearances encourage experimentation among provincial governments and prompt comments and suggestions from stakeholders. Policy ideas may circulate in official documents for several years before becoming an official proposal or bill.

Policy ideas may also be initiated by lower-level governments, business associations, research centers, or other stakeholders. In practice, they must find partners in the central government or delegates in the NPC to present the proposals on their behalf. Therefore, all policies are officially presented by ministries, the State Council, or the NPC. Since each actor is likely to have their own strategic goals, it is important that specific policies find overlap and alignment with these higher-level strategic objectives.

If the policy ideas (1) have far-reaching effects, (2) require significant resources, or (3) touch on development goals or other sensitive areas, they must be submitted to and recognized by the State Council and/or the NPC in order to go further in the process. However, if a ministry has an idea that does not fit the criteria given above but is still within its mandate, it may skip the State Council and NPC approval processes and the ministry may draft its own policy.

Initial Drafting

The next step is to draft the initial policy language. For important issues, the State Council or the NPC will usually suggest certain ministries collaborate to draft the proposal and submit it to the SCLAO for review and approval. These collaborative organizations, which are called LSGs or Steering Committees, continue to work together on the proposal until it becomes law. As stated above, ministries may also draft policies on issues under their jurisdiction.

12. It could, in fact, be argued that China's entire reform process was started by local experimentation.

Getting on the Agenda

The SCLAO acts as a gatekeeper, and its approval is the first major step in entering the policy process. If the proposal passes the scrutiny of the SCLAO, it becomes a draft bill on the agenda of the central government, subject to revision and comment, led by the LSG under the direction of the State Council. The SCLAO also serves many other roles: editing the policy proposals submitted before it, coordinating between ministries to solicit feedback, arranging public hearings on a draft, and checking the legality of proposed laws against the Constitution and existing legislation. The SCLAO can also initiate its own drafts.

Revision and Comment

After approval by the SCLAO, a draft bill is still under State Council auspices, where there are important opportunities for public input and feedback linkages.

Often (and almost always, in the case of larger policies) there is a parallel process of revising and drafting through LSGs. The LSG is a mechanism found in all parts of Chinese politics—including the military, CCP, and legislature—that is meant to coordinate the work of the various actors that have a stake in a decision. The LSGs in the lawmaking process report directly to the State Council, although there have been examples of LSGs that are headed jointly by the State Council and the Central Committee of the CCP. An LSG brings together representatives from different areas of government to refine a proposed law, and the establishment of one is a clear sign of policy momentum. The members of the LSG are normally not publicized but are generally made up of State Council staff, representatives of the CCP, and officials from various ministries. During the period of consultation, an LSG may issue studies and white papers. Sometimes these are widely publicized to solicit feedback. Feedback mechanisms can be broad, such as soliciting comments from the general public, or more targeted, as in scheduling more private consultations with entrepreneurs or scientists on business or technology policy.

The period of deliberation, revision, and incorporating feedback through an LSG can take years. Once a bill is finalized by the LSG, it is submitted to the State Council for approval.

In recent years, there has been rapid growth in participation and public input regarding policy. The right for a drafting authority to solicit public feedback is protected in law. However, how and when to use this right are largely discretionary. The decisions about when to open a draft to commentary, to whom, and the method of exchange are all at the discretion of the drafting authority.

Legislation that must pass through the NPC has an additional round of revisions. The NPC's Standing Committee often revises proposed laws before presenting them for a vote.

Approval

The State Council can approve a piece of legislation, which is then part of law as an “administrative regulation” (*xingzheng fagui*). This is the case, for example, for most science and technology policy.

Otherwise, the State Council then presents the legislation to the NPC, the highest legislative body in China. Although the NPC itself is very passive, in some cases the NDRC must review the plan before submitting it to the NPC. Also, the Standing Committee of the NPC can revise drafts before they are presented to the NPC for a yes-no vote. This covert phase of reviewing and revising can have a substantial impact on the final form of the policy.

The NPC itself accepts proposals with near unanimity, but the behind-the-scenes work before a bill comes to a vote does have an influence on policy. Most of the ministerial authorities, experts, and public leaders involved in the drafting and revision of a bill are also members of the NPC. Thus, because of the familiarity and involvement of its members with the bill, when it comes time to vote the bill into law, the NPC almost always approves.

Interpretation and Implementation

After a bill is approved by the NPC, it is now a law and a part of Chinese legislation. Laws themselves are often vague and set forth general principles rather than clear prescriptions. Implementation and interpretation of the law are the responsibility of the State Council, which then releases more specific regulations—opinions (*yijian*) and decisions (*jueding*). Similarly, individual ministries and local and provincial governments also have authority to implement and interpret the law by enacting specific regulations consistent with the general language of the statute.¹³

Local governments and ministries are encouraged to adopt specific, trial policies suggested by the central government, and are allowed leeway to formulate and implement homegrown policies and pilot projects in different sectors. If these local policies are successful, then in some cases the State Council or the local government will push for national adoption of these policies. Examples of this include local experimentation with various forms of emissions trading schemes and special regional experimental zones for policies related to sustainable development.

Review and Repeal

Unlike the U.S. system, the legislative body, not the judiciary, in the form of the Standing Committee of the NPC, has the final say on the interpretation of national laws.¹⁴ It can also review regulations passed by the State Council, local-level governments, and lower-level People's Congresses. In cases of conflict between ministerial regulations and rules, the State Council generally resolves conflicting regulations. The different government bodies issue “interpretations, opinions, resolutions and orders” to implement, interpret, or explain laws, regulations, and rules.¹⁵

It is important to keep in mind that legislative process also includes discontinuing policies, whether they were standing or provisional measures. This can be just as important for stakeholders as the policy initiation itself. Many industry participants stand to benefit when existing policies are retired. In recent years, for instance, many of the tax policies that favored international firms over their domestic Chinese counterparts have been removed. Likewise, sectors in which the government has historically encouraged foreign investment may be removed from the encouraged list, as recently happened to certain categories in the automobile industry.

The Government and the CCP

The policy process clearly involves many actors at varying levels of political influence, especially in the formation and shaping of policies. It is no longer the case that a small group of elites can make

13. See “Appendix I: Categories of Legislation.”

14. Article 42, The Legislation Law of the People's Republic of China, http://english.gov.cn/laws/2005-08/20/content_29724.htm.

15. Corne, “Creation,” 728.

authoritative policy decisions. The eventual decisionmaking group, however, is much smaller and more driven by consensus. This group may be made up of core actors such as the premier, the vice premier in charge of the respective industry or area under consideration, officials from the department or ministry concerned, and often officials from the NDRC.¹⁶ Any member can veto decisions, and emphasis is put on balancing interests and promoting political and social stability.¹⁷

Strictly speaking, the Chinese political structure has three parts: the CCP, the government, and the People's Liberation Army (PLA). It is worth noting that the policymaking process discussed in this paper focuses on the government process, as opposed to that explicitly of the CCP or PLA. This is not to diminish the role of the CCP in the policy process, for the party clearly has the potential to either propel or hold back policies; the CCP also has ultimate practical authority due to its role in the promotion of officials. The CCP's involvement in LSGs, such as the influential Central Leading Group on Finance and Economic Affairs, and in supplying board members of state-owned companies, also give it critical roles in policymaking. The powerful Central Committee Political Bureau also sets core economic policy direction.

But as Kennedy has explained, while the CCP is very important, when companies or actors try to influence policy, they tend to go to government agencies and address officials in their respective administrative government capacities.¹⁸ The CCP is less and less involved in detailed regulatory and industry-specific issues; the government makes most of these decisions. But this is not to say that the CCP does not have jurisdiction, but rather that it has been focusing on broader, strategic-level questions, such as security, social, and economic issues. But it is important when approaching government officials in their administrative capacity to be aware of the party hat that this official might also wear (and how that affects power dynamics as well). And this is not just true for government officials; in state-owned enterprises, officials who wear these multiple hats (in particular, individuals in the Organization Department) can be especially influential because they represent both the party and a commercial interest group. This makes their voices especially important for industrial policy matters.

Tools

In terms of industrial policy, once a policy has been adopted, the government has a number of key tools at its disposal for furthering these goals:

- Fiscal incentives
 - There is a powerful set of fiscal incentives that the government has at its disposal, including tax exemptions, preferential tax rates, tax offsets, value-added tax refunds, research-and-development (R&D) tax deductions (a 150 percent deduction, meaning a 50 percent subsidy for R&D), special amortization and depreciation rules, and the lowering of import duties for core technologies, raw materials, and equipment.
- Grants
 - The Chinese government runs a number of nationwide R&D programs that direct grants and personnel to key areas and research institutions. The government offers

16. "OECD Reviews," annex E, 600.

17. *Ibid.*

18. Kennedy, *Business*, 49.

research grants to individual companies. For instance, Huawei received about \$150 million from the Chinese government for R&D in 2010.

- Financial support
 - Start-up capital, access to cheap land, access to bank loans (often at subsidized rates), and lines of buyer credit can be provided by the government. Because the government controls the banking sector, it can direct investment toward those areas that it considers strategically important. This access to funds can be the critical factor behind the failure or success of an industry or company.
- Foreign direct investment
 - Through the government investment catalogue, foreign direct investment (FDI) can be encouraged or discouraged in various areas. Where it is encouraged, FDI brings financial and human capital and technology. The Chinese government has also established foreign ownership limitations and required technology transfer in many sectors.
- Government procurement
 - Government procurement is a proven way to stimulate innovation. It can help new technologies achieve scale, help young companies bridge funding gaps, and direct funding to key areas. In China the government has gone further, actively promoting domestic standards, requiring indigenous ownership of intellectual property rights (IPR), fast-tracking patent applications, and steering purchases to domestic companies.
- Standards
 - China has encouraged the development of indigenous Chinese technology standards. Not only does it prioritize purchases and usage of the standards, it also can restrict the usage of competing international standards. And it can erect barriers to entry for foreign products by requiring compliance with complex and burdensome localization requirements and standards.
- Human resources
 - The Chinese government has made great efforts to attract professionals, mostly Chinese, who have studied and worked abroad. These returnees (or “sea turtles,” as they are known in China) bring with them a good deal of human capital.
- Infrastructure projects
 - Government commitment to infrastructure construction is a critical factor for developing industries. Whether telecommunications infrastructure or highways and high-speed train lines, these investments create the environment necessary for the other factors listed above to bear fruit.

Often, many or all of these economic tools can be implemented in high-technology industrial development zones, larger special economic and/or technological development zones, or other various special zones that focus on a specific subset of industrial, technical, or economic development. Such zones—which have been established at the national, provincial, municipal and district levels—not only allow for implementation of these economic tools but also allow for the circumvention of some existing regulations that could otherwise hinder industrial development.

Conclusion

The policymaking process in China is clearly fragmented, complex, and, to a *practical* extent, decentralized. It is also evident that government policy has a highly significant effect on the Chinese industrial ecosystem and cannot be ignored. This presents both challenges and opportunities.

The challenges are significant: There is no one person or organization that can craft, approve, and implement policies on their own; there are a large number of actors who need to be involved in the process. Thus, the complexity of the system presents difficulties for those that would seek to influence it.

The opportunities, however, are also great: There are many points of pressure that can be brought to bear on the system and at multiple points in the policy process. Understanding the different motives behind the actors in their roles as government bureaucrats and as party officials is important, as is aligning industry goals with higher-level strategic objectives. Recognizing inter-ministry interests is also vital, as consensus will drive many policies, resulting in “greatest common factor” solutions.

Because Chinese government policies are likely to continue to play an outsized role in industrial policy, it is imperative that companies consider the complexities of the policy process in both their short-term and long-term strategies. Moreover, given the size and influence of the Chinese economy vis-à-vis the rest of the world, the effects of these policy decisions are no longer confined just to China—and thus a better understanding of the policy process is important for even those companies not directly engaged in the Chinese marketplace.

APPENDIX I

CASE STUDY—STRATEGIC EMERGING INDUSTRIES POLICY

The establishment of Strategic Emerging Industries (SEIs) and corresponding supporting policies are good examples of how different ministries cooperate in policymaking.¹⁹ The notion of fostering SEIs was first proposed by the State Council. According to a request by the State Council, an LSG—consisting of the NDRC, the MOF, the MOST, the MIIT, the Ministry of Education, the Ministry of Agriculture, the Ministry of Commerce, the Ministry of Health, and the State Council Research Office—was set up to coordinate the drafting work. After 16 months’ cooperation, they reached an agreement on the draft, which became the guideline for further implementation of relevant policies.

The schedule following this introduction details each step of the process and shows how different ministries and agencies coordinate. That said, almost any single government-issued policy document can offer an illustrative example of how different groups cooperate in policymaking. In September 2011, for instance, a document was issued titled “Opinions Relating to Promoting the International Development of Strategic Emerging Industries.”²⁰ This document represents the joint opinion of the Ministry of Commerce, the NDRC, the MOST, the MIIT, the MOF, the MEP, the General Administration of Customs, the State Administration of Taxation, the General Administration of Quality Supervision, Inspection and Quarantine, and the State Intellectual Property Office. These organizations all have roles to play in the establishment and execution of related policies. The document begins with this long preface:

[To all] departments of commerce, development and reform, science and technology, industry and information technology, finance, environmental protection, taxation, quality supervision, inspection and quarantine and intellectual property of all provinces, autonomous regions, municipalities directly under the Central Government, cities under separate state planning and Xinjiang Production and Construction Corps; Guangdong Branch of the General Administration of Customs; all customs directly under the General Administration of Customs; all inspection and quarantine bureaus directly under the General Administration of Quality Supervision, Inspection and Quarantine:

Accelerating the fostering and development of strategic emerging industries is an important, forward-looking and strategic initiative of the CPC Central Committee and the State Council for transforming China’s economic development model and upgrading the industrial structure. Internationalization is an inevitable choice for fostering and developing strategic emerging

19. See below for a schedule outlining the dates, actions, and parties involved in the creation of Strategic Emerging Industries policy.

20. Ministry of Commerce of the People’s Republic of China Special Commissioner’s Office in Nanning, “Guanyu cujin zhanluexing xinxing chanye guojihua fazhan de zhidao yijian [Guiding opinions regarding the promotion of globalizing China’s strategic emerging industries],” September 8, 2011, <http://nntb.mofcom.gov.cn/aarticle/redianzhuizong/ai/201111/20111107828527.html?2291392188=603072048>.

industries. According to the “Decision of the State Council on Accelerating the Fostering and Development of Strategic Emerging Industries” (No. 32 [2010] of the State Council), we hereby put forward guiding opinions for the promotion of international development in strategic emerging industries as follows. . .

This is clearly a coordination document that has set aside differences between the groups and settled on a consensus that is to serve as a guide for ministry-specific and lower-level implementation of the original referenced decision.

Schedule of China’s SEI Policy

DATE	ACTIVITIES	ACTORS
2009.5	Vice Premier Li Keqiang attended a forum regarding financial support for strategic emerging industries. He announced the idea of “cultivating new economic developments through the strategic emerging industries.” ^a	
2009.9. 21–23	Premier Wen Jiabao hosted three conferences on the development of SEIs, gathering opinions from economic and technology experts. ^b Participating members discussed the development of new energy, energy conservation and environmental protection, electric vehicles, new materials and medicines, biobreeding, and the IT industry.	The State Council, CAE, CAS, and professors from universities and research institutes, experts from businesses and industry associations
2009.11.3	Premier Wen Jiabao gave a speech entitled “Let Technology Lead China’s Sustainable Development” to technology experts in Beijing. In his speech, new energy, energy conservation and environmental protection, electric vehicles, new materials, new medicines, biobreeding, and IT industry were listed as the seven original SEIs. ^c	
2009.12	The Central Economic Work Conference was held in Beijing. One of the key topics was accelerating the development of SEIs. ^d	The Political Bureau of the CPC Central Committee

2010.2.8	<p>The SEI interministerial coordination group (Leading Small Group) was established and charged with coordinating research efforts on the development of SEIs and drafting the 12th Five-Year Plan for SEIs.^e</p> <p>A document drafting group on “Accelerating the Development of SEIs” was organized, led by a vice chairman of NDRC.</p> <p>Industries—such as new energy, new materials, biology, biomedicine, information networks, energy conservation and environmental protection, electric vehicles, marine engineering, and geological exploration—were selected as potential SEIs.</p>	NDRC, MOST, MIIT, MOF, MOE, MOA, MOFCOM, MOH, SCRO
	<p>After the first conference of the SEI LSG, group members conducted national and regional research, industry- and policy-focused research as well as other specialized research activities.</p>	
2010.2.21–23	<p>The SEI interministerial LSG created two small research groups. One was dispatched to Hunan and Hubei for regional research, and another one went to Sichuan and Chongqing.^f</p> <p>Led by Zhang Xiaoqiang, vice chairman of NDRC, the research group in Hunan and Hubei held a panel involving local experts.</p> <p>Led by Ren Duying, vice chairman of NDRC, the research group in Sichuan and Chongqing held seminars and toured several important companies.</p>	<p>In Hunan and Hubei, the group was led by Vice-Chairman of NDRC, Zhang Xiaoqiang. Members included officials from MOST, MIIT, MOF, and experts.</p> <p>In Sichuan and Chongqing, the group consisted of officials from NDRC, MIIT, MOFCOM, MOST, and China National Tourism Administration.</p>
2010.2.24–25	<p>The SEI LSG hosted a conference in Hunan, attended by provincial DRC officials from the central and west provinces.^g</p> <p>Provincial DRC officials gave speeches on the development plan of SEIs in their provinces. Officials from MIIT, MOH, and China Securities Regulatory Commission also contributed to the discussion.</p>	NDRC, MSOT, MIIT, MOF, MOE, MOA, MOFCOM, MOH, SCRO, and Provincial DRCs.

2010.3.8	<p>Five ministries held a consulting meeting in Beijing on “Accelerating the Transformation of Economic Development and Vigorously Developing Strategic Emerging industries.”^{hi}</p> <p>Zhang Xiaoqiang announced that the LSG began drafting the “State Council Decision on Accelerating the Development of Strategic Emerging Industries” and would submit it in September.</p> <p>The LSG arranged a series of studies on new materials, new energy, energy conservation and environmental protection, biomedicine, biobreeding, biomanufacturing, information networks, new energy vehicles (NEVs), civil aviation and aerospace and marine engineering to help sort and select the official SEIs.</p>	NDRC, MIIT, MOST, MOF, MOHURD, MEP, NEA, and members from democratic parties.
2010.3.26	Forum dedicated to new energy SEIs was held in Beijing and hosted by the deputy director of the High-Tech Industry Department of the NDRC. ^j	NEA, CAE, CAS, NERI, and experts from industrial associations and representatives of new energy enterprises
2010.3.31–4.2	The SEIs interministerial LSG held a conference in Guangdong. Representatives from the Provincial Development and Reform Commission, Economic and Information Technology Commission, Science and Technology Commission, and Finance Commission of Guangdong Province commented on the SEI development plan. The Shenzhen Development and Reform Commission also weighed in, along with experts from Sun Yat-sen University, the Academy of Social Science, and business leaders from TCL and BYD. ^k	NDRC, MOST, MIIT, MOF, CAS, and experts from universities and companies
2010.4.7	<p>A conference dedicated to Maritime SEIs was held in Beijing.^l</p> <p>The conference attendees discussed utilization of ocean resources, bioproducts, materials and equipment. The current state of maritime SEIs was discussed alongside development problems, goals and implementation strategies.</p>	SOA, MIIT, CAS, and experts from universities, shipping companies, oil companies, and industry associations

2010.5.29	<p>The LSG for SEI development held a forum in Beijing. The forum focused on accelerating the cultivation and development of SEIs and also held discussions on six major topics: ideas and objectives behind the development of SEIs, positioning SEIs in the scientific community, increasing independent innovation, promoting institutional innovation and strengthening and supporting existing policy.^m</p>	<p>MOFCOM, MOF, CPRI, CAS, SCDRC, DRC of provinces and municipalities, and other organizations.</p>
2010.9.8	<p>Chinese premier Wen Jiabao chaired an executive meeting with the State Council, wherein the “State Council Decision on Accelerating the Development of Strategic Emerging Industries” was examined and essentially approved.ⁿ</p> <p>The meeting identified key objectives, important tasks and supporting policies for the development of the SEIs. It also determined that, with China’s current technological and industrial circumstances, the policy ought to emphasize and accelerate development in seven industries: energy conservation and environmental protection, next generation information technology, bioproducts, new materials, high-end equipment manufacturing, new energy, and new energy vehicles.</p>	<p>The State Council</p>
2010.10.18	<p>The State Council officially released the “State Council Decision on Accelerating the Development of Strategic Emerging Industries.”^o</p>	<p>The State Council</p>
2011.1.24	<p>The SEIs interministerial LSG held its fourth meeting regarding the development of the SEIs.</p> <p>They prepared for deployment of “The General Office of the State Council on Accelerating the Development and the Development of Strategic Emerging Industry Focus on the Division of Work Between the Program (on behalf of the draft)” (hereinafter referred to as “the Division of Work”) and “The 12th Five-Year Plan for Strategic Emerging Industries.”^p</p>	<p>LSG members from NRDC, MOST, MIIT, MOF, and other ministries</p>

2011.6.23	<p>The SEIs interministerial LSG met for the fifth time.⁹</p> <p>The LSG members listened to the report on the progress of the draft, made by the document drafting team leader. “The 12th Five-Year Plan for Strategic Emerging Industries (draft)” was examined during the meeting.</p> <p>The NDRC, MSOT, MIIT, MOF, and other departments in the LSG responsible for supervising implementation of the SEI policy announced that tactical coordination and task measures would soon be established.</p>	LSG members from NRDC, MOST, MIIT, MOF, and other ministries
2011.9.1	<p>The SEIs interministerial LSG submitted the draft of “The 12th Five-Year Plan for Strategic Emerging Industries,” and the preliminary plans for each of the seven strategic emerging industries to the State Council.</p> <p>According to the plan, four of the seven SEIs would be “pillar” industries, whereas three would be considered only “leading” industries.^f</p>	LSG members
2011.9.8	MOFCOM, NDRC, and other ministries jointly issued a document titled “Opinions Relating to Promoting the International Development of Strategic Emerging Industries”.	MOFCOM, NDRC, MOST, MIIT, MOF, MEP, GAC, SAT, GAQSIQ, and SIPO.
2012.1.5	<p>The expert review group, directed by the Ministry of Industry and Information Technology, the National Development and Reform Commission, the Ministry of Finance, the National Bureau of Statistics, and other relevant ministries, reviewed and agreed upon a “catalogue” for the strategic emerging industries.</p> <p>The catalogue was organized around the “principles of comprehensiveness, progression, regulation, growth, and drive.” The final form of the directory included seven industries, 34 categories, 152 subcategories, 470 classes, 332 subclasses, and contains a total of 721 kinds of products.⁵</p>	NDRC, MIIT, MOF, NBS, CBRC, CEEA, CVIA

2012.5.30	Premier Wen Jiabao chaired a State Council executive meeting which examined and approved in principle the “The 12th Five-Year Plan for Strategic Emerging Industries.” ^t	The State Council
2012.7.9	The State Council issued “The 12th Five-Year Plan for Strategic Emerging Industries,” incorporating the SEI development plans. ^u	The State Council
2012.9.25	The National Development and Reform Commission, together with other relevant departments, organized a group of experts to draft a “Guiding Catalogue of Key Products and Services for the Strategic Emerging Industries (Draft for Public Comment),” soliciting commentary from the public. ^v	NDRC

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b. Zhang Xuehua, ed., “Wen Jiabao zhuchi zhaokai xinxing zhanluexing chanye fazhan zuotanhui [Wen Jiabao chaired the forum on the development of strategic emerging industries],” *Xinhua News Agency*, September 22, 2009, http://news.xinhuanet.com/politics/2009-09/22/content_12098352.htm.

c. Central People’s Government of the People’s Republic of China, “Wen Jiabao fabiao rang keji yinling zhongguo kechixu fazhan jianghua [Wen Jiabao delivers speech on science and technology leading China’s sustainable development],” November 3, 2009, http://www.gov.cn/ldhd/2009-11/03/content_1455545.htm.

d. Huang Rui, ed., “Zhongyang jingji gongzuo huiyi zai beijing juxing hu jintao, wenjiabao zuo zhongyao jianghua [Hu Jintao and Wen Jiabao address the central economic work conference],” *Xinhua News Agency*, December 12, 2010, http://news.xinhuanet.com/fortune/2010-12/12/c_13645961.htm.

e. Ji Suping, “Zhongyang chengli bu ji xietiao xiaozu xinxing chanye huoying zhongda bushu [Central government authorities begin preparing inter-ministerial leading small groups for emerging industries],” *Xinhua News Agency*, February 24, 2010, http://news.xinhuanet.com/politics/2010-02/24/content_13038282.htm.

f. Yang Shisheng, “Zhongyang buji xiaozu diaoyan qi da chanye xinxing chanye guihua youwang shangbannian chutai [Inter-ministerial leading small group researches seven industries, anticipates plan on the strategic emerging industries in the first half of the year],” *Phoenix Net*, February 26, 2010, <https://finance.ifeng.com/news/industry/20100226/1864982.shtml>.

g. Anhui Province Development and Reform Commission, “Guojia zhanluexing xinxing chanye zhongxibu diqu zuotanhui zai xiang zhaokai shen zhuren chuxi huiyi [The national strategic emerging industries central and western district conference was held in Hunan, with director Shen in attendance],” March 1, 2010, <http://www.ahpc.gov.cn/showfgyw.jsp?newsId=10083977>.

h. Wang Miao Miao, ed., “Quan guo zhengxie jiu jia kuai jingji fazhan fangshi zhuanbian, da li fazhan zhanluexing xinxing chanye juxing tian banli xieshang hui [CPPCC National Committee held meetings on accelerating the transformation of economic development, vigorously developing strategic emerging industries],” *Xinhua News Agency*, March 8, 2010, http://news.xinhuanet.com/politics/2010-03/08/content_13127915.htm.

- i. Wang Yuewei, ed., “Duo jucuo quanfangwei wu bumen gongmou zhanluexing xinxing chanye da fazhan [Comprehensive action, five departments collaborate on the development of the strategic emerging industries],” *Xinhua News Agency*, March 9, 2010, http://news.xinhuanet.com/fortune/2010-03/09/content_13128923.htm.
- j. Central People’s Government of the People’s Republic of China, “Nengyuanju zhaokai zhanlue xinxing chanye xin nengyuan zhuanli diaoyan zuotanhui [Energy Board holds forum on strategic emerging industries and new energy research],” May 3, 2010, http://www.gov.cn/gzdt/2010-05/03/content_1598243.htm.
- k. National Development and Reform Commission, “Guojia zhanluexing xinxing chanye diaoyanzu lai yue diaoyan [Strategic emerging industries research groups head to Guangdong],” April 9, 2010, http://www.sdpc.gov.cn/dffgwdt/t20100409_339724.htm.
- l. Song Weiling, “Zhanluexing xinxing chanye zhuanli diaoyan haiyang lingyu gaoceng zhuanjia zuotanhui zai beijing zhaokai [Strategic emerging industries special report—marine experts attend conference in Beijing],” China Marine Economic Information Network, April 7, 2010, <http://www.cme.gov.cn/dongtai/201010/17.html>.
- m. Anhui Provincial Development and Reform Commission, “Guojia zhanluexing xinxing chanye fazhan gaoceng luntan zai beijing zhaokai [National strategic emerging industries forum held in Beijing],” May 31, 2010, <http://www.ahpc.gov.cn/showfgyw.jsp?newsId=10087860>.
- n. Central People’s Government of the People’s Republic of China, “Guowuyuan tongguo jiakuai peiyu he fazhan zhanluexing xinxing chanye de jue ding [State Council decides to accelerate the cultivation and development of strategic emerging industries],” September 8, 2010, http://www.gov.cn/ldhd/2010-09/08/content_1698604.htm.
- o. Central People’s Government of the People’s Republic of China, “Guowuyuan guanyu jiakuai peiyu he fazhan zhanluexing xinxing chanye de jue ding [State Council decision on accelerate the cultivation and development of strategic emerging industries],” October 18, 2010, http://www.gov.cn/zwgk/2010-10/18/content_1724848.htm.
- p. National Development and Reform Commission, “Zhanluexing xinxing chanye fazhan silu yanjiubu ji xiediao xiaozu zhaokai di si ci huiyi, yanjiu bushu zhanluexing xinxing chanye fazhan shi er wu gui hua bi anzhi deng gongzuo [The strategic emerging industries inter-ministerial leading group held its fourth meeting, and discussed how to implement the strategic emerging industries in the 12th Five-Year Plan],” February 9, 2011, http://www.sdpc.gov.cn/gzdt/t20110209_394230.htm.
- q. National Development and Reform Commission, “Zhanluexing xinxing chanye fazhan silu yanjiubu ji xiediao xiaozu di wu ci huiyi zai beijing zhaokai [The strategic emerging industries inter-ministerial leading group held its fifth meeting in Beijing],” September 26, 2011, http://www.sdpc.gov.cn/gzdt/t20110926_435444.htm.
- r. Feng Ligu, “Feng ligu: fagaiwei ling tou ru fazhanxing xinxing chanye shi yi chang naoju ma [Feng Ligu: investment in the strategic emerging industries is a farce],” *Caijing Network*, <http://comments.caijing.com.cn/2012-06-29/111918493.html>.
- s. Central People’s Government of the People’s Republic of China, “Wen jiabao zhuchi zhaokai guowuyuan changwu huiyi taolun tongguo shierwu guo jia zhanluexing xinxing chanye fazhan gui hua he quan guo youmumin dingju gongcheng jianshe shierwu gui hua [Wen Jiabao chaired a State Council executive meeting adopting the strategic emerging industries plan and the national nomadic peoples settlement plan for the national 12th Five-Year Plan],” May 30, 2012, http://www.gov.cn/zxft/ft231/content_2187981.htm.
- t. Central People’s Government of the People’s Republic of China, “Guowuyuan guanyu yinfa shierwu guojia zhanluexing xinxing chanye fazhan gui hua de tongzhi [State Council notice on the implementation of the strategic emerging industry plan in the 12th Five-Year Plan],” July 20, 2012, http://www.gov.cn/zwgk/2012-07/20/content_2187770.htm.
- u. National Development and Reform Commission, “zhanluexing xinxing chanye zhongdian chanpin he fuwu zhidao mulu [Strategic emerging industries key products and services guidance catalog],” http://www.ndrc.gov.cn/yjzx/yjzx_add_jb.jsp?SiteId=61.
- v. *Xinhua News Agency*, “Shierwu guojia zhanluexing xinxing chanye fazhan gui hua, quan wen [12th Five-Year Plan for the development of the strategic emerging industries, full text],” July 21, 2012, http://news.xinhuanet.com/energy/2012-07/21/c_123449379_14.htm.

APPENDIX II

CASE STUDY—ENVIRONMENTAL TAX POLICY

The creation of China’s environmental tax policy offers another illustration of the interaction between ministries, NPC committees, and the State Council from the moment an idea is recognized by the government to when it becomes an initial draft.²¹ The suggestion of an environmental tax was first brought forward in November 2002 and was officially recognized in government documents in July 2007. From 2007 to 2011, the idea of levying an environmental tax frequently appeared in various government documents and inspired heated discussion among legislators, scholars, and the business community. On October 10th, 2011, the NPC agreed on drafting the proposed law and suggested relevant ministries draft and submit it in a timely manner. The drafting process began in 2012 and has not finished as of the date of this report.

Schedule for China’s Environmental Tax policy

DATE	ACTIVITIES	ACTORS
2002.11.23	Phase III of the China Council for International Cooperation on Environment and Development (CCICED) convened its 1st meeting in Beijing. Conference attendees suggested that the Chinese government explore environmental pricing and environmental taxation. They believed that the cost of environmental degradation and resource depletion should be reflected in prices, such as consumption fees or a pollution tax. ^w	International and Chinese Council members, Task Force (TF) co-chairs, specially invited guests and observers.
2007.6.3	The State Council issued the “Notice by the State Council on a comprehensive framework for energy conservation,” which explored the possibility of levying an environmental tax. ^x	The State Council
2008.3.8	The Chinese Peasant’s and Worker’s Democratic Party submitted a report titled “Suggestions on levying an environmental tax in China.” The report analyzed both the necessity and possibility of levying an environmental tax in China. ^y	The Chinese Peasant’s and Worker’s Democratic Party

21. See below for a schedule outlining the dates, actions, and parties involved in the creation of Environmental Tax Policy.

2008.3.10	Delegates of the National People's Congress agreed with the proposal to levy an environmental tax. ²	National People's Congress
2008.8.25	NDRC, SCLAO, and other ministries issued the "Notice on the implementation of 'Chinese energy conservation law.'" The notice pointed out that the government should improve the resource tax and explore the possibility of levying environmental tax. ^{aa}	NDRC, MOST, MIIT, MOF, MOHURD, MOT, MOFCOM, SAT, GAQSIQ, SCGOA, and SCLAO
2010.10.27	The fifth meeting of 17th National Congress of the Communist Party of China passed the "CPC Central Committee's suggestion on making the 12th Five-Year Plan for economic and social development." In the suggestion, the Committee emphasized reforming the natural resource tax and levying an environmental tax. ^{bb}	National Congress of the Communist Party of China
2010.12.25	The Environment and Resources Protection Committee of the National People's Congress submitted the "Report on proposals raised by delegates during the third meeting of the 11th National People's Congress." The report suggested levying an environmental tax in addition to establishing a sound system of environmental protection laws. ^{cc}	The Environment and Resources Protection Committee of the National People's Congress
2011.4.12	The national tax system tax research work conference was held. The State Administration of Taxation set research on environmental tax legislation as one of the six key topics.	SAT
2011.8.31	The State Council issued the "Notice by the State Council on energy conservation and pollution reduction during the 12th FYP." Promoting reformation of environmental fees and levying an environmental tax on certain items were also mentioned in the notice. ^{dd}	The State Council

2011.10.10	<p>The Financial and Economic Committee of the National People’s Congress submitted the “Report on proposals raised by delegates during the fourth meeting of the 11th National People’s Congress.”</p> <p>The committee agreed on formulating an environmental taxation law and suggested the relevant ministries pay special attention to the issue and bring proposals in a timely manner.^{ee}</p>	The Financial and Economic Committee of the National People’s Congress
2011.11.22	<p>The State Administration of Taxation held a conference titled “Study on Environmental Tax Legislation” in Jiangxi.</p> <p>The subject of environmental taxation was established as one of the Administration’s six key research topics in the previous work meeting.^{ff}</p>	SAT and its provincial Bureaus
2011.11.29–30	<p>The “Symposium on China’s Environmental Tax Legislation and International Seminar” was held in Changsha, China.</p> <p>At the meeting, Chinese and foreign experts, scholars and government staff discussed issues related to the environmental tax system, including environmental tax collection and management, attribution and distribution, reform and development in addition to making policy recommendations.^{gg}</p>	<p>The Budget Committee, the Environment and Resource Protection Committee, and the Legislative Committee of NPC, Provincial People’s Congress budget committees from Hunan, Hubei, Sichuan, and Jiangxi.</p> <p>SCLAO, MOF, MEP, SAT, and their provincial bureaus</p> <p>Chinese and foreign experts from universities, research institutes, and accounting firms.</p>
2012.2.1	<p>The State Council issued the “State Council 2012 Legislative Work Plan.”</p> <p>In the plan, the State Council made the development of environmental tax law its number two priority, and proposed that the MOF and SAT draft a “Proposed Environmental Tax Law.”^{hh}</p>	The State Council, MOF, SAT
2012.4.24	Deputy-Director of The Budget Committee of NPC went to Hubei province and led the research on environmental tax legislation and possible implementation of policy that would provide fiscal support to small and micro enterprises. ⁱⁱ	The Budget Committee of NPC, Provincial bureaus of DRC, MEP, MOF, and ACFIC

2012.6.5	During a news conference, Vice-Minister of MEP, Wu Xiaoqing, said the Ministry of Finance, the Ministry of Environmental Protection, and State Administration of Taxation have begun writing a draft of the Environmental Tax Law based on national policy documents. ^{jj}	MOF, MEP, SAT
2012.6.29	At the “Chinese Energy Conservation and Emission Reduction in Steel Industry Forum—2012,” Gao Sheng, Director of the Office of Tax Policy in the Ministry of Finance, announced that according to the NPC’s requirements, the “Environmental Tax Law” draft will be submitted to the NPC next year. ^{kk}	MOF

w. China Council for International Cooperation on Environment and Development, February 9, 2003, http://www.cciced.net/enciced/newscenter/update/2003/201205/t20120514_227668.html.

x. Central People’s Government of the People’s Republic of China, “Guowuyuan guanyu yinfa jieneng jianpai zonghe xing gongzuo fangan de tongzhi [State Council notice on issuing a work plan for the conservation of energy and reduction of pollution],” June 3, 2007, http://www.gov.cn/jrzq/2007-06/03/content_634545.htm.

y. Central Committee of the Chinese Peasants and Workers Democratic Party, “Guanyu woguo kaizheng huanjingshui de jianyi [Regarding initiating an environmental tax],” *Caijing Network*, March 2008, <http://www.caijing.com.cn/2008-03-08/100051493.html>.

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aa. State Administration of Taxation, “Guanyu guanche shishi zhonghua renmin gong he guo jieyue nengyuan fa de tong zhi [Notice on the implementation of the energy conservation law],” August 25, 2008, <http://www.chinatax.gov.cn/n8136506/n8136593/n8137537/n8138502/8315813.html>.

bb. Zhang Ming, ed., “Zhonggong shierwu guihua jianyi: kaizheng huanjing baohu shui [CPC proposes environmental taxes be a part of the 12th Five-Year Plan],” *China News*, October 27, 2010, <http://www.chinanews.com/cj/2010/10-27/2617406.shtml>.

cc. National People’s Congress of the People’s Republic of China, “Quan guo renmin daibiao da hui huanjing yu ziyuan baohu weiyuanhui guanyu di shiyi jie quanguo renmin daibiao dahui di san ci huiyi zhuxituan jiaofu sheyi de diabiao tichu de yian shenyi jiegou de baogao [Report on the eleventh National People’s Congress’s consideration of the presidium’s proposal and motion regarding the natural resources and energy conservation committee],” December 25, 2010, http://www.npc.gov.cn/pc/11_4/2011-02/24/content_1631779.htm.

dd. Central People’s Government of the People’s Republic of China, “Guowuyuan guanyu yinfa shierwu jieneng jianpai zonghe xing gongzuo fangan de tongzhi [State Council notice on issuing a work plan for conservation of energy and reduction of pollution for the 12th Five-Year Plan],” September 7, 2011, http://www.gov.cn/zwqk/2011-09/07/content_1941731.htm.

ee. National People's Congress of the People's Republic of China, "Quan guo renmin daibiao da hui caizheng jingji weiyuanhui guanyu di shiyi jie quanguo renmin daibiao dahui di si ci huiyi zhuxituan jiaofu sheyi de diabiao tichu de yian shenyi jieguo de baogao [Report on the eleventh National People's Congress's consideration of the presidium's proposal and motion regarding the Financial and Economic Committee]," December 31, 2011, http://www.npc.gov.cn/npc/sjb/2011-12/31/content_1688778.htm.

ff. Chinese Government Public Information Union Platform, "zongju huanjing shui lifa yanjiu keti jieti hui zai shengju zhaokai [The environmental tax law research special topic taskforce meeting held in provincial bureau]," November 22, 2011, http://govinfo.nlc.gov.cn/jxsfz/xxgk/jxsdfswj/201206/t20120613_2034721.shtml?classid=363.

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Abbreviations

ACFIC	All-China Federation of Industry and Commerce
CAE	Chinese Academy of Engineering
CAS	Chinese Academy of Science
CBRC	China Banking Regulatory Commission
CEEA	China Electronics Enterprises Association
CPRI	China Policy Research Institute
CVIA	China Video Industry Association
GAC	General Administration of Customs
GAQSIQ	General Administration of Quality Supervision, Inspection, and Quarantine
MEP	Ministry of Environmental Protection
MIIT	Ministry of Industry and Information Technology
MOA	Ministry of Agriculture
MOE	Ministry of Education
MOF	Ministry of Finance
MOFCOM	Ministry of Commerce
MOH	Ministry of Health
MOHURD	Ministry of Human Resources and Social Security
MOT	Ministry of Transportation
NBS	National Bureau of Statistics
NDRC	National Development and Reform Commission
NEA	National Energy Administration
NERI	National Energy Research Institute
NTA	National Tourism Administration
SAT	State Administration of Taxation
SCDRC	State Council Development Research Center
SCGOA	State Council Government Office of Administration
SCLAO	State Council Legislative Affairs Offices
SCRO	State Council Research Office
SOA	State Oceanic Administration
SIPO	State Intellectual Property Office

APPENDIX III

CATEGORIES OF LEGISLATION

The level and types of authority of legislation in China and the weight it is given is determined primarily by which government body has issued it. While different types of legislation generally have specific terms that indicate the category within which they fall, this is not always the case. For that reason, it is important to identify the actual issuing body in order to determine where a new law, regulation, or rule falls within China's legislative framework.

The website for the Central Government of the People's Republic of China lists six categories of legislation, in addition to judicial rulings and foreign treaties and agreements. These categories include:²²

Laws and basic laws (法律/基本法律): Laws passed by the NPC or the standing committee of the NPC. They are legally binding on legislation by the State Council and on subordinate level people's congresses and provincial and local governments. Although the State Council and individual ministries can issue lower-level policies, all laws must be approved by the NPC.

Administrative regulations (行政法规): Regulations passed by the State Council. These are legally binding on ministries under the State Council and provincial and local governments.

Regional regulations (地方性法规): Passed by the lower-level People's Congresses. The highest level of authority is made up of the People's Congresses of the provinces, autonomous regions, and the municipal areas directly under the Central Government's control (Beijing, Shanghai, Tianjin, Chongqing). Below this level are the People's Congresses of "comparatively large cities," a term which "refers to a city where a provincial or autonomous regional people's government is located or where a special economic zone is located, or a city approved as such by the State Council."²³

Ministerial regulations or rules (部门规章): Passed by the central ministries and commissions under the State Council. Individual ministries generally have authority to pass rules that govern matters within the scope of authority awarded to them by the State Council.

Regional government regulations (地方政府规章): Passed by the local governments at the provincial level, and within the autonomous areas and municipalities.

Specific regulations and Special Autonomous Region regulations (单行条例, 自治条例): Passed by the People's Congresses of local autonomous areas. Correspond generally to "regional regulations."

22. Central People's Government of the People's Republic of China, "法律法规" [Laws and Regulations], <http://www.gov.cn/flfg/index.htm>. See also Corne, "Creation," 372; and Perry Keller, "The Sources of Order in Chinese Law," *American Journal of Comparative Law* 42, no. 4 (Autumn 1994): 711-59, at 728.

23. Article 63, The Legislation Law of the People's Republic of China, <http://www.lawinfochina.com/display.aspx?lib=law&id=386>.

Other normative documents (其它的规范性文件): Issued by any legislative or administrative body. An oft-used document in industrial policy areas is an “administrative measure” (管理办法). Another is “implementation measures” (实施办法). These sometimes follow the issuance of other laws and regulations in order to provide further clarification.

Legal Authority within the Chinese Framework

The highest “laws of the land” in China are the Constitution, the laws passed by the NPC and its standing committee, and the administrative regulations passed by the State Council. Other regional or departmental regulations must not contradict these three levels of legislation.²⁴ In comparing regulations issued by the local People’s Congress and the local government at a given level, the regulations passed by the local People’s Congress have a higher authority than those passed by the local government. Policies and regulations that do not qualify as laws do not necessarily need NPC approval and can be issued by the State Council or at the ministry level.

Interpretation

Unlike the U.S. system, the legislative body, not the judiciary, in the form of the Standing Committee of the NPC, is responsible for the interpretation of national laws.²⁵ It can also review regulations passed by the State Council, and by the local-level governments and lower-level People’s Congresses. In cases of conflict between ministerial regulations and rules, the State Council generally resolves disagreements between regulations. The different government bodies issue the following documents to implement, interpret, or explain laws, regulations, and rules that have been passed:²⁶

Interpretations and Opinions (解释, 意见): Issued by legislative and administrative bodies with lawmaking power. Will be used by courts, ministries and other organizations to interpret legislation.

Circulations (文件, 通知): Similar to interpretations and opinions, but also includes documents issued by lower level governments or ministries without lawmaking powers. These are often circulated internally, and while at this time they are not considered official law, Chinese courts can use them for reference in deciding disputes if the circulation relates to the matter being considered.²⁷

Resolutions and orders (决定, 命令): Most often used by the NPC Standing Committee to issue an interpretation on a law or basic law, or to delegate law making power within the State Council in certain areas.

24. Ibid.

25. Article 42, The Legislation Law of the People’s Republic of China, http://english.gov.cn/laws/2005-08/20/content_29724.htm.

26. Corne, “Creation,” 728.

27. Ibid., 417.

Other Sources of Regulation

Measures (行政措施, 具体措施): Measures are usually issued by the State Council, and appear to correspond to administrative regulations.²⁸ The Constitution of the PRC, in Article 99, also permits the local people's congress at the township level in Nationality areas to implement specific measures suitable to the inhabitants of the region.

National standards (国标): National Standards are generally drafted by the Standardization Administration (国家标准化管理委员会)²⁹ in its capacity as a ministry under the State Council. National standards will be designated with a "GB" followed by a number (e.g., GB 3838-88, Environmental Quality Standards for Surface Water). Many of these standards are drafted in accordance with international standards, and affect numerous policy areas ranging from industrial products and energy, to environmental standards. Standards can also be issued by other bodies such as local governments or enterprise associations, but these standards are often voluntary, unlike the National Standards, which are usually mandatory. The National Standards can play an important role in encouraging particular industries and companies operating in China. A recent example is China's adoption of a national standard to encourage the wider use of methanol for Chinese cars.³⁰

Local, enterprise, and voluntary standards: Local governments and enterprise associations can also draft standards in particular areas. Compliance is often voluntary.³¹

28. Article 89, The Constitution of the People's Republic of China, http://www.novexc.com/prc_constitution_1999.html.

29. Standardization Administration of the People's Republic of China, <http://www.sac.gov.cn/>.

30. "Industrial Standards Promote Methanol for Chinese Cars," Royal Society of Chemistry, April 11, 2008, <http://www.rsc.org/chemistryworld/News/2008/April/11040801.asp>.

31. American National Standards Institute, "PRC Standards System: The Standards Used in China," http://www.standardsportal.org/usa_en/prc_standards_system/standards_used_in_china.aspx.



APPENDIX IV STATE COUNCIL LEADING SMALL GROUPS (LSGS)

1. National Defense Mobilization Committee³²
2. National Border and Coastal Defense Committee
3. Air Traffic Control Committee of the State Council Central Military Commission
4. National Patriotic Health Campaign Committee
5. National Afforestation Committee
6. Academic Degrees Committee of the State Council
7. State Flood Control and Drought Relief Headquarters
8. Women and Children Working Committee of the State Council
9. The Disabled Working Committee of the State Council
10. Poverty Alleviation and Development Leading Group of the State Council
11. Customs Tariff Commission of the State Council
12. National Committee for Disaster Reduction National Science and Technology Education Leading Group
13. National Narcotics Control Commission
14. National Committee on Ageing
15. Leading Group for Western Region Development
16. Leading Group for the Revitalization of the Northeast Industrial Base
17. State Council Earthquake Relief Headquarters
18. Leading Group for Informatization
19. Leading Group Dealing with Climate Change, Energy Conservation and Emission Reduction
20. Leading Group for National Energy Resources
21. Work Safety Committee
22. State Council AIDS Working Committee
23. National Forest Fire Prevention Headquarters
24. State Council Three Gorges Project Construction Committee
25. State Council Water Diversion Project Construction Committee
26. State Council Food Safety Commission

32. Items 1–26, http://www.gov.cn/gjjg/2008-04/25/content_14612.htm.

27. Post-disaster and Recovery and Restoration Leading Group³³
28. State Council Leading Group for Deepening Health System Reform³⁴
29. State Council Leading Group for SME Development³⁵
30. The 6th National Census Leading Group³⁶
31. Leading Group for National Energy Resources ³⁷
32. Leading Group on Combating IPR Infringement and Sales of Counterfeit Goods³⁸
33. National Soil & Environment Protection Leading Group³⁹
34. Leading Group for Climate Change

33. See http://zhangping.ndrc.gov.cn/zyhd/t20120726_494184.htm

34. See http://govinfo.nlc.gov.cn/lmzz/lssj/xxgb/gszb/20094367/201104/t20110413_680462.html

35. See http://www.gov.cn/zwgk/2009-12/31/content_1500915.htm

36. See http://www.stats.gov.cn/zgrkpc/dlc/pcgg/t20121026_402845969.htm

37. See <http://www.sunpower.com.cn/NewsListAll.aspx?id=277&mid=378>

38. See <https://uschina.org/info/board-priorities/provide-strong-protection.html>; See also <http://www.zjfdi.com/news/20121112/n2126765.html>

39. http://www.gov.cn/ldhd/2012-10/31/content_2254955.htm



APPENDIX V CHINA'S 12TH FIVE-YEAR PLAN

China's five-year plans set the direction for its economic, political, and social development by establishing national goals and targets. The most recent plan, the 12th Five-Year Plan (or 12th FYP), was released in 2010 and will guide the country 2011–2015. The 12th FYP is an authoritative expression of China's increased emphasis on sustainable growth and the country's aspirations to transform into an innovation-based economy along the lines of "scientific development." The 12th FYP's targets fall under four categories: environment and resources; livelihood; science and technology; and economic development.

Resource Sustainability

Selected Targets

Reduction in water use per unit of industrial value added: 30 percent

Non-fossil fuel share in primary energy consumption: 11.4 percent

Reduction in carbon intensity of GDP: 16 percent

Reduction in sulfur oxide/ammonia nitrogen/nitrogen oxides emission: 8/10/10 percent

Implications

Higher energy costs and increased environmental regulation make China a less competitive destination for manufacturing. The privileging of low pollution, value-added industries over resource-intensive ones means that foreign companies will face competition higher up the value chain from China.

With government support, green industries are set to grow in China. If China remains open to foreign investment, this expansion translates to opportunities for U.S. and Japanese companies. If China entrenches its policy of indigenous innovation in green tech as a result of the increased policy emphasis, U.S. and Japanese firms will be frustrated.

Social Sustainability (Livelihood)

Selected Targets

Increase enrollment in basic urban pension scheme to 357 million people

Basic health insurance coverage increase: 3 percentage points

Increase in rural per capita income (yearly avg): >7 percent

Increase in urban per capita disposable income (yearly avg): >7 percent

Implications

Higher wages and a more complete safety net will translate into rising consumer spending as incomes increase and the need to save for old age and emergencies diminishes. Consumer industries, unlike production, are relatively open to foreign companies, so U.S. and Japanese firms are likely to benefit indirectly from these policies.

The social program of the 12th FYP also accelerates developing western China and rural areas. There will be more opportunities and growth in the interior, especially tier 2 and 3 cities.

Higher labor costs make China less competitive in the labor-intensive industries where it has long held an advantage.

Science and Technology

China also has a stated goal of moving up the value chain and reorienting the economy by expanding the service sectors, a distinction that covers much of the innovation-based knowledge economy. To reach these goals, the FYP identified several science and technology targets related to these goals:

- Research and experimental development expenditure to account for 2.2 percent of the GDP
- 3.3 patents per 10,000 people
- Increase coverage in 9 year primary education to reach 93 percent

Economic Development

The 12th FYP supplemented its goals of innovation-oriented growth by identifying seven strategic emerging industries (SEIs), which should grow from 2 to 8 percent of the Chinese GDP. A Chinese official publicly confirmed that \$1.7 trillion would be invested in the seven strategic industries over 5 years. An estimated \$600 billion will come from the central government itself.

Strategic emerging industries in the 12 FYP

Energy conservation and environmental protection industries

Next generation IT technology

Bio-industries

High-end equipment manufacturing

New energy sources

New materials

New-energy automobile industry

Implications for Competitiveness

The SEI designation usually spurs a rapid expansion in that sector, often leading to overcapacity and price pressures. This means fierce competition among Chinese firms and for foreign companies already operating in these sectors in China. International firms that compete against Chinese companies in export markets in these industries will also face heightened competition.

The service sector is still underdeveloped in China, and U.S. and Japanese companies may lose their advantage in areas like logistics, finance, and some segments of high-tech where there was an absence of strong local competition. Higher education standards will increase China's competitiveness in human resources.

More generally, China will become more competitive higher up the value chain. In this way, the SEIs align with the FYP's sustainability goals of creating green and high-value growth. Whereas Chinese companies have long competed on cost, the heavy emphasis on technology and innovation means that China will present stronger competition on these fronts too. The broader issue of China's economic openness will determine if international companies will see new mutually beneficial partnerships in the areas of SEIs or if they will be shut out of these areas.

The Policy Tool Kit

The FYP identifies priorities and sets a policy direction rather than announcing explicit directives. The document itself provides very little about the specifics of how China will meet the goals outlined in the 12th FYP, but China's past processes of implementation reveal an established tool kit for putting the FYP into practice:

Evaluation of local officials: Although the FYP is developed by the national government, implementation falls to local governments. Since reform and opening, the overriding criterion for evaluating local officials has been growth at all costs, but the central government announced that in some areas evaluations will increasingly include sustainability in line with the 12th FYP.

Tax incentives/disincentives: The SEIs undoubtedly qualify for a preferential national tax rate, which may be supplemented by provinces and municipalities. There is a raft of tax benefits available for high-tech companies and companies involved in R&D; these are certain to be maintained and expanded. To reach environmental targets, resource-intensive and polluting industries may face new taxes.

Subsidies: SEIs and other firms seen as advancing FYP goals often enjoy below-market prices on inputs, energy, and land. Meanwhile, firms in discouraged industries pay a higher than average rate for utilities. High-tech firms will likely enjoy export subsidies.

Credit availability: State banks in China are a channel for steering the direction of growth and will direct lending toward SEIs and projects that advance environmental and social equity goals. Localities, wishing to meet targets and ensure local development and employment, may

also extend credit. The China Development Bank offers credit guarantees to SEIs and national champions that support the goals of the FYP.

Local support and streamlined approval: All local and provincial governments are responsible for achieving FYP targets. As a result, they actively facilitate the establishment of SEIs and enterprises like green tech companies that will help them look good in light of FYP guidelines.

Other Policies that Affect Competitiveness

There are many ambiguities inherent in the 12th FYP, and whether the FYP will present more opportunities or advantages for U.S. and Japanese competitors relies on a broader policy context of the openness of the Chinese market. In short, the FYP sets the direction, but whether China competes on an even playing field will determine if the FYP gives Chinese firms an undue competitive advantage. Important here is *indigenous innovation*, a program announced in the 2006 Medium and Long Term Technology plan to increase China's domestic technology capacity through a set of policies, many of which overlap with those listed above. Some salient policies as identified by Springut and his colleagues for a study sponsored by the U.S.-China Economic and Security Review Commission are R&D investment, tax incentives, financial support, public procurement, technology absorption of introduced technologies, the creation and protection of intellectual property, the talent pool, education and science popularization, and science and technology innovation infrastructure. Some of these methods are typical for any country aiming to improve its competitiveness, but several points are disconcerting for U.S. and Japanese businesses, most noticeably domestic procurement requirements. Critics also allege that the drive to indigenous innovation has given state-owned enterprises' advantages over foreign companies and has led Chinese firms to appropriate Western technology. Although China loosened indigenous innovation requirements in 2010, Japan and the U.S. will watch these policies carefully to see if they accrue to an unfair advantage for Chinese companies.

China's Seven Strategic Emerging Industries and 35 Projects for Sub-industries Included in the 12th Five-Year Plan

ENERGY CONSERVATION AND ENVIRONMENTAL PROTECTION	<ul style="list-style-type: none">• High-efficiency and energy saving• Advanced environmental protection• Recycling usage• Reusing waste products
NEXT-GENERATION IT	<ul style="list-style-type: none">• Next-generation mobile communications• Next-generation core Internet equipment• Smart devices• Internet of Things• Convergence of telecom / cable TV / Internet networks• Cloud computing• New Displays• Integrated circuits• High-end software• High-end servers• Digitization of culture and creative industries
BIO-INDUSTRIES	<ul style="list-style-type: none">• Bio-pharmaceuticals• Innovative pharmaceuticals• Biomedicine• Bioagriculture• Biomanufacturing• Marine biology
HIGH-END ASSEMBLY AND MANUFACTURING INDUSTRIES	<ul style="list-style-type: none">• Aerospace and space industries• Rail and transportation• Ocean engineering• Smart assembly
NEW ENERGY SOURCES	<ul style="list-style-type: none">• Nuclear power• Solar power• Wind power• Biomass power• Smart power grids
NEW MATERIALS	<ul style="list-style-type: none">• New function materials• Advanced structural materials• High performance composites• Generic base materials
NEW-ENERGY AUTOMOBILE INDUSTRY	<ul style="list-style-type: none">• Electric hybrid cars• Pure electric cars• Fuel cell cars

Source: The main source is Willy C. Shih, "China's Five Year Plan, Indigenous Innovation and Technology Transfers, and Outsourcing." Testimony before the U.S.–China Economic & Security Review Commission, June 15, 2011. http://www.uscc.gov/hearings/2011hearings/written_testimonies/11_06_15_wrt/11_06_15_shih_testimony.pdf.

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