



December 13, 2013

The Honorable Ken Hyatt
Acting Under Secretary for International Trade
United States Department of Commerce

The Honorable Wendy Cutler
Acting Deputy U.S. Trade Representative
Office of the U.S. Trade Representative

Dear Acting Under Secretary Hyatt and Acting Deputy USTR Cutler:

We, the co-signing U.S. industry associations, commend your agencies for their continued work to advance the interests of US companies in China on conformity assessment issues. We recognize and appreciate your continued efforts to raise these issues in key bilateral commercial dialogues such as the US-China Joint Commission on Commerce and Trade (JCCT).

Conformity assessment restrictions in China remain an important issue for many US companies that need to have their product certified in China and to access the China market. Such bottlenecks can create unnecessary burdens for US companies doing business in China, and deny market access to a key segment of that market for testing and certification services provided by foreign-invested conformity assessment bodies (CABs). One key example that illustrates the challenges is the restrictions that companies face in seeking to comply with the China Compulsory Certification (CCC) scheme, a testing and certification regime that impacts more than 20% of U.S. exports to China.

Our organizations – which represent a broad range of industries and a cross-section of manufacturers, service providers, and conformity assessment bodies – are engaged actively with the US and Chinese governments to make constructive recommendations related to CCC implementation, including in documents such as our 2011 white paper on standards and conformity assessment.

We note that, thanks to US government efforts on this issue, the Chinese government made an important commitment at the 2012 meeting of the Joint Commission and Commerce and Trade (JCCT), confirming that eligible foreign-invested testing and certification agencies registered in China can participate in CCC mark-related work. China also committed to review applications from foreign-invested entities will use the same conditions as are applicable to Chinese domestic

entities. These commitments represent a positive step in reducing the burdens that companies face and addressing market access barriers.

Regrettably, we have seen little action to date to implement these commitments. To provide US negotiators with better information about the nature of the challenges that companies face, and concrete recommendations for meaningful progress on this issue, we are pleased to provide the attached document. We request that the US government push CNCA to provide information on its plans for fully implementing China's 2012 JCCT commitment, including specific timing, a process for issuing a call for applications from foreign-invested and domestic CABs that would cover all CCC product areas, and a process for the review of applications.

We would be pleased to discuss these issues further, and are happy to follow up with key offices within your agencies. The American National Standards Institute (ANSI), the U.S. Chamber of Commerce (USCC), and the US-China Business Council (USCBC) will be pleased to act as the contacts for the group of associations noted below and are available to coordinate a response to any questions. Please feel free to contact Leslie McDermott at ANSI (202-331-3626 or lmcdermott@ansi.org), Julia Howe at USCC (202-463-3127 or jhowe@uschamber.com), or Ryan Ong at USCBC (202-429-0340 or ryanong@uschina.org).

Thank you for your commitment to promoting U.S. competitiveness internationally, and working to ensure a level playing field for US industry in China. We look forward to further collaboration on these and other important issues.

Sincerely,

American National Standards Institute (ANSI)
Information Technology Industry Council (ITIC)
National Association of Manufacturers (NAM)
National Electrical Manufacturers' Association (NEMA)
Telecommunications Industry Association (TIA)
U.S. Chamber of Commerce (USCC)
US-China Business Council (USCBC)

Enclosure:

2013 Industry Associations CCC Advocacy Paper



Standards and Conformance in China: Approach on CCC

Conformity assessment restrictions in China remain an important issue for many foreign companies that need to have their product certified in China and to access the China market. Such bottlenecks can create unnecessary burdens for both Chinese and non-Chinese companies doing business in China, and deny market access to a key segment of that market for testing and certification services provided by foreign-invested conformity assessment bodies (CABs). One key example that illustrates the challenges is the restrictions that companies face in seeking to comply with the China Compulsory Certification (CCC) scheme, a testing and certification regime that impacts more than 20% of U.S. exports to China.¹

Many of the industry associations listed above – who represent a broad range of industries and a cross-section of manufacturers, service providers, and conformity assessment bodies – are engaged actively with the US and Chinese governments to make constructive recommendations related to CCC implementation, including in documents such as a 2011 white paper on standards and conformity assessment. Since then, the US and China have made important progress in discussions on these issues. The Chinese government made an important commitment at the 2012 meeting of the Joint Commission and Commerce and Trade (JCCT), and our associations commend this development as a positive step. However, we have seen little action to date to implement the commitment, and we recommend that China take concrete steps – including releasing a specific timeline – for implementing this JCCT commitment.

Challenge

In the past, China's National Certification and Accreditation Administration (CNCA) – which oversees CCC implementation – has interpreted Chinese law to require virtually all certification and testing for regulatory compliance to take place in China, and only by designated Chinese testing and certification bodies.² These restrictions extend to CCC testing and certification. In practice, this means that companies whose products have already undergone rigorous internationally accepted conformity assessment testing and certification in other markets must repeat those tests with Chinese test labs and certification bodies in order to gain CCC certification and access the Chinese market. These requirements also serve as a market access barrier for qualified foreign conformity assessment bodies (CABs) seeking to provide services

¹ http://www.export.gov/china/exporting_to_china/chinaandstandards.asp

² *Regulations of the People's Republic of China on Certification and Accreditation*, Article 30 ([Click here](#) to access the regulations online)

for the Chinese market. This seriously impacts their ability to better serve both Chinese and foreign customers and support national goals to improve quality and safety.

In addition, many products that must obtain CCC certification are in areas that have only one designated certification body (DCB) that is authorized to perform CCC testing, inspection and certification, a situation that can create significant bottlenecks for companies. This remains a real problem even though PRC regulations such as the *Regulations on Certification and Accreditation* state that there must be at least two choices of DCB per CCC product scope.³

Implementation of these requirements creates major challenges for both domestic and non-domestic manufacturers. The limited number of choices for conformity assessment bodies can add time and cost to the testing and certification process for both US and Chinese manufacturers. Non-domestic manufacturers, however, face additional challenges that often put them at a practical disadvantage vis-à-vis their Chinese competitors. Most Chinese DCBs, for example, do not have a presence outside of China, meaning that companies manufacturing in the US and exporting to China must arrange and fund travel for a pre-market inspection at the manufacturer's location by a Chinese inspector, and submit to subsequent routine factory inspections after receipt of the CCC mark. In addition, they must arrange to have their products tested and certified in China. Non-domestic companies also continue to run into language barriers in working with conformity assessment bodies that make limited accommodation to non-Chinese speaking manufacturers.

All of these factors cause significant obstacles in the system, leading to increased cost, delays to market, and other burdens for both foreign and Chinese companies.⁴ In addition, such bottlenecks ultimately create time delays, increased costs, or limit product availability to Chinese businesses and consumers.

US-China Bilateral Discussion

China's National Certification and Accreditation Administration (CNCA) made two important commitments at the 2012 meeting of the US-China Joint Commission on Commerce and Trade (JCCT). First, eligible foreign-invested testing and certification entities registered in China can participate in CCC mark-related work. Second, CNCA stated that China's review of applications from foreign-invested entities will use the same conditions that are applicable to Chinese domestic entities. These represent positive steps towards alleviating the problems that both Chinese and foreign manufacturers face in China. Implementing this 2012 commitment in full would lower costs and shorten delays for compliant products to be tested and certified for the CCC mark, thus allowing manufacturers to get products to the market more quickly and easily.

Since the December 2012 JCCT, however, our associations have seen no meaningful action taken to implement this commitment. In multiple rounds of bilateral exchanges between the US and China, CNCA has provided some additional information about the regulations that would, in

³ Citation from Article 32: "When designating certification bodies to undertake certification of products listed into the Catalogue, the certification and accreditation regulatory department of the State Council shall ensure that at least two certification bodies that meet the requirements of these Regulations are designated for each field of products listed into the Catalogue."

⁴ Citation from Article 29: "With regard to products subject to compulsory certification, the State shall apply one product catalogue, one set of technical regulations, standards and conformity assessment procedures, one obligatory mark and one structural fee chart."

theory, apply to foreign-invested CABs and that they could use to become accredited -- and designated – to offer CCC-related services, including:

- 2003 Regulations on Certification and Accreditation (in [English](#) and [Chinese](#))
- 2004 Administrative Measures for Compulsory Products Certification Bodies, Inspection Institutions and Laboratories (also known as AQSIQ Notice 65) (in [English](#) and [Chinese](#))
- 2009 Administrative Regulations for Compulsory Product Certification (also known as AQSIQ Decree 117) (in [English](#) and [Chinese](#))

While a review of these rules raises some questions about the process that foreign-invested CABs may face in seeking designation, the real question is the timeline for implementation. According to previous discussions, CNCA reviews requests to be designated to offer CCC-related services for specific product scope(s) only when they formally issue a call for applications. To date, our associations have seen no indication as to CNCA's plans to issue a call after the commitment was made. A clear timeline for implementation, including specific timing and definition of scope for when CNCA plans to issue a call, will provide the best indication that China's JCCT commitment has been implemented. The good faith effort shown by CNCA will be further bolstered and the commitment achieved by issuing and publicizing a formal call for applications, permitting domestic and foreign companies adequate time to draft and submit complete applications, translate those applications into Chinese (if applicable), and considering applications from foreign-invested CABs on an equal basis with their domestic counterparts.

Recommendations

We encourage CNCA to actively engage with the US government, industry, and other stakeholders to discuss its plans for implementing its 2012 JCCT commitment. We specifically recommend that CNCA:

- Provide a formal timeline for fully implementing the existing JCCT commitment related to CCC services, including specific timing and a process for issuing a call for applications from foreign-invested and domestic CABs that would cover all CCC product areas. This timeline should be provided as soon as possible.
- Directly engage with the U.S. government and industry to discuss the formal process by which they will review applications from foreign-invested CABs to offer CCC services.
- Review other trade and investment related regulations to ensure they do not conflict with this commitment.