

To: Our Clients and Friends

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China Issues Draft Rules on National Indigenous Innovation Product

China's National Development and Reform Commission ("NDRC"), the Ministry of Science and Technology ("MOST"), and the Ministry of Finance ("MOF") recently issued draft rules on the accreditation of indigenous innovation products.

The scope of the products covered by the accreditation includes: computing and application hardware, telecommunications hardware, modern office equipment, software, new-energy products, and highly efficient energy-reducing products. Any product covered by the scope and meets the following conditions is eligible for the accreditation:

- The product complies with PRC laws, and conforms to national industrial and technology policies.
- The applicant owns the intellectual property right in China pursuant to its own innovation, or has licensed the use of the intellectual property right in China. The intellectual property must not be subject to any disputes.
- The applicant owns the registered trademark of the product or is permitted to use the trademark in China.
- The technology used in the product is advanced, meaning that it raises energy efficiency or reduces pollution, or substantially improves on the structure, quality, production, or performance of the original product.
- The product is reliable. If the product is regulated, the relevant production license and certificate must have already been obtained.
- The product is already on sale in the market or has potential economic benefits or positive market outlook.

These rules are a revision of the draft rules issued in November 2009, which were heavily criticized by foreign business groups. Among other changes, the 2010 draft rules removed a highly controversial requirement that eligible trademark must originate and be first registered in China.

The public has the opportunity to comment on the draft rules before May 10, 2010. The application period to MOST for the accreditation is expected to last from May 10, 2010 to September 10, 2010. After the application period has ended, local units of MOST, NDRC and MOF will convene experts to review the applications, and make recommendations to MOST on products qualified for accreditation by October 20, 2010. MOST, NDRC and MOF will review the recommendations and release the accreditation to the public before the end of the year.

Products that gain accreditation will be included in the Catalogue of National Indigenous Innovation Products, and receive policy support from the government. Placement in the Catalogue is linked to government procurement preferences.

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