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An important part of my work as an advisor to Secretary Gary Locke and chief legal officer of the Department of Commerce is to ensure compliance with international law and the development of commercial laws that help expand American trade and commerce.

I have made a top goal and priority for myself and my office to work on legal rules that fulfill this function — in other words, to promote commercial rule of law. Secretary Locke believes, as do I, in the benefits commercial rule of law can have for U.S. companies seeking to export to China, and he has asked me to do everything I can to promote commercial rules of law in China. We also share a belief in the benefits that promoting commercial rule of law can have for the people of China in helping China expand rule of law generally.

This task provides a unique opportunity to be involved in our governments engagement with China, and to enlarge our wide array of work with China to strengthen commercial rule of law there. I consider myself fortunate to have this opportunity.

Trade and commerce is central to the relationship between the United States and China. As you heard earlier today from Secretary Locke, in 2009, bilateral trade in goods amounted to \$365 billion, making China our second largest trading partner. China was the third largest market for U.S. exports and our number one source for imports.

We need each other. Trade and commerce is critical to China's efforts to expand growth to populations and regions that have been left behind in its extraordinary and unprecedented economic expansion. It is critical to America's effort to retool our economy toward expanded exports. Successfully rebalancing this trade relationship is critical not only to the United States and China, but also to the world economy.

The commercial rule of law makes a difference. It matters in the United States. It matters in China. Why? Because it provides a steady platform for trade and commerce to flourish.

With the rule of law, businesses can predict and plan their investments, research and development, purchases, and sales with greater certainty. Without it, they are left to guess about the costs and benefits of any deal. Will their suppliers hold up their end of the contract? Will

the lender provide agreed financing? Will they be able to protect and enforce their intellectual property rights? Will a government change the contract price? Will their property be confiscated?

Business can go on without rules, but it is riskier and more expensive – and profits need to be higher to make up for this exposure.

There are other, non-economic benefits to commercial rule of law. A country with a well-functioning commercial legal system has judges who follow the rules, rather than making up answers based on expedience. It has lawyers who can argue forcefully for their clients based on the laws, rather than venturing only the arguments they think acceptable to the judge or other authorities. It has a population that looks to its government to set transparent rules, enforce them fairly, and follow the rules itself rather than set them aside when they are inconvenient. Commercial rule of law and broader rule of law are tied together in hundreds of ways.

Today I'd like to talk about what the Department of Commerce is doing to promote commercial rule of law in China, how both the United States and China continue to benefit from this cooperation and openness, and how legal professionals from both sides are suited to play leading roles as the U.S./China relationship continues to grow.

The Department's formal cooperation with China on commercial rule of law began under the US/China Joint Commission on Commerce and Trade, or the JCCT (which meets again in two weeks). Recognizing the central importance of commercial law to our economic relations, the JCCT in 1983 initiated a series of exchanges to foster mutual understanding of the legal regimes governing trade and investment in both countries.

These legal exchanges would offer U.S. audiences the opportunity to learn about the legal reforms that followed the economic liberalization taking place in China. At the same time, Chinese officials were interested in comparing foreign models as they drafted their commercial laws.

Our cooperation has grown and these legal exchanges now occur on an annual basis. I have had the honor of leading two U.S. delegations for the Legal Exchange – in 2009 in the United States and just a few weeks ago in China. Through the Legal Exchange, we have witnessed China opening up its commercial legal regime to the outside world and making significant strides in the strength and depth of its commercial laws.

The JCCT and its Legal Exchange component have fostered a strong bilateral relationship on commercial rule of law, but our leaders recognized that this relationship was in further need of enhancement and deeper cooperation.

To foster greater understanding of our respective commercial legal regimes, the United States and China agreed in late 2006 that one “pillar” of the newly-formed Strategic Economic Dialogue (SED) would be to increase cooperation on transparency in order to enhance predictability for market participants and promote confidence in our economies.

Transparency is an essential component of commercial rule of law. Transparency — the open development of laws and regulations through publication and notice-and-comment during the development of laws and regulations — promotes the development of better rules, stronger “buy-in” for those rules, less chance of unintended consequences, and greater predictability.

The “Transparency Dialogue” has proven itself one of the most successful, cooperative and beneficial aspects of the U.S./China commercial relationship. Both President Obama and his Chinese counterparts have stressed the need for both countries to be more open in their decision-making, and both China and the United States have made commitments under the Transparency Dialogue to regulating through a notice and comment process.

The high level of interest in this work I have seen from stakeholders is testimony to the importance of our bilateral cooperation on clear and predictable rules.

China’s commercial legal regime has made leaps and bounds since China’s accession to the World Trade Organization in 2001; in fact, according to Chinese Government statistics, in the first few years after joining the WTO China revised approximately 2,500 laws and regulations in order to support the commercial activity that would follow WTO accession. This transformation of China’s commercial legal regime has been impressive, but this regime continues to change as China’s economy modernizes and expands at its amazing pace.

Continued cooperation, while beneficial to the development of commercial rule of law in each country, can only achieve so much; commercial rule of law must also be supported from within.

Lawyers are uniquely positioned and qualified to lead and drive this support and development and to promote a robust, fair, and transparent commercial legal system.

As Chinese companies look to globalize and as foreign companies look to enter or expand their presence in China, Chinese law and lawyers will become an increasingly integral part of the global legal system. It is incumbent upon lawyers working in China – Chinese-qualified and foreign-qualified alike – to explore ways to enhance opportunities for greater collaboration and integration, and to develop relationships that let them learn from one another and share ways to promote commercial rule of law inside China.

I believe both of our legal systems must allow Chinese and U.S. lawyers to work hand-in-hand to promote the development of global commercial rule of law and to provide their clients with the legal services they need to prosper.

This is an area where China's legal regime is preventing important collaboration. Currently, Chinese law prohibits Chinese-qualified lawyers from practicing Chinese law as part of a foreign firm's representative offices in China. Recently, I spoke in several law schools across China, and it was a surprise to law students to learn that their opportunities to gain world-class experience when they graduate are limited by this rule.

This restriction must change if our economies are to grow together, if our companies are to innovate together, and if Chinese and foreign lawyers are to have opportunities to collaborate on commercial rule of law and promote commerce not only in the United States and China, but throughout the world. Enhancing cooperation between lawyers and between governments is important not only to the development of a strong commercial legal regime, but will have a significant impact on the development of rule of law generally.

I began my remarks today by noting some of the reasons that commercial rule of law is important, such as protecting business relationships, providing confidence in the market, and providing a speedy and fair system to resolve disputes. Strengthening a commercial legal regime to address these areas not only results in stronger commercial rule of law, but rule of law in the broader sense.

As Chinese courts become increasingly skilled at complicated commercial legal disputes, so too will they become more adept at handling complicated legal issues outside the commercial arena. As the Chinese Government becomes more transparent with and provides greater access to information about the rules governing commerce, so too will it begin to increase transparency and provide access to other types of government information. And as Chinese lawyers begin to play a larger role in promoting the development of a strong commercial legal regime, so too will they play a larger role in promoting the development of non-commercial laws and policies.

Our challenge is great. The pace of change in China has been stunning but, in a country of China's size and complexity, the path of change is neither straight nor flat. But I believe its general direction is consistent.

Thank you for the opportunity to speak with you today; I'll be happy to join our panelists in answering your questions.