



Hertie School of Governance - Working Papers, No. 61, July 2011

**Foreign Investors and National Economic Policy Formation in China:  
The Case of the Indigenous Innovation Program**

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working papers

## Foreword

This Working Paper by Larissa Weimer is her Master of Public Policy thesis, submitted in April 2011. She graduated in May 2011. The thesis is an explorative, theoretically-based empirical case study of to what extent foreign investors have been able to influence the process of national Chinese policy formation concerning a new program for indigenous innovation product accreditation. A Chinese government notification of November 2009 was the subject of much attention from foreign investors and meso-organizations, and the government subsequently published a revised “draft” in April 2010 which seemingly had taken into account many changes proposed by foreign investors, business groups, European Union Chamber of Commerce in China (EUCCC), and, especially, the US-China Business Council (USCBC). A second, “refined”, research question concerns who among foreign investors were most influential and through which channels pressure was exerted to affect changes in the new document from the Chinese government.

Larissa Weimer, who reads Chinese, has done a careful content analysis of various documents and can trace changes in government documents from 2009 to 2010 to a number of concerns raised by the foreign sector community as a whole at the meso level. Larissa Weimer did an internship at the GIZ, Beijing Office, under the guidance of Dr. Juergen Steiner, Deputy Country Director in China, Program Director for the Economic and Structural Reform Program, GIZ, Beijing. The study ends with recommendations as to what role the GIZ can play in China in the future, given the findings of the case study and given that a new role – if any – must be defined after Germany terminated its general official development assistance for China in 2010.

It is worth noting that after Larissa Weimer defended her thesis in May the official newspaper *China Daily* published on its front page on 1 July 2011 an article across five columns with the headline: “ ‘Discriminatory’ govt procurement rules scrapped”. In the article it is stated that “Three key rules on indigenous innovation for government procurement, which have come under fire from foreign companies for being discriminatory, were scrapped on Friday. Experts said the move, praised by foreign firms for allowing them better access to the domestic market, shows that the government is determined to continue to open to the outside world and treat Chinese and foreign companies equally”. This policy marks in fact a radical change from the original proposals introduced and discussed since 2006, and the “official” version given in *China Daily* corroborates the analysis made by Larissa Weimer about the crucial importance of the role played by foreign investors, business groups, EUCCC and USCBC for affecting this policy change. *China Daily* refers to the role played by these groups and the written complaints they conveyed about the originally proposed discriminatory policies.

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Master Thesis

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April 11th, 2011

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## Executive summary

*On November 15, 2009, the Chinese government promulgated the “Notification Regarding the Launch of National Indigenous Innovation Product Accreditation Work for 2009” (Notice 618), a new national accreditation program that is part of a bigger national innovation policy scheme. The new directive states that products can be accredited as “indigenous” if their commercial trademarks, patents, copyrights and non-patented technology and know-how have originated in China. Further, Notice 618 explicitly specifies that “indigenous” products cannot be subject to foreign restrictions; the trademarks used must be registered in China first and cannot be constrained by any related foreign brand. After the accreditation procedure, “indigenous” products are added to a national catalogue that is used for the national government procurement market, i.e. “indigenous” products are given priority in government procurement projects.*

*Notice 618 has attracted great attention from foreign investors in China immediately after its publication since their products would not qualify to obtain an “indigenous” product status. The immediate strong reaction of foreign investors against the implementation of Notice 618 has pressured the Chinese government to reconsider parts of its original indigenous innovation program and to submit a revised version.*

*The content analysis in this paper revealed that changes made in the revised version of Notice 618 were able to be traced to the concerns raised by the foreign actor community as a whole at the meso level. Further, it can be assumed that foreign actors, specifically multinational corporations via their representative organizations, as a group had an impact on the national policy formation process in regard to the implementation of indigenous innovation in China.*

*The findings of the content analysis have two implications for the Gesellschaft fuer Internationale Zusammenarbeit (GIZ). First, the importance of the indigenous innovation program and its serious discussion among foreign actors provides enough information for the GIZ to consider its involvement on the topic. Second, the foreign actors currently contributing to the discussion of the topic are in high demand, i.e. indicating that the GIZ in China could play a potentially crucial role in mediating the concerns regarding the indigenous innovation to influential Chinese state actors. Moreover, GIZ could acquire a position within the cumulative pressure group of meso-level actors.*

*As a major knowledge transfer agent, the GIZ with its research department for “Innovation and Technology” can offer its expertise within the discussion of indigenous innovation in China. Hence, one of the policy recommendations for GIZ is to contribute to the topic at the macro level by providing unbiased and objective advice to its current partners at the*

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*NDRC and the Research Office of the State Council. Another policy recommendation presented in this paper relates to the GIZ as an actor with vast experience in project implementation. GIZ could play a major role on the provincial and local level, assisting local governments and firms to implement the changes within the development of the indigenous innovation program.*

# 1 Introduction

On November 15, 2009, the Chinese government promulgated the “Notification Regarding the Launch of National Indigenous Innovation Product Accreditation Work for 2009” (Notice 618), a new national accreditation program that is part of a bigger national innovation policy scheme. The new directive states that products can be accredited as “indigenous” if their commercial trademarks, patents, copyrights and non-patented technology and know-how have originated in China. Further, Notice 618 explicitly specifies that “indigenous” products cannot be subject to foreign restrictions; the trademarks used must be registered in China first and cannot be constrained by any related foreign brand. After the accreditation procedure, “indigenous” products are added to a national catalogue that is used for the national government procurement market, i.e. “indigenous” products are given priority in government procurement projects.

Notice 618 has attracted great attention from foreign investors in China immediately after its publication. A wave of concern and criticism was directed especially at the conditions for accreditation that were stated in the attachment to Notice 618 and at the link of this new policy to government procurement. Multinational corporations (MNCs) operating in China fear that given the conditions for accreditation it will be difficult for their products, which are often developed outside of China, to obtain the status “indigenous”. Being excluded or having only limited access to the Chinese government procurement market without such a status would mean unfair competition between domestic and foreign firms for large-scale projects and hence fewer business opportunities for foreign firms without “indigenous” products. It is difficult to estimate the size of the Chinese government procurement market but it is usually valued at such high figures as \$85 billion each year. Even if foreign firms would move their research and development (R&D) centers to China in order for their products to qualify for “indigenous” accreditation, they fear that the disclosure of information on individual products during the accreditation process, in particular when applying for adjusted and further refined high-technology products, would not allow them to sufficiently protect their newly developed products and their intellectual property rights.

An initial event study analysis (see Appendix 1) indicates that the immediate



strong reaction of foreign investors against the implementation of Notice 618 has pressured the Chinese government to reconsider parts of its original indigenous innovation program. The main immediate reactions to Notice 618 were: a joint letter of complaint already on December 10, 2009, by 33 business and trade groups, industry associations and chambers of commerce; a letter of concern from the president of the European Union Chamber of Commerce in China on December 14, 2009; numerous articles issued by renowned newspapers that criticize the direction of the new innovation policy and that refer to requirements of the World Trade Organization (WTO); and concerns raised directly from the governments of the US, EU and Japan. After these numerous ways of criticizing the new program, the Chinese government published a revised version of Notice 618 on April 10, 2010. The revised version was titled a “Draft Notice Regarding the Launch of National Indigenous Innovation Product Accreditation Work for 2010 for comment” (from now on: Draft 2010), i.e. the Chinese government at this point only calls the policy a “draft”. Further, it opened the altered Notice 618 for discussion and public comments for the duration of one month, until May 10, 2010. Publishing Draft 2010 together with addressing the indigenous innovation policy in front of European representatives during a press conference with Premier Wen Jiabao and European Commission President Jose Manuel Barroso on April 29, 2010, have displayed the rising willingness of the Chinese government to face the concerns of an increasingly dissatisfied foreign investor community. Wen Jiabao made numerous verbal concessions towards foreign companies operating in China in connection to the indigenous accreditation process. For a senior Chinese leader to reply to complaints from foreign investors concerning a national policy is conventionally regarded as very unusual. This leads to the research question of this paper.

## 1.1 Research question

The initial review of the developments regarding the indigenous innovation program and Notice 618 suggests that foreign investors were able to influence the process of national policy formation. The Chinese government has changed its initial policy and altered its position in several points when publishing the revised version, draft 2010, on April 10, 2010, and has further agreed to accept suggestions from the public. Has the foreign investor community exerted such pressure on the central government that the Chinese government was under much pressure

to concede and soften the policy? Which role did different MNCs, chambers of commerce and business associations play in the process? How exactly did the initial policy change, and based on which inputs? The main research question of this paper is therefore: *Can the policy changes incorporated in the revised version of Notice 618 be traced to foreign investors, and can one therefore assume that foreign investors have an impact on national policy formation processes in China?*

While this research question might at first seem to entail an obvious positive answer, it is nevertheless worth asking it. The actual challenge is to trace the changes made. The changes between Notice 618 and the revised Draft 2010, described below, are obvious and substantial. But when trying to identify which actors have contributed to the alteration in which ways, i.e. the identification of not only who the foreign investors are but also through which channels and with which means they had an influence on the Chinese government's decision to alter the initial policy, is quite a complex and difficult task. A more refined research question therefore would be: *Who are the foreign investors and which channels and means have they utilized to influence the details of Notice 618 to change?*

In order to answer the questions raised above, it is first necessary to clarify the term "foreign investors". "Foreign investors" is a very general term. It includes all organizations and individuals who do not represent domestic actors in the host country and economy. Consultancies, business organizations and policy communities are considered foreign investors just as the actual foreign firms or multinational corporations which invest capital in China. The theoretical background chapter helps answer which group is referred to when talking about foreign investors. Which actors spoke out against the indigenous innovation program and which channels did they use to make their criticism and dissatisfaction heard? Was it foreign firms directly? What appears to be puzzling is that although it is foreign companies that are directly affected by the new product accreditation program, the positions of even major foreign firms are unknown. It was not possible to determine the names of all of the dozen European companies that were reported to be present at the press conference with Wen Jiabao and Jose Manuel Barroso on April 29, 2010. The media only referred to "major European companies including Volkswagen AG, Nokia Corp. and French oil giant Total SA"<sup>1</sup>. Some observers interpret individual companies' reluctance to speak out publicly as a "stranglehold

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<sup>1</sup> Available from [http://www.industryweek.com/articles/china\\_vows\\_fairness\\_for\\_foreign\\_companies\\_21710.aspx](http://www.industryweek.com/articles/china_vows_fairness_for_foreign_companies_21710.aspx). Accessed 22 December 2010.

the Chinese government continues to exert on foreign businesses”<sup>2</sup>. Google provides one of the best examples. When Google’s IT systems were hit with a series of cyber attacks in January 2010, Google tried to form an alliance with other affected companies (Microsoft, Hewlett-Packard) but was refused. But not speaking out can also be interpreted as a business strategy. Especially large MNCs are careful sending pessimistic outlooks on China’s business potential to their shareholders. Since it is yet too early to be able to assess the overall impact of this policy on business environment in China, MNCs are careful with regard to their comments on the indigenous innovation policy. In any case, foreign firms seem to utilize indirect channels to make their interests heard. In the considered example it is prominent that business councils, industry associations, chambers of commerce and international consultancies have been playing a dominant role. These intermediaries attracted a lot of attention publicly after Notice 618 was released and were constantly featured in the press. How do these foreign business groups represent their clients’ interests and how do they interact with the Chinese government? Do they have agendas of their own? The role of intermediate actors is addressed in this paper by referring to Wilson’s (2009) model of institutional change and in particular his focus on meso-level organizations.

Further, to gain a better understanding of what kind of changes were made in the revised versions of the initial Notice 618 and to what degree the Chinese government accepted changes, it is essential to look closely at the suggested alterations, at the intermediary that is providing them and the actual changes in the context of the different documents. The necessary documents (original issuance of Notice 618, the revised version, joint letters and comments published by individual industry associations, chambers of commerce etc.) are all publically available. In this paper the method of content analysis is applied to track the adjustments made. The methodology is described in detail at a later point in the paper.

*After the analysis, it should be possible to evaluate the extent of changes and respectively the level of influence that foreign investors were able to exert on the policy Notice 618.* Hence, the content analysis helps answering the research question. It should, for example, allow assessing the claim of the US-China Business Council to have substantially influenced the changes made in the revised version of Notice 618 that was published on April 10, 2010.

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<sup>2</sup> Available from [http://www.cctr.ust.hk/materials/library/Hurdles\\_foreignfirms20100518.pdf](http://www.cctr.ust.hk/materials/library/Hurdles_foreignfirms20100518.pdf). Accessed 19 December 2010.

## 1.2 Case selection and practical use for client organization

The case of the indigenous innovation program was selected due to three main reasons. First, the case received much public attention among the foreign community in China and marks a notable development in China's policy formation processes. The public discussion of details of the program, the Chinese government's reaction to public criticism even from foreign groups and the opening of policy drafts to public comments start to become common features in the formation of national policies. There are other and older examples (e.g. the process of formulating the Labor Contract Law in 2008) of this process. Second, the accessibility of public original documents of the policy itself and comments submitted by different business groups provide enough material to allow for a policy analysis. Third, being a still ongoing matter, the Deutsche Gesellschaft fuer Internationale Zusammenarbeit (GIZ) decided to explore ways to get involved in the discussion of indigenous innovation. The third point is further discussed in the remaining part of this section. It provides the background of GIZ's interest in the topic.

The extensive news coverage related to the indigenous innovation program in China was hard to miss even outside foreign business circles. The Economic and Structural Reform Program (ESRP) of the GIZ based in Beijing started observing the developments more closely in the spring of 2010 and especially after the visit of European Commission President Barroso in April 2010. Following the news reports, the ESRP became interested in the role intermediaries such as chambers of commerce and business councils played in providing policy recommendations and advice to the Chinese government in the field of national innovation policies. The policy analysis of this study therefore seeks to first supply the ESRP with a better understanding of the participation and impact of intermediary business groups on the policy formation process. In a second step and, assuming the analysis indicates an impact, potential formats for new participation and engagement of the GIZ in the Chinese innovation policy formation are explored.

Against the background of Germany's termination of its general official development assistance for China in 2010, the GIZ faces new challenges in securing the financing of its future projects in China. The GIZ was the main implementation organization for the German government's technical assistance projects in China for over 20 years. With the end of a close collaboration with the German Federal Min-

istry for Economic Development and Cooperation which supported GIZ's official development assistance projects in China, GIZ not only loses one of the most influential and well-known supporters for its projects but also faces new territory in conducting its projects in China. Next to the engagement in projects that take place under the initiatives of individual German ministries and that need direct budget approval from those ministries (e.g. the GIZ project 'Leadership Training on Environment and Climate Issues' by the Ministry of Environment under the Ministry's framework of the International Climate Initiative), the GIZ is currently especially considering developing its consultancy services further. The challenge to provide GIZ with relevant policy recommendations will depend on the identification of GIZ's expertise in the field of innovation policies.

Answering the research question, or the refined research question, of this paper should first provide more information on the relatively new subject of indigenous innovation. Further, the analysis of this paper helps evaluate whether an involvement of foreign actors in the discussion of the topic actually could prove rewarding, i.e. whether the topic is sufficiently important to jump on the discussion and whether influencing the discussion as GIZ is likely. In case of the finding that substantial adjustments have been made to the program due to foreign actors, the GIZ can assess its possible role of involvement and its expertise on the topic. With more insight on the channels that foreign actors utilize, especially through intermediaries, the GIZ being an intermediary itself gains knowledge on how to get involved, how to contribute.

### **1.3 Overall structure**

The thesis is subdivided in two major parts. The first and extensive part consists of a theoretical background to the topic and a content analysis of relevant documents from the indigenous innovation program to answer the research question. The second part is based on the findings from the theoretical considerations and content analysis of part one. It explores potential ways of how the GIZ could contribute to the discussion on the very recent developments in connection to the indigenous innovation program.

## 2 Theoretical background

The title of this section has been chosen to be ‘theoretical background’ and not ‘theory’ deliberately due to two reasons. First, this policy analysis paper does not seek to prove a theory or a model right or wrong. Since only one specific policy formation process is traced and investigated, the generalizability of the study is limited. Although the chosen case can be regarded exemplary, the scope of the paper does not suffice to verify a theory or a model. Instead, and this is the second reason for choosing to write on ‘theoretical background’, the theoretical work of others, mainly Wilson (2009), helps to place this policy paper into the wider scope of previous academic work and helps identify how and to which line of argument the paper contributes.

This paper relates to the study of processes of institutional change in China. Before resuming institutional change theories in general and highlighting the current stage of research on China in the next subchapters, one remark should be made already at this point. Although there are many actors shaping institutional reforms in China, given the selection of the case and specific features of China’s fast economic development, the emphasis of this paper is on the interaction of multinational corporations (MNCs) or foreign firms, their legal and consulting services and business organizations, and China’s state agents.

### 2.1 Causes of institutional change

Multiple definitions of institutions exist. To stay in the style of Wilson (2009), institutions are defined as: “a set of rules, formal or informal, that actors generally follow, whether for normative, cognitive, or material reasons.”<sup>3</sup> Important to notice is that the term institution is not referring to an organizational entity but to rules, regulations, norms, and strategies that are used by actors operating within or across organizations.<sup>4</sup> Although institutions are resilient, they still can and are subject to change. To identify which factors and actor constellations determine whether institutions remain almost unchanged, resist reforms and are even imitated over time or whether they alter has been in the center of scholarly attention especially in the past two decades. The research focusing on actors and dynamics of institutional

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<sup>3</sup> Hall and Soskice 2001, 9. Hall and Soskice derive the definition from Douglass North’s work.

<sup>4</sup> Ostrom 2007, 23.

change can be grouped mainly in two lines of arguments: endogenous versus exogenous explanations for institutional change, and the macro-level versus micro-level debate.<sup>5</sup> The next paragraphs give a brief overview on these two lines of arguments. Special attention is put on the role of domestic firms and MNCs, i.e. firms acting on an international scale. Through focusing on MNCs a bridge to Wilson's (2009) model of institutional change is constructed in the next subchapter. This is, in turn, relevant for the indigenous innovation case.

Scholars of endogenous institutional change focus mostly on studying domestic politics, organizations and actors. They are generally proponents of theories such as path dependency, believing that substantial institutional change is not very likely to occur or in case of occurrence is determined by a path that has been predefined in the initial institutional design.

“Varieties of capitalism and path dependency theories, two of the most robust explanations of endogenous institutional development, claim that national institutions tend to resist reforms, even in the face of globalization, because institutions are embedded in the normative, social, and political fabric of a country, which are slow to change.”<sup>6</sup>

On the contrary, supporters of exogenous explanations, often studying international relations theories, presume that international shocks and especially international crises provide the necessary pressure on domestic leaders to reform institutions. Hence, only severe structural crises have a large enough impact for institutions to change quickly. It is easy to find examples for both endogenous and exogenous causes of institutional change. But for this paper, the discussion of the macro- and micro-levels in the process of institutional change and the role of actors at these levels is more to the point of focus.

Many scholars have concentrated on studying macro-level institutions.<sup>7</sup> They observe how state actors, different lobby groups, non-governmental organizations and other domestic non-state actors contribute to and shape national policies and regulations; and relating to exogenous dynamics how multilateral organizations such as the World Trade Organization (WTO) or the International Monetary Fund

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<sup>5</sup> Wilson 2009, 14.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid., 15.

(IMF) have helped induce macro-level institutional reforms in member states.<sup>8</sup> Fewer scholars have observed changes in institutions at the micro-level and how these are reflected in institutional reforms at the macro-level. Interesting is especially the role of firms at the micro-level. Firms are usually considered smaller entities operating in a competitive environment. They are much more prone to modify their behavior and their firm-level institutions to meet occurring new challenges at the micro-level. They also face fewer bureaucratic obstacles compared to state actors at the macro-level and can adjust to institutional changes quickly. Generally speaking, the macro-level institutions that regulate and reflect an economy have to be in accordance with business practices and firm-institutions at the micro level. If not the case, pressure is created on state actors to adjust national institutions in order to conform to practices that evolved at the micro level due to certain market conditions.<sup>9</sup>

In the Chinese context, Tsai (2006; 2007) delivered an impressive account of endogenous institutional change induced at the micro level. Based on her concept of 'adaptive informal institutions', she provides evidence on how Chinese private entrepreneurs in the 1980s despite discriminatory national policies and regulations were pursuing various coping strategies and new ways of doing business on the local level. Through repetition and diffusion, their behavior ultimately caused national institutions to change in their direction.<sup>10</sup> Of course, there are also examples of exogenous influences on institutions originating at the micro level. Guthrie (1999) argues that foreign firms and investors were able to introduce international managerial and labor relation models that were imitated in Chinese state-owned enterprises (SOEs) at the micro level. He observes that especially joint ventures between SOEs and western firms increased the likelihood that western management structures were adopted. Joint ventures have long been seen as the largest source for Chinese entrepreneurs to learn from foreign companies, not only in terms of technology but also institutions.<sup>11</sup> Some scholars investigate the relationship of foreign direct investment (FDI) on local labor, legal and managerial reforms. Gallagher (2005), for example, asserts that in special economic zones (SEZs) that permitted FDI flows long before China as a whole opened up to FDI,

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<sup>8</sup> Wilson 2009, 15.

<sup>9</sup> Ibid.

<sup>10</sup> Tsai traces the development of national policies for the private sector in the last three decades in China and shows how through interaction and mutual adaptation private entrepreneurs and state actors together created the institutional arrangements of China's economy today.

<sup>11</sup> See Pearson 1991.



SOEs' managerial techniques differed from those in SOEs outside SEZs substantially.

As the examples above show, the two main lines of arguments that help explain the process of institutional change, i.e. endogenous versus exogenous and macro-versus micro-level dynamics, cannot be examined separately. The two lines of arguments and their interlinkages obtain new dimensions when considered together with the impacts of globalization. This is the content of the next section.

## **2.2 Institutional change, globalization and the role of MNCs**

### **2.2.1 Institutional change and globalization**

Wilson (2009) argues that globalization has affected the two lines of arguments for institutional change since it “entails the circulation of institutional forms, norms, and ideas through economic, political, cultural, and social networks across nation-state borders, thus eroding the coherence of national institutions.”<sup>12</sup> Furthermore, in the field of economic institutions, with the opening up of economies, with reduced restrictions on trade and capital flows, the role of firms has altered. Globalization has enabled domestic firms to become global actors who are involved in host countries not only at the institutional macro- but also at the micro-level.

Globalization has repercussions on institutional change theories. Path dependency theorists concede that global actors bearing new models of institutional designs interrupt the continuity and support for existing domestic institutional arrangements. By introducing new ideas, the ‘positive feedback loop’ that helps reproduce and develop existing structures is disrupted.<sup>13</sup> Regarding exogenous dynamics of institutional change, the impacts of globalization on institutions are different from big crises and external shocks. Instead of inducing institutional change radically by means of external crises, the influence of global actors tends to be incremental and over long periods of time. In addition, globalization increases pressure on governments at the macro level and on domestic actors at the micro level. The different types of global actors, the WTO and environmental organizations and MNCs to name a few, not only impose their individual ideas on host governments and

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<sup>12</sup> Wilson 2009, 15.

<sup>13</sup> Ibid., 16.

domestic organizations but they can also work together in pursuing similar goals and hence increase their influence.

As mentioned above, institutional change theorists tend to concentrate their studies on the pressure that global actors exercise on the national-level or on macro-level actors. Wilson (2009) takes a different approach. He argues that, first, globalization clearly also opens countries to pressure on actors at the micro level, and second, important connections and dynamics between the macro and micro levels are downplayed and understudied.<sup>14</sup> Although Wilson develops his theoretical model in general terms first and only in a second step examines in particular MNCs and business organizations in China, given the focus of this paper, MNCs and the immediate organizations assisting their work in China are regarded directly from now on. Before talking about MNCs in China and their impact on institutional change at different levels, it is important to begin with a remark on the different roles and scope of influence that MNCs enjoy in democratic, advanced capitalist countries in contrast to one-party states such as China. In fact, it is argued here that Wilson's model is rather questionable when applied in general to democratic states. His focus on the importance of the meso-level, for example, a level at which business groups and the policy community operate and through which MNCs seek representation, fits for China. MNCs in democratic states are able to be more open, communicating their concerns also through direct ways such as the media. As the background for the analysis in this paper Wilson's model appears to be suitable and accurate in depicting the operations of MNCs and their surrounding business organizations in the Chinese context. Although Wilson does not explicitly mention that he developed his model from studying institutional change in China, it is obvious since his evidence and examples throughout his book are taken exclusively from the Chinese context.

### **2.2.2 The role of MNCs in China**

When applying theories of institutional change to China and regarding the roles of different actors in the Chinese context, careful considerations and modifications are necessary. Studies on institutional change are largely based on observations of democracies and advanced economies. Modifications especially in regard to the role and impact of MNCs in China need to be made. In the international system

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<sup>14</sup> Wilson 2009, 17.

the political power and influence of MNCs grew steadily over time and many observers argue that they have become an important element of global governance.<sup>15</sup>

“Private political authority is no longer an oxymoron. Multinational firms can set standards, supply public goods and participate in international negotiations. MNCs’ role in international politics is no longer restricted to indirect participation through lobbying governments and attempting to influence policy positions: They have become subjects rather than objects of international politics.”<sup>16</sup>

Hence, MNCs operating on the international level today enjoy more authority and influence. This, however, does not imply that MNCs have the power to exercise the same level of influence over individual states which is a related but separate issue. In democratic states, in addition to MNCs being able to represent their interests in domestic forums on different levels, the adoption of international commitments implies also eventually the incorporation of these commitments into the domestic legal system, i.e. through their involvement on the international level MNCs can directly influence a state’s policies. In sum, MNCs have multiple ways to approach states and influence policies or trigger institutional change. Further, democratic governments are accountable to their domestic constituencies. By not adhering to their international commitments they might face changes in support from their constituencies. In one-party states such as China, MNCs face obstacles, limitations and challenges in relation to all of the briefly mentioned spheres in this paragraph.

Of course, China is part of the global community; it has joined multiple international treaty and multilateral organizations such as the WTO. There is no doubt that China has committed to international norms and standards of conduct within those treaties and organizations,<sup>17</sup> however, it is difficult to assess the implications of these commitments. China represents a state and an economy which is of great interest to foreign governments, multilateral organizations and MNCs. The pressure from global actors on China is not to be underestimated. But given China’s legacy of state socialism, Chinese state actors enjoy relative autonomy from the

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<sup>15</sup> See Kobrin 2007; Fuchs 2005; Cutler et al. 1999.

<sup>16</sup> Kobrin 2007, 14.

<sup>17</sup> See Foot 2001; Johnston 2003.

society and constitutional constraints.<sup>18</sup> Domestic groups need to be inventive in voicing their political concerns since periodic elections, protests or open lobbying are not an option. The relative autonomy of Chinese state actors allows them to be selective in their response to pressure from domestic groups as well as from global actors. Moreover, especially in the field of economic policy and despite the major transition period of the Chinese economy, state actors still assume extensive state control over the economy within e.g. state-owned banks and state-owned enterprises. Due to China's economic development and its market's potential, MNCs are interested and willing to do business in China even under constraints. "MNCs are particularly attracted to the vast pool of skilled and, compared to the developed countries, low-paid academics graduating from China's universities, the low costs and regulatory barriers for clinical trials, preferential tax policies etc."<sup>19</sup> Since the market is largely controlled by confident state actors they need to be careful how they voice their interests or concerns regarding the institutional framework provided by these state actors.

In case of China's indigenous innovation policy, the introduction already indicates that the role of MNCs in China is still confined to the use of indirect channels for lobbying the government and attempting to influence policy positions. No evidence is currently publically available which directly represents individual MNC's views regarding sensitive topics such as the indigenous innovation policy. No attempts of MNCs to directly address Chinese state actors on the topic can be found either. Rather, this is done through the indirect representation by business organizations, chambers of commerce, industry associations, which is the topic of the next section.

### **2.3 Wilson's model of institutional change – The meso-level in China**

Although state actors in China enjoy a certain degree of autonomy and control still large parts of the economy, they can never fully control global actors such as MNCs at all levels that these are engaged at. Wilson (2009) analyzes institutional dynamics at three levels in China, the micro, meso and macro level, and focuses mainly on their interactions with Chinese state actors.

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<sup>18</sup> Wilson 2009, 42.

<sup>19</sup> Kroll et al. 2008, 187.

As mentioned before, globalization opened China's economy to pressure not only at the macro level but also at the micro level. At the macro level, state actors establish a legal and regulatory framework in which domestic firms, individuals, organizations and the foreign investor community interact. The macro level is driven by efforts to comply with bilateral and international agreements, by the domestic normative conditions and the country-specific political system. At the micro level foreign and domestic firms are considered to be the main actors.<sup>20</sup> Although state actors also at this level establish a regulatory framework for businesses and professional services, new institutional models that reflect individual MNCs' home-country practices and shape MNCs can be introduced to the host economy. Wilson identifies four main processes at the micro level: 1) organizations establish or transfer firm-level institutions that shape their operations; 2) firms compete with each other for business and hiring staff, creating pressure to improve institutional designs; 3) informal institutions such as workers' social norms shape intra-firm behavior; and 4) individuals provide feedback on firms by choosing for whom they work.<sup>21</sup> The information created at the micro level by firms and individual workers can be used to collect feedback on the performance of firm-level institutions and on macro-level institutions that provide the bigger framework for operations at the micro level. In case of the indigenous innovation program, fair competition between MNCs and domestic firms at the local level is impeded due to preferences granted to "indigenous" products and therefore domestic firms in government procurement. With the new policy MNCs were pressured to react and try to return a potentially fair competition situation by trying to change the institutional structure of the policy. Since MNCs in China cannot openly speak out or openly lobby the government, they have to address intermediaries who will represent them. These intermediary actors are operating at the meso level.

At the meso level, and this is where Wilson's analysis contributes most, one can find actors such as consultants, business organizations, chambers of commerce and generally policy communities. These actors observe and absorb the information, trends and feedback that micro-level organizations provide within their institutional designs. "At this level of analysis, institutional regimes and sub-regimes take shape, contend, and are diffused to state reformers above and organizations be-

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<sup>20</sup> Wilson 2009, 32.

<sup>21</sup> Ibid., 17.

low.”<sup>22</sup> By studying numerous examples of foreign firms operating in China, Wilson contends that through the work of especially foreign firms with their unique set of business practices and policy communities at the meso level, alternative practices compared to the domestic way of doing business emerge.<sup>23</sup> Although state agents can control the emergence of such alternative practices or new ways of operation with the help of policies and licensing of firms, their range of influence is usually strongest in relation to providing regulations for the state-owned branches of the economy. Hence, individual alternative business practices introduced by foreign firms or MNCs might prove successful and therefore become best-practice examples that might be imitated by the domestic firms at the micro level. Once these best-practice examples prove better performance and results and might help state actors to achieve certain reform goals, these practices “may enjoy state backing, thus diffusing institutional change”.<sup>24</sup>

There is literature that is skeptical of whether MNCs actually can shape business institutions in host environments. While some scholars show evidence that MNCs carry their home institutions abroad and can transform local business institutions, others focus on the opposition that MNCs can run into in host environments or on the assimilation of MNCs’ business practices and those of the host economy.<sup>25</sup> While Whitley in general doubts that MNCs can shape their environment, he admits that under certain conditions such as high foreign direct investments or when there is a high degree of institutional unity among foreign investors; MNCs might be able to alter the institutional framework of a host country.”<sup>26</sup> The second condition, strong institutional unity among foreign actors, is considered to be a possible explanation for the changes in institutional design in regard with the initial indigenous innovation program. The following analysis will provide more insight on this question.

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<sup>22</sup> Wilson 2009, 18.

<sup>23</sup> Ibid.

<sup>24</sup> Ibid.

<sup>25</sup> See Kristensen and Zeitlin 2001; Doremus et al.1998.

<sup>26</sup> Whitley 1999, 128.

### 3 Content analysis

Before proceeding with the actual content analysis of relevant documents, three short steps are taken. First, the methodology is briefly described. Second, the main Chinese state actors in the field of China's innovation policy are identified. Third, the documents of analysis are placed into the context of related policies that preceded the initiation of the implementation phase of the indigenous innovation program with Notice 618.

#### 3.1 Methodology

A content analysis is a systematic analysis of texts and documents. It is regarded a suitable method to answer the research question of this paper. The original and relevant documents with regard to the indigenous innovation program are publically available and therefore can be reviewed and compared. By applying the method of a qualitative systematic analysis due to the focus on changes in text and context, in particular three goals are pursued. The first goal is to identify the actual changes of the different versions of Notice 618 by comparing the texts, i.e. finding the alterations the Chinese government made to Notice 618 when publishing the "Draft Notice Regarding the Launch of National Indigenous Innovation Product Accreditation Work for 2010 for comment" (from now on: Draft 2010). The second goal is to trace these changes back to comments and critiques that were provided by foreign actors as a response to Notice 618. Tracking the changes to its potential sources might provide the relevant but missing proof that foreign actors indeed had an impact on Chinese state actors who adjusted their policy positions for indigenous innovation. In the process of the content analysis, the third and more indirect goal is to identify the main sources and contributors to the changes in policy positions. Hence, the organizations, business associations, and chambers of commerce that commented on Notice 618 should be revealed and their contribution and extent of influence assessed.

The procedure for the content analysis below will be the following. In a first step

the original texts of the documents, the initial Notice 618 and Draft 2010, are identified and the accurate translations into English from the Chinese originals are produced. Then, the two versions are compared by contrasting the passages that entail similar content. The identification of the main changes from Notice 618 to Draft 2010 is the next step. After that the comments, letters of concerns and general critique that followed the issuance of Notice 618 in 2009 are observed. The key passages that show direct recommendations for changes in Notice 618 are then compared with the main changes that were identified between Notice 618 and Draft 2010. Finally, the analysis is concluded by a discussion of whether the changes in Notice 618 can be attributed to suggested changes by foreign actors and by an assessment of the extent of influence from foreign actors on Chinese state actors' policy positions in regard to indigenous innovation. Much attention is given to the original Chinese versions of the texts to avoid inaccuracies in translation or subjective interpretations of foreign actors.

## **3.2 Main state actors in the Chinese innovation system**

### **3.2.1 Background on the Chinese innovation system**

Since the beginning of economic reform, the Chinese government utilized mainly the inward flows of foreign direct investment in order to achieve technology transfer and improve the technological capacity of its domestic enterprises.<sup>27</sup> With further economic liberalization, the government, mainly in a top-down approach, started to formulate targeted technological policies to enhance the innovativeness and international competitiveness of domestic firms. The ultimate goal became to try to close the technological gap with the developed countries and to be independent from technology transfer from abroad. While state-financed research and development (R&D) was at first directed to the support of strategically important state-owned enterprises, since the end of the 1990s the government recognized private enterprises as a vital part for driving innovative capacity.

Today, Chinese leaders are confident enough to aim at "original innovation by means of endogenous technological development."<sup>28</sup> In the government's "Medium- and Long-Term National Plan for Science and Technology Development 2006-2020", China's goals for 2020 are to master a number of core technologies,

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<sup>27</sup> Kroll et al. 2008, 169.

<sup>28</sup> Ibid., 170.



to achieve international standards in cutting-edge technologies, e.g. in information, material and aerospace, and to belong to the world's top five countries in terms of the number of patents and frequency of citations in international journals.<sup>29</sup> In order to achieve its goals, the Chinese government is currently designing new policies and programs to enhance human resource development and R&D, of which the implementation of the indigenous innovation program with Notice 618 constitutes a major part.

The policies and programs to create a new innovation system in China are only developing gradually and will surely take a long step-by-step process. Foreign and domestic actors are directly affected by the new policies for innovation and can therefore not be excluded from the process. It is challenging for Chinese leaders to find the right balance and timeframe for introducing new policies without disturbing the current dynamic economic development. Foreign firms still play a crucial role for China's economy. For example, China's industrial sector remains dependent on technology imports.<sup>30</sup> Chinese state actors therefore need to find a way to include the diverting interests of different actors while pursuing their own goals with national policies.

### 3.2.2 State actors

Despite many changes in the governance of China's system of innovation, a large extent remains in the control of the central government at the macro level. The State Council has the final decision-making authority for the structural organization and guidelines of policies regarding R&D and innovation.<sup>31</sup> The National People's Congress approves the decisions of the State Council only formally. The bargaining and decision-making for research, technology, development and innovation (RTDI) policy takes place within the powerful forum of the State Council's National Leading Group of National Science, Technology, and Education (or "National Steering Committee").<sup>32</sup> Unless the President or the Premier intervene directly, the National Leading Group has the final say upon "major strategic policy shifts and the resulting changes in the division of responsibilities at the implementation and

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<sup>29</sup> Ibid.

<sup>30</sup> Kroll et al. 2008, 171.

<sup>31</sup> Ibid., 173.

<sup>32</sup> Huang et al. 2004, 3.

short-term planning level.”<sup>33</sup> The National Leading Group consists of representatives from the organizations that are in charge of implementing RTDI policies but this does not mean that these representatives enjoy much autonomy. They report to the State Council and have to follow decisions from upper levels. The National Development and Reform Commission (NDRC), which is the major economic planning body directly under the State Council, is also represented in the Leading Group to make sure that their policies are in accordance with the overall macroeconomic policy design.<sup>34</sup>

Most of the critique concerning the policy-making process for China’s innovation system states that the structure is still not well formalized and specified in laws, that there is still much room for improvement with respect to clarity, predictability and reliability.<sup>35</sup> The lack of inter-ministerial cooperation on the working level and missing policy evaluation bodies are further concerns.

On the ministerial level, the key player in charge of implementation of RTDI policies in China is the Ministry of Science and Technology (MOST). Although MOST is considered a very powerful ministry, in large-scale policy programs MOST is limited to only implementing policies. In addition, MOST’s dominant role in terms of agenda-setting is regarded to have abated somewhat due to enforcement of some inter-ministerial cooperation initiatives.<sup>36</sup> Notice 618 relates to the implementation stage of indigenous innovation and is the result of such inter-ministerial cooperation initiatives.

Relevant for this paper are three major state actors. Notice 618 was jointly issued by MOST, the Ministry of Finance (MOF), and NDRC. MOST is as mentioned before the most important ministry that contributes to short- and mid-term RTDI policies. It has seven main departments that monitor national R&D programs for the industrial sector and the “high-technology development zones”. Generally, MOF provides funding for the public research sector and higher education, as well as for programs of the State Council implemented by MOST. Sometimes, MOF is involved in the administration of national support programs when implementing those, often collaborating with MOST. This is also the case in the indigenous innovation program. The NDRC, which enjoys ministerial status and competencies and

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<sup>33</sup> Kroll et al. 2008, 173.

<sup>34</sup> Kroll et al. 2008, 173.

<sup>35</sup> Ibid.

<sup>36</sup> Zhong and Yang 2007, 318.

consists of more than twenty departments, mainly issues five-year plans for China's economy, recommends fixed assets investments and most importantly contributes to industrial policy-making. It is in charge of promoting especially the high-tech sector and is therefore also heavily involved into the implementation of the indigenous innovation program.

### 3.3 Relevant and related documents

As implied above, Notice 618 is part of a larger development scheme for China's innovation system. Notice 618 constitutes and initiates the implementation of the "Trial Measures for the Administration of the Accreditation of National Indigenous Innovation Products" (from now on: Trial Measures 2006) issued by MOST, MOF and NDRC in December 2006. It is quite surprising that the Trial Measures 2006, which for the first time lay out more explicit criteria for the term "indigenous innovation product", have hardly received any attention from the media or the foreign investor community at the time of issuance in 2006. The policy details communicated in the Trial Measures 2006 were only rediscovered in December 2009 once Notice 618 finally launched their implementation. The similarities in content between the Trial Measures 2006 and Notice 618 are remarkable. Especially the "conditions for accreditation" are almost identical in content, including a list of 7 conditions and talking about the same requirements that in 2009 were much disagreed upon. To name the most important points of the Trial Measures 2006: "the international property rights of a product must be owned by a Chinese enterprise through its own research and development activities or must be acquired from a Chinese entity", "the product's brand and trademark must be initially registered in China", "the product's quality must be accredited by the Chinese Certification and Accreditation Administration Committee of China".<sup>37</sup> The Trial Measures 2006 even already announced a national catalogue for indigenous innovation products. Although a national catalogue was not compiled at that time several provinces and municipalities started issuing local catalogues on their own.

One can argue that the Trial Measures 2006 were only perceived as a draft and potential consideration of the Chinese government and not yet as definite policy positions and therefore remained widely unknown. On the other hand, the huge

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<sup>37</sup> Available from <http://www.csoet.cn/n16/n1100/n38116/n38723/205126.html>. Accessed 15 December 2010

wave of concern by foreign actors in response to Notice 618 might not have been anticipated by Chinese leaders since these thought their intentions regarding the indigenous innovation program were rather clearly stated already in 2006. This would, for example, explain why the Chinese government published Notice 618 as a policy right from the beginning and did not title it a “draft” as usual when introducing controversial policies. In addition, supervised by MOST, domestically owned or controlled companies in the national high-technology industrial zones had started implementing the new national accreditation program introduced in the Trial Measures 2006 on a pilot basis as early as 2008. However, with Notice 618 the program was taken to the national level and at the same time only then became visible to the foreign investor community.

Another interpretation why foreign actors decided to exert pressure on this topic could be the one substantial addition made to Notice 618 compared with the Trial Measures 2006 document. Next to the key criteria that the intellectual property rights of accredited products must be domestically owned, “the applicant’s use, disposal and improvement of the intellectual property involved in the underlying product must not be subject to *foreign restrictions*, and any trademark used must be registered in China first and must not be *restricted by related foreign brands*.”<sup>38</sup> That is, pointing out that the requirements cannot be met by the majority of foreign products provided on the Chinese market to qualify for accreditation. Foreign products are mostly developed outside China. The directive therefore either forces foreign firms to transfer their R&D centers to China in order to qualify for accreditation or excludes them from the national catalogues of indigenous products. Since most foreign firms are still concerned about intellectual property protection, transfers of R&D departments of foreign companies are unlikely.

Yet another explanation for the strong reaction of foreign actors to Notice 618 is the very close interlink of the indigenous innovation program and government procurement in China. A large number of policies, laws and regulations provide preference in government procurement for indigenous innovation products. Hence, Notice 618 restricts the access of foreign products to the Chinese government procurement market. The size of China’s government procurement market is large but difficult to estimate. MOF valued it at a total of US\$ 88 billion in 2008.

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<sup>38</sup> Available from <http://www.csoet.cn/n16/n1100/n38116/n38723/205126.html>. Accessed 15 December 2010.

The State Council published in 2005 the “Medium- and Long-Term National Plan for Science and Technology Development for 2006-2020” (from now on: National Plan 2006-2020) which is until now the main and in hierarchy highest reference for the creation of China’s innovation system.<sup>39</sup> The Trial Measures 2006 as well as Notice 618 and its revisions all follow the guiding principles of this plan. In regard to indigenous innovation section 8 of the National Plan 2006-2020 states: “China should implement and promote government procurement for indigenous innovation products”.<sup>40</sup> Another policy directive released by the State Council in 2006, the “Notice on Certain Coordinated Policies Related to the Medium- and Long-Term National Plan for Science and Technology Development (2006-2020)” also promotes indigenous innovation products through government procurement very explicitly: it includes the “development of a system to evaluate indigenous innovation products”, the “establishment of a system to use government funds to buy indigenous innovation products”, and the granted “preferential treatment in the government procurement process to indigenous innovation products”.<sup>41</sup>

In 2007 even two separate policies were released by MOF clarifying how indigenous innovation products shall be given preference in government procurement. The “Evaluation Measures on Indigenous Innovation Products for Government Procurement” give “preference at a margin of 5–10 percent in the event that price is the sole determining factor” or the products “may enjoy an additional 4 to 8 % boost in their technical and price evaluations”.<sup>42</sup> Also local governments are encouraged to initial purchases and orders that help with the commercialization of products with indigenous innovation accreditation. “The government should purchase the first set of innovative products created by domestic enterprises, universities, and research institutes if the products are thought to have future wide-market potential.”<sup>43</sup> Very similarly, government agencies are required by MOF to “make initial purchases of newly developed products by domestic companies that are not currently competitive in the market”<sup>44</sup> in its “Administrative Measures for

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<sup>39</sup> Available at [http://www.ssd.com/files/Publication/52ac8514-ae60-45d4-953a-0202474a99aa/Presentation/PublicationAttachment/11fcfa25-992e-4beb-a848-0c1d2c652127/China\\_Law\\_Alert\\_-\\_Indigenous\\_Innovation\\_Product\\_Accreditation\\_Program\\_Raises\\_Concern\\_of\\_Protectionism\\_by\\_Squ.pdf](http://www.ssd.com/files/Publication/52ac8514-ae60-45d4-953a-0202474a99aa/Presentation/PublicationAttachment/11fcfa25-992e-4beb-a848-0c1d2c652127/China_Law_Alert_-_Indigenous_Innovation_Product_Accreditation_Program_Raises_Concern_of_Protectionism_by_Squ.pdf). Accessed 27 May 2010.

<sup>40</sup> Section 8, Certain Key Policies and Measures. [www.gov.cn/jrzq/2006-02/09/content\\_183787.htm](http://www.gov.cn/jrzq/2006-02/09/content_183787.htm)

<sup>41</sup> Section 4, Government Procurement. [www.gov.cn/zwgk/2006-02/26/content\\_211553.htm](http://www.gov.cn/zwgk/2006-02/26/content_211553.htm)

<sup>42</sup> Article 13, 14. [www.gov.cn/ztlz/kjfzgh/content\\_883671.htm](http://www.gov.cn/ztlz/kjfzgh/content_883671.htm)

<sup>43</sup> Ibid. Article 24.

<sup>44</sup> Article 3. [www.gov.cn/ztlz/kjfzgh/content\\_883647.htm](http://www.gov.cn/ztlz/kjfzgh/content_883647.htm)

the Government to Initially and Selectively Purchase Indigenous Innovation Products". Interestingly, within its policies MOF also defines indigenous innovation products as the ones listed in the National Catalogue of indigenous innovation products.

With statements so clearly violating WTO commitments, foreign actors in their pressure and critique addressed towards the new indigenous innovation program, of course, also used the WTO forum to increase the weight of their concerns. China is since 2002 only a signatory of the Government Procurement Law (GPL) within the WTO which allows Chinese government agencies to prefer local products and services over foreign products in government procurement projects. To urge China's participation in the WTO's Government Procurement Agreement (GPA) was therefore yet another channel for foreign actors to address their dissatisfaction with indigenous innovation and to achieve open access to the Chinese government procurement market. The submission of a new proposal from the Chinese government to join the GPA, under which preferential treatment of domestic products is penalized, coincided with the developments and adjustments made to Notice 618 (see Appendix 1, submission of GPA proposal on July 16, 2010). The proposal has been refused by the WTO. It remains an open question whether the outburst of critique by foreign actors has pressured the Chinese government to submit a new proposal to join the GPA and in turn has also had decisive influence on changes within Notice 618. The answer will be provided in the following section, the actual content analysis of the relevant texts.

### **3.4 Analysis of Notice 618, Draft 2010 and the reactions of foreign actors**

#### **3.4.1 Documents under investigation**

The documents that are reviewed using content analysis are the following:

- The initial version of Notice 618 (November 15, 2009),
- The revised version of Notice 618, hence Draft 2010 (May 10, 2010),
- The joint letter of complaint by 33 business groups (December 10, 2009),
- The letter of concern by the President of the European Union Chamber of Commerce in China (EUCCC) (December 14, 2009),

- The request for company input on indigenous innovation by the US-China Business Council (USCBC) (December 15, 2009), and
- Recommendations for China's innovation incentive policies by USCBC (March 30, 2010).

Although very interesting accounts and comments are available after the Chinese government has opened the indigenous innovation program for discussion with Draft 2010, these are not considered in this analysis. Since a finalized version of Notice 618 including recent developments and discussions on the topic has not been published by the Chinese government, there is no material to analyze. Opinions on when to expect a final version vary widely. Some information sources, mostly Chinese newspapers, claim that the indigenous innovation program has been dropped as such and was integrated in an altered way within the new five-year plan which was announced by the Chinese government in March 2011, but will be published in writing only in May 2011. Other observers see the not publishing of a final version as a sign that China intends to prolong the decision and make changes while in the meantime practicing and working with indigenous innovation product catalogues, especially on the local level.

What kind of texts are under examination? The two documents issued jointly by MOST, MOF and NDRC are all policy documents or policy programs within the sphere of building an innovation system for China. Noteworthy is the fact, that the texts have not been compiled directly under the State Council, but are concerning the implementation of innovation policies which is administered by ministries. The policies are formulated in a formal language, but are kept still vague. The two letters of concern are immediate reactions to the new policy and voice in very polite and rather broad terms their dissatisfaction. The letters of concern were directly addressed at the ministers of MOST, MOF and NDRC and were sent cc to the head of the Ministry of Commerce. The remaining two documents by USCBC are the only publicly available comments on indigenous innovation by a business council. They are policy papers that intend to inform and provide policy recommendations. Other business and industry associations and chambers of commerce have produced similar accounts, however, access to those policy papers are only given to their members. Since the policy papers by USCBC can be regarded exemplary, they are regarded sufficient for the purposes of this paper.

### 3.4.2 Comparison of Notice 618 (short:N) and Draft 2010 (short:D)

The main and most visible change from Notice 618 to Draft 2010 is the large cut-back in pages. While Notice 618 in its Chinese version contained 30 pages, of which 6 full pages described especially definitions and the conditions for accreditation, the Draft 2010 only consists of 2 pages in the Chinese original. Although most of the 30 pages of Notice 618 provide forms for application for indigenous innovation accreditation and explanations how to fill out these forms correctly, it is still important to notice that the cutback on the content that raised most criticism by foreign actors was from 6 pages to 2 pages (in Chinese) and therefore substantial.

Another change concerns the linkage of indigenous innovation to government procurement. While the Attachment 2009 mentions “government procurement” (政府采购) 5 times directly and asserts to it in many passages, all of the passages mentioning “government procurement” or implying it are omitted in the Draft 2010.

Also omitted were the guiding principles for Notice 618, the details on the entire procedure to get products accredited and remarks on documentation requirements.

The timeframe for implementation has been altered. Originally MOST, NDRC and MOF have requested enterprises to submit applications for product accreditation by December 10, 2009. The national catalogue was to be finalized by the end of 2009. The period for submission in Draft 2010 was set from May 10, 2010, to September 10, 2010.

The following sections were altered but remained in a similar structure: scope of accreditation, conditions for accreditation, and declaration and accreditation. These sections are contrasted in the table below with detailed comments on what has been changed.



As to the content, the most important and meaningful passage in Notice 618 is Article 4 with its seven paragraphs laying out the conditions for accreditation for indigenous innovation products. In the Draft 2010 version this section was kept, however, entails only six paragraphs instead of seven and has undergone substantial modifications. The changes in detail, as mentioned, are presented below.

	Section	Text
N, page ¾	三、认定领域范围 III. Identified scope of accreditation	2009年国家自主创新产品认定工作主要选择6个高新技术领域，认定进入市场销售环节、符合相关行业发展方向的产品。 6个领域分别为：1、计算机及应用设备；2、通信产品；3、现代化办公设备；4、软件；5、新能源及装备；6、高效节能产品。 The scope of national indigenous innovation products for 2009 include six high- and new-technology fields; the products are determined to enter the market and sales cycle, they should be in line with the development direction of products in related industries. The scope of products include the following six areas: 1) Computers and application equipment/hardware; 2) communications/telecommunications products/hardware; 3) modern office equipment; 4) software; 5) new energy and [new energy] equipment; 6) highly efficient energy-saving products.
D, page 2	一、认定范围 I. Scope of accreditation	2010年国家自主创新产品认定范围包括以下领域：计算机及应用设备，通信产品，现代化办公设备，软件，新能源及装备，高效节能产品。 The scope of products for national indigenous innovation product accreditation for 2010 includes the following: computing and application hardware, telecommunications hardware, modern office equipment, software, new energy and equipment, and highly efficient energy-saving products.

The six high- and new-technology fields remain the same. In the Draft 2010 any remarks that the product must soon enter the market or conditions such as the product must be comparable to a certain development standard of similar products. The changes in Draft 2010 make the policy more flexible. The first part of products entering the market was probably cut due to redundancy. Paragraph 6 in Draft 2010 elaborates on the same point, namely market-entry.

	Section	Text
N, page 4	四、认定条件 IV. Conditions for accreditation	申请国家自主创新产品认定的单位必须是具有一定研究开发能力的产品生产单位，国家自主创新产品应符合以下条件： Organizations filing applications for accreditation of national indigenous innovation products must be product manufacturing organizations having <i>considerable research and development (R&amp;D) capacities</i> . National indigenous innovation products shall satisfy the following conditions:
D, page 2	二、认定条件 II. Conditions for accreditation	在中国境内具有中国法人资格的产品生产单位，均可自愿申请国家自主创新产品认定。 认定条件如下： Any product manufacturing unit in China that has acquired <i>Chinese legal status</i> may <i>voluntarily</i> apply for National Indigenous Innovation Product Accreditation status. Conditions for accreditation are as follows:

In the preface to the individual conditions for accreditation the Draft 2010 version has been softened. Instead of requiring R&D capacities in China, a condition most MNCs cannot fulfill for China, the Draft 2010 only mentions that firms must have acquired legal status in China. The second major change is that in Draft 2010 the application for “indigenous innovation” status is voluntary and up to each company’s decision.

	Section	Text
N, page 4	四、认定条件 IV. Conditions for accreditation, paragraph (1)	产品符合国家法律法规，符合国家产业技术政策和其他相关产业政策。 The product meets the requirements set forth by PRC laws and regulations, and complies with national industrial and technology policies and <i>other related industrial policies</i> .
D, page 2	二、认定条件 II. Conditions for accreditation, paragraph (1)	产品符合国家法律、法规，符合国家产业政策和技術政策。 The product meets the requirements set forth by PRC laws and regulations, and complies with national industrial and technology policies.

The only change in paragraph (1) is omitting “other related industrial policies”, most likely due to redundancy.

	Section	Text
N, page 4	四、认定条件 IV. Conditions for accreditation, paragraph (2)	产品具有自主知识产权，且权益状况明确。产品具有自主知识产权是指：申请单位经过其主导的技术创新活动，在我国依法拥有知识产权的所有权，或依法通过受让取得的中国企业、事业单位或公民在我国依法拥有知识产权的所有权或使用权。同时，申报单位对知识产权使用、处置、二次开发不受境外他人的限制。 Products have obtained <i>proprietary</i> intellectual property (IP) rights [in China], whose ownership is clearly defined. A product’s intellectual property rights refers to the <i>ownership of IP</i> acquired by an applicant through the applicant’s technological innovative capacities and according to the law of our country; or the ownership or the right to use IP rights that was acquired by the applicant through assignment by Chinese enterprises, institutions or citizens who are in the ownership of such intellectual property rights. At the same time, the use, handling, and <i>secondary development</i> of such IP by the applicant are <i>totally independent of overseas organizations or individuals</i> .
D, page 2	二、认定条件 II. Conditions for accreditation, paragraph (2)	申请单位通过技术创新或通过受让，对所研究开发的产品依法在我国享有知识产权或知识产权许可使用权，且无争议或者纠纷。 The applying unit owns the intellectual property (IP) rights in China or <i>licensed IP usage rights in China</i> of products it has researched and developed, by means of either technological innovation or transfer, and the IP does not have any disputes or controversies with other products’ IP.

This paragraph entails many of the controversial passages discussed by foreign actors. Notice 618 demands products alleigeable for application to be able to make a significant contribution to the economic development in China and hence possess the necessary innovation capabilities. Products must be “proprietary”, i.e. the intellectual property rights of a patented product must be fully “owned” by a Chinese entity to qualify for indigenous innovation product status. Although the passage starting “the right to use IP rights” could be read as a possibility to acquire IP rights in China, the context states rather clearly that a connection to either a Chinese enterprise, e.g. via a joint venture etc., or another Chinese entity who may acquire the “ownership of IP rights” is necessary. Further, the point above is confirmed with the last sentence in paragraph 2 of Notice 618: to possess the IP rights of a product in China, the applicant cannot have IP rights for this product outside of China. Hence, the product must be developed in China. Draft 2010 softens many of the restrictions. IP rights can be earned through “licensed IP usage rights in China” under the condition that the applicant has researched and developed the product, regardless whether in China or abroad. The change allows for transferring

products into the Chinese economy and acquiring IP rights there if this does not cause any conflicts with the IP rights the product had previously.

	Section	Text
N, page 4	四、认定条件 IV. Conditions for accreditation, paragraph (3)	产品具有自主品牌，即申请单位拥有该产品注册商标的所有权。产品销售使用的商标初始注册地应为中国境内，且不受境外相关产品品牌的制约。 Products should <i>have their own brand</i> , and applicants possess ownership of the registered trademark of such products. <i>The trademark under which the product is sold must initially be registered within the territory of China, and such trademarks are independent of overseas relevant brands.</i>
D, page 2	二、认定条件 II. Conditions for accreditation, paragraph (3)	申请单位依法在我国拥有产品的注册商标专用权或使用权。 The applying unit has exclusive rights to the product's registered trademark--or the <i>right to use the trademark--in China</i> in accordance with PRC law.

There has been a major change concerning trademarks. The older version stated that trademarks must be registered within China first exclusively and be different from the trademarks the product enjoys outside of China. This means essentially, a product's trademark in China must be acquired only there, hence the product must be developed in China. This strong restriction changed to the conditions that an applicant must possess the exclusive rights for a product's trademark or can even earn the "right to use the trademark in China", i.e. the same trademark.

	Section	Text
N, page 4	四、认定条件 IV. Conditions for accreditation, paragraph (4)	产品创新程度高。掌握产品生产的核心技术和关键工艺；或应用新技术原理、新设计构思，在结构、材质、工艺等方面对原有产品有根本性改进，显著提高了产品性能；或在国内外率先提出技术标准。 Products have a high degree of innovation. Applicants shall have mastered core technologies and key techniques for manufacturing such products; or new technologies or design concepts shall be applied to improve existing products fundamentally in structure, material, and process, significantly enhancing the performance of a product; or related technology standards shall be initiated at home and abroad.
D, page 2	二、认定条件 II. Conditions for accreditation, paragraph (4)	产品技术先进。在节约资源、提高能效、减少污染等方面效能明显，或在结构、材质、工艺等方面对原有产品有实质性改进，显著提高了产品性能。 The product's technology is advanced. The product has obvious effects in conserving resources, raising energy efficiency, and reducing pollution; or it has substantively improved upon the original product in terms of its structure, quality, material, and craftsmanship, and demonstrates a clear improvement in product performance.

The clumsily formulated text in Notice 618 might indicate that policy makers did not expect a close read of the policy. The essential content has not altered much though. Because it is difficult to define "innovative" products, the newer version adds products that are energy efficient or are less polluting, or are generally marking an improvement compared to similar products.

	Section	Text
N, page 4	四、认定条件 IV. Conditions for accreditation, paragraph (5)	产品技术先进，在同类产品中处于国际领先水平。包括产品整体技术水平国际领先、或产品某项核心技术国际领先、或产品技术达到国际同类产品水平且产品已经出口等情况，或性能价格比具有一定的国际竞争力等情况。 Products are technologically advanced and internationally more competitive than similar products. For example, the product's overall technology level is internationally leading, or contains an internationally advanced core technology, or the product's technology reaches the same level with similar products produced elsewhere and the products have already been exported, or the cost-effectiveness of the product is fairly competitive in the international market.

Paragraph 5 from Notice 618 has been erased entirely and has no equivalent. This paragraph aims at leadership positions for indigenous products on the international market. It could also be read as justifying the use of Chinese products that have been modeled and adjusted after foreign products.

	Section	Text
N, page 4/5	四、认定条件 IV. Conditions for accreditation, paragraph (6)	产品质量可靠，通过国家认证认可监督管理委员会或各省、自治区、直辖市质量技术监督部门资质认定的实验室和检查机构的检测。属于国家有特殊行业管理要求的产品，须具有国务院相关行业主管部门批准颁发的产品生产许可；属于国家实施强制性产品认证的产品，须通过强制性产品认证。 Product quality is reliable and has gone through testing labs and inspection agencies that are accredited by the <i>National Certification and Accreditation Administration Committee of China</i> or the <i>quality and technical supervision departments</i> in all provinces, autonomous regions and centrally administered municipalities. In case a product is subject to special regulatory requirements of certain industries, a <i>production permit</i> issued by the relevant authorities under the <i>State Council</i> must be obtained; in case of products being subject to mandatory product certification rules, a <i>mandatory certification certificate</i> must be obtained.
D, page 2	二、认定条件 II. Conditions for accreditation, paragraph (5)	产品质量可靠。属于国家有特殊行业管理要求的产品，须具有国务院相关行业主管部门批准颁发的产品生产许可。属于国家实施强制性产品认证的产品，须通过认证。 The product's quality is reliable. Products that belong to industries that have special administration requirements must have their product licenses approved and issued by the relevant departments of the <i>State Council</i> . Products that belong to China's compulsory product certification regime must have relevant certification.

Most of the previous administrative burdens for certifying different products are lifted. Common products no longer need to get a license with the "National Certification and Accreditation Committee". Products in industries with special administrative requirements no longer require a "production permit" but need to still be approved by relevant departments of the State Council. In Draft 2010 it is no longer necessary to submit a product's details, also maybe technological details, in order to get a quality license. A larger protection of intellectual property is therefore possible.

	Section	Text
N, page 5	四、认定条件 IV. Conditions for accreditation, paragraph (7)	产品已经进入市场销售环节，具有潜在的经济效益和较大的市场前景或能替代进口。 Products have been introduced to the market and have potential economic benefits and enjoy high prospects or can be <i>substituted for imports</i> .
D, page 2	二、认定条件 II. Conditions for accreditation, paragraph (6)	产品已经进入市场销售环节或具有潜在的经济效益，存在较好的市场前景。 The product has already entered the market for sale or has potential economic benefits and bright market prospects.

“Import substitution”, a major concern for foreign investors, has been cut in Draft 2010.

The only interesting change within the “Declaration and Accreditation” section of Draft 2010 was regarding the implementation of the indigenous innovation program on the local level, namely the promise that “experts will be organized to conduct preliminary accreditation examinations of local product declarations”. As stated, MOST will oversee the work of provincial and local branches of Science and Technology departments in the process of product accreditation and combine accredited products to a national catalogue. A final remark of Draft 2010 mentions that “if there are no public objections” individual accredited products will be added to the national catalogue. For foreign firms, this at least indicates the possibility to complain against accepting any Chinese products as indigenous innovation products.

The major changes from Notice 618 to Draft 2010 are summarized in the following table.

Notion 618	Draft 2010
Application requires considerable R&D capacities	Application requires Chinese legal status and is voluntary
IP rights must be proprietary, i.e. fully owned by a Chinese entity Applicant cannot hold IP rights for product already outside China, i.e. product must be developed in China	Applicant must own or be licensed to use IP rights IP rights for products obtained through innovation or transfer No disputes or controversies regarding IP rights
Trademarks must be registered in China first and exclusively and different from trademarks used for the product outside China, i.e. trademark can only be acquired in China, hence the product must be developed in China	Applicant must have exclusive ownership rights to trademark or the right to use trademark in China
Product must have high level of innovation	Product’s technology must be advanced, e.g. energy efficient, reducing pollution, conserving energy or be an improvement to an original product
Leadership positions for indigenous products on the international market	-
Quality license through testing labs and inspection agencies that are accredited by the National Certification and Accreditation Administration Committee of China	Products in industries with special administrative requirements no longer require a production permit but need to still be approved by relevant departments of the State Council
Import substitution	-

Some of the restrictions to apply for “indigenous” product status have been re-

laxed. The most crucial changes regard IP rights and trademarks. The products do no longer have to be developed in China to earn IP rights in China. Similar to IP rights, a product's trademarks do not have to be registered in China first.

### 3.4.3 Tracking the changes to joint letter of complaint by 33 business groups

Joint letter by 33 business groups	Comments
Implementation of this system will restrict China's capacity for innovation, impose onerous and <i>discriminatory requirements on companies</i> seeking to sell into the Chinese government procurement market, and contravene multiple commitments of China's leadership to resist trade and investment protectionism and promote open government procurement policies.	Any direct references to "government procurement" have been avoided in Draft 2010.
The very restrictive and discriminatory program criteria would make it virtually <i>impossible for any non-Chinese supplier to participate</i> —even those non-Chinese companies that have made a <i>substantial and long-term investment</i> in China, employ Chinese citizens, and pay taxes to the Chinese government.	Here the topic of earning IP rights and trademarks only for products that originated in China is implicitly addressed.
Further, the criteria of Notice 618 diverge markedly from global practices and include unique requirements that the product's <i>intellectual property be developed and owned in China</i> , and that any <i>trademarks be originally registered in China</i> . By contrast, quality, performance and value are given only a minimal role. China and the international community have a common interest in ensuring robust protection of intellectual property rights as we forge a closer economic agenda. China's new criteria fail to recognize the truly collaborative, cross-border and global nature of <i>R&amp;D that produces innovation and that few if any products are developed in a single national territory</i> . Establishing local intellectual property ownership as a market access condition would run counter to free and open trade and to fostering collaborative innovation.	This passage talks directly about IP rights that can only be acquired for products developed in China, and trademarks that need to be originally registered in China first. To include quality, performance and value of products is rather suggested. The passage mentions that R&D centres cannot be confined to a single national territory.

Among the 33 signatories are the heads of the following business groups: all chapters of the American Chambers of Commerce, the Business Software Alliance, the Coalition of Service Industries, the Computing Technology Industry Association, the Emergency Committee for American Trade, the European Services Forum, the Federation of Korean Industries, Japan Electrics Industry Association, and the US-China Business Council, to name a few. No MNCs are among the signatories, as discussed earlier.

The most substantial changes made in Draft 2010 regarding IP rights and trademarks are raised in the joint letter as the main concern. Further, the Joint Letter suggests the consideration of quality, performance and value of the product. While performance and quality is addressed in Draft 2010, the value of products is not. Interestingly, the notion that R&D cannot be confined to borders of one country could be regarded as resembled in paragraph 2 of Draft 2010 since IP rights can no longer only obtained through innovation activities in China but also through transfer of IP rights of a product to China.

### 3.4.4 Tracking the changes to letter of concern by EUCCC

Letter of concern by EUCCC	Comments
<p>We therefore call upon you to <i>delay the implementation</i> of this accreditation system in order to provide time for meaningful expert dialogue regarding its implications. We would appreciate clarification regarding whether the indigenous innovation product list will only be <i>applied to government procurement</i> projects financed by the Ministry of Finance or also to other public procurement projects governed by the Tendering &amp; Bidding Law, and whether it will apply to <i>national, provincial and/or also to local level procurement projects</i>. We would also appreciate clarification regarding <i>highly restrictive requirements in the field of intellectual property rights</i>. For example, it is difficult to see how these restrictive <i>trademark</i> requirements would support Chinese technical innovation. Finally, we request clarification regarding the impact of Notice 618 on the Chinese partners and subsidiaries of our member companies, and whether the accreditation application is to be a one-off procedure or a recurring process.</p>	<p>This passage asks for the delay of the implementation of Notice 618 and seeks clarifications regarding government procurement procedures on the national, provincial and local levels. IP rights and trademarks are criticized to be highly restrictive. Further, the question of Chinese partners of foreign companies is raised and more concrete details on the accreditation process are demanded.</p>

Just as the Joint Letter, the EUCCC asks for clarification on government procurement procedures, also on different levels. Since this topic is entirely omitted in the Draft 2010, the changes cannot be tracked. Similar to the Joint Letter, trademarks and IP rights are criticized. Notion 618 entailed in paragraph 2 the notion that all IP rights must be fully owned by Chinese entities. The last sentence of the quoted part of EUCCC's letter addresses this issue and the partner relationships that many foreign firms engaged in with Chinese firms.

### 3.4.5 Tracking the changes to request for company input by USCBC

Request by USCBC
<p>The primary concern of foreign companies is that they will be <i>excluded</i> from selling to China's <i>government procurement</i> market simply because they have <i>developed IP and owned trademarks in other jurisdictions</i>.</p>
<p>USCBC members have typically invested in China to serve the China market. They employ thousands of employees, pay taxes, and contribute positively to the overall economic and technological development of the market. In many cases, the parent company has <i>licensed certain technology to its China subsidiaries</i> to expand upon or develop new product for China, thereby bringing innovative products to China's market, even if the patent or trademark itself is owned in another jurisdiction. New indigenous innovation regulations could therefore limit/slow the introduction of innovative products into China.</p>
<p>The biggest obstacle for foreign companies is the requirement that the <i>applying China entity fully owns the IP and first register the trademark in China</i>. Some companies are concerned about IP protection in China, but the bigger issue is structural: Companies must be able to sell their products and services globally to remain competitive, rather than be restricted to only selling products in a market that are based on IP developed in that market.</p>

This document, addressed at individual foreign firms of the USCBC, informs the firms on the very same issues already regarded in the upper texts: government procurement, restrictive requirements for IP rights and trademarks; additionally, also Chinese partner organizations.

### 3.4.6 Tracking the changes to recommendations by USCBC

Recommendations by USCBC
Use non-discriminatory tax incentives and R&D support programs to promote innovation.
Refrain from using government procurement programs and preferences to foster innovation, and revise central and local policies and regulations accordingly.
Ensure that programs to encourage domestic innovation, such as high- and new technology enterprise, tax status or R&D support programs; are non-discriminatory in principle and in practice. Specifically, in its qualification criteria for these programs, USCBC recommends that China: <ul style="list-style-type: none"> <li>o Eliminate the requirements for <i>intellectual property rights "ownership" in China</i>; or expand the criteria to include legally acquired, non-exclusive license or <i>usage rights from Chinese</i> or overseas intellectual property owners, and secondary innovation in China using technology licensed or otherwise legally acquired from Chinese or overseas intellectual property owners;</li> <li>o Remove references to trademarks and brands;</li> <li>o Eliminate "<i>import substitution</i>" as a policy objective; and</li> <li>o Make corresponding and consistent changes to other relevant policies.</li> </ul>
Ensure that policies and regulations on innovation, government procurement, tax incentives, or other matters are released for public comment for at least 30 days before finalization and enactment. A longer comment period of 60 or 90 days would result in even better public comments on this important topic for the consideration of China's government agencies.

The USCBC provides very clear policy recommendations on Notice 618. Besides the usual concerns listed also above, two additional points are brought up. The USCBC provides alternatives on how to change the existing policy to expand IP rights "ownership" in China. The passage 2 of Draft 2010 includes one of the suggested expanded criteria for IP rights ownership, namely the "licensed IP usage rights". The word "import substitution" has also been removed from Draft 2010 as demanded by USCBC.

## 3.5 Conclusion of content analysis

The changes displayed and then tracked to comments by foreign meso-level actors can be traced back to their concerns. The changes between Notice 618 and Draft 2010 are substantial. The main adjustments regarding IP rights, trademarks, R&D centers being confined to Chinese borders, even quality of products, performance, omitting of import substitution could have been changed due to the influence by meso-level actors. But since all of the comments raise very similar issues, it is not possible to track formulated statements from the foreign documents to the translated Chinese ones. If there were exact phrases that were carried over into the Chinese version of Draft 2010, these may have been either lost in translation or were never intended in the first place. The foreign meso-level actors at first only conveyed very general and obvious concerns to the Chinese government. Only the US-China Business Council provides a very concrete set of recommendations. In fact, numerous newspapers were critiquing just the same parts of Notice 618. It is not possible to completely deny any influence of foreign actors on the



changes, but the main finding of the analysis cannot be simply identifying one influential actor or source of change.

Rather, the analysis reveals that suggestions were similar and therefore can only be contributed to the group of meso-level actors as a whole. The group of meso-level actors together plays an important role in communicating the concerns of MNCs. At the meso-level actors gain more significance and influence.

Referring to the research question and the refined research question, the following can be stated. The changes incorporated in the revised version of notice 618 can indeed be traced to foreign actors, not individual business organizations or chambers of commerce but to the foreign actor community as a whole at the meso level. It can therefore be assumed that foreign actors, and specifically MNCs via their representative organizations, as a group had an impact on the national policy formation process in regard to indigenous innovation in China at the ministerial level. The analysis however does not allow to fully answer the refined research question. The foreign investors that had an influence on Notice 618 remain only traceable as a group of all business and industry organizations combined. The analysis does not reveal explicitly the views of MNCs but from the US-China Business Council requesting input from its member community that consist of MNCs can be implied that in fact the Council represents the opinions of MNCs. Hence, concerning the channels that MNCs utilize to change their institutional environment, one answer is that they use meso-level organizations that have direct access to the ministries and Chinese state actors who decide upon changes of certain policy positions within the indigenous innovation program.

More general observations are appropriate at this point as well. Qualitative content analyses are always interpretative. A degree of arbitrariness can be asserted. Without claiming the exercise as not helpful, it is at the same time important not to overestimate the connections one can find with the help of such an analysis.

Although changes in the institutional guidelines for the process of indigenous product accreditation can be traced, and can be regarded as favorable for foreign companies, unanswered concerns remain. One such concern is related to licensed intellectual property since the scope and conditions of a license remain unclear.<sup>45</sup>

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<sup>45</sup> The comments to Draft 2010 assume a much greater level of detail in addressing the still remain-

Further, the changes are not sufficient since inconsistencies exist with higher-level documents such as the National Development Plan for 2006-2020 and other documents that still clearly prefer indigenous products in government procurement. Discriminative indigenous innovation policies continue to exist on the provincial and local levels since the local governments which play a vital role in the Chinese innovation system can always refer to such upper-level policies as the National Development Plan. Even if adjustments are made to Notice 618 and are taken seriously on the national level, problems on the local level remain. Local governments traditionally enjoy some degree of autonomy at the local level. “The evolved multilayer power structure makes it difficult for the central government to enforce its economic policies.”<sup>46</sup> This is the reason why, e.g. IP rights policies on the central government level comply with WTO requirements, while the practices on the local level do not.

The implications of the analysis for GIZ shall be stated as the final point. The analysis has shown, first, that by deciding to join the debate around indigenous innovation, the GIZ would get involved in a hot and current topic that will remain one also in the years to come. Second, the GIZ has the potential to join the community of meso-level organizations on the topic. Crucial is to identify the clientele that GIZ would want to serve when discussing innovation systems, hence, the topic of the last part of this paper.

## 4 Policy implications for client organization

### 4.1 GIZ facing challenges

As mentioned in the introduction, the GIZ faces a number of challenges to continue working in China. Since the general official development assistance for China was terminated in 2010 by the German Federal Ministry for Economic Development and Cooperation, the GIZ currently explores ways of new engagement. The GIZ’s large and influential network of major Chinese state actors such as the

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ing problematic conditions stated within the indigenous innovation program.

<sup>46</sup> Kroll et al. 2008, 177.

NDRC, the Ministry of Commerce, the Research Office of the State Council and various local departments, but also good links to the German Chamber of Commerce provide much potential to further operate in China. Since new potential sources of financing its projects are examined, the GIZ also considers getting involved further in business circles by offering its consultancy services. While its consultancy services at the moment are confined, the GIZ has much potential to increase its expertise as a consultant in the near future. The discussion of the indigenous innovation policy provides a good opportunity to do so.

The theoretic discussion and the content analysis identified two main implications for GIZ within the debate of indigenous innovation. First, it is a topic that enjoys much attention at the moment and will remain relevant in the future. Second, the foreign actors currently contributing to the discussion of the topic are in high demand. Business councils, chambers of commerce and industry associations play a crucial role in mediating the concerns of foreign firms to the public and to major Chinese state actors. Even more, these business groups have an impact as a cumulative pressure group. As a major knowledge transfer agent, the GIZ with its research department for “Innovation and Technology” could easily get involved in the discussion of indigenous innovation. The next subchapter discusses briefly four policy options the GIZ could pursue in regard to supporting the development of a successful and effective innovation system in China. The policy options present opportunities which are evaluated based on the criteria feasibility, time and budget considerations.

## 4.2 Discussion of policy options

Based on part one of this paper, meso-level organizations are major facilitators for influencing Chinese national policy making. The GIZ can be seen as a meso-level organization which transfers mainly knowledge of German local and state organizations to the relevant state actors in China. Policy options for getting involved on the topic of indigenous innovation are listed below.

### **Policy option 1:**

An interesting option and arguably the most realistic one would be for the GIZ to choose working on the local or micro level in China. Since implementation of policies at the micro level could remain a main problem despite policy changes within the indigenous innovation plan, a promising approach at this point would be to ad-

dress local governments and their pursuit of indigenous innovation programs. While the financing could be ensured with the support of the German Federal Ministry of Economics and Technology, and after a certain time could be secured by foreign companies at the micro level, this option involves less prestigious work since it would not take place in Beijing but in the hinterland of the country. The meso-level actors raising concerns with the indigenous innovation program would not have received the amount of media attention and attention from the policy community if they were working at the local level. A project at the local level would not only address the Chinese central government's problem of not being able to implement national policies on the local level but would be very likely be welcomed by foreign firms operating at the micro level. The GIZ, in fact, is often addressed by many of its Chinese partners who would prefer working at the local level in a selected province.<sup>47</sup> This would allow for more concentration on the concrete local challenges as well as allow for more in depth work such as trainings for official personnel concentrated in one town or prefecture, but repeatedly and over a longer period of time. A focus on the local governments and working with these over time, promises the biggest and effective rewards.

### **Policy option 2:**

The GIZ could engage more with the private sector in China, especially German companies operating in China. Small- and medium-sized enterprises that are often underrepresented and dominated by big and influential MNCs within chambers of commerce and business groups might seek better representation of their interests. This option could definitely be profitable in the long-term through offering GIZ's representation and consultancy services to those smaller-sized companies. An alternative way would be to create a membership fee and offering exclusive information compiled on the topic, similar to the work of chambers of commerce or business councils. For this option, it would take some time for GIZ to acquire a name also in representing private firms.

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<sup>47</sup> The China Training Centre for Senior Personnel Management Officials, for example, is one GIZ's partner organizations which on its own suggested concentrating the provision of higher education measures at the provincial level.

**Policy option 3:**

The GIZ could act as an independent think tank that provides positive arguments for the course of the indigenous innovations program. A similar approach has been taken by Carnegie that published a paper pointing to the advantages of the indigenous innovation program. The Chinese government's ambitions for indigenous innovation are regarded as a healthy and positive development.<sup>48</sup> GIZ could similar to Carnegie provide policy recommendations how the indigenous innovation policy can be improved rather than avoided. The Carnegie paper argues for market-friendly ways of stimulating innovation by e.g. incorporating certain mechanisms that stimulate indigenous innovation however keeping the market open. The main issue with this option is financing it. It would take a considerably long time to establish a name as a think tank in order to be self-sufficient.

**Policy option 4:**

The GIZ has experience in working with private sector actor within public-private partnerships or in corporate social responsibility projects. However, it does not represent foreign companies, MNCs, and therefore does not represent their direct interests either. With its ties to the NDRC, mainly to the Department of National Economy and the Reform Department or the Research Office of the State Council, the GIZ could be involved as an informant of best practice examples from Germany and other European Countries in the field of innovation policy by providing unbiased, objective information on the topic. Chinese state actors might not feel as pressured by the GIZ compared to MNCs. This could be of advantage since information and knowledge can actually be absorbed by Chinese actors without having to defend themselves. The critique towards possible damaging developments within China's innovation policy has more chances to be heard. Chinese officials learn often from best practice examples and case studies, which the GIZ could provide via meetings or seminars using its pool of expertise on innovation policies.

The problem with this option is acquiring funding. The Chinese government is currently being flooded by advice and recommendations from all major advanced economies in the world. The government is of no need for purchased consultancy

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<sup>48</sup> Available at <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=41125>. Accessed 14 December 2010.

services. One way to overcome this issue could be to find support from the German Federal Ministry of Economics and Technology, which might be interested to promote especially the German experience with innovation policies in China. The option nevertheless is realistic, especially when regarding the harsh tone that U.S. representatives, the U.S. Chamber of Commerce and several U.S.-based think tanks apply in the debate on innovation policies.

**Policy recommendation:**

Given the criteria of feasibility, time and financing, policy option 1 and policy option 4 are recommended. Both options are feasible, the acquisition of new financial resources is likely and both represent short- to long-term engagements.

## 5 Conclusion

The content analysis in this paper revealed that changes made in the revised version of Notice 618 were able to be traced to the concerns raised by the foreign actor community as a whole at the meso level. Further, it can be assumed that foreign actors, specifically MNCs via their representative organizations, as a group had an impact on the national policy formation process in regard to the implementation of indigenous innovation in China.

The findings of the content analysis have two implications for GIZ. First, the importance of the indigenous innovation program and its serious discussion among foreign actors provides enough information for the GIZ to consider its involvement on the topic. Second, the foreign actors currently contributing to the discussion of the topic are in high demand, i.e. indicating that the GIZ in China could play a potentially crucial role in mediating the concerns regarding the indigenous innovation to influential Chinese state actors. Moreover, GIZ could acquire a position within the cumulative pressure group of meso-level actors.

As a major knowledge transfer agent, the GIZ with its research department for “Innovation and Technology” can offer its expertise within the discussion of indigenous innovation in China. Hence, one of the policy recommendations for GIZ is to contribute to the topic at the macro level by providing unbiased and objective advice to its current partners at the NDRC and the Research Office of the State Council. As an actor with vast experience in project implementation, GIZ could play a major role on the provincial and local level as well, assisting local governments and firms to implement the changes within the development of the indigenous innovation program correctly. This constitutes the second policy recommendation for the GIZ.

The formulation of the indigenous innovation policy is still ongoing. Since the process is not completed, it is only possible to assess the contribution of foreign actors until now. It would be interesting to identify the actual sources of change, namely the views of multinational corporations. The question remains whether

business associations only appear as powerful since no information on MNCs is publically available, or whether the meso-level business groups will remain influential in China even when MNCs can openly state their interests. Considering the vast information that meso-level organizations currently absorb helping to understand the numerous adjustments and changes within the Chinese economic and legal system, it seems unlikely.



## Appendix

Date	Event	Source	Content
11.2006	“Measures for the Administration of the Accreditation of National Indigenous Innovation Products”	State Council	Outline to create a national catalogue for indigenous products, no detailed criteria
2008	Pilot programs in high-technology industrial zones	Supervised by the Ministry of Science and Technology (MOST)	Initial creation of a catalogue for indigenous products
15.11.2009	“Notice Regarding the Launch of National Indigenous Innovation Product Accreditation Work for 2009” (Notice 618)	Directive jointly issued by MOST, the National Development and Reform Commission (NDRC) and the Ministry of Finance (MOF)	Accreditation on national level, national catalogue to be completed by end of 2009
10.12.2009	Joint letter of complaint to MOST, NDRC and MOF	33 trade groups and industry associations	Request to drop new regulation
12.2009/ 01.2010	Talks to Chinese government officials	Governments of US, EU countries and Japan	Raise concerns regarding indigenous innovation
23.01.2010	“The China Mix”	Times Magazine, McGregor, APCO Worldwide	“Future market opportunities are narrowing”; “creative and selective enforcement of WTO requirements”
08.04.2010	“China is beginning to frustrate foreign business”	Financial Times, Wuttke, President of the EU Chambers of Commerce in China	“Market sentiment bleak and pessimistic after 30 years of progressive market reforms”
10.04.2010	“ <b>Draft</b> Notice Regarding the Launch of National Indigenous Innovation Product Accreditation Work for <b>2010 for comment</b> ”	MOST, NDRC, MOF	<b>Revised version</b> based on some concerns raised by foreign firms; <b>draft for public comment</b>
29.04.2010	Press conference with Premier Wen Jiabao and European Commission	Remarks by Premier Wen at press conference; ministers of MOST	Concessions towards foreign firms assuring equal treatment; wants to create more opportunities

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