



PRC Government Procurement Policy

July 2009

Executive Summary

A sizable number of business opportunities in China are initiated and managed via the government procurement process. In particular, projects related to China's RMB 4 trillion (\$585 billion) stimulus package, healthcare reform, and other government-sponsored initiatives involve significant central and local government funding. Understanding the policy background of China's government procurement procedures is critical for foreign companies in evaluating and targeting these business opportunities. This memo is intended to provide a general overview of current government procurement policies, with a focus on the various categories of goods and services that receive preferential treatment.

Key points

- The primary law that governs procurement practices in China is the 2002 Government Procurement Law, which directs government agencies making purchases to only purchase imports when domestic goods and services are unavailable or cannot be obtained under "reasonable commercial conditions." Two recent central-government notices, explained below, reiterate this preference for domestic goods.
- China has not joined the World Trade Organization's (WTO) Government Procurement Agreement (GPA) and therefore can include preferences for domestic goods and companies in its government procurement practices without violating WTO rules (nor can China benefit from GPA preferences). China committed to join the GPA "as soon as possible" when it joined the WTO in December 2001 and submitted an initial offer in 2008. This offer was viewed as insufficient by the current signatories to the GPA, including the United States, and negotiations continue.
- Though the PRC Ministry of Commerce (MOFCOM) and the National Development and Reform Commission (NDRC) have both publicly stated that products manufactured in China by foreign-invested enterprises (FIEs) should be considered "domestic," China has yet to provide a precise, official definition of what constitutes an "imported" versus a "domestic" product in its procurement rules, or whether FIEs meet that standard. In practice, FIEs at times face barriers to participating in government procurement opportunities.
- Domestically developed (or "indigenous innovation") products and technologies are also favored in government procurement measures. The national and provincial governments have created catalogues of qualifying "indigenous innovation products," which receive significant advantages in the procurement process. As well, select newly commercialized indigenous innovation products can be designated as the mandatory choice for purchase by government agencies for a fixed period of time, a measure designed to enable these new products to gain a foothold in the market. Though the regulations do not directly state that FIEs are ineligible, to date almost all qualifying products have been produced by Chinese-owned companies.
- Policy measures also favor energy efficient and environmentally protective goods in government procurement of office equipment and supplies. The Ministry of Finance (MOF), along with NDRC and the Ministry of Environmental Protection (MEP), has created two separate lists of qualifying products, from which government agencies are generally required to select when making purchases. Many FIE-manufactured products have been included in these lists.

Advocacy

The US-China Business Council (USCBC) is monitoring developments in government procurement that affect US companies in China and is providing constructive and balanced input to relevant PRC agencies. To further improve the transparency of and ensure equal access to government procurement activities, USCBC encourages the PRC government to

- Submit an improved accession offer to the WTO GPA, including a more comprehensive list of government agencies covered and a more timely implementation schedule;
- Make all draft laws and regulations related to government procurement available for an appropriate public comment period, including the draft Implementing Regulations of the Government Procurement Law;
- Officially clarify that all products and services manufactured or provided by FIEs in China are considered “domestic” in government procurement;
- Make the National Catalogue of Indigenous Innovation Products, and all current provincial catalogues, publicly available;
- Officially clarify that products manufactured by FIEs in China are eligible for “indigenous innovation product” status and ensure all applications are reviewed fairly; and
- Allow for open market competition by refraining from mandating compulsory purchases of specific products by government agencies.

USCBC actively encourages member companies with concerns regarding government procurement practices to contact its offices.

Preferences in PRC Government Procurement: Governing Laws and Policies

There are four major preferences in Chinese government procurement, each of which is analyzed below:

- A general preference for domestic products over imported products;
- Preference for “indigenous innovation” products;
- Preference for energy-efficient products; and
- Preference for environmentally protective products.

Translations of key articles in the relevant laws, regulations, and notices, including links to the full text, are included in Appendix 1. Links to the latest catalogues of certified products released to the public are included in Appendix 2.

Several provinces and cities have also issued policies that favor locally produced goods and services in local government procurement. A list of these policies is included in Appendix 3.

Preference for domestic products

The 2002 Government Procurement Law states that PRC government agencies should purchase domestic goods and services unless the required items cannot be obtained within China or under “reasonable commercial circumstances.” The law applies to all purchases made by central, provincial, and local government agencies. Since the launch of the stimulus package, the central government has reiterated this preference in two recent notices that urge lower-level governments to improve government procurement practices and closely adhere to the preference for domestic products. In April 2009, the State Council issued the Notice on Further Strengthening Management of Government Procurement, which reaffirmed the provision of preferential treatment for procurement of domestically produced and “indigenous innovation” products. In May, nine ministries including NDRC and the ministries of Commerce and Industry and Information Technology (MOFCOM and MIIT, respectively) jointly released the Opinions on the Implementation of Decisions on Expanding Domestic Demand and Promoting Economic Growth and Further Strengthening Supervision on Tendering and Bidding for Construction Projects.

The opinions stress the purchase of domestic products in government procurement and commit to the preferred purchase of indigenous innovative products in government funded “key national projects.”

Beyond the general preference for domestic goods, government procurement of imported goods requires special procedures and approval. In 2007, MOF issued supplementary Administrative Measures for Government Procurement of Imported Products, which imposed new procedures on government agencies choosing to purchase imported goods. These procedures included separate approvals from the government bureau charged with supervision of the product (e.g. from the Industry and Information Technology Commission for personal computers or machinery) and the creation of a special review panel, including at least one lawyer, to vet the purchase. Within these measures, a broad definition of imported products was established: “products entering the territory of China.” A follow-up Notice on Related Issues to the Administrative Measures on Government Procurement of Imported Products from MOF later clarified that goods produced in China’s bonded zones should be considered domestic goods in government procurement.

In principle, products manufactured in China by FIEs should be considered domestic goods. But some FIE-manufactured products, such as products assembled in China from significant imported components, or products manufactured in China that carry a major foreign brand name, have at times been classified by local government officials as “imported,” placing those products at a disadvantage in procurement. To date, no precise or comprehensive definition of what constitutes a domestic product has been established, but the Circular on Support Policies of Medium- and Long-Term Science Technology Plan 2006-20, issued in 2006, states that the “Ministry of Finance and related departments will set standards for determining what is a domestic product.” Before the passage of the revised Government Procurement Law in 2002, MOF’s 1999 Temporary Administrative Measures on Government Procurement utilized a standard of less than 50

percent of total value added within China to determine an imported product. In a public statement related to the Opinions issued in May 2009 (see above), NDRC and MOFCOM spokespeople affirmed that products manufactured in China by FIEs are considered domestic. The USCBC encourages PRC ministries involved to further and more formally clarify this important designation, in either the forthcoming Government Procurement Law Implementation Regulations or other related regulations. (For the MOFCOM and NDRC joint statement, see www.sdpc.gov.cn/xwfb/t20090626_288017.htm. The text of the comment follows: 《通知》关于采购本国产品的规定范围仅限于《中华人民共和国政府采购法》中规定的各级政府机构使用财政性资金的政府采购项目，所指的本国产品包括依法在华设立的外商投资企业所生产的产品。)

China is not a member of the WTO's GPA, which currently includes 41 economies, including the United States. GPA membership requires signatory governments to use nondiscriminatory and transparency procedures and offers them reciprocal access to other signatories' government procurement markets. China's preferences for domestic products and services in government procurement activities is therefore not a violation of WTO rules, but China also cannot enjoy GPA-signatory status in, for example, US government procurement. China committed to join the GPA "as soon as possible" upon accession to the WTO in December 2001. China submitted an initial offer to join the GPA in December 2007, which the other signatories to the agreement, including the United States, found lacking in several areas. In particular, the limited scope of agencies and government-linked entities that would be covered by the agreement and the slow implementation schedule were of concern to other GPA signatories. Negotiations continue. USCBC supports the swift completion of these talks and encourages the PRC government to submit a more comprehensive and appropriately structured accession offer.

Indigenous innovation product certification and catalogues

In the Middle- and Long-Term Science Technology Plan (2006–2020) and a subsequent Circular of Supporting Policies, issued in 2006, the State Council noted that domestically developed or "indigenous innovation products" would receive "preferential treatment" in

government procurement. The (Trial) Measures for the Administration of the Accreditation of National Indigenous Innovation Products, issued the same year, established specific certification criteria for evaluating and certifying "indigenous innovation products," including ownership by the applying China-based company of core intellectual property and trademarks. The Evaluation Measures on Indigenous Innovative Products for Government Procurement, issued by MOF in 2007, laid out the specific advantages that certified products enjoy in the government procurement process, including a price advantage and extra consideration in technology and quality evaluations. Though the bidding process for government contracts allows competition, these advantages provide a significant edge to certified products. Finally, the Administrative Measures for the Government to Initially and Selectively Purchase Indigenous Innovation Products, also issued in 2007, require government agencies to make initial purchases of new products developed by domestic companies that are not currently competitive in the marketplace, but the development of which helps fulfill national industrial policy goals. Products are designated in the Catalogues of Indigenous Innovation Products, and government agencies are required to purchase those products for a set period of time. The measures also allow government agencies to select manufacturing enterprises or research institutes to manufacture certain items or perform research tasks deemed important to fulfill national goals. USCBC is concerned that provisions requiring mandatory purchases by government agencies of certain products may limit market competition.

Several provincial and municipal Science and Technology Commissions have issued initial catalogues of certified "indigenous innovation products," and many are holding successive rounds of product evaluation for inclusion in future editions. Catalogues are first posted for public notice before taking effect and are generally valid for three years. Though some FIE-produced goods were included in early catalogues, notably that of Xiamen municipality, almost all recent catalogues have not included any FIE products. To date, only the Beijing municipal government has completed several separate catalogues of products required for initial purchase in government procurement. In May 2009, media reports indicated that the

Ministry of Science and Technology (MOST) had completed the first National Catalogue of Indigenous Innovative Products, comprising some 243 products. This catalogue has not yet been released to the public. USCBC encourages the PRC government to release the national catalogue to the public and to clarify that products of FIEs are eligible for indigenous innovation product status and to provide a level playing field for all products that seek to gain this designation.

A full list and links to the catalogues of certified products currently available to the public are included in Appendix 2.

Energy-efficient product certification and lists

At the end of 2004, MOF and NDRC jointly released the Implementation Opinions on Government Procurement of Energy Efficient Products, which has been in force nationwide since 2007. The opinion requires government departments that use state funds to prioritize the purchase of goods from the energy-efficient products list. For certain types of energy-efficient products with numerous suppliers, procurement of products from the list is mandatory – government agencies must select products on the lists. The requirements for inclusion on the list are fairly vague and general, however. The list of certified products has been expanded and adjusted several times, with the sixth and latest iteration issued for public comment in June 2009. (Lists are made public for a month to allow for complaints to be raised and then take effect.) Products included on this list are generally light industrial goods such as general office equipment, air conditioners, lighting products, TVs, water heaters, personal computers (PCs), washing machines, power switches, projectors, and shower and bath equipment. Numerous FIE-made products are on this list.

A link to the latest available list of certified products is included in Appendix 2.

Environmentally protective product certification and lists

In 2006, MOF and MEP jointly issued the Opinions on Implementation of Government Procurement of Environmentally Labeled Products, which took effect on January 1, 2007. The opinions state that government agencies should prioritize procurement of products listed in the Catalogue of Government Procurement of Environmentally Labeled Products. The list of certified products has been expanded and adjusted over time, with the fourth and latest iteration issued for public comment in June 2009. Products on the list include: general office equipment, light automobiles, printers, fax machines, PC monitors, painting materials, interior materials and facilities (wood flooring, furniture, plastic doors and windows), television sets, and solar water heating systems. Several products made by FIEs are included in the list.

A link to the latest available list of certified products is included in Appendix 2.

“Buy local” policies at the provincial and municipal level

Several provincial and municipal-level governments have also issued “buy local” policies to encourage or mandate purchases of locally produced goods or services since the beginning of the economic downturn. A brief overview of these policies, including an analysis of products covered, is included in Appendix 3. This list includes only formal, publicly promulgated local preferences; various forms of informal pressure to buy local goods and services are also common in provincial and local government procurement. “Local” typically means products or services provided by Chinese-owned companies or FIEs based in the province or municipality, versus those provided by Chinese-owned companies or FIEs located elsewhere in China.

Appendix 1: Key Articles in Relevant Laws, Regulations, and Notices

(Items are in chronological order, all translations are unofficial, by the USCBC, and are intended for reference only.)

PRC Government Procurement Law (2002)

中华人民共和国政府采购法

www.people.com.cn/GB/jinji/20020629/764316.html

Article 10: Government procurement should be based on the procurement of domestic goods, projects, and services with the exception of the following circumstances:

- a. The goods, projects, or services that are needed cannot be obtained within the territory of China or cannot be obtained under reasonable commercial circumstances;
- b. The procurement is made for use outside the territory of China; and
- c. It is otherwise provided for in other laws or administrative regulations.

第十条 政府采购应当采购本国货物、工程和服务。但有下列情形之一的除外：

（一）需要采购的货物、工程或者服务在中国境内无法获取或者无法以合理的商业条件获取的；（二）为在中国境外使用而进行采购的；（三）其他法律、行政法规另有规定的。前款所称本国货物、工程和服务的界定，依照国务院有关规定执行。

Implementation Opinion on Government Procurement of Energy Efficient Products (2004)

节能产品政府采购实施意见

www.ccg.gov.cn/zcfg/gjfg/25211.shtml

II. All levels of government, public institutions, and collective organizations (hereafter referred to as “purchaser”) conducting procurement by using government funds will give priority to the purchase of energy-efficient products and gradually eliminate low-efficiency products.

二、各级国家机关、事业单位和团体组织（以下统称“采购人”）用财政性资金进行采购的，应当优先采购节能产品，逐步淘汰低能效产品。

2006–2020 Medium and Long-Term Technology Development Plan (2006)

国家中长期科学和技术发展规划纲要（2006–2020年）

www.gov.cn/jrzq/2006-02/09/content_183787_8.htm

Section 8: Major Policies and Measures

(iii) Implementation and Promotion of Indigenous Innovation in Government Procurement

Complete the Implementation Regulations for the Government Procurement Law to encourage and protect indigenous innovation. Set up a coordinating mechanism for the government purchase of indigenous innovation products. Implement a policy of preferential procurement for purchases of high- and new-technology equipment and products with autonomous intellectual property rights developed by domestic companies. Provide policy support for enterprises purchasing domestic high- and new-technology devices. Support the development of technical standards through government procurement.

八、若干重要政策和措施

3. 实施促进自主创新的政府采购

制定《中华人民共和国政府采购法》实施细则，鼓励和保护自主创新。建立政府采购自主创新产品协调机制。对国内企业开发的具有自主知识产权的重要高新技术装备和产品，政府实施首购政策。对企业采购国产高新技术设备提供政策支持。通过政府采购，支持形成技术标准。

Selected Supporting Policies for the 2006–2020 Medium and Long-Term Science and Technology Development Plan (2006)

实施《国家中长期科学和技术发展规划纲要（2006—2020年）》的若干配套政策

www.gov.cn/zwggk/2006-02/26/content_211553.htm

Section 4: Government Procurement

(22) Set up a system utilizing fiscal funds to purchase indigenous innovative products. The Ministry of Science and Technology together with other departments will conduct this evaluation, while the Ministry of Finance in coordination with other relevant departments will set the criteria for approval of indigenous innovation products and compile the catalogue for government procurement. Regarding key projects invested either by the central government or local governments, the purchase value of domestic products generally should account for more than 60 percent of the total amount.

(23) Give preferential treatment to indigenous innovative products by improving government procurement review methods.

(24) Establish a government system for initial purchasing and ordering which will encourage indigenous innovation.

(25) Develop systems to certify domestic products and review the purchase of foreign products. MOF, together with relevant departments, will set the evaluation standards for domestic products. For products that can neither be obtained in China nor acquired under reasonable commercial conditions (except purchased items that would be used outside of PRC territory), confirmation documents will be provided by state certification authorities before purchasing activities occur. Procurement of foreign products will help enterprises adhere to the principles of independent innovation, acquisition, and absorption of core technologies, giving priority to goods involving technology transfer to China.

（二十二）建立财政性资金采购自主创新产品制度。建立自主创新产品认证制度，建立认定标准和评价体系。由科技部门会同综合经济部门按照公开、公正的程序对自主创新产品进行认定，并向全社会公告。财政部会同有关部门在获得认定的自主创新产品范围内，确定政府采购自主创新产品目录（以下简称目录），实行动态管理。在国家和地方政府投资的重点工程中，国产设备采购比例一般不得低于总价值的60%。

（二十三）改进政府采购评审方法，给予自主创新产品优先待遇。

（二十四）建立激励自主创新的政府首购和订购制度。

（二十五）建立本国货物认定制度和购买外国产品审核制度。采购人应根据《中华人民共和国政府采购法》规定，优先购买本国产品。财政部会同有关部门制定本国货物认定标准。采购人需要的产品在中国境内无法获取或者无法以合理的商业条件获取的（在中国境外使用除外），在采购活动开始前，需由国家权威认证机构予以确认并出具证明。采购外国产品时，坚持有利于企业自主创新或消化吸收核心技术的原则，优先购买向我转让技术的产品。

Opinions on Implementation on Government Procurement of Environmentally Labeled Products (2006)

财政部 环保总局关于环境标志产品政府采购实施的意见

www.mep.gov.cn/law/gz/bmhb/gwygf/200611/t20061116_96090.htm

II. All levels of governmental organs, public institutions, and organizational groups (hereafter referred to as the “purchaser”) conducting procurement using government funds should prioritize purchase of products labeled as complying with environmental protection and must not purchase products harmful to the environment and human health.

二、各级国家机关、事业单位和团体组织（以下统称采购人）用财政性资金进行采购的，要优先采购环境标志产品，不得采购危害环境及人体健康的产品。

Trial Measures for the Administration of the Accreditation of National Indigenous Innovation Products (2006)

国家自主创新产品认定管理办法(试行)

www.csoet.cn/n16/n1100/n38116/n38723/205126.html

Article 2: National certification of indigenous innovation products will adhere to the principles of transparency, fairness, and equality and be based on scientific evaluation. Accredited products will be given priority in government procurement, procurement for national key projects, or other procurements using government funds, and will be given further support in the accreditation process for new- and high-technology enterprises, to promote of the commercialization of scientific and technological achievements, support industry development policies, and to guide the whole society to support the development of indigenous innovation products.

Article 4: Applications for national indigenous innovation products should meet the following requirements: the product (i) is in accordance with national laws and regulations, and the industry-specific technology development policy and other related industrial policies; (ii) the product possesses clear legal ownership of independently developed intellectual property rights; e.g. the applying enterprise via its own technological innovation activities has acquired full ownership of intellectual property in China, or the Chinese enterprise, work unit, or citizen has by legal means obtained the China intellectual property rights or usage rights; (iii) the product possesses ownership of an independent brand, namely the ownership of a registered trademark; (iv) has a high degree of creativity and innovation: i.e., the mastering of core technologies, improving of product functions by applying new technologies, or initially raising technological standards locally and abroad; (v) uses a high level of technology when compared with similar products at an international level; (vi) the product is of high and dependable quality, as evidenced through certification by the China National Certification Administration or by its provincial subsidiaries; for products with special administrative requirements (such as pharmaceuticals, medical devices, pesticides, measuring devices, pressure vessels, telecom equipment, etc.), manufacturers must acquire product manufacturing licensing certification from the relevant authorities under the State Council; certification must also be acquired for those products requiring compulsory product certification; (vii) the product has a large potential market or strong economic prospects, or has the potential to replace imports.

第二条 国家自主创新产品认定工作遵循公开、公正、公平、科学的原则。经认定的国家自主创新产品将在政府采购、国家重大工程采购等财政性资金采购中优先购买，并在高新技术企业认定、促进科技成果转化和相关产业化政策中给予重点支持，以引导全社会支持自主创新产品的发展。

第四条 申请认定的国家自主创新产品，应符合以下条件：（一）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。（二）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。（三）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。（四）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。（五）产品技术先进，在同类产品中处于国际领先水平。（六）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（如：医药、医疗器械、农药、计量器具、压力容器、邮电通信等产品），必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，必须通过强制性产品认证。（七）产品具有潜在的经济效益和较大的市场前景或能替代进口。

Administrative Measure for Government Procurement of Imported Products (2007)

政府采购进口产品管理办法

www.gov.cn/zwgk/2008-01/15/content_858659.htm

Article 3: Imported products in this measure refer to those entering into the territory of China after the procedures of Chinese customs declaration, inspection, and clearance and being produced abroad.

第三条 本办法所称进口产品是指通过中国海关报关验放进入中国境内且产自关境外的产品。

Evaluation Measures on Indigenous Innovation Products Government Procurement (2007)

自主创新产品政府采购评审办法

www.gov.cn/ztrl/kjfzgh/content_883671.htm

Article 13: In projects utilizing the lowest price method of evaluating bids, indigenous innovation products can be awarded a 5 percent to 10 percent price deduction.

Article 14: In projects utilizing the comprehensive evaluation method, increased factors will be provided to indigenous innovation products, and in the auditing process, once basic technical parameters have been met, extra points will be awarded in the technical and price evaluation process: (i) in price evaluation scoring, a 4 percent to 8 percent additional score can be provided to indigenous innovation products; (ii) in technical evaluation scoring, a 4 percent to 8 percent additional score can be provided to indigenous innovation products.

Article 15: For projects utilizing the cost performance comparison evaluation method, indigenous innovation products will receive new evaluation parameters and a certain price range deduction. Based on the same principles set forth in Article 14, in technical evaluation scoring indigenous innovation products will receive increased evaluation scores; and a deduction of 4 percent to 8 percent will be made to the tendered price of indigenous innovation products.

Article 16: For projects utilizing the competitive negotiation and price quotation method, the requirement for products to possess indigenous innovation should be included in the negotiation and quote content. In situations where the indigenous innovation product meets the need, quality, and service requirements, as long as the price submitted for the indigenous innovation product does not exceed between 5 percent to 10 percent of the lowest price submitted for regular products, the company providing the indigenous innovation product should be awarded the contract.

第十三条 采用最低评标价法评标的项目，对自主创新产品可以在评审时对其投标价格给予5%~10%幅度不等的价格扣除。

第十四条 采用综合评分法评标的项目，对自主创新产品应当增加自主创新评审因素，并在评审时，在满足基本技术条件的前提下，对技术和价格项目按下列规则给予一定幅度的加分：（一）在价格评标项中，可以对自主创新产品给予价格评标总分值的4%~8%幅度不等的加分。（二）在技术评标项中，可以对自主创新产品给予技术评标总分值的4%~8%幅度不等的加分。

第十五条 采用性价比法评标的项目，对自主创新产品可增加自主创新评分因素和给予一定幅度的价格扣除。按照第十四条所述原则，在技术评标项中增加自主创新产品评分因素；给予自主创新产品投标报价4%~8%幅度不等的价格扣除。

第十六条 采用竞争性谈判、询价方式采购的，应当将对产品的自主创新要求作为谈判、询价的内容。在满足采购需求、质量和服务相等的情况下，自主创新产品报价不高于一般产品当次报价的最低报价 5%~10%的，应当确定自主创新产品供应商为成交供应商。

Administrative Measures for the Government to Initially and Selectively Purchase Independent Innovation Products (2007)

自主创新产品政府首购和订购管理办法

www.gov.cn/ztlz/kjzgh/content_883647.htm

Article 2: Where state organs, public institutions, and collective organizations (hereinafter referred to as the “purchaser”) use government funds to conduct initial and select purchasing activities, these measures shall apply.

Article 3: The term “initial purchasing” in these measures refers to giving priority in government procurement to the purchase of goods newly developed or produced by domestic enterprises or research institutes that are entering the market for the first time, temporarily lack market competitiveness, fulfill national economic development goals, and represent the development of advanced technology.

Article 4: The term “select purchasing” in these measures refers to utilizing government procurement to select key research institutes or manufacturing organizations to research or manufacture products, technology, software, and research tasks related to the research and development of key innovative products required by the nation.

Article 5: Products to be initially and selectively purchased by the government shall be original and independently developed. If such products are indigenous innovation products, the initial and select purchase of those products’ activities will be governed by the policies on government procurement of indigenous innovation products.

Article 11: When procuring goods of types included in the initial purchase list, purchasers will select from the designated products listed in the Catalogue of Indigenous Innovation Products and sign government purchasing contracts with suppliers of those goods.

第二条

国家机关、事业单位和团体组织（以下统称采购人）使用财政性资金开展首购、订购活动的，适用本办法。

第三条

本办法所称首购，是指对于国内企业或科研机构生产或开发的，暂不具有市场竞争力，但符合国民经济发展要求、代表先进技术发展方向的首次投向市场的产品（以下统称首购产品），通过政府采购方式由采购人或政府首先采购的行为。

第四条

本办法所称订购，是指对于国家需要研究开发的重大创新产品、技术、软科学研究课题等（以下统称订购产品），通过政府采购方式面向全社会确定研究开发和生产机构（以下统称订购产品供应商）的行为。

第五条

首购和订购的产品应当具有首创和自主研发性质。属于自主创新产品的，应当按照自主创新产品政府采购政策执行。

第十一条

采购人采购的产品属于首购产品类别的，采购人应当购买《目录》中列明的首购产品，将政府采购合同授予提供首购产品的供应商

Notice on Establishing a System for Compulsory Government Procurement of Energy Efficient Products (2007)

国务院办公厅关于建立政府强制采购节能产品制度的通知

www.gov.cn/xxgk/pub/govpublic/mrlm/200803/t20080328_32584.html

II. Scientifically formulate a list of energy-efficient products for government procurement

Products receiving purchase priority should meet the following criteria: first, the product is certified as an energy efficient product by a nationally recognized energy efficient product certification organization; second, the production capacity of the product is sufficiently large, the technology mature, and of reliable quality; third, the product has a complete distribution system and good ability in after sales service; and fourth, the suppliers of the product meet the requirements for government procurement in the Government Procurement Law.

Within the products receiving purchase priority, compulsory procurement will be instituted for products meeting the following conditions: i) commonly used products, suited to a collective procurement process, with economy of scale; ii) products with prominent energy efficiency functionality; iii) products with sufficient supplier base, usually no fewer than five suppliers, to ensure sufficient competition and purchaser choice.

二、科学制定节能产品政府采购清单

优先采购的节能产品应该符合下列条件：一是产品属于国家采信的节能产品认证机构认证的节能产品，节能效果明显；二是产品生产批量较大，技术成熟，质量可靠；三是产品具有比较健全的供应体系和良好的售后服务能力；四是产品供应商符合政府采购法对政府采购供应商的条件要求。

在优先采购的节能产品中，实行强制采购的按照以下原则确定：一是产品具有通用性，适合集中采购，有较好的规模效益；二是产品节能效果突出，效益比较显著；三是产品供应商数量充足，一般不少于5家，确保产品具有充分的竞争性，采购人具有较大的选择空间。

Notice on Related Issues on Administrative Measures on Government Procurement of Imported Products (2008)

关于政府采购进口产品管理有关问题的通知

www.moc.gov.cn/zizhan/siju/caiwusi/zhengfucaigou/guanliwenjian/200808/t20080807_512538.html

Section II. Territory classification for products in specially administered Customs zones

Products made in China's special customs zones from imported materials do not qualify as imported goods and are not subject to government procurement restrictions; and foreign products that enter special customs zones for production or assembly and then pass through customs into China are defined as imported products.

二、关于关境和海关特殊监管区域产品认定

凡在海关特殊监管区域内企业生产或加工(包括从境外进口料件)销往境内其他地区的产品，不作为政府采购项下进口产品。对从境外进入海关特殊监管区域，再经办理报关手续后从海关特殊监管区进入境内其他地区的产品，应当认定为进口产品。

State Council Opinion on Further Strengthening Management of Government Procurement (April 2009)

国务院办公厅关于进一步加强政府采购管理工作的意见

www.gov.cn/zwgk/2009-04/13/content_1283914.htm

Part IV: More measures should be taken to ensure mandatory procurement of energy-efficient products and environmental-protection products; in cases where products to be procured fall within the categories of energy

efficiency and indigenous innovation products, the list (catalogue) of energy efficient products and indigenous innovation products for government procurement published by the MOF together with relevant departments must be followed. The procurement of imported products must be strictly examined and approved; if domestic products can meet the requirements, domestic products must be procured.

四、加大强制采购节能产品和优先购买环保产品的力度，凡采购产品涉及节能环保和自主创新产品的，必须执行财政部会同有关部门发布的节能环保和自主创新产品政府采购清单（目录）。要严格审核进口产品的采购，凡国内产品能够满足需求的都要采购国内产品。

Opinion on the Implementation of Decisions on Expanding Domestic Demand and Promoting Economic Growth and Further Strengthening Supervision on Tendering and Bidding for Construction Projects (June 2009)

关于印发贯彻落实扩大内需促进经济增长决策部署进一步加强工程建设招标投标监管工作意见的通知
www.ndrc.gov.cn/zcfb/zcfbtz/2009tz/t20090604_284262.htm

Section 2, (ii): Government-invested projects that fall under government procurement should purchase domestic products only, with the exception of when projects, goods, or services can neither be obtained in China nor acquired within reasonable commercial conditions. Imported product procurement must go through relevant government approvals. For projects partially or wholly funded by the government, PRC authorities should investigate legal liability, in accordance with relevant laws and regulations, for cases in which bidding documents contain discriminatory provisions that designate foreign-branded products or functional parts at the expense of domestic infrastructure.

二、(二) 政府投资项目属于政府采购的，除需要采购的工程、货物或者服务在中国境内无法获取或者无法以合理的商业条件获取等法定情形外，应当采购本国产品。确需采购进口产品的，必须在采购活动开展前，按照国家规定报经有关部门审核同意。对于全部或部分使用政府投资项目，在招标文件中采用歧视性条件，间接或直接指定采购国外品牌产品或功能部件，限制国产设备使用的违法行为，依照相关法律法规追究其法律责任。

Appendix 2: Currently Available Certified Product Catalogues and Lists

(As of June 2009)

Indigenous Innovation Product Catalogues

Beijing

- Catalogue 1: 157 products, 01/14/2007
www.bjkw.gov.cn/n1143/n1240/n1405/n1901/1919102.html
- Catalogue 2: 1816 products, 02/23/2009
www.bjkw.gov.cn/n1143/n1240/n1405/n1901/7305164.html
- Catalogue 3: 283 products, 05/05/2009
www.bjkw.gov.cn/n1143/n1240/n1405/n1901/7569666.html
- Catalogue 4: 607 products, 06/10/2009
www.bjkw.gov.cn/n1143/n1240/n1405/n1901/7742217.html
- Catalogue 1 (for initial purchase – compulsory): 20 products, 03/06/2009
www.bjkw.gov.cn/n1143/n1240/n1405/n1901/7305249.html
- Catalogue 2 (for initial purchase – compulsory): 11 products, 05/05/2009
www.bjkw.gov.cn/n1143/n1240/n1405/n1901/7569644.html
- Catalogue 3 (for initial purchase – compulsory): 7 products, 06/10/2009
www.bjkw.gov.cn/n1143/n1240/n1405/n1901/7742163.html

Fujian

- Catalogue 1: 54 products, 12/01/2008
www.fjkjt.gov.cn/newsedit1.asp?news_xxbh=35157&news_xxlb=4

Guangdong

- Catalogue 1 for public notice: 130 products, 05/27/2009
www.gdstc.gov.cn/HTML/zwgk/spgg/1243735296865-1629765023466186964.html

Hebei

- Catalogue 1: 84 products, 10/07/2008
www.hebstd.gov.cn/tzgg/disp_tz.asp?id=1080

Jiangsu

- Catalogue 1: 16 products, 03/02/2007
www.rgzfcg.gov.cn/Article/ShowArticle.asp?ArticleID=254
- Catalogue 2: 83 products, 12/29/2007
www.jstd.gov.cn/zwgk/tzggg/20090417/171800022.html
- Catalogue 3: 77 products, 12/08/2008
www.ccgj-jiangsu.gov.cn/frontweb2/petit_face/fgshow.jsp?infoid=20081208171728&sort=%E5%85%A8%E7%9C%81%E6%B3%95%E8%A7%84
- Catalogue 4 for public notice: 136 products, 05/08/2009
www.jstd.gov.cn/zwgk/tzggg/20090619/165302575.html

Qingdao

- 2009 Catalogue: 193 products, 02/2009
www.caigou2003.com/law/dfagui/200902/20090218151655_264436.html

Shandong

- 2008 Catalogue: 347 products, 12/18/2008
www.sdsc.gov.cn/ShowContent?columnid=iroot1026012020&articleid=640480

Shenzhen

- Catalogue 1 for public notice: 122 products, 07/18/2008
www.szsti.gov.cn/index.asp?bianhao=5297
- Catalogue 2 for public notice: 312 products, 12/18/2008
www.szsti.gov.cn/index.asp?bianhao=5210

Xiamen

- Catalogue 1: 29 products, 07/14/2006
www.xmjfw.gov.cn/xmi.nsf/ShowDetails?openform&ProgramName=1A0009&id=C40D622E45AE4678482571C00033B340&CSiteTemp=1

Energy-Efficient Products List

- Public Notice on Adjusting “Government Procurement of Energy Efficient Products List” (June 15, 2009)
www.gov.cn/gzdt/2009-06/15/content_1340919.htm

Environmentally Protective Products List

- Public Notice on Adjusting “Government Procurement of Environmentally Labeled Products List” (June 16, 2009)
www.sepacec.net.cn/zxdt.asp?lngid=114

Appendix 3: Selected “Buy Local” Policies at the Provincial and Municipal Level

(As of June 2009)

Selected “Buy Local” Policies

City/Province	Document	“Buy local” provisions	Date issued
Anhui	Opinions on Promoting Economic Stability and Faster Growth (www.ahpc.gov.cn/information.jsp?xxnr_id=10064045)	Gives government procurement priority to locally manufactured automobiles, home appliances, and materials used for publicly funded infrastructure projects.	10/31/08
Changchun, Jilin	Opinions on Policies Supporting the Development of Industrial Enterprises (available at www.changchun.gov.cn/)	Requires at least 50 percent of goods for municipal state-owned enterprises (SOEs) and major projects to be procured locally and gives preference to China FAW Group Corp. vehicles in government vehicle procurement.	01/05/09
Hunan	Opinions on Promoting Stable and Faster Development of Industrial Enterprises (www.hunan.gov.cn/zczn/200902/t20090204_10388.htm)	Announced local government and SOE procurement preferences for locally manufactured automobiles, office supplies, drugs, and any products related to government official business activities or used in large projects.	01/23/09
Hubei	Opinion on Promoting Wuhan Iron & Steel Product Circulation within Hubei (www.hbsme.gov.cn/page/web/1/208/200902191441500042.html)	Wuhan Iron & Steel (Group) Corp. products should receive priority in government purchases and large construction projects within Hubei.	02/17/09
Nanjing, Jiangsu	Opinions on Supporting the Development of Small and Medium-Sized Enterprises (www.nanjing.gov.cn/zwgk/zfqb/0901/090104/200902/t20090216_263058.htm)	Prioritizes purchase of locally made environmentally friendly and energy efficient products, wireless local area network equipment, and other goods in the provincial government procurement catalogue; states that local products should be favored in government-financed projects and key technology upgrade programs.	01/10/09
Guangxi	Opinions on Expanding Domestic Consumption, Safeguarding the People’s Livelihood, and Promoting Stable and Faster Growth (www.gxzf.gov.cn/gxzf_zwgk/zwgk_zfwj/zqrmzfwj/200902/t20090212_106629.htm)	Supports local purchases of mechanical and electronic products of light industry, building materials, engineering mechanics, and other devices.	12/08/08
Shanxi	Circular on Further Effective Measures on Maintaining Stable and Fast Growth of the Industrial Economy (www.shaanxi.gov.cn/0/104/6296.htm)	Promotes sales of industry goods for infrastructure construction and industrial projects, as well as medicines.	11/24/08
Guangdong	Implementation Opinion on Encouraging Guangdong Top 100 and Dongguan Top 50 Private Enterprises (www1.dg.gov.cn/publicfiles/business/htmlfiles/cndg/s1272/200902/131443.htm)	Prioritizes purchase of local products, especially from companies in Dongguan, for infrastructure and other construction projects.	12/23/08
Henan	Opinion on Promoting Stable and Fast Growth of the Industrial Economy (www.henan.gov.cn/zwgk/system/2009/02/09/010117869.shtml)	Government procurement and fixed-asset projects should prioritize local purchases of automobiles, home appliances, environment conservation equipment, pharmaceuticals, and information system integration and software services.	01/19/09

Note: These are only a few of the localities that have released “buy local” measures. Also, other cities have reportedly been drafting similar “buy local” policies.