

Endnotes

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¹²⁸ See Consolidated Version of the Treaty on the Functioning of the European Union art. 288, Oct. 26, 2012, 2012 O.J. (C 326), 171–172 (implying that, although recommendations may not be binding, they may be necessary).

¹²⁹ See Tobis Garstecki, Implementation of Article 16, Council Regulation (EC) No. 338/97, in the 25 Member States of the European Union, TRAFFIC Europe Report for the European Commission, Brussels, Belgium, 35–36 (2005) (indicating that the judicial approach to wildlife crimes varies widely across countries in the European Union).

¹³⁰ See UK National Wildlife Crime Unit, 32-year-old Male Sentenced for the Illegal Sale and Export of Elephant Ivory from the UK, <https://www.nwcu.police.uk/news/nwcu-police-press-releases/a-32-year-old-male-sentenced-for-the-illegal-sale-and-export-of-elephant-ivory-from-the-uk> (last visited Dec. 17, 2019) (describing the case in detail).

¹³¹ See UK National Wildlife Crime Unit, Spalding Illegal Ivory Trader Sentenced, <http://www.nwcu.police.uk/news/nwcu-police-press-releases/spalding-illegal-ivory-trader-sentenced/> (last visited Dec. 17, 2019) (providing details of the case in question).

¹³² See Katharina Klass, et al. EU Directorate General for Internal Policies, Wildlife Crime in Germany, 20 (April 2016), [http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/578958/IPOL_IDA\(2016\)578958_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/578958/IPOL_IDA(2016)578958_EN.pdf) (last visited Jan. 19, 2020) (noting that this maximum penalty has never actually been imposed).

¹³³ See Fajardo Del Castillo, Teresa, EU Directorate General for Internal Policies, Wildlife Crime in Spain, 20 – 21. (April 2016), [http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/578962/IPOL_IDA\(2016\)578962_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/578962/IPOL_IDA(2016)578962_EN.pdf) (Last accessed on Jan. 16, 2020) (describing the law and the penalties it imposes).

¹³⁴ 16 U.S.C. § 1540(a)(1) (1973) .(explaining the maximum civil penalties for each violation).

¹³⁵ 16 U.S.C. § 1540(b)(1) (1973)). (stating criminal penalties may be applied in addition to civil penalties).

¹³⁶ See Thomas Zambito, *Leader of Rhino Horn Smuggling Ring Sentenced to Nearly Six Years in Prison*. NJ.COM (May 27, 2014), https://www.nj.com/news/2014/05/head_of_rhino_horn_smuggling_ring_sentenced_to_nearly_six_years_in_prison.html (last visited Dec. 14, 2019) (explaining the application of punishments for a wildlife smuggling offense).

¹³⁷ See DEPARTMENT OF JUSTICE: OFFICE OF PUBLIC AFFAIRS, NEW JERSEY MAN SENTENCED TO 33 MONTHS IN PRISON FOR TRAFFICKING IN ILLEGALLY-IMPORTED NARWHAL TUSKS AND MONEY LAUNDERING. (Jan. 12, 2015), <https://www.justice.gov/opa/pr/new-jersey-man-sentenced-33-months-prison-trafficking-illegally-imported>

narwhal-tusks-and (stating the penalties for importing and trafficking narwhal tusks).

¹³⁸ DEPARTMENT OF JUSTICE: SOUTHERN DISTRICT OF FLORIDA, IRISH NATIONAL EXTRADITED TO THE UNITED STATES FROM THE UNITED KINGDOM PLEADS GUILTY TO TRAFFICKING OF RHINOCEROS HORNS AND IS SENTENCED TO PRISON (Oct. 1, 2019), <https://www.justice.gov/usao-sdfl/pr/irish-national-extradited-united-states-united-kingdom-pleads-guilty-trafficking>

¹³⁹ See Nature Conservation Amendment Act, 2017. (Namibia) Sec 26 (3) (a) (explaining penalties for violations of the Nature Conservation Amendemnet Act in Nambia).

AN OPPORTUNITY THAT SHOULD NOT BE MISSED: APPLYING CHINESE POLICY THAT PROMOTES EFFICIENT AIR CONDITIONING TO COUNTRIES THAT NEED IT

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the current situation of overseas development of Chinese enterprises, we must clarify a point of view: export products are not equal to export brands. In overseas markets, ACs exported by China are divided into two categories: “branded” and “unbranded.” This difference represents two very different globalization paths for Chinese companies of “creating their own brands” or “selling under other brands.”]

²¹ *On the Domestic AC Market, Gree, Midea and Haier Compete on Scale, But How About on the Export Markets?* [在国内空调业, 格力、美的、海尔比规模, 在国外呢?], GLOBAL HOUSE APPLIANCE WEB (Nov. 29, 2019), <https://cacs.mofcom.gov.cn/article/ffwpt/jyjdycgal/201911/161405.html> (“与国内空调业比规模不同, 当中国空调走向国外后, 自主品牌建设才是核心竞争力。”[“Unlike the scale-focused competition on the domestic market, when it comes to the export markets, the key for competitiveness embeds in the strength of its own brand.”]).

²² See Implementation Opinions on Supporting the Sale of Export Products on Domestic Market [关于支持出口产品转内销的实施意见] (promulgated by China General Office of the State Council, June 17, 2020), http://www.gov.cn/zhengce/content/2020-06/22/content_5521078.htm; see also *Recovery of Work and Production! How Household Appliance Companies Can Resist the Impact of the Pandemic* [复工复产! 家电企业如何抵御疫情冲击], XIAOXIANG MORNING POST (May 5, 2020), <http://ac.chinaiol.com/u/0522/56223178.html> (“疫情当下, 家电企业正通过外销转内销、增加产品型号款式、发展多种销售模式来进行自救”[“Under the circumstances of the pandemic, household appliance companies are rescuing themselves by converting from export to domestic sales, as well as increasing product models and styles, and exploring multiple sale channels.”]).

²³ *How Much do You Know about the Same-Line Policy?* [关于“同线同标同质”你了解多少?], CERTIFICATION AND ACCREDITATION ADMINISTRATION, http://www.cnca.gov.cn/rdzt/2016/txtbtz/qwj/201605/t20160508_51071.shtml (last visited Oct. 5, 2020).

²⁴ See *id.* HACCP management system certification, one of the Same-Line Policy requirements for food-related exports, is a management system for addressing food-safety related hazards from food production processes. While we included this for a complete understanding of the Same-Line Policy requirements, this requirement is not central to this article’s analysis.

²⁵ See *The General Administration of Quality Supervision, Inspection and Quarantine Guides the Transition of Food Export Enterprises to Achieving the “Same-Line Policy” between Food for Export and for Domestic Consumption* [国家质检总局引导出口食品企业转型 实现内外销食品“同线同标同质”], CERTIFICATION AND ACCREDITATION ADMINISTRATION, http://www.cnca.gov.cn/rdzt/2016/txtbtz/rdyw/201605/t20160508_51105.shtml (last visited Oct. 5, 2020).

²⁶ See Implementation Opinions on Supporting the Sale of Export Products on Domestic Market, *supra* note 2.

²⁷ See Certification and Accreditation Administration, *supra* note 23.

²⁸ *Same-Line Policy Products Enter the Domestic Market on a Large Scale—No Need to Go Abroad to Buy Made-in-China Products* [“同线同标同质”产品大规模进入国内市场——不用出国买“国货”], PEOPLE’S DAILY INT’L EDITION, (Apr. 14, 2019), http://www.xinhuanet.com/2019-04/04/c_1124324953.htm.

²⁹ *Id.* (“如产品标准的具体指标出现我国高于或严于出口的, 按我国国内标准执行”[“if Chinese standards are higher than export countries’, Chinese standards shall be applied”]).

¹⁴⁰ See Wildlife Conservation and Management Act 2013, (Amendment 2018) (Kenya) Sec 92. (quoting the fines and imprisonment terms applicable to violations in Kenya).

¹⁴¹ Racketeer Influenced and Corrupt Organizations Act, 18 U.S. Code §§ 1961-1968.

¹⁴² UNTOC, art. 2 (b).

¹⁴³ UNTOC art. 3 (b).

¹⁴⁴ UNTOC, art. 2 (b).

³⁰ Minimum Allowable Values of the Energy Efficiency and Energy Efficiency Grades for Room Air Conditioners, *supra* note 11.

³¹ *Amended Minimum Allowable Values of the Energy Efficiency and Energy Efficiency Grades for Room Air Conditioners is to be Promulgated Soon* [新版《房间空气调节器能效限定值及能效等级》即将出台], XINHUA NET (Jan. 10, 2020), http://www.xinhuanet.com/tech/2020-01/10/c_1125443206.htm.

³² *Id.*

³³ Minimum Allowable Values of the Energy Efficiency and Energy Efficiency Grades for Multi-Connected Air-Conditioning (Heat Pump) Units (Draft for Comments) [多联式空调 (热泵) 机组能效限定值及能效等级 征求意见稿] (draft sent for WTO notification on Nov. 13, 2020), <http://english.tbtsps.com/page/ewto/Notificationcontent.action?id=4761&columnid=017001> (the issuing agency listed on the draft is the State Administration for Market Regulation and the National Standardization Administration).

³⁴ See Nihar Shah, et al., *Opportunities for Simultaneous Efficiency Improvement and Refrigerant Transition in Air Conditioning*, ENERGY ANALYSIS AND ENVT’L IMPACTS DIV. LAWRENCE BERKELEY NAT’L LAB’Y, xiii, fig. ES-2 (July 2017), <https://international.lbl.gov/publications/opportunities-simultaneous-efficiency>.

³⁵ CLASP, *supra* note 8 at 5.

³⁶ Biao zhun hua fa (标准化法) [China Standardization Law] (promulgated by the Standing Comm. Nat’l People’s Cong., Nov. 4, 2017, effective Jan. 1, 2018), art. 26, http://www.npc.gov.cn/zgrdw/npc/xinwen/2017-11/04/content_2031446.htm (providing that the “technical requirements for exported products and services shall be implemented in accordance with the contract”). Under Article 26, both import and export parties can agree to adopt, international standards, importing country standards, exporting country standards, or third country standards, to define the technical requirements for their contracts. Import and export parties can directly negotiate their own technical specifications. Goods or services exported must be in line with the local laws and regulations of the importing country; such as the importing country’s mandatory standards. If the importing country lacks minimum standards for the imported products, the language of Article 26 does not stipulate that the exported product must at least meet China’s minimum standards. Article 26 of China’s Standardization Law stands in somewhat stark contrast with Article 25, which specifies “products and services that do not meet compulsory standards shall not be produced, sold, imported or supplied.”

³⁷ *Id.*

³⁸ *Room ACs*, DEPARTMENT OF ENERGY, <https://www.energy.gov/energysaver/room-air-conditioners> (last visited Apr. 23, 2021). The energy efficiency ratio (EER) is a metric that is used to measure a room AC’s efficiency. The EER is calculated as the ratio of the cooling capacity to the power input. Therefore, the higher the EER rates, the more efficient the AC is.

³⁹ CLASP, ENVIRONMENTALLY HARMFUL DUMPING OF INEFFICIENT AND OBSOLETE AIR CONDITIONERS IN AFRICA, 5 (June 24, 2020), <https://clasp.ngo/publications/environmentally-harmful-dumping-of-inefficient-and-obsolete-air-conditioners-in-africa> (CLASP and IGSD collaboration).

⁴⁰ *Id.* at 22.

⁴¹ See *Id.* at 5.

⁴² See IEA & UN Environment Programme, *supra* note 3 at 41.

- ⁴³ *Dumping of Obsolete Air Conditioners Undermines Development and Climate Goals*, INST. FOR GOVERNANCE & SUSTAINABLE DEV. (Jan. 9, 2019), <http://www.igsd.org/dumping-of-obsolete-air-conditioners-undermines-development-and-climate-goals/>.
- ⁴⁴ *China Minister of Ecology and Environment, Runqiu HUANG, Gave a Video Speech at the Petersburg Climate Dialogue XI* [彼得斯堡气候对话会召开 生态环境部部长黄润秋视频讲话] CHINA ENVIRONMENT NEWS, (April 30, 2020), https://www.cenews.com.cn/news/202004/t20200430_940554.html (“人类是休戚与共的命运共同体……面对全球气候变化带来的长期挑战和重大风险，各国在恢复经济过程中应当坚持绿色低碳的大方向”[“Human beings live in a community with a shared future... Facing the long term challenges and major risks brought by climate change, countries around the world should adhere to the green and low-carbon development path while pursuing the economic recovery”]).
- ⁴⁵ *Xi Jinping Proposed to Adhere to the Path of Peaceful Development and Promote the Building of A Community with A Shared Future for Mankind*, [习近平提出，坚持和平发展道路，推动构建人类命运共同体], XINHUA NEWS, (Oct. 18, 2017), http://www.gov.cn/zhuanti/2017-10/18/content_5232664.htm.
- ⁴⁶ See generally CLASP, *supra* note 39 (examining trading practices in African countries to determine where environmental dumping of inefficient, high-GWP room ACs is occurring and to identify the factors creating a favorable environment for such practices).
- ⁴⁷ Andrea Pozzer et al., *Regional and Global Contributions of Air Pollution to Risk of Death from COVID-19*, 116(14) CARDIOVASCULAR RESEARCH, 2247–2253 (2020), <https://doi.org/10.1093/cvr/cvaa288> (“We characterized global exposure to fine particulates based on satellite data, and calculated the anthropogenic fraction with an atmospheric chemistry model. The degree to which air pollution influences COVID-19 mortality was derived from epidemiological data in the USA and China. We estimate that particulate air pollution contributed ~15% (95% confidence interval 7–33%) to COVID-19 mortality worldwide, 27% (13–46%) in East Asia, 19% (8–41%) in Europe, and 17% (6–39%) in North America. Globally, ~50–60% of the attributable, anthropogenic fraction is related to fossil fuel use, up to 70–80% in Europe, West Asia, and North America.”). Michael Petroni et al., *Hazardous Air Pollutant Exposure as a Contributing Factor to COVID-19 Mortality in the United States*, 15 ENVT’L. RSCH. LETTERS, 1–3 (Sept. 11, 2020), <https://iopscience.iop.org/article/10.1088/1748-9326/abaf86/pdf> (“We find that an increase in the respiratory hazard index is associated with a 9% increase in COVID-19 mortality... [Hazardous air pollutant] respiratory hazard index (HI) and respiratory hazard quotient (HQ) values [for the study] were obtained from EPA National Air Toxics Assessment (NATA) for the year 2014 (EPA 2018). ... The HQ (for single pollutants) and HI (for multiple pollutants) represent the ratio of modeled yearly average ambient concentration to the concentration... at which a negative respiratory health outcome is expected to be observed.”); Yaren Ogen, *Assessing Nitrogen Dioxide (NO₂) Levels as a Contributing Factor to Coronavirus (COVID-19) Fatality*, 726 SCI. OF THE TOTAL ENV’T., 1–5, (July, 1 2020), <https://doi.org/10.1016/j.scitotenv.2020.138605> (“The objective of this study is to examine the relationship between long-term exposure to NO₂ and coronavirus fatality. ... These results indicate that the long-term exposure to this pollutant may be one of the most important contributors to fatality caused by the COVID-19 virus in these regions and maybe across the whole world.”); Edoardo Conticini, Bruno Frediani & Dario Caro, *Can Atmospheric Pollution be Considered a Co-Factor in Extremely High Level of SARS-CoV-2 Lethality in Northern Italy?*, ENVT’L. POLLUTION, 261 (June 2020), <https://doi.org/10.1016/j.envpol.2020.114465> (“We conclude that the high level of pollution in Northern Italy should be considered an additional co-factor of the high level of lethality recorded in that area.”); see also SCIENTIFIC ADVISORY PANEL OF THE CLIMATE & CLEAN AIR COALITION (CCAC), *SHORT LIVED CLIMATE POLLUTANTS SPECIAL RESEARCH DIGEST – COVID-19 AND AIR POLLUTION*, (2020) <https://www.ccacoalition.org/en/resources/slcp-research-digest-special-edition-covid-19> (discussing these and related Covid-19 studies); Xiao Wu et al., *Air Pollution and COVID-19 Mortality in the United States: Strengths and Limitations of an Ecological Regression Analysis*, SCI. ADVANCES, 1 (2020) <https://doi.org/10.1101/2020.04.05.20054502>, (“We found that an increase of only 1 µg/m³ in PM_{2.5} is associated with an 8% increase in the COVID-19 death rate (95% confidence interval [CI]: 2%, 15%)”).
- ⁴⁸ Office of the Leading Group for the Belt and Road Initiative, *Building the Belt and Road: Concept, Practice and China’s Contribution*, 18 (May 2017), <https://eng.yidaiyilu.gov.cn/wcm.files/upload/CMSydylyw/201705/201705110537027.pdf>.
- ⁴⁹ President Xi Jinping, President of China, Join Hands to Advance the Construction of the BRI [携手推进“一带一路”建设], Keynote Speech at the first BRI Forum for International Cooperation (2017), http://www.gov.cn/xinwen/2017-05/14/content_5193658.htm?gs_ws=tsina_636305289946264139.
- ⁵⁰ *Id.*
- ⁵¹ BELT AND ROAD GREEN COOLING INITIATIVE [“一带一路”绿色高效制冷行动倡议] (co-initiated by China National Development and Reform Commission, United Nations Industrial Development Organization, United Nations Economic and Social Commission for Asia and the Pacific and Energy Foundation China, Apr. 26, 2019), <https://www.ndrc.gov.cn/fzggw/jgsj/hzs/sjdt/201904/W020190910582061655527.pdf>.
- ⁵² *Id.*
- ⁵³ *Id.*
- ⁵⁴ *Id.*
- ⁵⁵ *Id.*
- ⁵⁶ CLASP, THE ROLE OF TRADE POLICY AND ENERGY EFFICIENCY POLICY TO PROMOTE HIGHLY EFFICIENT AC MARKETS (Feb. 11, 2019), <https://clasp.ngo/publications/the-role-of-trade-policy-and-energy-efficiency-policy-to-promote-highly-efficient-air-conditioner-markets>; see also CLASP, ENVIRONMENTALLY HARMFUL DUMPING OF INEFFICIENT AND OBSOLETE ACs IN AFRICA (June 24, 2020), <https://clasp.ngo/publications/environmentally-harmful-dumping-of-inefficient-and-obsolete-air-conditioners-in-africa> (discussing African countries’ risk of becoming ‘environmental dumping’ grounds for inefficient and environmentally harmful ACs as industrial economies increase minimum energy performance standards and limit refrigerant GWP, in response to climate change).
- ⁵⁷ See Belt and Road Portal, https://eng.yidaiyilu.gov.cn/info/iList.jsp?cat_id=10076 (last visited April 23, 2021) (list and profiles of BRI countries); see also Green Belt and Road Initiative Center, *Countries of the Belt and Road Initiative (BRI)*, <https://green-bri.org/countries-of-the-belt-and-road-initiative-bri/> (last visited April 23, 2021).
- ⁵⁸ CLASP, *supra* note 8, at 6.
- ⁵⁹ See China Ministry of Ecology and Environment, Transcript of Monthly Press Conference in August 2019 [生态环境部2019年8月例行新闻发布会实录] (Aug. 30, 2019), http://www.mee.gov.cn/xxgk2018/xxgk/xxgk15/201908/t20190830_730891.html.
- ⁶⁰ China Ministry of Ecology and Environment, Transcript of Monthly Press Conference in August 2019 [生态环境部2019年8月例行新闻发布会实录] (Aug. 30, 2019), http://www.mee.gov.cn/xxgk2018/xxgk/xxgk15/201908/t20190830_730891.html; see also The Beijing Consultative Meeting on South-South Cooperation on Climate Change (Nov. 2015), <https://www.un.org/sustainabledevelopment/wp-content/uploads/2015/11/Beijing-Meeting.pdf> (discussing challenges and recommendations for south-south climate-change cooperation, including UN entities’ facilitative role).
- ⁶¹ U.S.-China Joint Presidential Statement on Climate Change (Sept. 25, 2015), <https://obamawhitehouse.archives.gov/the-press-office/2015/09/25/us-china-joint-presidential-statement-climate-change>.
- ⁶² China Ministry of Ecology and Environment, *supra* note 59.
- ⁶³ China Ministry of Ecology and Environment, *supra* note 59.
- ⁶⁴ President Xi Jinping, President of China, *Speech at Opening Ceremony of Paris climate summit*, CHINA DAILY, (Dec. 1, 2015), https://www.chinadaily.com.cn/world/XiattendsParisclimateconference/2015-12/01/content_22592469.htm.
- ⁶⁵ CLASP, *supra* note 39, at 8 (stating that China supplied around 80% of the room ACs imported into the study countries).
- ⁶⁶ Marc J. Schniederjans et al., *Consumer Perceptions of Product Quality Revisited: Made in China*, 18(3) QUALITY MANAGEMENT JOURNAL (2011) (“An earlier consumer perception study of manufactured products revealed through value metrics that China had quality management problems. This paper revisits and expands the application of the same quality metrics into a longitudinal study. The authors measure the current state of product quality improvement in Chinese manufactured goods by U.S. customer perceptions and compare them to the previous state of quality from the prior study. The results reveal a continued, substantial, and consistent need for Chinese manufacturers to focus additional efforts toward improving product quality in almost all product lines.”)
- ⁶⁷ Made in China 2025 [中国制造2025] (Issued by China State Council, May 19, 2015), http://www.gov.cn/zhengce/content/2015-05/19/content_9784.htm.
- ⁶⁸ China Ministry of Industry and Information Technology, Interpretation of “Made in China 2025”: Fully Promote Green Manufacturing and Accelerate the Construction of Ecological Civilization [《中国制造2025》解读之：全面推行

绿色制造 加快建设生态文明], (July 8, 2015), https://www.miit.gov.cn/ztzl/lszt/zgzz2025/zcjd/art/2020/art_5183349830704af084057f04ef30ad7f.html.

⁶⁹ Made in China 2025, *supra* note 67.

⁷⁰ The Chinese AC industry has also demonstrated its technical capacity for the industry transition to high quality products. For example, Gree, the world's largest residential AC manufacturer, in partnership with Tsinghua University, was selected as one of the winners in the Global Cooling Prize, an international innovation competition to develop a super-efficient, more climate friendly, and affordable cooling solution. See Global Cooling Prize, <https://globalcoolingprize.org/> (last visited May 18, 2021).

⁷¹ See, e.g., U.N. Environment Programme, Decisions Adopted by the Thirty-First Meeting of the Parties to the Montreal Protocol, 9 (Nov. 11, 2019), <https://ozone.unep.org/system/files/documents/MOP-31-9-Add-IE.pdf> (illustrating that the Montreal Protocol governs refrigerants and is increasingly addressing cooling equipment efficiency).

⁷² U.N. Environment Programme, *In Support of Climate Action, Cool Coalition Partners Announce Huge Push on Efficient, Climate-Friendly Cooling* (Sept. 23, 2019), <https://www.unenvironment.org/news-and-stories/press-release/support-climate-action-cool-coalition-partners-announce-huge-push> (illustrating a multi-nation support for climate-friendly cooling).

⁷³ See UNITED FOR EFFICIENCY, MODEL REGULATION GUIDELINES FOR ENERGY-EFFICIENT AND CLIMATE-FRIENDLY ACs (Sept. 2019), <https://united4efficiency.org/resources/model-regulation-guidelines-for-energy-efficient-and-climate-friendly-air-conditioners/> (providing model guidelines for climate friendly ACs); see also U4E, *Partners*, <https://united4efficiency.org/partners/> (noting that Chinese companies, such as Gree and Sanhua are members of U4E, as well as China National Institute of Standardization).

⁷⁴ Togar M. Simatupang et al., *The Emergence of Value Chain Thinking*, INT. J. VALUE CHAIN MANAGEMENT, 8(1):40 (2017) ("A Value Chain shows how a product moves from the stage of raw materials to the end consumer. This includes a wide range of activities required to handle a product or service from the conception, through various phases of production (involving a combination of physical transformation and input from various services producers), delivery to the final consumers, and final disposal after use.").

⁷⁵ Implementation Opinions on Supporting the Sale of Export Products on Domestic Market, *supra* note 2.

⁷⁶ See U4E, MODEL REGULATION GUIDELINES, https://united4efficiency.org/wp-content/uploads/2020/02/Model-Regulation-Guidelines_2-Page-Brief_all-products_20200205.pdf (providing globally model regulations for a variety of electrical appliances). See generally Stephen O. Andersen et al., *Defining the Legal and Policy Framework to Stop the Dumping of Environmentally Harmful Products*, 29 DUKE ENV'T L. & POL'Y F. 1 (2018), <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1356&context=delplf.NEP>.

⁷⁷ See generally George A. Akerlof, *The Market for "Lemons": Quality Uncertainty and the Market Mechanism*, 84 Q. J. OF ECON., 488, 488-500 (1970).

⁷⁸ Guiding Opinions on Promoting the Construction of Green BRI [关于推进绿色“一带一路”建设的指导意见] (promulgated by China Ministry of Environmental Protection (now Ministry of Ecology and Environment), Ministry of Foreign Affairs, National Development and Reform Commission, and Ministry of Commerce, April 24, 2017) https://www.mee.gov.cn/gkml/hbb/bwj/201705/t20170505_413602.htm ("推进绿色生产、绿色采购和绿色消费, 加强绿色供应链国际合作与示范" ["Promote green production, green procurement and green consumption; and strengthen international cooperation and demonstration of green supply chains"]); GREEN INVESTMENT PRINCIPLES FOR THE BELT AND ROAD (2018) <https://gipbr.net/SIC.aspx?id=170&m=2> (co-initiated by the Green Finance Committee of China Society for Finance and Banking and the City of London Corporation's Green Finance Initiative) ("Principle 6: Adopting green supply chain management. We will integrate ESG factors into supply chain management and utilize international best practices such as life cycle accounting on GHG emissions and water use, supplier whitelists, performance indices, information disclosure and data sharing, in our investment, procurement and operations.").

⁷⁹ See Silk Road Fund, *Overview*, <http://www.silkroadfund.com.cn/enweb/23775/23767/index.html> (describing President Xi Jinping's announcement in 2014 of a total of forty billion USD to establish the Silk Road Fund. The Silk Road Fund is "dedicated to supporting infrastructure, resources, and energy development, industrial capacity cooperation and financial cooperation in countries and regions involved in the Belt and Road Initiative.").

⁸⁰ U.S.-China Joint Presidential Statement on Climate Change, WHITE HOUSE OFFICE OF THE PRESS SEC'Y (Sept. 25, 2015), <https://obamawhitehouse.archives.gov/the-press-office/2015/09/25/>

us-china-joint-presidential-statement-climate-change ("China announces that it will make available \$20 billion for setting up the China South-South Climate Cooperation Fund to support other developing countries to combat climate change").

⁸¹ See generally THE INST. FOR GOVERNANCE AND SUSTAINABLE DEV. & OZONACTION/UNITED NATIONS ENVIRONMENT, BUYERS CLUB HANDBOOK, 1, 16 (Jan. 2020), <http://www.igsd.org/wp-content/uploads/2020/07/Buyers-Club-Handbook-Jan2020.pdf> ("A 'buyers club' is any organization or team working to enhance the benefits to the buyer through, *inter alia*, lowering the price and increasing the quality of a standardized product by buying in bulk and managing distribution and installation... Any organization seeking to lower the price and increase the quality of a standardized product can work to pool the collective purchasing power of its members by buying in bulk and streamlining distribution and installation. The non-government buyers club pools the collective power of private companies and citizens for bulk purchases or for lower prices through normal supply chains.").

⁸² Zhengfu Caigou Fa (政府采购法) [Government Procurement Law of China] (promulgated by the Standing Comm. Nat'l People's Cong., Aug. 31, 2014, effective Aug. 31, 2014), art. 9, http://www.npc.gov.cn/wxzl/gongbao/2014-11/18/content_1892150.htm; Jieyue Nengyuan Fa (节约能源法) [China Energy Conservation Law] (promulgated by the Standing Comm. Nat'l People's Cong., Oct. 26, 2018, effective Oct. 26, 2018), art. 51, http://www.npc.gov.cn/zgrdw/npc/xinwen/2018-11/05/content_2065665.htm.

⁸³ Guidelines on Green Corporate Procurement (Provisional) [企业绿色采购指南 (试行)] (promulgated by China Ministry of Commerce, Ministry of Environmental Protection (now Ministry of Ecology and Environment), and Ministry of Industry and Information Technology, Dec. 22, 2014, effective Jan. 1, 2015), [https://www.ameco.com.cn/uploads/企业绿色采购指南\(试行\).pdf](https://www.ameco.com.cn/uploads/企业绿色采购指南(试行).pdf).

⁸⁴ See generally U4E, MODEL REGULATION GUIDELINES FOR ENERGY-EFFICIENT AND CLIMATE-FRIENDLY AIR CONDITIONERS (Sept. 2019), <https://united4efficiency.org/resources/model-regulation-guidelines-for-energy-efficient-and-climate-friendly-air-conditioners/>.

⁸⁵ Regulation on Administration of Ozone Depleting Substances [消耗臭氧层物质管理条例] (promulgated by China State Council, April 8, 2010, effective June 1, 2010) http://www.gov.cn/zw/gk/2010-04/16/content_1583769.htm. See also, Press Release, *China Releases Public Comment Version of Amendment to the National Regulation on Administration of Ozone-Depleting Substances*, Institute for Governance & Sustainable Development (May 21, 2020), <https://www.igsd.org/china-releases-public-comment-version-of-amendment-to-the-national-regulation-on-administration-of-ozone-depleting-substances/> (with link to English translation of the Regulation on the Administration of Ozone Depleting Substances and Hydrofluorocarbons (Draft Amendment for Comments) for reference purposes).

⁸⁶ Biaozhunhua Fa (标准化法) [China Standardization Law], *supra* note 36 (showing a somewhat stark contrast between Article 26 of China's Standardization Law with Article 25 of the same law, which specifies "products and services that do not meet compulsory standards shall not be produced, sold, imported or supplied." Essentially, if the products that don't meet compulsory standards cannot be produced, they would not be available for exports, either).

⁸⁷ Jieyue Nengyuan Fa (节约能源法) [China Energy Conservation Law] (promulgated by the Standing Comm. Nat'l People's Cong., Oct. 26, 2018, effective Oct. 26, 2018) http://www.npc.gov.cn/zgrdw/npc/xinwen/2018-11/05/content_2065665.htm.

⁸⁸ *Id.*

⁸⁹ Min Fa Dian (民法典) [China Civil Code] (promulgated by the National People's Congress, May 28, 2020, effective Jan. 1, 2021) <http://www.npc.gov.cn/npc/c30834/202006/75ba6483b8344591abd07917e1d25cc8.shtml>.

⁹⁰ Huanjing Baohu Fa (环境保护法) [China Environmental Protection Law] (promulgated by the Standing Comm. Nat'l People's Cong., April 24, 2014, effective Jan. 1, 2015) http://www.gov.cn/zhengce/2014-04/25/content_2666434.htm.

⁹¹ Central Government of China, *Ministry of Finance: "energy conservation product consumer benefit project" has achieved significant outcomes* [财政部: "节能产品惠民工程"取得显著成效] (July 12, 2013), http://www.gov.cn/gzdt/2013-07/12/content_2445751.htm ("2009年6月-2011年5月, 将能效等级2级及以上水平的高效节能变频空调纳入推广补贴范围,两年时间, 中央财政累计安排补贴资金146.43亿元。" (stating that "from June 2009 to May 2011, energy-efficient fixed-speed ACs with energy efficiency levels of II and above were included in the scope of promotion subsidies... In two years, the central financial administration has arranged a total of 14.643 billion yuan in subsidies.")).

⁹² *Id.* (“高效节能空调的市场占有率从推广前的5%上升到70%以上。” (stating that “the market share of energy-efficient ACs rose from 5% before promotion to more than 70%.”)).

⁹³ *Id.* (“推广高效节能变频空调超过5000多万……实现年节电100亿千瓦时” (reporting that from June 2009 to May 2011, the energy-efficient AC subsidy policy has “promoted more than fifty million energy-efficient fixed-speed ACs . . . and realized annual energy savings of ten billion kWh”).

⁹⁴ *China subsidizes purchases of energy-saving appliances*, CHINA DAILY (May 17, 2012), http://usa.chinadaily.com.cn/business/2012-05/17/content_15318240.htm (reporting that “[t]he State Council, or China’s Cabinet, announced Wednesday the government will earmark 26.5 billion yuan (\$4.2 billion) to subsidize the consumption of household electrical appliances for a one-year period. The appliances include air conditioners, flat-panel television sets, refrigerators, washing machines and water heaters that meet energy-saving standards.”).

⁹⁵ EUROPEAN COMMISSION, THE AVAILABILITY OF REFRIGERANTS FOR NEW SPLIT AIR CONDITIONING SYSTEMS THAT CAN REPLACE FLUORINATED GREENHOUSE GASES OR RESULT IN A LOWER CLIMATE IMPACT 5, 10 (Sept. 30, 2020), https://ec.europa.eu/clima/sites/clima/files/news/docs/c_2020_6637_en.pdf (stating that R290 is a substitute for higher GWP refrigerants, with a GWP of 3 and ozone-depletion potential of zero).

⁹⁶ *See generally* Yu hao, *Market Share of R290 ACs Goes Up Again* [R290 空调市场化再上台阶], REFRIGERATION BULLETIN (Nov. 2, 2020), [https://bao.](https://bao.hvacr.cn/202011_2089762.html)

hvacr.cn/202011_2089762.html (showing growing acceptance of R290 as a climate-friendly refrigerant).

⁹⁷ CHINA DAILY, *supra* note 94.

⁹⁸ *See* Agreement on Subsidies and Countervailing Measures, Apr. Annex I(f)-(g); Annex II (II)(1)-(2), Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1A, 1869 U.N.T.S. 1; Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, art. 2.1-2.3, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1, 1868 U.N.T.S. 201. (guiding parties to apply duties to import products that are below fair market value; normal market value is determined by the domestic price of the product from the exporting country, or when unobtainable, by the price charged by the exporter in a third country, or through the exporter’s production costs and expenses, and normal profit margins).

⁹⁹ Zhengfu Caigou Fa (政府采购法) [Government Procurement Law of China] (promulgated by the Standing Comm. Nat’l People’s Cong., Aug. 31, 2014, effective Aug. 31, 2014), art. 9, http://www.npc.gov.cn/wxzl/gongbao/2014-11/18/content_1892150.htm; *see also* Jieyue Nengyuan Fa (节约能源法) [China Energy Conservation Law] (promulgated by the Standing Comm. Nat’l People’s Cong., Oct. 26, 2018, effective Oct. 26, 2018), art. 51, http://www.npc.gov.cn/zgrdw/npc/xinwen/2018-11/05/content_2065665.htm.

¹⁰⁰ *See supra* note 98 and accompanying text.

THE TRUTH IS ALWAYS IN STYLE: TARGETING GREENWASHED ADVERTISING IN THE FASHION INDUSTRY

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³⁴ *See* 16 C.F.R. § 260.4 (looking at what an average consumer would infer about the advertised product); *see also* Fed. Trade Comm’n v. Trudeau, 579 F.3d 754, 765–66 (looking at the infomercial as a whole, rather than individual statements made by the infomercial).

³⁵ *See* Wicker, *supra* note 10.

³⁶ *See* Elizabeth K. Coplecchia, Comment, *The Greenwashing Deluge: Who Will Rise Above the Waters of Deceptive Advertising?* 64 UNIV. MIAMI L. REV. 1353, 1367 (2010) (emerging environmental marketing terms and practices lack FTC guidance on how they would be interpreted).

³⁷ *See id.* at 1367 (stating that the FTC’s phases of dormancy and enforcement leaves businesses uncertain about the validity of new environmental claims); *see also* Fed. Trade Comm’n v. Trudeau, 579 F.3d 754, 767–768 (7th

Cir. 2009) (finding that the FTC could fail to object to an infomercial of the same nature and still pursue a claim against the infomercial at hand).

³⁸ *See generally* Wicker, *supra* note 7 (analyzing the potential effects of European Union wide regulations on fashion brands).

³⁹ *See* Joseph DeQuarto, Strengthening Eco-Labeling Regulation, THE REGULATORY REV. (Jan. 30, 2019) (explaining that reliance on state regulations subjects brands to inconsistent and even conflicting regulations, and that creating consistency in federal advertising and eco-labeling standards will increase the accuracy of claims made by marketers); *see also* Whelan, *supra* note 4 (analyzing the growth of sustainability-marketed products in the consumer sector).

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