

2012 CHINA BUSINESS CLIMATE SURVEY REPORT

2012年度商务环境调查报告

2012



APRIL

Save the date!

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CHINA'S CHANGING BUSINESS CLIMATE:

STRATEGIES TO RESPOND TO THE TOP CHALLENGES OF 2012



The 2012 AmCham China Business Climate Survey was launched March 26 (www.amchamchina.org/businessclimate2012). This April AmCham China hosts a series of expert panels to discuss key issues from the Survey, including:

How should your company deal with spiraling labor costs in China?

What should you do to protect your firm's proprietary data?



How can you obtain the business licenses you need to expand?

To recruit the best talent, what do you need to understand about the role of innovation in Chinese universities?

9 APRIL

The Impact of Rising Labor Costs

Lesli Ligourner, Employment Law, Partner, Paul Hastings
Pip O'Keefe, Lead Economist, the World Bank
Patrick Chovanec, Associate Professor of Practice, Tsinghua University
 Moderator: **Dwight Nordstrom**, Chairman of the Board and former President of PRI

17 APRIL

Cyber Security and Internet Risks

Max Chen, Director of Government Affairs, Microsoft
Wenjie Gu, Director of Government Affairs, Autodesk
Lin Gao, Director, Asia Pacific Information Technology, Motorola
Shaobin Wang, Senior Security Specialist, Senior Security Policy Manager, Intel

24 APRIL

Higher Education and Innovation

Denis Simon, Vice-Provost for International Strategic Initiatives, Arizona State University
Ira Cohen, Executive Director, University of Maryland EMBA Programs
Lauryne Massinga, Director, EducationUSA Mainland China, Hong Kong, Macau, Taiwan and Mongolia
 Moderator: **Jim Leininger**, Head of Organization Surveys and Insights Group, Tower Watson Consulting

19 APRIL

License to Expand

Matt Estes, CEO, BabyCare
Lester Ross, Corporate Department, Partner, WilmerHale
Malone Ma, Chief Representative China, MetLife
 Moderator: **John Larkin**, President, Larkin Trade International (LTI)

AmCham China members attending all four events receive special pricing!

For questions contact Julia Howe: jhowe@amchamchina.org

NOTE: All events will take place at 12-2 PM in the AmCham China Conference Center.

2012 CHINA BUSINESS CLIMATE SURVEY REPORT

2012 年度商务环境调查报告



ABOUT THE BUSINESS CLIMATE SURVEY

This marks the 14th year that the American Chamber of Commerce in the People's Republic of China (AmCham China) has conducted an annual Business Climate Survey. The 2012 survey is based on responses from 390 of our members, including those based in Beijing as well as our chapters in Northeast China (Dalian), Tianjin and Central China (Wuhan). The survey offers a valuable snapshot of member concerns on China's regulatory and policy environment, illustrating long-term improvements in the business climate as well as areas of difficulty. As such, the survey plays an essential role in helping determine the chamber's advocacy priorities, both in Beijing and Washington.

We would like to thank all our members who took the time to participate in the survey. Your input is greatly valued.

关于《商务环境调查》

今年是中国美国商会（AmCham China）开展年度《商务环境调查》的第十四年。2012年的调查以中国美国商会的390个会员企业的反馈情况为基础，这些会员企业来自北京以及本商会的东北地区（大连）、天津以及华中地区（武汉）分会。调查结果简明而有价值地反映了会员企业对中国监管和政策环境的担忧，以示例说明了商务环境的长期改善和一些困难方面。因此，调查在帮助中国美国商会和华盛顿的美国商会确定其工作的优先领域方面起着重要作用。

在此我们要感谢中国美国商会所有抽出时间参与调查的会员。我们非常珍视你们的意见。



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CHAIRMAN'S MESSAGE

This year's Business Climate Survey indicates that after several years of posting exceptionally strong performance in China, our member companies are concerned about the prospect of relatively slower economic growth. This is the predictable result of both domestic cooling measures and weaker demand from major export markets in Europe and the US.

Profit margins in China are coming under pressure, though they remain healthy. Survey respondents tell us they are increasingly worried about rising costs, in the form of both wage increases and new costs for benefits (primarily the new social insurance law). That said, in 2011, some 39 percent of those surveyed said their profit margins in China were actually higher than elsewhere in the world.

Amid these broader macroeconomic pressures, there are indications that in some key areas, business regulations have failed to keep pace with China's increasingly sophisticated and globalized economy. Based on survey results, there are growing concerns about government policies that require foreign-invested enterprises to transfer technology in order to be able to sell their products and services, as well as a licensing process that discriminates against non-Chinese firms. Members indicate a lack of confidence in China's cyber security environment. Also, at the time of the survey, respondents reported seeing little progress on intellectual property rights protection, though new government initiatives announced last year may yield improvements.

Despite these perceived hurdles, China clearly remains a vital strategic market for our members. A full two-thirds of respondents told us their goal is to sell goods and services into the Chinese market. And over three-quarters of our respondents predict sales growth in China in 2012—albeit at a slower pace than last year's levels. A significant minority expect a double-digit revenue increase.

Indeed, amid continued business expansion, survey respondents report difficulty finding enough qualified managers and employees. Though this has always been a key issue in China, the percentage of respondents who listed it as a top business challenge rose significantly from year-ago levels. The highly competitive search for staff underscores how important it is for our members to find the right talent in a critical global market.

Amid these business challenges, we at AmCham China remain dedicated to speaking on behalf of our members to promote a business environment that will benefit all companies in China.

Ted Dean
AmCham China Chairman

March 26, 2012

主席致辞

今年的《商务环境调查》显示，在华保持了异常优异的表现几年以后，我们的会员企业开始担心相对放缓的经济增长的前景。这种结果在预料之中，因为中国国内实施了经济降温政策，同时欧洲与美国等中国的主要出口市场的需求亦变得疲软。

虽然在华的利润率依然保持健康态势，但已经开始面临压力。受访者告诉我们，他们越来越担心因工资增长以及新增加的福利（主要是新的社会保险法）造成成本不断上升。尽管如此，2011年，仍然有约39%的受访者认为其在华利润率实际上要高于世界上其他任何地方。

在总体的宏观经济压力下，调查表明，一些关键领域的商业法规已经无法适应中国不断完善和更加全球化的经济。调查结果显示，企业越来越多地担忧政府的一些相关政策，这些政策要求外国投资企业（下简为：外资企业）必须转让其技术才能销售其产品和服务。同时也担忧营业许可程序对外资企业的歧视。会员企业对网络安全环境也缺乏信心。受访者还表示，尽管去年政府出台的新政策可能对知识产权的保护带来改善，但调查截止时他们尚未看到任何明显进展。

尽管存在这些主观障碍，中国仍然是我们会员企业重要的战略市场。有三分之二的受访者告诉我们，其目标就是要在中国市场销售其产品与服务。有超过四分之三的受访者预期其在华销售额2012年会实现增长，尽管增长速度较去年会有所放缓。有相当数量受访者认为其营业额可以实现2位数的增长。

受访者表示，随着业务不断扩展，企业难以找到足够的符合条件的管理者和员工。尽管在中国这一直是一个主要问题，但今年把该问题列为第一大运营挑战的受访者比去年大大增加。对于我们的会员企业来说，招聘员工方面的激烈竞争突显了在一个重要的全球市场中，找到合适的人才的重要性。

面对这些运营困难，中国美国商会将会继续致力于做好我们会员企业代言人的工作，营造一个有益于所有在华企业的商业环境。



耿安华
中国美国商会主席
二〇一二年三月二十六日

SUMMARY

To put this year's results in perspective, recall that last year's survey reflected a markedly high degree of optimism from our members about their growth outlook in China. Many reported plans for substantial investment and expansion over the next 12 months. At the same time, a significant number voiced concerns that an inconsistent regulatory environment and government bureaucracy would slow the speed at which they could achieve their goals in China.

In 2012, survey respondents reported a slightly less optimistic vision than a year ago. Their China operations continue to be profitable, but to a lesser extent. They have less ambitious plans to invest and expand. With regard to this year's business challenges, the emphasis was on concerns about operating issues, as well as macroeconomic risk. Rising costs and human resources constraints are growing challenges for surveyed companies. Inconsistent licensing practices and forced technology transfers represent significant obstacles to market access. And despite persistent efforts by the Chinese government to protect intellectual property rights (IPR), survey respondents still describe a weak system of protection.

But our members remain deeply committed to China. Over the past few years, a steadily-increasing majority say they are based in China with the goal of serving the Chinese market. As our member companies grow, we will remain focused on providing thoughtful advocacy and business support, and we anticipate that the relationship between the US business community and China will continue to deepen and mature over time.

摘要

纵观今年的调查结果，令人回想起去年的调查曾显示出，我们的会员企业对其在华增长前景高度乐观。很多受访者表示他们在接下来的 12 个月里将会进行大规模的投资和拓展。同时，也有相当一部分受访者表达了他们的担忧：相互矛盾的监管环境及政府的官僚主义可能会减缓他们在华实现其目标的步伐。

2012 年，受访者表现出的乐观情绪比一年前稍弱。他们在中国的运营活动仍然能够盈利，但盈利程度已经有所降低。他们在投资和扩展方面的计划已经不那么雄心勃勃了。关于今年的运营困难，受访者担忧的重点是运营问题以及宏观经济风险。成本上涨以及人才局限对于受访企业来说都是越来越大的挑战。不一致的许可程序及强制性的技术转让成为了市场准入的主要障碍。另外，尽管中国政府在知识产权保护问题上坚持不懈地努力，受访者仍认为中国的知识产权保护制度比较薄弱。

尽管如此，我们的会员企业仍坚定地致力于在华发展。在过去的几年中，占绝大部分、且数量不断增加的会员企业称他们将立足于中国，以服务中国市场为目标。随着我们会员企业的成长，我们的工作重点依然是提供深思熟虑的建议与运营支持。我们寄望美国商界与中国的关系将继续深化并与时俱进走向成熟。

Economic Performance 经济发展状况

Not surprisingly, given the serious global economic challenges that continued in 2011, the respondents in the 2012 Business Climate Survey have a more cautious outlook on their business prospects. They still expect much better performance in 2012 than they did during the global financial crisis of a few years ago. However, against a highly uncertain global backdrop—including the threat of sovereign default in the Eurozone, a downgrade in the US government’s credit rating, and the overall softness in global consumer demand—China was viewed as more susceptible to global economic instability than in the past.

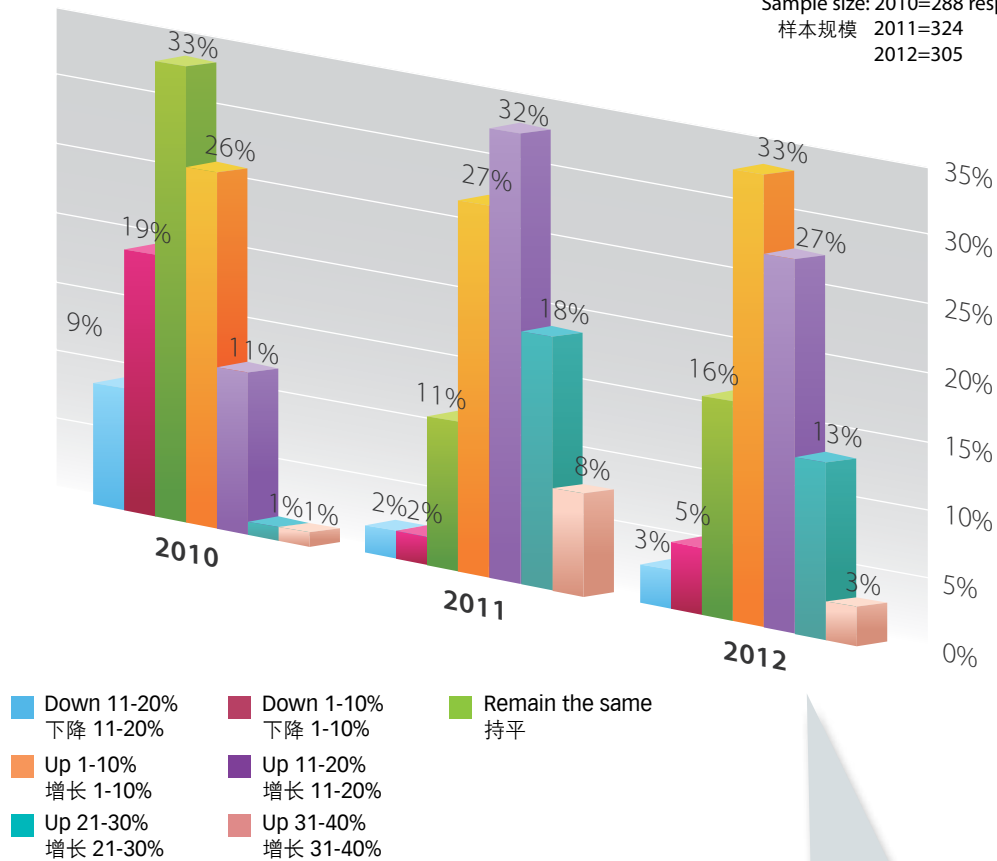
毫不意外，鉴于全球经济所面临的严重挑战在 2011 不断持续，2012 年《商务环境调查》的受访者表现出了对其运营前景更加谨慎的预期。他们对 2012 年业绩表现的期待仍然大大高于几年前全球金融危机时期的预期。然而，面对国际环境的高度不确定性，包括欧元区的主权债务违约的威胁、美国政府信用评级的下调以及全球消费需求的整体疲软，受访者认为中国将比过去更容易受到全球经济不稳定性的影响。



What is your forecast for 2012 China revenues compared to 2011? 企业对 2012 在华运营收入预期与 2011 年比较

Chart (图) 1

Sample size: 2010=288 respondents
样本规模 2011=324
2012=305



As can be seen in the chart above, the majority of respondents continue to predict growth in revenue, but at a slower pace than in 2011. The percentage of respondents who forecast growth above 11 percent was down 15 percentage points from last year. Even so, businesspeople in China are less pessimistic now than they were in the wake of the financial crisis. They are modifying their plans and diversifying their investments, and they continue to look for ways to enhance their presence in China.

从上面的图表可以看出,大部分受访者仍预期其收入会实现增长,但较之 2011 年,速度会有所下降。预期其收入增长会超过 11% 的受访者的比例比去年下降了 15 个百分点。尽管如此,在华的商业人士现在已经没有金融危机开始时表现的那么悲观了。他们正在修改其计划,使其投资更多元化,从而继续加强其在华的业务。

Seventy-six percent of respondents forecast that their China 2012 revenues will surpass their 2011 revenues.

76% 的受访者预期 2012 年其在中国运营收入将会超过 2011 年。



How do the 2011 operating margins of your China operations compare to your company's worldwide operating margins? 2011 年企业在华利润率与其全球利润率的比较

Chart (图) 2

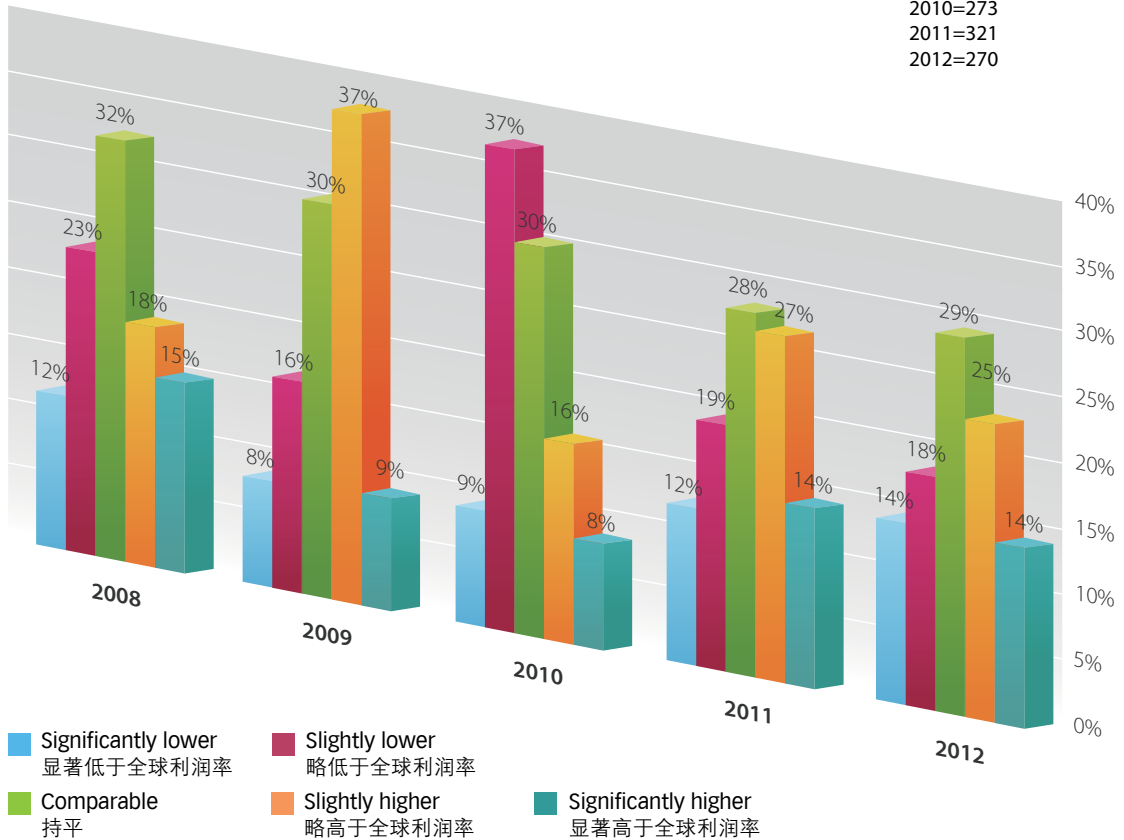
Sample size: 2008=239 respondents

样本规模 2009=240

2010=273

2011=321

2012=270



Surveyed companies' operating margins in China continue to exceed their worldwide margins (at levels similar to those seen last year). When comparing 2011 and 2012 to 2010, it is clear that compared to other regions of the world, China has served as a particularly strong source of corporate profits for two years in a row.

受访的企业在华利润率继续超过其全球利润率（与去年水平相同）。如果将 2011、2012 年与 2010 年相比较，可以清楚地看到，相对于世界其他地区，中国已经连续两年成为企业利润的一个特别强大的来源。



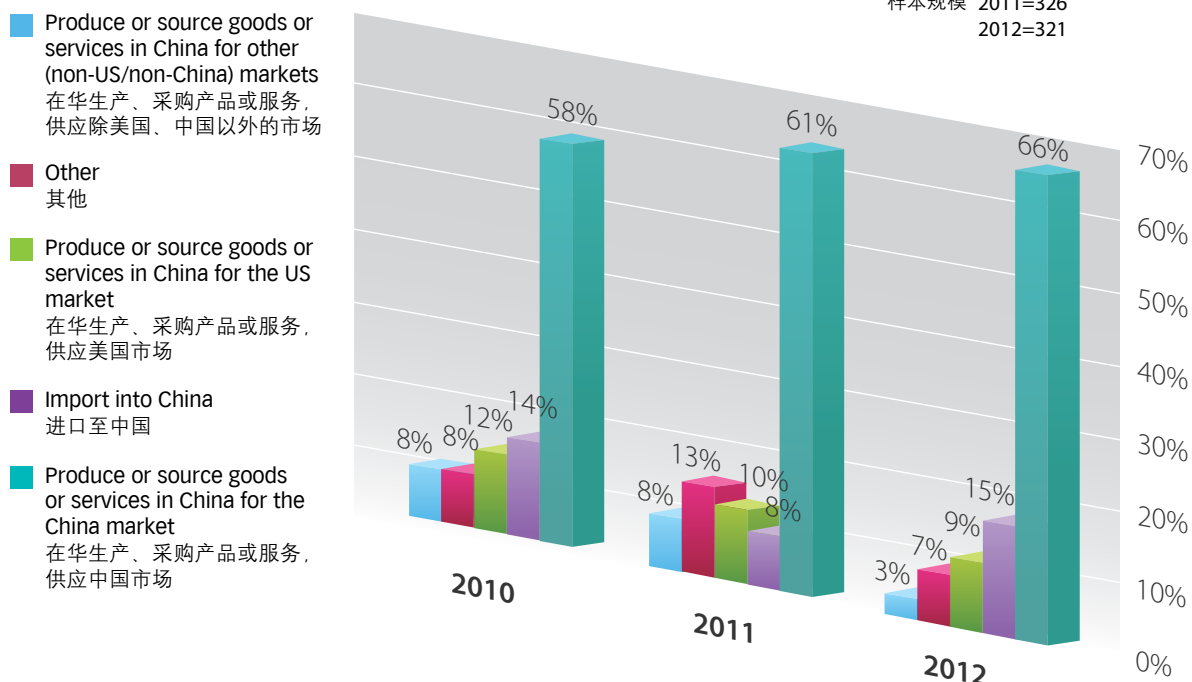
What are your company's primary goals and strategies in China?

Select all that apply in order of importance.

企业在华的首要目标和战略，按重要性排序

Chart (图) 3

Sample size: 2010=274 respondents
样本规模 2011=326
2012=321



As the chart clearly demonstrates, foreign invested enterprises (FIEs) in China are highly attuned to the growth potential of China's domestic market. A steadily-growing majority—66 percent in 2012—say their goal is to produce goods or services in China for the China market. China's demand for foreign products has risen alongside the growing wealth of the population. Chinese consumers and businesses have increasingly high expectations for quality and safety in their purchases. FIEs stand to benefit by selling into a market where Chinese producers are still learning how to meet those demands.

如图表中清晰展现的，在华的外资企业对国内市场的增长潜力高度关注。2012年有66%受访者认为其目标是在华生产产品或提供服务，以供应中国市场，这一比例比去年稳步增长。中国对外国产品的需求随着其人口富裕程度的提高而不断增长。中国消费者以及商家对其购买的产品的质量与安全性期望越来越高。当中国的制造商还在学习如何满足那些要求的时候，外资企业已经准备就绪进入中国市场进行销售而从中受益。

While the China operations of member companies are generally profitable, a somewhat smaller percentage now cite China as their number-one priority global market. As businesses across the globe look for ways to cut costs and produce more efficiently, China is seen less as the one-stop shop it used to be. Rising costs and lagging progress on market reforms may be some of the factors leading FIEs to proceed with more caution in China. With that said, FIEs have done well in China for a number of years and still see potential for further growth.

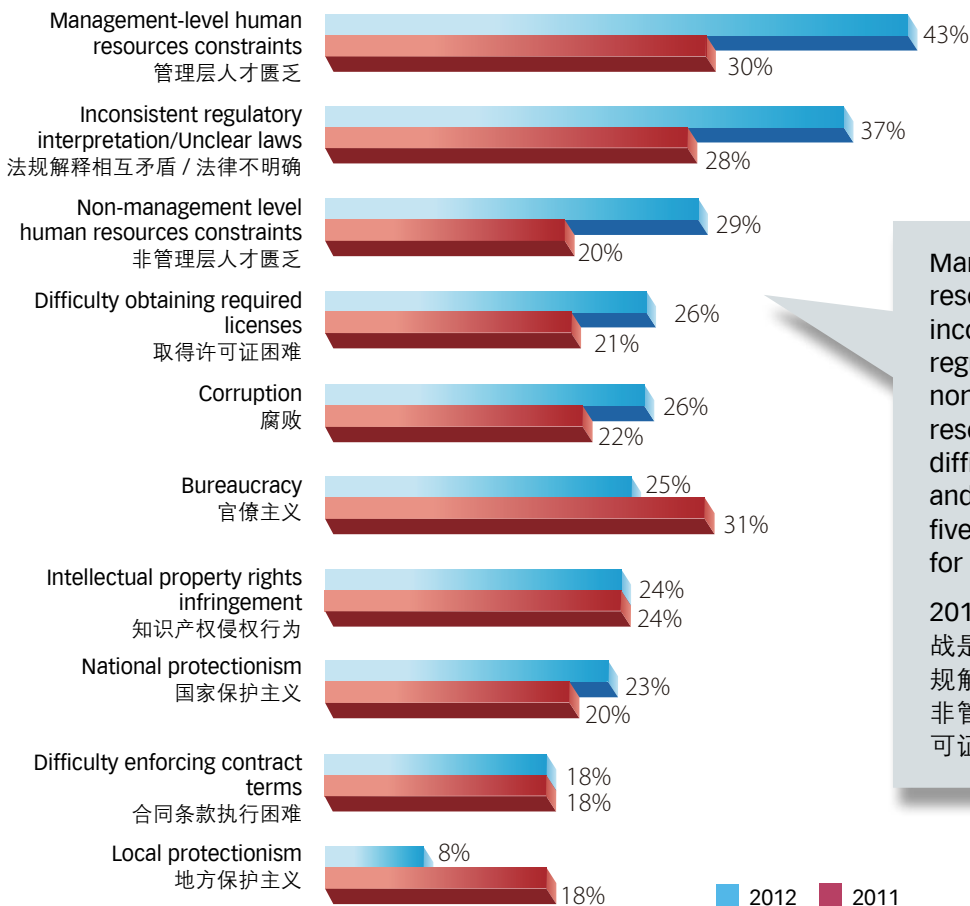
整体上讲，会员企业在华运营是盈利的，但认为中国是其全球市场中排名第一位市场的会员企业略有减少。由于全球的企业都在寻求缩减成本与实现高效生产的途径，将中国视为“一站式”商店的看法有所减弱。上涨的成本以及市场改革缓慢等因素，都使主要的外资企业在中国的运营更加谨慎。尽管如此，外资企业在中国已经保持了多年的良好业绩，并且仍然认为其在华业务具有继续成长的潜力。



Top business challenges: 企业面临的主要挑战

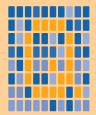
Chart (图) 5

Sample size: 2011=250 respondents
样本规模 2012=339



Management-level human resources constraints, inconsistent and unclear regulatory interpretation, non-management human resources constraints, difficulty obtaining licenses and corruption are the top five business challenges for 2012.

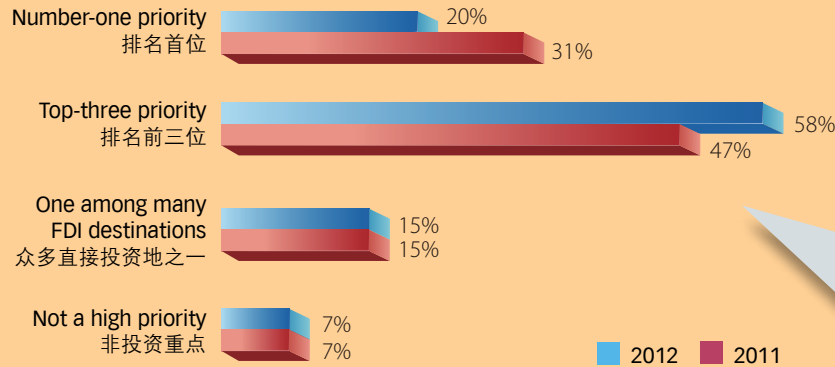
2012 年企业面临的五大挑战是：管理层人才制约、法规解释不明确并相互矛盾、非管理层人才制约、取得许可证方面的困难以及腐败。



How does China rank in your company's near-term global investment plans? 中国市场在企业近期全球投资计划中的排名

Chart (图) 4

Sample size: 2011=299 respondents
样本规模 2012=306



Seventy-eight percent of the respondents rank China among their top three destinations for global investment.

78% 的受访者将中国列为在其全球投资的三大目的地之一。

Finding qualified talent—both at the managerial level and below—is a major concern for FIEs in China. This year AmCham China members ranked management-level human resources constraints as their top business challenge. Non-management human resources constraints were the third-ranked business challenge. Beijing has sought to foster more innovative, high-tech industries through its economic policies. But as China seeks to move up the value chain, the government will increasingly need to focus on educational reforms that can help create global-class managers, innovators and workers. FIEs want to expand in China, but the relative shortage of talent is a check on growth.

Also noteworthy in this chart: among the list of business concerns, difficulty obtaining required licenses rose considerably from last year's levels. Licensing will be discussed in greater detail in the Business Challenges section ahead. On a separate front, last year China launched a special IPR campaign to tackle some of its largest IPR problems. Yet despite those efforts, the same percentage of member companies ranked IPR infringement as a top business challenge this year as a year ago.

找到符合条件的人才，无论是管理人员还是非管理人员，是在华的美资企业关心的主要问题。今年，中国美国商会会员企业将管理层人才制约列为其面临的第一大运营挑战，非管理层人才的制约排在第三位。北京已经通过各种经济政策来培育更具创新性的高科技产业。由于中国正在寻求其价值链的提升，因此政府更有必要将改革重点放在教育领域，以有助于培养出世界级的管理人才、创新人才和工人。外资企业希望在中国扩展其业务，但人才的相对匮乏成为了其业务增长的瓶颈。

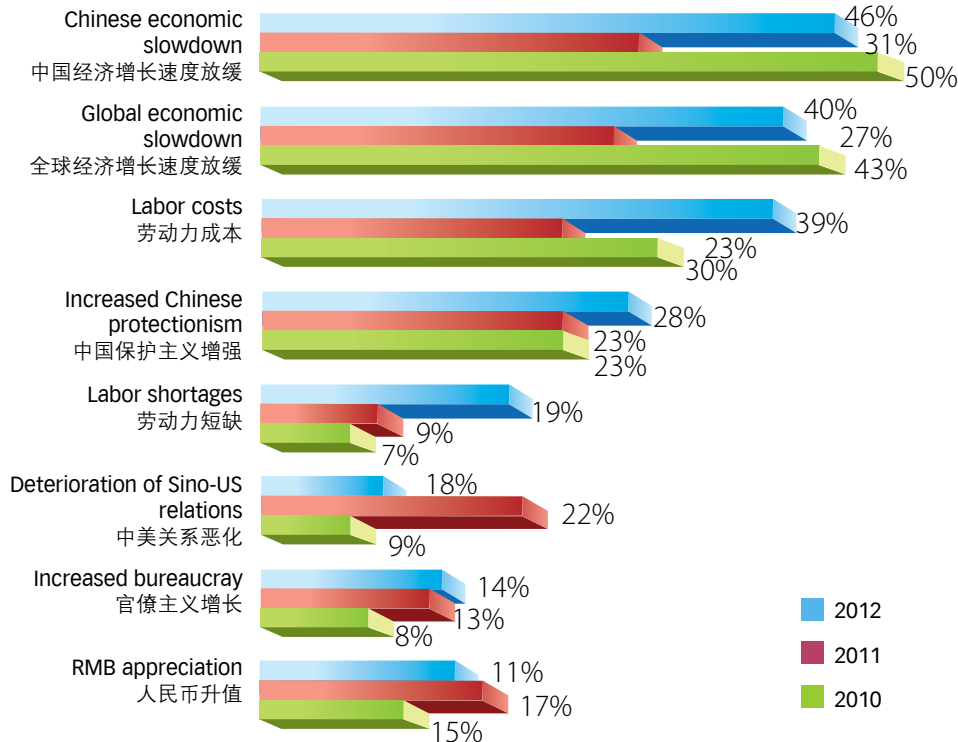
该图表中还值得关注的是：在列出的所有运营挑战中，选择“取得许可证困难”的受访者比例较去年明显上升。我们将在下文的“运营挑战”部分中更详细地讨论许可证的问题。另一方面，去年中国启动了一项知识产权专项行动，以解决一些重大的知识产权问题。尽管有这些努力，今年仍有与去年相同比例的受访会员企业将知识产权侵权问题列为一项主要的运营挑战。



What do you think are the greatest risks facing your China organization? 企业在华面临的主要风险

Chart (图) 6

Sample size: 2010=262 respondents
样本规模 2011=337
2012=321



Member companies have grown more apprehensive in their assessment of business risks, both in China and globally. When asked about the greatest risks facing their China operations, responses this year are reminiscent of those reported in 2010, when the US economic recovery had yet to get underway. But this year all eyes are on the European Union, China's largest export market, beset by serious financial woes. In addition to broader economic issues, FIEs in China voice growing concerns about increasing costs. Against the backdrop of a shrinking working-age population, wage inflation and the new social insurance measures have significantly boosted operational costs in China.

Overall, considering current profitability levels and forecasts, the outlook is still positive. Nevertheless, the earlier charts demonstrate that financial results and expectations are not quite as strong as last year, and this chart similarly demonstrates a heightened level of concern.

针对其在华及全球的运营风险的评估，会员企业表现得更加忧虑。关于在华运营面临的最大风险这个问题上，调查结果让我们回想起 2010 年的调查数据，那时美国经济尚未开始恢复。但今年关注的焦点集中在欧盟，这是中国最大的出口市场，正在饱受严重的金融灾难。除了宏观的经济问题之外，美资企业也表现出对成本上涨的更多忧虑。在适龄工作人口不断减少的不利背景下，工资的上涨以及新的社会保险措施都极大地拉动了在华运营成本的上涨。

整体来讲，考虑到现有的盈利水平及各种预测，目前前景仍然是乐观的。然而，前面的图表显示出各种财务结果以及期望已不如去年，本图表同样显示了担忧的程度在加剧。

Business Challenges

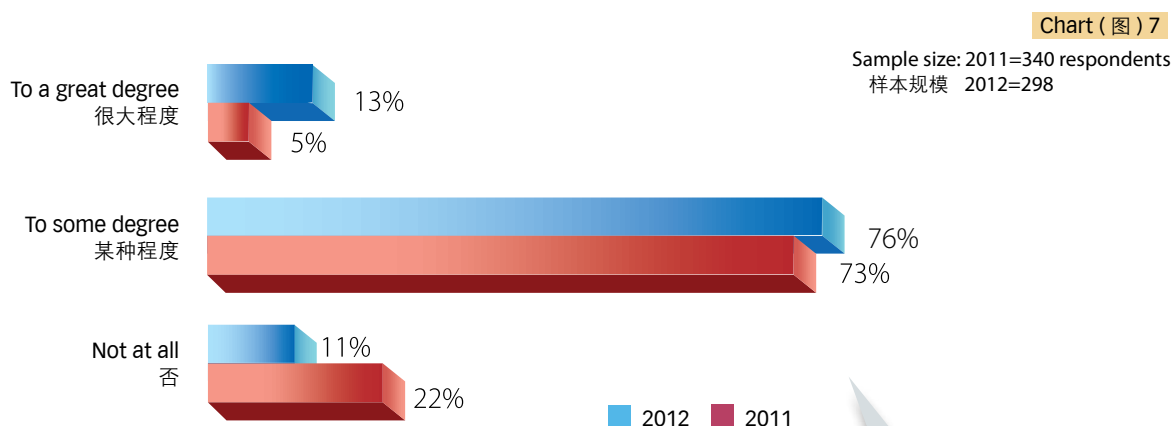
运营挑战

Costs / 成本



Do you feel that China is losing competitive advantages due to rising costs?

中国是否由于成本不断增加而逐渐失去竞争优势



Eighty-nine percent of member companies answered that China is losing its competitive advantage “to some degree” or “to a great degree” due to rising costs. This response is 11 percentage points higher than last year. It may be that this is a partial explanation for the fact that fewer companies selected China as their top destination for global investment. From a foreign business perspective, there are more risks to take into account when investing in China now than before. Inflation and the related rise in wages are two such risks that could discourage investment in China.

有89%的受访会员企业认为中国由于成本不断增加,正在“某种程度”或“很大程度”上逐渐失去其竞争优势。该比例比去年提高了11个百分点。这也许可以部分解释为何选择中国作为全球投资首选地的企业在减少。从外国企业的角度看,现在在华投资要考虑比以前更多的风险因素。通货膨胀以及随之而来的工资上涨可能是阻碍在华投资的两大风险因素。

Eighty-nine percent of member companies answered that China is losing competitive advantages due to rising costs.

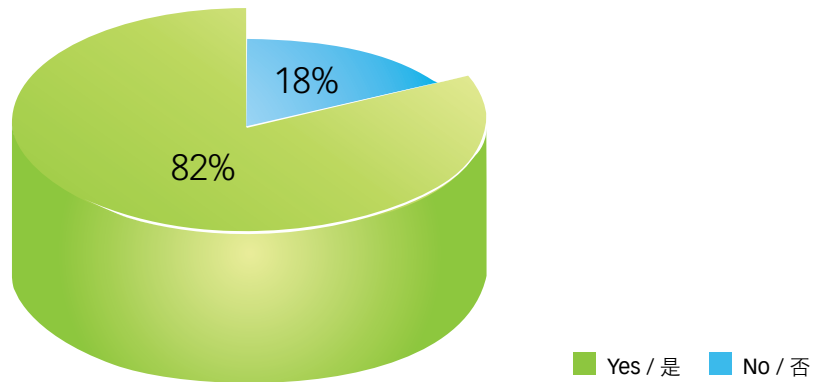
89%的受访会员企业认为中国由于成本不断增加正逐渐失去其竞争优势。



Are rising labor costs affecting your business operations?
不断增长的人力成本是否影响企业运营？

Chart (图) 8

Sample size 样本规模：
2012=287 respondents



Rising labor costs are affecting the business operations of 82 percent of survey respondents.

82%的受访者认为不断增长的人力成本会影响企业运营。

This is the first year AmCham China asked if rising labor costs are affecting business operations. As it turns out, 82 percent of the survey respondents answered affirmatively. While rising wages are a predictable byproduct of long-term demographic changes underway in China, they also represent a new challenge for business, especially given the previously-mentioned difficulties in recruiting qualified talent and the lower expectations for sales growth in China.

这是中国美国商会首次在问卷中提出人力成本上涨是否会影 响企业运营这一问题。结果显示，82%的受访者认为人力成本 上涨会影响企业运营。尽管工资的上涨是中国长期人口变 化产生的可预见结果，但也意味着对企业的新挑战，尤其是 考虑到前面提到的各种困难，如在华难以招聘到符合条件的人 才以及对在华销售增长预期降低。

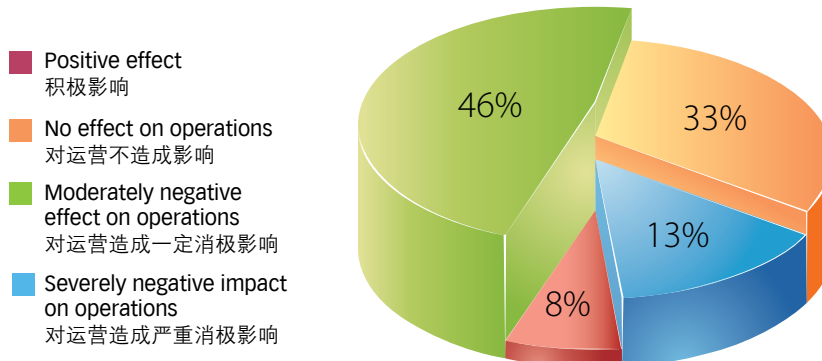


What effect will the implementation of the proposed social insurance taxes on foreign employees in China have on your business operations?

实施向在华就业的外国雇员征收社会保险将对企业运营造成何种影响？

Chart (图) 9

Sample size 样本规模：
2012=321 respondents



In September of 2011, the Ministry of Human Resources and Social Services (MOHRSS) issued the Interim Measures for the Participation in Social Insurance of Foreigners Employed in China. This policy has still not come into full effect; in fact, many municipalities are themselves unclear how to implement the law. Nevertheless, given the expected costs associated with the measure, 59 percent of respondents expect it to have a negative impact on operations.

It would be reasonable to assume that the 33 percent that answered “no effect on business operations” has yet to comply with this law. This is an area where local governments are left to interpret the law much as they see fit. Among major cities, only Beijing has fully implemented it. As a result, many companies remain uncertain as to how much of an impact this policy will have. Yet they undoubtedly will have to take it into account when considering future investment plans at a time when concerns are rising about slowing economic growth.

2011年9月，中国人力资源和社会保障部出台了《在中国境内就业的外国人参加社会保险暂行办法》。该办法还未全面实施，实际上，很多省市本身仍不清楚该如何执行此规定。但是，考虑到该措施带来的预期成本，59%的受访者认为这将给他们的运营带来负面影响。

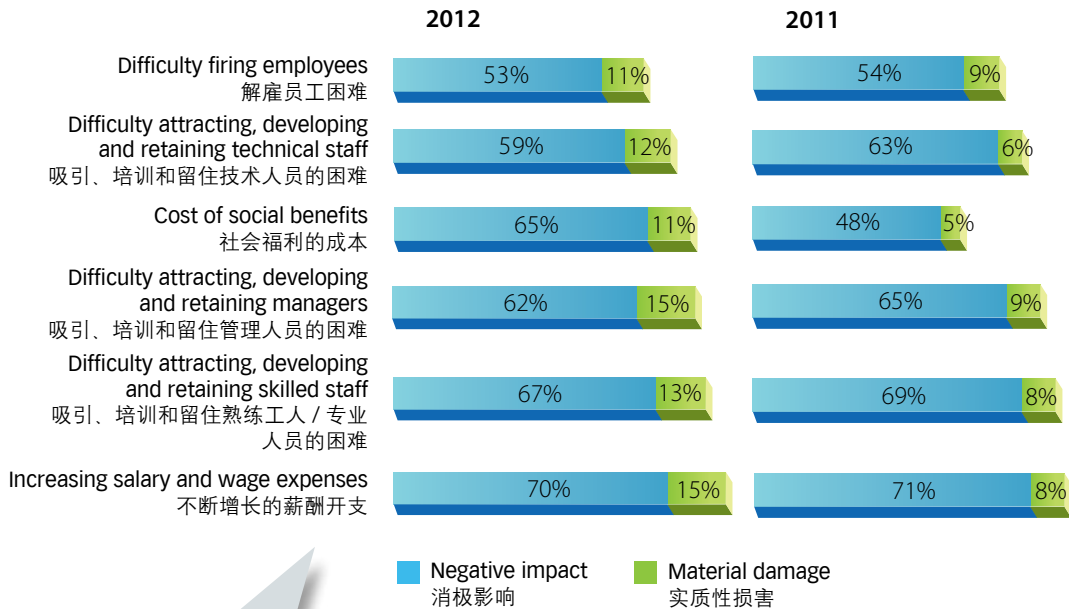
针对“实施向在华就业的外国雇员征收社会保险将对企业运营造成何种影响？”这一问题，选择“没有影响”的受访者占到33%。有理由假定这些受访者尚未需要遵守该办法，因为这方面地方政府有权按照符合自身利益的方式来解释该办法。目前主要城市中只有北京已经全面施行了该办法。因此，很多企业还不确定该政策会给他们带来多大的影响。但毫无疑问，在担心经济增长放缓的同时，外资企业在制定其在中国投资计划的时候必然将该政策考虑在内。



How do the following human resources issues affect your business operations in China? 相关人力资源问题对企业在华运营产生的影响

Chart (图) 10

Sample size: 2011=266 respondents
样本规模 2012=303



More people see material impact from human resources challenges this year than last year. Cost of social benefits shows the biggest increase.

相对于去年来讲，很多受访者认为今年人力资源方面的挑战对他们产生了实质性的影响，其中选择“社会福利成本”的受访者的比例上升的最快。

Just as in the 2011 Business Climate Survey, this year member companies selected increasing salary and wage expenses as the human resources issue with the biggest impact on their business operations. One difference from last year is a seven point increase in the percentage of respondents who say wage inflation materially damages their business operations in China.

Also noteworthy: 76 percent of respondents say the cost of social benefits would have a negative impact on or cause material damage to their China operations. Last year only 53 percent responded this way. Considered in the context of the three preceding charts, it is clear that rising operational expenses—in the form of salaries, the new social insurance tax on foreign employees, and growing inflation—give ample cause for concern among FIEs operating in China.

Member companies have cited problems in finding mid-level professional talent as an important issue for many years, but levels of concern reached a new high this year.

与2011年《商务环境调查》的结果一样，今年会员企业选择了“不断增长的薪酬开支”作为各项人力资源问题中对其企业运营影响最大的一项。唯一与去年不同的是，受访者中认为工资上涨“实质性地损害”了其在华企业运营的比例上升了7个百分点。

另外值得注意的是：76%的受访者认为社会福利成本会为其在华运营带来“负面影响”或“实质性损害”，而去年只有53%的受访者这样认为。在参考了上述三个图表后，可以明显看出，包括薪资、外国雇员需要承担的新的社会保险税以及日渐增长的通货膨胀在内的运营成本，使外资企业有充足的理由担心其在中国运营问题。

多年来，会员企业一直将是否能寻找到合适的中层专业人才看作一项重要问题，今年这种担忧程度又创新高。

Licensing and Forced Technology Transfer as Market Access Barriers

许可与强制性技术转让成为市场准入障碍

Last year was the first time AmCham China included questions about licensing in our survey, and this is the first year we have included questions about another issue members have raised as a concern: forced technology transfer. Licensing practices and forced technology transfers in China create major obstacles for FIEs trying to invest or expand in China. Policies that in practice make it difficult for FIEs to obtain licenses put them at a major competitive disadvantage. Along similar lines, requirements that FIEs must hand over sensitive technologies in exchange for market access (being allowed to sell products and services) are clearly at odds with accepted international practice.

去年美国商会第一次将有关许可的问题纳入我们的调查范围，而今年我们又第一次将会员企业提出的另一问题——强制性技术转让——包含在调查中。中国的许可实践和强制性技术转让为试图在华投资及扩展业务的外资企业制造了很大的障碍。在实践中，相关政策使外资机构很难取得许可证，这使得他们在竞争中处于非常不利的地位。同样的，外资企业会被要求提交敏感技术作为其进入市场（即允许外资企业销售其产品和服务）的条件，这与通行的国际实践明显不符。

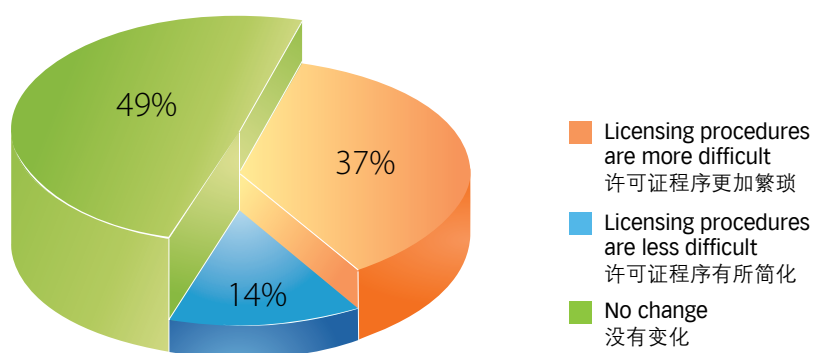


How has awarding of licenses changed in your industry in the past couple of years?

过去几年企业所在行业获得许可证的变化情况

Chart (图) 11

Sample size 样本规模：
2012=178 respondents



A striking 37 percent of respondents said licenses are becoming more difficult to obtain.

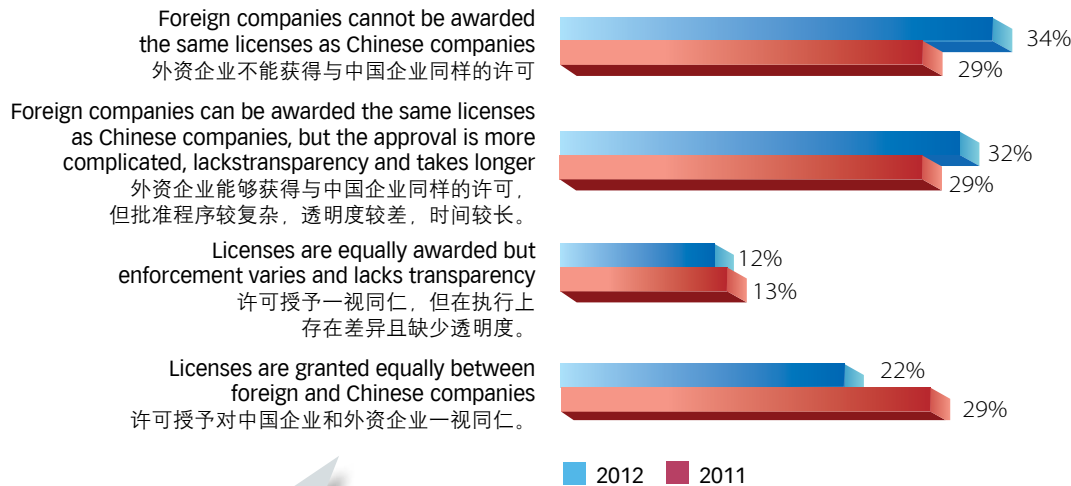
高达 37% 的受访者认为获得许可证变得越来越困难。



How are the relevant licenses in your industry applied? 企业所在行业相关许可申请情况

Chart (图) 12

Sample size: 2011=248 respondents
样本规模 2012=175



Only 22 percent said licenses are granted and enforced equally between foreign and Chinese companies.

而只有 22% 的受访者认为许可授予对中国企业和外资企业一视同仁。

As discussed in the previous chart, licensing procedures continue to prove onerous for FIEs. In 2011, the percentage of respondents who said licenses are granted equally to foreign and Chinese companies declined by seven percentage points. Discriminatory treatment in licensing is unfortunate, particularly at a time many Chinese companies are expanding abroad and expect to be treated fairly in the licensing process of other countries. Such regulatory inconsistencies are at odds with China's increasingly advanced economic profile—it is now the world's second-biggest economy—and its ten-year long membership in the World Trade Organization (WTO).

In light of China's strong domestic economic growth and fast-developing corporate and consumer markets, its trade partners increasingly expect to be able to conduct business according to globally accepted standards. Yet the wide discretion given localities in implementation of regulations and the resulting wide variation in local practices have frustrated these expectations and impeded economic development.

在上一个图表中，我们讨论了许可程序对外资企业来说仍然很繁琐。2011 年，认为许可授予对中国企业和外资企业一视同仁的受访者比例下降了 7 个百分点。许可领域的歧视性待遇是令人遗憾的，尤其是目前许多中国企业正在进行海外扩张，也期望在许可程序方面受到其他国家的公平对待。这种监管中的不一致是与中国经济不断提升的形象不相符的，因为中国目前已经是世界第二大经济体，并且已经加入世界贸易组织长达十年之久。

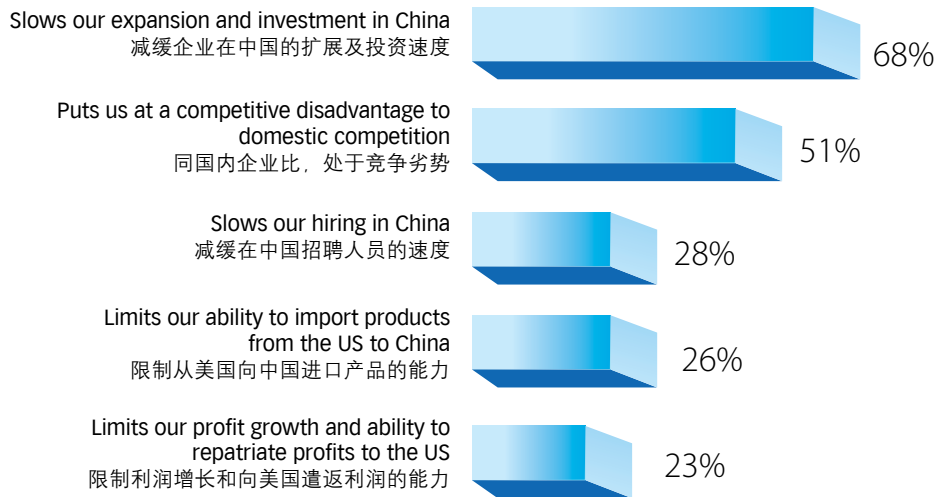
鉴于中国强劲的国内经济增长以及快速发展的企业与消费市场，其贸易伙伴更加期望能够按照国际通行的标准在华开展业务。但是，在规定的执行过程中给予地方过多的裁量权，以及由此造成的地方在实际操作中的重大差异都妨碍了这些期望的实现，也阻碍了经济的发展。



How do licensing requirements impact your business? 许可要求对企业经营的影响

Chart (图) 13

Sample size 样本规模:
2012=152 respondents



Faced with inconsistent and sometimes discriminatory licensing practices, some FIEs have curbed their investment plans in China. As mentioned in the economic performance section, fewer companies today consider China their number-one destination for investment. Many respondents report that difficulties obtaining required licenses in China have led them to slow their expansion. In that sense, unfair licensing practices serve to undermine China's employment growth and economic development.

面对相互矛盾，甚至有时带有歧视性的许可程序，一些外资企业已经停止了其在华的投资计划。正如在“经济发展状况”部分中提到的，目前将中国视为其第一大投资目的地的企业已经减少。许多受访者认为取得许可证方面的困难已经减缓了其在华的扩展。从这个意义上来讲，不公平的许可程序削弱了中国的就业增长以及经济发展。

Sixty-eight percent responded that licensing requirements slow their expansion and investment in China.

68% 的受访者认为许可要求减缓了其在华的扩展及投资速度。

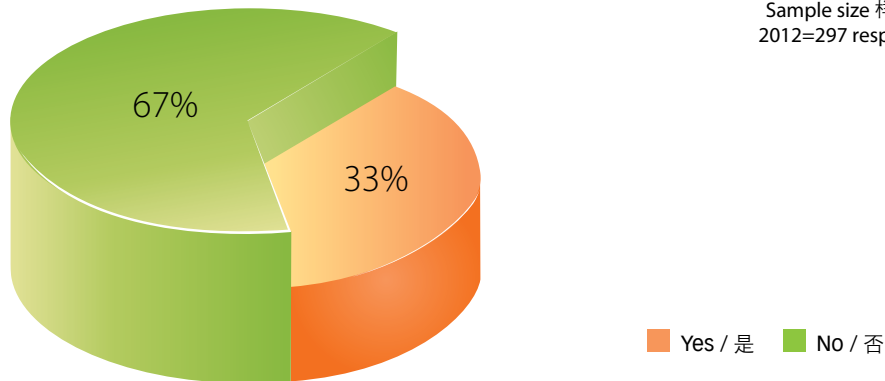


At times, China has forced technology or knowledge transfers from foreign companies in exchange for market access. Are the effects of such practices negatively impacting your company or clients' assessment of the business environment in China?

中国有时以换取市场准入为条件迫使外企进行知识或技术转让。该做法是否对企业或客户评估在华运营环境时造成负面影响？

Chart (图) 14

Sample size 样本规模：
2012=297 respondents



Just as licensing obstacles may discourage FIEs that want to expand in China, policies that require technology transfer in exchange for market access may cause some to reassess their investment plans.

FIEs that want to develop and sell innovative products are confronted with the difficult choice of either surrendering valuable intellectual property (IP) or opting not to sell in China, a key global growth market. Given that many chamber member companies do not even operate in sectors that depend on proprietary technology, it is striking that a full third of survey respondents say they have been negatively impacted by policies that force technology transfers. Again, such an approach is out of step with China's economic status and membership in the WTO.

As discussed above, the majority of surveyed companies say their goal is to make products in China for China. Also, 78 percent of these companies ranked China among their top-three destinations for global investment. FIEs obviously do not want to leave China. The potential for growth in China, although not as strong as in previous years, is still greater than in the US and Europe. However, China's discriminatory licensing practices and forced technology transfers undercut its appeal as an investment venue for FIEs and have prompted a number of firms to slow expansion.

如同许可障碍可能会限制外资企业在华进行扩展一样，以换取市场准入为条件而要求企业转让其技术，可能会迫使一些美资企业重新评估其对华的投资计划。

想要开发及销售创新产品的外资企业需要面对艰难的选择：是放弃其宝贵的知识产权，还是放弃在中国这样一个关键的全球成长市场中销售其产品。事实上，中国美国商会的许多会员企业从事着不依赖机密技术的行业，但令人惊讶的是仍有三分之一的受访者认为强制性技术转让政策给他们带来了负面影响。这种做法同样也与中国在经济地位及其在世界贸易组织中的会员资格不相符合。

正如前文所述，大部分受访企业认为其目标是在华生产供应中国市场的产品。同时，78%的受访企业将中国列为其全球投资的三大目的地之一。显然，外资企业并不希望离开中国。中国的成长潜力尽管不如往年那样巨大，但仍然强过美国及欧洲。但是，中国歧视性的许可程序及强制性技术转让削弱了其作为目的地吸引外资企业进行投资的潜力，同时也迫使许多企业放缓了其扩展步伐。

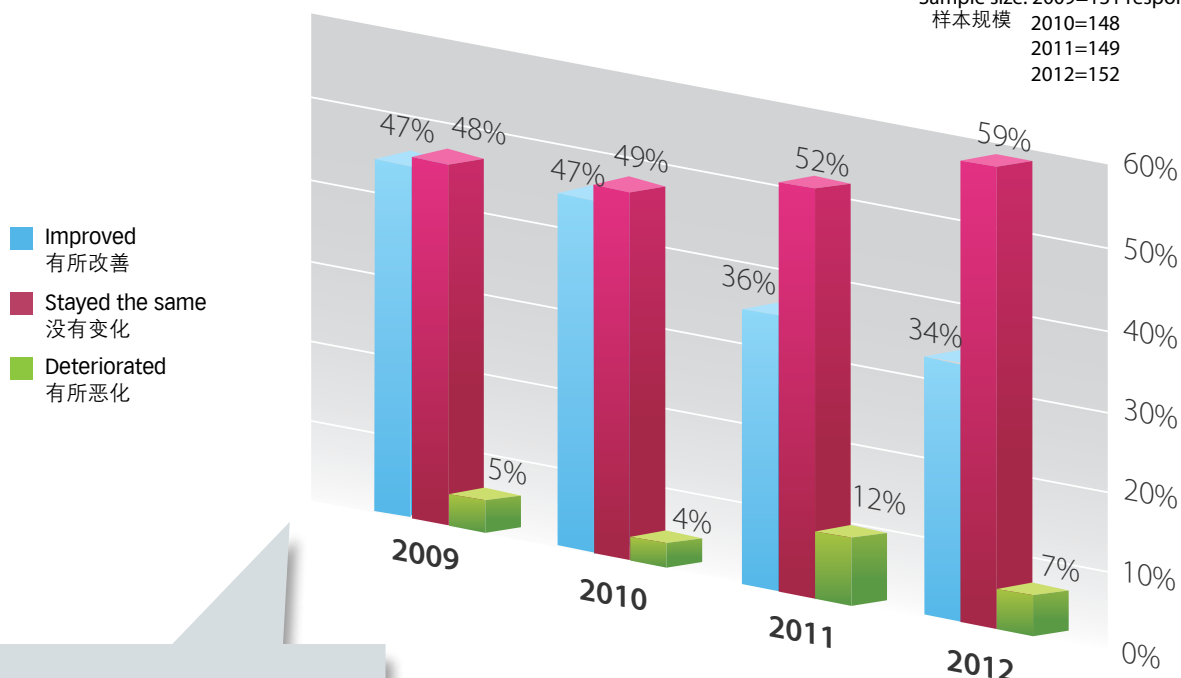
Intellectual Property Rights (IPR) 知识产权



In the last year, China's enforcement of IPR has:
去年中国知识产权执法情况如何

Chart (图) 15

Sample size: 2009=131 respondents
样本规模 2010=148
2011=149
2012=152



Sixty-six percent of respondents found China's enforcement of IPR has stayed the same or deteriorated. Even after the Special IPR Campaign, there has been no improvement in China's administration.

66% 的受访者认为中国知识产权的执法情况“没有变化”或者“有所恶化”。即使在知识产权专项行动开展之后，中国的行政管理也没有出现改善。

The US government consistently makes enhanced protection of IPR a top goal in its negotiations with the Chinese government. In 2011, AmCham China welcomed the Chinese government's launch of a nine-month special IPR campaign to help combat IPR infringements. In another important step, Beijing also established an IPR office within the Office of the State Council. However, despite these significant strides toward a more systemic approach to IPR, survey respondents still have not seen an improvement in IPR protection. In fact, the results suggest a slight deterioration in perceptions of the situation compared to a year ago.

A sustained, institutionalized and adequately-resourced effort to crack down on IPR offenses would bolster business confidence, encourage cooperation and information sharing between foreign and local companies, and help support the long-term growth of China's own technology industry.

在与中国政府的协商过程中，美国政府一直将加强知识产权保护作为一项首要目标。2011年，中国美国商会对中国政府启动为期9个月的知识产权专项行动，以打击知识产权领域的侵权行为表示欢迎。另外一项重要举措是，中央政府在国务院设立了知识产权办公室。但是，尽管中国在建立更加系统的知识产权体系方面已经迈出了重要步伐，受访者仍旧认为他们没有看到知识产权保护方面的任何改善。实际上，调查结果显示，知识产权保护情况与去年相比有轻微的恶化。

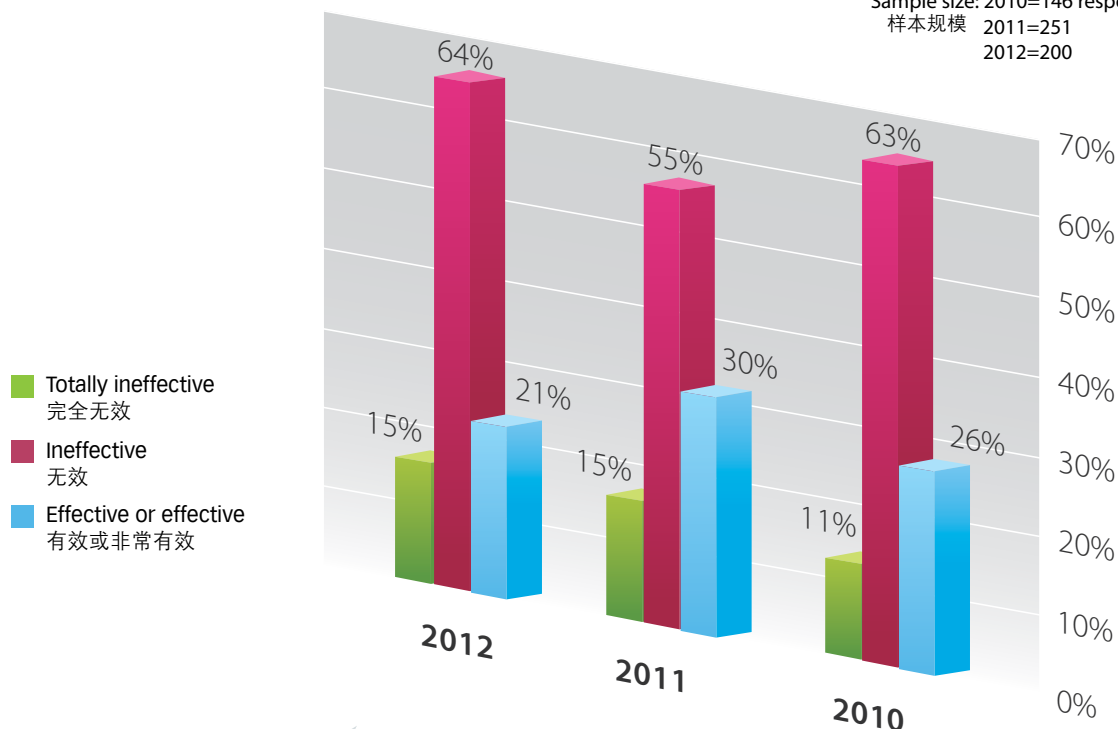
对知识产权的侵权行为予以持续不断的、制度化的且有充足资源保障的打击，将提升中外企业的经营信心，鼓励其合作与信息共享，并有助于中国自身技术产业的长期发展。



In the last year, China's enforcement of IPR has:
去年中国知识产权执法情况如何

Chart (图) 16

Sample size: 2010=146 respondents
样本规模 2011=251
2012=200



Seventy-nine percent of respondents rate China's enforcement of IPR as ineffective. The percentage of respondents who rated China's IPR enforcement as effective declined nine points from last year.

79% 的受访者认为中国政府保护知识产权的执行力是“无效”的。而认为中国政府保护知识产权执行力是“有效”的受访者比例比去年下降了 9 个百分点。

Respondents this year are actually less likely to consider IPR enforcement to be effective than a year ago.

AmCham China hopes that the State Council's office will help to improve the situation. Since it is not yet fully operational, survey results do not reflect its potential impact.

One other factor that may affect survey results: as China's economy has developed and grown more sophisticated, respondents have higher expectations as to the government's ability to enforce IPR protections.

事实上，与去年相比，今年更少的受访者认为知识产权保护的执行力是有效的。

中国美国商会希望国务院知识产权办公室的成立会有助于这种状况的改善。由于知识产权办公室目前尚未开始全面运作，因此调查结果没有反映其可能产生的影响。

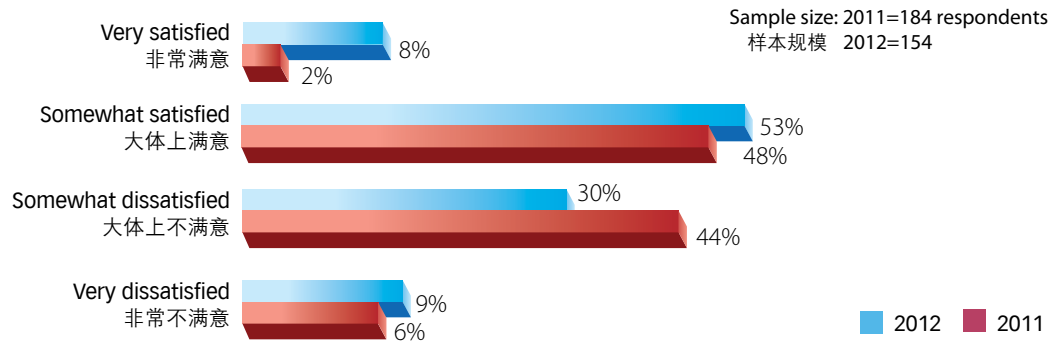
另一个可能影响调查结果的因素是：随着中国经济的发展与逐渐成熟，受访者对政府保护知识产权的执行能力有了更高的期望。



If you have taken administrative action on an IPR infringement, how satisfied were you with the level of cooperation from the relevant Chinese officials?

企业通过行政诉讼打击侵权行为时对中国政府相关官员合作情况的满意程度

Chart (图) 17



On the bright side, survey respondents report growing satisfaction both with the level of cooperation they can expect when they take administrative action on IPR, and when they take cases to court.

Satisfaction with administrative action rose 11 percentage points, and satisfaction with the courts rose 19 percentage points compared to last year—a marked improvement. That said, 39 percent of respondents are still dissatisfied with administrative action and 37 percent remain dissatisfied with the courts. While it is certainly a positive sign that satisfaction in both areas exceeded last year’s results, respondents state that enforcement still leaves much to be desired in terms of IPR protection.

积极的一面是，受访者对于在通过行政诉讼打击侵权行为或将侵权行为诉诸法律时，中国政府相关官员或法院的合作情况的满意度均有所提高。

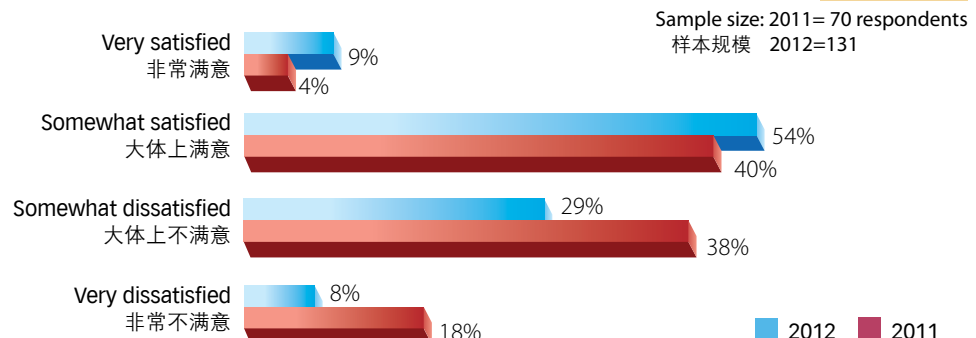
对行政诉讼过程的满意度上升了 11 个百分点，对法院的满意度则上升了 19 个百分点，这较去年有明显的提高。尽管如此，对行政诉讼过程或法院感到不满的受访者仍分别占到 39% 和 37%。虽然调查结果显示出对这两个方面的满意度均超过去年的水平，但受访者认为在知识产权保护的执行力问题上，仍有很大的提升空间。



If you have brought any infringements to court, were you satisfied with the level of cooperation from the Chinese courts?

企业将侵权行为诉诸法律时对中国法院合作情况的满意程度

Chart (图) 18



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Issue in Focus: Internet and Cyber Security

焦点问题：互联网与网络安全

AmCham China added new questions this year regarding the Internet and the state of cyber security in China. These topics are frequently raised in meetings, but until now we have had no data to assess their actual impact on the foreign business community.

中国美国商会今年新增加了有关互联网及网络安全状况方面的问题。这些话题经常会出现在各种会议当中，但直到目前我们还无法获得相关数据，以便评估其对外资企业产生的实际影响。



How does the cyber security environment in China compare with that of other countries?

中国的网络安全环境与其他国家相比

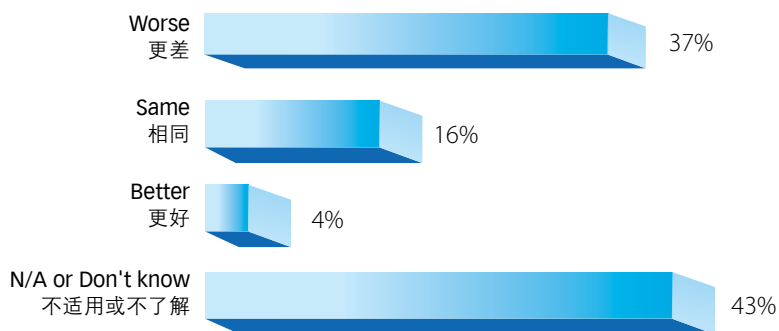


Chart (图) 19

Sample size 样本规模：
2012=319 respondents

Two-thirds of members who have an opinion on cyber security believe the environment in China is worse than in other countries.

三分之二的会员企业认为中国的网络安全环境比其他国家“更差”。

In response to a cyber security question, 43 percent of respondents either said they did not know or felt that cyber security did not apply to their situation. Yet the chart above makes clear that, of those who did have an opinion, a significant percentage ranked China's cyber security environment as worse than in other countries.

At a time of rapidly increasing data flows across borders, negative perceptions of China's cyber security are likely to detract from its appeal as a venue for FIEs to invest in the most advanced R&D and technology. This is a particularly relevant concern at a time the Chinese government, in seeking to boost national research and development capabilities, has been courting foreign investment in leading-edge technologies.

在回答“中国网络安全环境与其他国家相比”的问题时，有43%的受访者表示他们“不了解”或认为该问题对其“不适用”。但上面的图表清晰的显示，在那些对该问题持有清晰观点的受访者中，有相当比例的受访者认为中国的网络安全环境比其他国家“更差”。

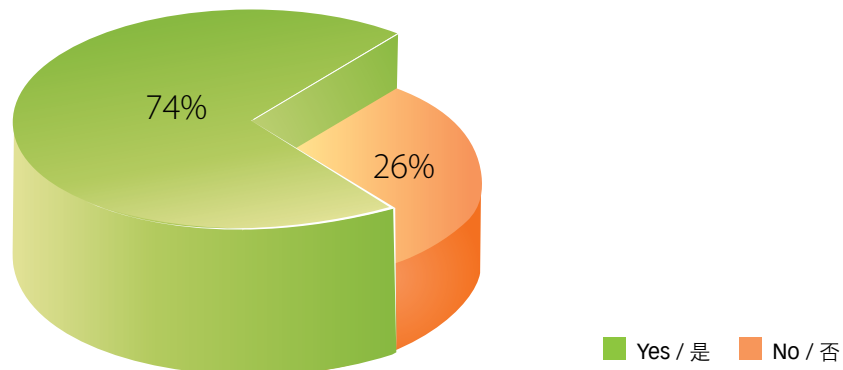
在信息跨国流动快速增长的今天，对中国网络安全的负面态度，很可能会削弱中国吸引外资企业在华投资先进技术与尖端研发的能力。中国政府在尖端技术领域正不断吸引外资投资，以提高国家的研发能力。在这样的背景下，网络安全问题显得尤为重要。



Does slow or unstable Internet access impede your ability to efficiently conduct business in China?
互联网网速慢或不稳定是否降低企业在中国运营的效率?

Chart (图) 20

Sample size 样本规模:
2012=301 respondents



Seventy-four percent of survey respondents report that unstable Internet access impedes their ability to efficiently conduct business in China.

74% 的受访者认为互联网网速不稳定降低了企业在中国运营的效率。

As the chart above demonstrates, 74 percent of surveyed companies say unreliable Internet access negatively impacts their business operations. In light of China's own ambitions to create an innovation-driven economy, it is essential that companies and consumers enjoy access to fast, reliable Internet service.

It is often particularly difficult to access websites hosted by servers located outside China. Compared to other countries, China maintains only a handful of gateways for international Internet traffic, effectively constraining the speed of information flows. This makes it harder for China-based businesspeople and other professionals to quickly access data and communicate with overseas websites, hindering their ability to conduct global business operations in an efficient manner.

上面的图表显示，74%的受访企业认为互联网网速不稳定对其运营产生了负面影响。鉴于中国所做出的建设创新型经济的宏愿，企业与消费者能够享受到高速、可靠的互联网服务是非常必要的。

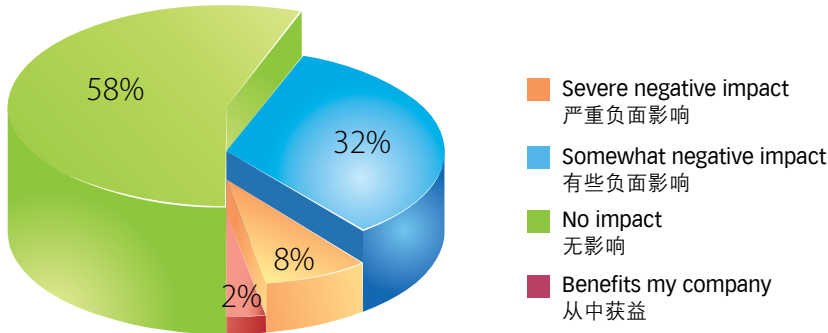
访问服务器位于中国境外的网站通常十分困难。与其他国家相比，中国仅有为数不多的国际互联网通信出口，实际上限制了信息流动的速度。这使得驻华的商人及其他专业人员无法快速地访问国外网站的数据，或通过国外网站进行沟通，削弱了其有效开展全球运营的能力。



To what degree does Internet censorship impact your company's ability to conduct business normally in China? 网络审查对企业正常运营产生的影响

Chart (图) 21

Sample size 样本规模:
2012=299 respondents



In the absence of censorship, Internet access would be faster and more reliable. However, as the chart above demonstrates, China's censorship of the Internet permeates the foreign business community's daily operations. Almost half of survey respondents say their businesses are negatively impacted by Internet controls.

Internet users in China routinely have trouble accessing offshore news reports, social media sites, search engines, e-commerce sites, and blogs, many of which supply valuable and timely business information and are devoid of any potentially controversial political content. Such information roadblocks work to the disadvantage not only of FIEs, but also of Chinese businesspeople and technical professionals, who cannot easily access the news, research and social networks they need to stay abreast of important developments outside China.

没有了审查的限制，互联网的访问速度可以更快、更稳定。但是，正如上面的图表显示的，中国的网络审查已经渗透到了外资企业的日常运营。将近一半的受访者认为其运营受到了网络管控的负面影响。

在中国，互联网使用者经常无法访问境外的新闻报道、社交媒体网站、搜索引擎、电子商务网站及博客，这些网站给互联网使用者提供了宝贵和及时的商业信息，同时也不含具有争议性的政治内容。这些信息路障不仅对外资企业产生了不利影响，对那些想通过正常访问新闻、搜索及社交网站，以了解海外相关领域最新重要发展情况的中国商人及技术人员来说也是不利的。

Forty percent of respondents find China's Internet censorship negatively impacts their ability to conduct business normally in China.

40%的受访者认为中国的网络审查对其企业在华的正常运营产生了负面影响。

Survey Profile 受访者基本情况

390 respondents

72% Senior-level country management; 12% Director/functional leader of other department; 11% Other; 5% Director of government relations or public relations department

42% Services; 20% Manufacturing; 16% Other; 11% High-tech; 9% Information technology and information services; 2% Retail, distribution, and logistics

66% Wholly-owned foreign enterprise; 29% Representative office; 25% Joint venture; 22% Regional/branch office; 15% Regional headquarters; 12% R&D center; 7% Holding company; 6% Management company; 4% Other; 2% Global headquarters; 1% Foreign-invested company limited by shares

The survey was conducted in November and December 2011

390 个受访者

高级管理人员占 72%、部门总监 / 负责人占 12%、其他占 11%、政府事务或公共关系总监占 5%。

服务业占 42%、制造业占 20%、其他占 16%、高科技产业占 11%、信息技术及信息服务业占 9%、零售、分销及物流业占 2%。

外商独资企业占 66%、代表处占 29%、合资企业占 25%、地区 / 分支机构占 22%、地区总部占 15%、研发中心占 12%、控股公司占 7%、管理公司占 6%、其他占 4%、全球总部占 2%、参股企业占 1%。

本问卷调查完成于 2011 年 11 月至 12 月

Note: All charts represent data collected in the 2012 AmCham China Business Climate Survey.

注：本报告中所有图表数据来源于中国美国商会 2012 年商务环境调查

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