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THE FUTURE OF UNITED STATES-CHINA TRADE RELATIONS AND THE POSSIBLE ACCESSION OF CHINA TO THE WORLD TRADE ORGANIZATION

HEARING

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTH CONGRESS

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THE FUTURE OF UNITED STATES-CHINA TRADE RELATIONS AND THE POSSIBLE ACCESSION OF CHINA TO THE WORLD TRADE ORGANIZATION

TUESDAY, NOVEMBER 4, 1997

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:03 a.m., in room 1100, Longworth House Office Building, Hon. Philip M. Crane (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

FOR IMMEDIATE RELEASE
October 22, 1997
No. TR–18

CONTACT: (202) 225–1721

Crane Announces Oversight Hearing on the Future of United States-China Trade Relations and the Possible Accession of China to the World Trade Organization

Congressman Philip M. Crane (R–IL), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the future of United States-China trade relations and the possible accession of China to the World Trade Organization (WTO). The hearing will take place on Tuesday, November 4, 1997, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.

Invited witnesses include United States Trade Representative, Charlene Barshefsky, and Under Secretary of State for Economic, Business and Agricultural Affairs, Stuart Eizenstat. Testimony will also be received from private sector witnesses. Congressmen Doug Bereuter (R–NE) and Tom Ewing (R–IL) have been invited to testify on H.R. 1712, the "China Market Access and Export Opportunity Act of 1997." In addition, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee or for inclusion in the printed record of the hearing.

BACKGROUND:

Article XII of the Agreement Establishing the World Trade Organization states that any State or separate customs territory may accede to the WTO "on terms to be agreed between it and the WTO." In practice China, Taiwan, and other applicants must negotiate terms for membership in the WTO in the form of a Protocol of Accession. Through the operation of a Working Party, the United States, and other WTO members have an opportunity to review the trade regimes of applicants to ensure that they are capable of implementing WTO obligations. In parallel with the Working Party's efforts, the United States and other interested member governments conduct separate negotiations with the applicant. These bilateral negotiations are aimed at achieving specific concessions and commitments on tariff levels, agricultural market access, and trade in services, of particular interest to the member country involved.

China applied for accession to the General Agreement on Tariffs and Trade in July 1986, and work has proceeded sporadically in the China Working Party since that time to negotiate the conditions upon which China will enter the WTO.

In negotiating the terms of its accession to the WTO, China takes the position that the United States should grant China unconditional, most-favored-nation (MFN) trade status, a change requiring legislation. Sections 402 (a) and (b) of the Trade Act of 1974 set forth criteria which must be met, or waived by the President, in order for the President to grant MFN status to non-market economies such as China. Conditional, non-discriminatory MFN trade status was first granted to the

People's Republic of China, pursuant to Title IV, on February 1, 1980, and has been extended annually since that time. Extensions are granted based upon a Presidential determination that such an extension will substantially promote the freedom of emigration objectives in Title IV of the Trade Act of 1974, the so-called Jackson-Vanik amendment.

The annual Presidential waiver authority under Title IV expires on July 3 of each year. The renewal procedure requires the President to submit to Congress a recommendation for a 12-month extension by no later than 30 days prior to the waiver's expiration (i.e., by not later than June 3). The waiver authority continues in effect unless disapproved by Congress. Disapproval, should it occur, would take the form of a joint resolution disapproving the President's determination to waive the Jackson-Vanik freedom of emigration requirements for China.

H.R. 1712, the "China Market Access and Export Opportunity Act of 1997," introduced by Congressmen Doug Bereuter (R–NE) and Tom Ewing (R–IL), would encourage the People's Republic of China to join the WTO by removing China from Title IV of the Trade Act of 1974, and authorizing the President to raise tariffs on Chinese imports, if China fails to take adequate steps to become a WTO member.

In announcing the hearing, Chairman Crane said: "It is indeed frustrating for those of us who support normalizing U.S. trade relations with China to observe that China's WTO negotiations—in progress for over a decade—are still far from concluding. When measured against the obligations and commitments observed by other WTO members, China's proposals for liberalizing its trade regime remain seriously inadequate. I continue to hope that China will come forward with meaningful offers to breathe life into trade talks which are, for now, largely stalled."

FOCUS OF THE HEARING:

The focus of the hearing will be to examine the future of United States-China trade relations and the problems and opportunities associated with the entry of China into the WTO. Testimony will be received on objectives for the negotiations with China, as well as on the anticipated impact of its WTO membership on U.S. workers, industries, and other affected parties. Members of the Subcommittee would also welcome testimony on: (1) how progress in China's WTO negotiations are affecting the pending application of Taiwan to join the WTO, (2) whether the terminology "most-favored-nation treatment" should be changed in order to reflect more accurately the nature of the trade relationship with China, and (3) views on H.R. 1712.

DETAILS FOR SUBMISSIONS OF REQUESTS TO BE HEARD:

Requests to be heard at the hearing must be made by telephone to Traci Altman or Bradley Schreiber at (202) 225–1721 no later than the close of business, Tuesday, October 28, 1997. The telephone request should be followed by a formal written request to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The staff of the Subcommittee on Trade will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee on Trade staff at (202) 225–6649.

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to be heard. Those persons and organizations not scheduled for an oral appearance are encouraged to submit written statements for the record of the hearing. All persons requesting to be heard, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the filing deadline.

Witnesses scheduled to present oral testimony are required to summarize briefly their written statements in no more than five minutes. THE FIVE–MINUTE RULE WILL BE STRICTLY ENFORCED. The full written statement of each witness will be included in the printed record, in accordance with House Rules.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee

are required to submit 200 copies of their prepared statement and an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format, for review by Members prior to the hearing. Testimony should arrive at the Subcommittee on Trade office, room 1104 Longworth House Office Building, no later than Friday, October 31, 1997. Failure to do so may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) single-space legal-size copies of their statement, along with an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format only, with their name, address, and hearing date noted on a label, by the close of business, Tuesday, November 18, 1997, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Trade office, room 1104 Longworth House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments. At the same time written statements are submitted to the Committee, witnesses are now requested to submit their statements on an IBM compatible 3.5-inch diskette in ASCII DOS Text or WordPerfect 5.1 format. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at 'HTTP://WWW.HOUSE.GOV/WAYS__MEANS/'.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Chairman CRANE. The Subcommittee will come to order. Will everyone please be seated. Good morning. This is a meeting of the Ways and Means Trade Subcommittee, to consider the critical issue of United States-China trade relations, and to assess the progress in the negotiations for China to join the WTO, World Trade Organization.

It is indeed frustrating to those of us who support normalizing United States trade relations with China to observe that the negotiations between that country and the WTO, in progress for over a decade, are still far from a conclusion. When measured against the obligations and commitments observed by other WTO members, China's proposals for liberalizing its trade regime remain seriously inadequate. If China joins the WTO, the terms on which it accedes will have a huge impact on the opportunities available to United States firms and workers in the 21st century. However, I know I speak for many of my colleagues when I say that the United States should not engage in these talks indefinitely. Either China offers to make the necessary reforms of its closed system in the near future, or I would support deploying United States negotiators to another assignment until such time as China is willing to work out a commercially acceptable agreement.

Today we will hear from two administration witnesses who will discuss the results of the summit meeting last week between President Clinton and President Jiang Zemin. I am interested in hearing their thoughts on the summit, and specifically whether it succeeded in injecting any momentum into the lackluster WTO negotiations. I note that the focus of the summit was on areas other than trade, and I'm interested in what the USTR, U.S. Trade Representative, sees ahead for the United States-China economic relationship in light of these factors.

Finally, I welcome the testimony of my colleagues, Doug Bereuter and Tom Ewing, who will discuss legislation they have drafted, H.R. 1712, which is designed to spur progress in China's WTO negotiations.

Now I would like to yield to my distinguished colleague from California, Mr. Matsui, for an opening statement.

Mr. MATSUI. Thank you, Mr. Chairman, for these hearings today on the future of United States-China trade relations and the possible accession of China to the World Trade Organization. I would also like to welcome Mr. Lieberman, Mr. Bereuter, Mr. Levin, Mr. Ewing, and certainly Mr. Cox from California.

At last week's summit here in Washington, it was agreed by the United States and China that China's full participation in the multilateral trading system is in their mutual interest. It was further agreed by both sides to intensify negotiations on market access and on implementation of the WTO principles so that China can accede to the WTO on a commercially meaningful basis at the earliest possible time. In light of this renewed commitment by both sides on China's accession to the WTO, this hearing is indeed timely.

Our traditional relationship with China has become one of the most important and complex of all trade relationships. Consequently, I would submit that the negotiations on the terms and

conditions for China's entry into the WTO will be the most important trade negotiations in which the United States is involved in the coming years. Clearly, the economic stakes with China are high. China is now the world's 10th largest trading country. Given the impressive growth of the Chinese economy and its population of 1.2 billion people, 22 percent of the world population, China's presence as a world trade partner will only increase.

Unfortunately, as the commercial importance of China has grown, so has our bilateral trade deficit. Last year, our bilateral trade deficit grew to nearly $40 billion. This year the deficit will be in the range of $46 billion. This is clearly unacceptable. One way to reduce this deficit is through greater access to the Chinese market and continuing reform of the Chinese economic system. This can be accomplished in part by China's accession to the WTO on sound commercial terms.

Let me reiterate for the record my longstanding position on this issue. The United States should support Chinese accession to the WTO provided it is done on a commercially sound basis and with full acceptance by China of the basic obligations of the WTO system. Moreover, our trade negotiators in the administration should take whatever time is necessary to pursue negotiating options that ensure these negotiations are done properly and not hastily.

A key issue is whether the United States should grant China unconditional MFN, most-favored-nation status, upon China's completion of the terms of accession to the WTO. Granting China unconditional MFN will require an act of Congress, so Congress must continue to be an active partner with the administration in formulating the United States negotiating position. Moreover, there continues to be lively debate in Congress on how the Congress should go about extending unconditional MFN to China and under what circumstances. Several bills have been introduced, and will undoubtedly be the subject of discussions at today's hearing.

In conclusion, Mr. Chairman, let me state that prior to last week's summit, it appeared China was unable or unwilling to come forward with a set of offers on WTO accession that would provide and move the process forward. Last week's summit may have breathed new life into these negotiations. Only time, however, will tell. Given the importance of these negotiations, it is absolutely essential that we in Congress continue to work closely with the administration to both promote and safeguard United States commercial interests, and to ensure that the deal reached lays a significant solid foundation for congressional action on unconditional MFN for China.

I welcome today's witnesses and look forward to their testimony. Again, thank you, Mr. Chairman.

Chairman CRANE. I want to thank the witnesses in advance for their prepared testimony. I would ask that you please try and keep your oral remarks to under 5 minutes. Please submit your written text for the printed record. It will be made a permanent part of it.

The first witness today is our distinguished colleague from Connecticut, Senator Lieberman, who has introduced in the Senate legislation similar to the Bereuter-Ewing bill. We'll then proceed with Sandy Levin from Michigan, Doug Bereuter from Nebraska, Chris

Cox from California, and Tom Ewing from my home State of Illinois. Please proceed in that order.

[The opening statement of Hon. Jim Ramstad follows:]

Statement of Hon. Jim Ramstad, a Representative in Congress from the State of Minnesota

Mr. Chairman, thank you for calling today's hearing to discuss US-China trade relations and the possible accession of China to the WTO.

Earlier this year during the MFN hearings and debates, we discussed in depth our relationship to China. It continues to be an important issue we must review often since the U.S.-Sino trade relationship is very important to U.S. businesses and jobs.

China is one of the fastest-growing markets in the world and is home to over 1.2 billion people—20% of the world's population. US-China bilateral trade has grown from $2 billion in 1978 to nearly $60 billion in 1996—a 3000% increase!

And my own home state of Minnesota exports about $120 million annually of manufactured goods and agricultural products to China, excluding Hong Kong. Almost 200 Minnesota companies do business with China, making it our eighth largest trading partner—and growing. Some 60 Minnesota companies have joint ventures, factories or branch sales offices in China.

I know the Minnesota business community is excited about future opportunities with China. The recent US-China talks, in which President Clinton pledged to allow American companies to begin bidding on $60 billion in Chinese energy contracts and the President of China promised to reduce tariffs on $1.2 billion of US computers and telecommunications equipment will directly impact Minnesota companies like Honeywell and 3M, as well as many others.

But, according to Sung Won Sohn, Chief Economist of Norwest Corporation, many nontariff barriers remain as major factors impeding economic progress between our countries. We must take steps to remove these impediments. Through our policy of engagement, I believe we can, after much hard work, achieve progress on economic and political issues in China that are important

Knowing how crucial a normal, engaged relationship between the US and China is for improving the lives of people in both countries—as well as those of Hong Kong, Taiwan and other Pacific Rim nations—I want to thank you again, Mr. Chairman, for calling this hearing. I look forward to hearing from today's witnesses about the importance and implications of US-China Trade relations and China WTO accession.

STATEMENT OF HON. JOSEPH I. LIEBERMAN, A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator LIEBERMAN. Thank you, Mr. Chairman. Good morning, Mr. Chairman, Mr. Matsui, Members of the Subcommittee. Thank you for giving me this opportunity to say a few words about our relations with China, particularly our trade relations, and then to talk about H.R. 1712.

Mr. Chairman, we are at a critical juncture in our relations with the PRC, People's Republic of China. How we choose to manage China's emergence as a major global power will profoundly affect the shape, not only of the global order, but the future prosperity of our workers and industries. I believe we have got to work to establish an acceptable framework for peacefully integrating China into the evolving economic, security, and political systems of international order. The core question that we in this Congress must face is whether to continue our current path of cooperation and integration or choose the path of containment and isolation.

Mr. Chairman, the administration has made its choice. I think it is the correct one, which is for cooperation and integration. We in Congress are sending mixed and often negative signals. During this session there has been much debate about what direction we

should take in our relations with China. Much of the legislation that has been introduced has assumed the worst, centered on containment, and favored economic sanctions to remedy just about every Chinese transgression. This policy is ultimately premised, I believe, on a view that China will inevitably be our next great enemy. But it seems to me that treating China as our inevitable enemy is the surest way to guarantee that result.

What we need here is not just sticks, but carrots as well. I say that because on balance, China's economic and political reforms are becoming more, not less consistent with America's core values. The transformation of a socialist command economy into a controlled market system has allowed for the emergence of a new class of entrepreneurs, and has promoted individual freedom to decide what to consume, where to live, what to do for a livelihood, and with much more freedom what to say and think, what to say to each other.

The state sector of the economy—and I think this is a very important result of trade and economic growth—the state sector of the economy has steadily declined and increasing numbers of Chinese now work for employers that do not answer directly to the Central Government or the Communist Party. That means the Communist Party's ability to control and monitor the social, political, and economic lives of individual Chinese citizens has diminished substantially.

So the movement in China, thanks in good measure to trade and economic growth, is in our direction. On the other hand, there's an awful lot that still falls short of our ideals and principles. Here, particularly in the subject of this hearing, we have a large and growing trade deficit with China that is unacceptable. A prosperous and stable relationship will only continue for as long as we have fair access to China's markets. Therefore, bringing China into the World Trade Organization will only help in establishing a level playingfield for us to compete with China.

To encourage China's current path of reform and development, and to help ensure that China's inevitable transformation into a global and strategic superpower occurs in a way not adverse to American interests and values, I believe we must have a policy that aims at integration instead of isolation, and really relies on carrots, saving the sticks for when they are most needed. In that sense, it is time for Congress to end our mixed messages and ambivalence, the noise that makes us feel good but doesn't lead to much, and to work together across party lines to build a bipartisan consensus for a new China policy.

Toward that end, 2 weeks ago I was privileged to introduce the U.S.-China Relations Act of 1997 in the Senate, along with a bipartisan group of colleagues: Senators Chuck Hagel, Bob Kerrey, and Frank Murkowski. In that legislation, which deals with our strategic relationship with human rights concerns, environmental concerns, and so forth, we embraced in total H.R. 1712, the measure introduced by Congressmen Bereuter and Ewing, because we think it is a perfect combination of carrots and sticks, holding out the hopes, setting a path for accession of China to WTO and thereby getting us over the annual spasms related to the consideration of

MFN status, but containing within it the stick of a snapback tariff to create greater incentive for movement forward.

I am going to leave the discussion of the details of the bill to its originators. Let me just say that I believe it holds hope of creating a win-win situation. A win for the United States in terms of access to Chinese markets, a win for China and particularly for its people, as we help them walk the road not only to a better life, but to a freer life.

Mr. Chairman, I would like to ask your permission to include the rest of my statement in the record as if read. Thank you for your courtesy in allowing me to come over and say a few words this morning.

Chairman CRANE. Without objection so ordered.

[The prepared statement follows:]

Statement of Hon. Joseph I. Lieberman, a U.S. Senator from the State of Connecticut

Mr. Chairman, distinguished Members of the Committee, I appreciate this opportunity to discuss my views on the future of U.S.-China trade relations.

We are at a critical juncture in our relations with the People's Republic of China. How we choose to manage China's emergence as a major global power will profoundly impact the shape of the global order and the future prosperity of our workers and industries. This is not dissimilar to the late 19th century when Japan and Germany emerged to challenge Britain for world leadership.

British diplomacy failed although its task was not an easy one. Two terrible wars have stained the history of this century. We must try to do better. We must work to establish an acceptable framework for peacefully integrating China into the evolving international economic, security, and political systems. And the core question is whether to continue on our current path of cooperation and integration or choose the path of containment and isolation.

During this session there has been much debate about which direction we should take in our relations with China. Most of the legislation that has been introduced regarding China has assumed the worst, centered on containment, and favored economic sanctions to remedy a host of Chinese transgressions. This policy of containment is ultimately premised on a view that China will be our next great enemy.

Some of my colleagues ask us to pass laws that use punishment as the primary tool in our bilateral relationship. These proposals overlook a number of realities: the ineffectiveness and unproductiveness of punitive legislation in changing China; the importance of maintaining and fostering trust and confidence in such an important bilateral relationship; the real potential for retaliation by China; and the potential upsides of a constructive relationship with China. Ultimately, those bills proposing containment of China will neither achieve their stated aims of changing China's behavior nor promote America's more general national and international interests.

The rest of the world will not join us in our effort to isolate China. That makes containment unworkable. Our best policy option is to work to integrate China. Just this past week, the U.S.-China summit realized the first steps towards a more integrated and cooperative relationship with China. We should be encouraged and press forward for more contact with China.

But before rushing to any conclusions about China's intentions, it is helpful to take a closer look at its development over the past 20 years. China has been engaged in a slow but steady effort to integrate itself into existing international systems. It has made efforts to be active in the United Nations, it has participated in a number of multilateral organizations, and has adapted some domestic institutions and policies to the demands of the international community.

I visited China last March with my friend and distinguished colleague, Senator Connie Mack of Florida, and was struck by the revolutionary changes occurring there. This time the revolution is being driven not by Mao's little red book, but by the mass quest for cellular telephones and personal computers, and incidentally, all the personal freedom of communication that goes with them.

The central government in China is still not tolerant of opposition. Political and religious dissidents are in jail. I was disappointed that President Jiang did not use the summit as an opportunity to release Wei Jing Sheng. On the other hand, average Chinese seem to have lost their fear of open and spirited conversations with

Westerners. And Senator Mack found the Catholic Churches during that Holy week before Easter packed with worshipers.

On balance, China's economic and political reforms are becoming more, not less, consistent with American core values. The transformation of a socialist command economy into a controlled market system has allowed for the emergence of a new class of entrepreneurs and has promoted individuals' freedom to decide what to consume, where to live, what to do as a livelihood. The State sector of the economy has steadily declined, and increasing numbers of Chinese now work for employers that do not answer directly to the central goveist Party. This means that the Communist Party's ability to control and monitor individual's social, political, and economic lives has diminished substantially. Explicit political reforms have been fewer, but today there are more local elections being held in China than at any other time in its modern history. The legal system has been reinvented over the past two decades, and has seen in recent years substantial (though still inadequate) improvements in criminal procedure and judicial review of administrative abuses. It can be said in summary that, the reforms of the past two decades have led to increased personal liberty, a strengthened legal system, and the beginnings of a civil society, although there is still a very long way to go.

The Chinese government has undertaken a slow but steady deregulation of the economy since it allowed for free enterprise in the countryside in 1982. Deregulation and the marketization of the Chinese economy has led to unprecedented improvements in the living standards—and purchasing power—of ordinary Chinese. In the past 15 years, China's per capita GDP has more than tripled, from $889 to $2,923, and is forecast to be $4,190 in 2000. Not uncoincidentally, China's demand for US exports has increased in similarly substantial leaps. US goods and services exports destined for China have increased from $3.7 million in 1980 to $11.1 billion in 1995. China is now America's fifth largest trading partner. Similarly, US Foreign Direct Investment in China has increased significantly.

On the other hand, we have a large and growing trade deficit with China that is unacceptable. A prosperous and stable relationship will only continue for as long as we have fair access to China's markets; and bringing China into the World Trade Organization will only help in establishing a level playing field for us to compete with China.

The United States, along with its trading partners, have spent nearly half a century writing the rules for disciplined but fair international economic relations. From the Kennedy Round to the establishment of the World Trade Organization in 1994, the United States has been instrumental in establishing the new international trade order. We should continue to lead by bringing China into the WTO on terms that not only will expand global economic opportunities for all member economies but also will preserve our domestic economic interests.

The time has come for China to be full member of the new global economic system and to share in the maintenance and growth of that system. The sooner China is a part of the WTO the better for everyone.

This is why Senators Hagel, Kerrey, Murkowski and I decided to include Representative Beureuter and Ewing's proposal for giving China permanent MFN into our U.S.-China Relations Act of 1997. It is important to get China into the WTO, but also to hold them to high standards. We should not allow for a transition period for the PRC in fulfilling fundamental obligations of the WTO, including national treatment, transparency, and judicial review. There must be real market access for agricultural products and services (this includes the right to establish services in the areas of insurance, value added telecommunications, financial services, distribution, and business services such as after-sales services). The PRC should agree to eliminating nontariff barriers in not more than 5 years from the time of accession. The PRC should agree to lifting trade-related investment barriers within 2 years of accession. And most importantly, we must develop a multilateral review mechanism to ensure the China is meeting the obligations of the WTO and create appropriate enforcement mechanisms, in the Office of the USTR, to monitor the PRC's implementation of the WTO.

To encourage China's current path of reform and development and to help ensure that China's inevitable transformation into a global economic and strategic power occurs in a way not adverse to U.S. interests or values, the U.S. must have an active China policy that aims at integration instead of isolation, and relies on carrots rather than sticks. It is time for Congress to end the ambivalence and build a consensus for a new China policy. Towards that end, along with my distinguished colleagues Senators Hagel, Kerrey, and Murkowski, I introduced the U.S.-China Relations Act of 1997.

This legislation assumes that China will emerge as a superpower in the coming decades and become a nation with which the United States can and must have coop-

erative relationships—and that our relationships will be more cooperative if our economic, strategic, human rights, and environmental relations are viewed as distinct components of a larger, mutually-beneficial whole. It is based on a conclusion that China today is different from the China of the Cultural Revolution two decades ago and the China of Tiananmen Square a decade ago.

In addition to calling for the granting of permanent MFN upon China's accession to the WTO, the "U.S.-China Relations Act of 1997" requires the President to provide an annual accounting of our economic relationship with China. The President would be required to submit an annual Economic Balance of Benefits Study to the Congress. The report would analyze the impact of existing bilateral trade agreements with China on U.S. employment, balance of trade, and U.S. international competitiveness.

To further promote China's integration, the Act encourages China's future participation in the OECD and G097 meetings by requiring the President to develop criteria for support of China's participation in the Organization for Economic Cooperation and Development and G097 meetings, two groups that China is far from being accepted into, but in which it aspires to membership.

It is also important not to lose sight of the fact that our trade relationship is one part of a larger relationship. To support our economic relations we must also maintain cooperative strategic and political relations. The Act requires greater information on energy and national security issues. The President should establish a bilateral U.S.-China committee on energy security and one for food security. These committees would help develop a bilateral policy for securing a stable supply of energy from politically volatile regions and securing food for China's large population. The bill also includes a Sense of the Senate Resolution that the President and Congress continue to expand contact and exchanges between U.S. and Chinese national security personnel.

Human rights are fundamental and cherished American values, as well as a key concern that drives U.S. foreign policy. This heritage of idealism and support for individual rights dates back to the founding of our country and is a profound asset to U.S. leadership in the world.

The United States must do what it can to work with China to promote human rights through changes in their institutional, legal, and political structures. Moreover, international interaction and economic growth have and will, over time, help inculcate the rule of law in China. It is incumbent of the United States to encourage this dramatic transformation of China's legal regime. The "U.S.-China Relations Act of 1997" encourages change in China by promoting dialogue between professional groups, by creating incentives for China to establish the rule of law and a civil society, but retaining the Presidential option of imposing sanctions in the event of an absence of progress over time.

There is, however, one provision more than any other that characterizes the tone and thrust of this Act. It calls for the formation of a commission to prepare a profile of China province by province. This profile then would serve as a basis for consideration of transactions with China by the Export-Import Bank and the Overseas Private Investment Corporation in those identified provinces.

This provision is particularly helpful in improving and strengthening our relations with China. By opening up OPIC programs to regions that have acceptable human rights, labor, and environmental standards, we are increasing investment into China at the same time we are advancing our values. It is a provision that encourages China to improve its human rights record without punitive economic sanctions. It uses a carrot instead of a stick.

America's economic and strategic interests, as well as our fundamental values, are best served by encouraging China on its path of economic and political reform.

China's geopolitical and economic rise are inevitable developments. How we react to China's transformation and manage the bilateral relationship, however, is within our discretion. U.S.-China relations are at a critical turning point, and the real challenge before us now is how to peacefully integrate China into the world community, and work with China to ensure world prosperity and stability in the 21st century.

Mr. Chairman and distinguished members of the Committee thank you for this opportunity. I ask that my complete statement be included in the record.

Chairman CRANE. Thank you for giving us your time, Senator. Mr. Levin.

STATEMENT OF HON. SANDER M. LEVIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. LEVIN. Thank you, Mr. Chairman. First, if I might, let me sincerely congratulate you and the Subcommittee for holding this hearing. There has been too little attention to the issue of Chinese WTO accession and our economic relationship in this Congress. It took a back seat during the recent visit of President Jiang Zemin and probably appropriately so; human rights issues were more center stage. But it's critical that we increasingly turn to the issue of our economic relationships.

The visit here was a mixture of communication and kind of peaceful confrontation on human rights issues. I think we need to have the same kind of approach on economic issues. There's a huge distance between containment on the one hand and acquiescence on the other. I am opposed to either one.

China's economy is now the second largest in the world and is predicted to become the first in the next several decades. It's not only going to become perhaps the largest, but it's a very different economy than that of the United States, Japan, or Western Europe. The role of the State is dramatically different, both in terms of ownership and management of the economy.

We are going to become increasingly competitive or there will be increasing competition from China. It's not just a matter of toys and footwear. If you look at the data, even today they show the five largest exports of China, after toys and footwear are data processing equipment, electrical machinery, and telecommunications equipment.

There have been several approaches suggested as to our economic relationships with China. One is to negotiate, to essentially bring them into the WTO and then negotiate the tough issues. I think that would be a serious mistake; I think it would be doomed to failure. A second approach, which the United States has been taking, is to negotiate first, but to focus on market access issues, to bring China in on commercially acceptable terms, but with the market access focus being primary.

But I want today to emphasize that there are issues beyond market access: export controls that China now imposes, subsidies, and there's a protocol that has been suggested through WTO that I think is totally unsatisfactory. Local content issues, technology transfer requirements, labor market standard issues, environmental standard issues are today being discussed through fast track.

There was an article in the Washington Post on October 25 that had this headline: "China Plays Rough: Invest in Transfer Technology or No Market Access." It discusses the experience of GM, General Motors. When I was in China, I discussed that: In order for China to give its acceptance to GM's plant, there was a requirement of technology transfer. It requires that GM set up five training institutes for automotive engineers, and includes an understanding that after 5 years, China will enforce its local content requirements. So while much of the content in the Buick Regal that comes off the assembly line today is made in the United States, after a few years that's not going to happen.

So let me just conclude by urging that you very much continue this debate. I would also urge, Mr. Chairman and the Members who have come here today for this important subject, that we should not give up our leverage here in the Congress. There are some who argue that we should approve any Chinese accession to WTO. However you come out on that, I don't think we want to give up our only other leverage, our only existing leverage: that relates to permanent MFN status for China.

This is going to be a tough, difficult series of negotiations. There is a lot at stake for the United States, for its businesses and workers. We should be patient. It's important that it be done in the right way. Thank you, Mr. Chairman.

[The prepared statement follows:]

Statement of Hon. Sander M. Levin, a Representative in Congress from the State of Michigan

Thank you, Mr. Chairman, for giving me this opportunity to testify on a truly vital trade issue.

Just look at the numbers. China's real GDP more than quadrupled in the fifteen years after its historic re-opening in 1979. By some measures, China now has the world's second largest economy. It also holds the second largest bilateral trade deficit with the United States, behind Japan.

Let's face it: the impact of China on the world trading system and the U.S. economy over the next decade will be powerful.

So we better get it right. And that means taking the time to get it right.

In the long run, the best hope for stabilizing trade relations lies in China's accession to the World Trade Organization on commercial, as opposed to political, terms. This would bind China to the open market principles that undergird the global trading system. China is both a developing country and one of the largest economies in the world. Any terms of accession must recognize this duality: China must commit to abide by free market norms, yet implementation can take place over a specified period of years.

But it's going to be a lot harder than it sounds.

We all agree that China should accede on "commercially acceptable" terms. But that begs the question: what does "commercially acceptable" mean when applied to a non-market economy, over 40 percent of which is made up of state-owned enterprises, and much of which is subject to central- and regional-government control, all on a scale that dwarfs every other economy but our own?

The answer is that the term "commercially acceptable" has no objective meaning in relation to China, which has an economy that is far from "commercial" in any familiarly capitalistic way and which is far from "acceptable" in any economic, let alone political, parlance. Instead, the term "commercially acceptable" means what we and the rest of the WTO community and China say it means.

So the debate is not really about what is "commercially acceptable," but rather what is best for the economic, political and military security of all nations and, in particular, what is best for the WTO and the market economies that belong to it today?

Already we hear some say that it would be better to get China into the WTO quickly and then sort out our disagreements. And we hear others say that China should be let in as soon as it offers more meaningful market access.

In my judgment, both of these schools of thought head us in the wrong direction.

First, our main leverage with China lies in negotiating the terms of accession. Once China is in, many countries will not have the temerity to challenge China even when it bends or breaks WTO rules. China will then be able shape the WTO in its image, rather than the WTO shaping China. The time to sort out our differences and to chart a clear path to China's compliance with free market norms, as embodied in the WTO rules, is before accession, not after. Cutting corners in admitting China to the WTO would not only perpetuate our bilateral trade deficit but would undermine the entire global trading system. Most immediately, China's accession will set an important precedent for future accessions by similar non-market economies like Russia, Saudia Arabia, Eastern Europe, and Vietnam. But other dangers abound: with the recent financial turmoil in Asia, some of China's neighbors may be actively looking for an alternative to the Western economic model.

Second, agreeing to core WTO principles like national treatment, most favored nation treatment, and transparency, and agreeing to tariff reductions and market access should be the beginning, not the end of the negotiations. Then we've got to ask "market access to what?" To the small fraction of China's economy that's subject to market forces? NO! We've got to address the unique problems presented by state-owned enterprises, state-directed comglomerates, and export targeting. We've also got to ensure that there's an independent judiciary and the rule of law to enforce contract and other rights. And we ought to insist on minimally free markets for labor, as well as minimum environmental standards. The extensive intertwining of government and private sectors in China and in other non-market economies demands special attention and may require new rules to deal with government subsidization. And we ought to consider the transitional mechanisms used to integrate the nonmarket economies of Hungary, Poland and Romania into the WTO's predecessor, the GATT, in the 1960s. These mechanisms essentially prescribed that, during the transition period, imports into the nonmarket economy rise by a fixed percentage each year while free market economies retain the right to unilaterally limit nonmarket exports to their markets to prevent market disruption.

Finally, let me say a word about those who would downplay China's significance by saying that imports from China are mainly toys and footwear. The problem is that the toymaker of today is the automaker of tomorrow.

While it's widely recognized that China exports a lot of toys to the U.S., it's also true that three of China's other top-five exports are data processing equipment, electrical machinery, and telecommunications equipment. And a recent news article describes China's plans to produce Buick Regals that will be made initially with mostly U.S. parts but eventually—because of China's domestic content requirements—will be made exclusively of Chinese parts and exported abroad. As former Commerce Undersecretary of International Trade Jeffrey Garten wrote in last week's Financial Times, China "is fast moving upmarket, selling more sophisticated manufactured products."

In the end, I believe that patience in negotiating the terms of China's accession to the WTO is vital because progress on economic relations will have an enormous impact on the human rights and national security dimensions of our relationship with China and the rest of the world.

As we patiently negotiate the terms of China's accession, we must not hesitate to aggressively take unilateral action under Section 301 of U.S. trade laws to combat China's unfair trade practices wherever possible.

Also, to provide our negotiators with additional leverage in the accession talks and to ensure that U.S. interests are fully promoted, I believe that it is preferable that Congress should vote on the final accession agreement as it does with all major trade pacts. While this would be the first time Congress has voted on an accession agreement, in my view it would be appropriate because of the sheer size of China's economy. But Congress will play a vital role in any event. China's accession to the WTO will be linked to granting MFN on a permanent basis, and Congress would need to act on that proposition after seeing the actual terms of accession.

So I congratulate the Subcommittee for holding this hearing. We need to be engaged on this critical set of issues. They are not easy ones, and reasonable people can differ. But it is essential to face the issue head on, and the sooner the better.

Chairman CRANE. Thank you, Sandy.

Next, Mr. Bereuter.

STATEMENT OF HON. DOUG BEREUTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEBRASKA

Mr. BEREUTER. Thank you, Mr. Chairman and Mr. Matsui, Members of the Subcommittee. First let me thank you for holding these very timely hearings. I know it's extremely busy for all of us so I will be concise as you request.

As we all know, last week President Clinton hosted Jiang Zemin for the first Sino-American summit on United States soil since 1985. One year after that last official State visit in 1985, the People's Republic of China formally applied to become a signatory to GATT, the General Agreement on Tariffs and Trade. Since then,

there have been more than 20 working party meetings in Geneva, and many more bilateral meetings between our trade negotiators to bring China into what we now call the World Trade Organization.

Despite these multiple efforts, there has been very little real progress in getting China to formally bind itself to international trade rules. Nearly every news commentator on last week's summit, from the New York Times to the Associated Press, has stated that one big failure of the summit was a noticeable lack of progress in these decade-old negotiations. Earlier this year conventional wisdom was that this summit would showcase an agreed framework for China's WTO accession. Yet as recently as last week, the Journal of Commerce called Beijing's effort to get into the WTO a ruse.

Examining the PRC's offer in many areas—from financial services to agriculture to rules on investment—leads one to conclude that the Journal of Commerce is correct. Meanwhile, China's trade surplus with the United States is growing significantly and the growth rate for United States exports are stagnant. Therefore, in both political and economic terms, the huge and growing trade deficit is unsustainable in this country. We must have change.

It is really not too surprising that China's offer to become a member of the WTO is woefully inadequate and that the decade-old negotiations have stalled. As a recent New York Times editorial pointed out, Beijing's hesitation is unsurprising. It already reaps without making concessions the benefit of the same tariff status we grant to member countries of the WTO without being a member of that organization. This guarantees that Chinese exports to the United States are taxed no more than exports from any WTO member. Incidentally, the European Union countries have not automatically granted China a similar free ride.

Recognizing that China gets this free ride to United States markets without giving United States exporters similar treatment, Representative Tom Ewing and I have introduced legislation that gives American trade negotiators the tools to pry open China's market. The China Market Access and Export Opportunities Act, H.R. 1712, requires that China make either an acceptable offer to join the WTO or face snap-back tariffs, generally tariffs in the 4- to 7-percent range as contrasted to the Smoot-Hawley level tariffs of about 44 percent. Now that's a reasonable approach to negotiations that are going nowhere and a U.S. trade deficit that is rapidly growing and unsustainable.

The Bereuter-Ewing legislation would help induce China's leaders to comply with world trade rules by eliminating our annual most-favored-nation review when China accedes to the WTO. Most people think that just happens; it doesn't. This would eliminate Beijing's contention that China could make all of the major structural and trade liberalization changes necessary to join the WTO, only to have the U.S. Congress continue its annual MFN reviews. Alternatively, if the President determines that China is not making significant progress toward WTO membership or if Beijing denies United States exporters adequate interim market access, the China Market Access and Export Opportunities Act would require the President to impose pre-Uruguay round tariffs, tariffs which were in effect on December 31, 1994, on one or more categories of im-

ports from China. As I said, those are in the range of 4 to 7 percent, in contrast to the Smoot-Hawley 44 percent average. Those are mandated, of course, if MFN is revoked. Their imposition would be a realistic enforceable response to China's closed markets. Beijing would be compelled to take notice.

Currently, China's leaders ignore Congress' annual threat to revoke MFN because they know we will not impose such draconian tariffs on United States imports. Six months after the law's enactment, the President would be required to announce the tariff increases that he deems appropriate. Six months later, he would impose the tariffs selected if China still does not meet the bill's criteria. This process would give the administration an entire year for serious WTO accession negotiations with the additional leverage of modest, if realistic, tariff increases.

Moreover, in opposing tariffs, the President would be given wide discretion to select items for tariffs, to set tariff rates differentially but within statutory limits, and to modify tariff rates depending upon Beijing's response.

Our scalpel-like tariff raising mechanism, rather than the meat ax Smoot-Hawley level tariffs of the annual MFN process, would greatly increase the U.S. Trade Representative's ability to negotiate a commercially acceptable protocol for China's accession to the WTO.

Seeing the red light, I'll respect that. I do have a couple more paragraphs, but you have the full statement before you. Thank you, Mr. Chairman.

[The prepared statement follows:]

Statement of Hon. Doug Bereuter, a Representative in Congress from the State of Nebraska

As we all know, last week President Clinton hosted Jiang Zemin for the first Sino-American Summit on U.S. soil since 1985. One year after that last official state visit in 1985, the People's Republic of China formally applied to become a signatory to the General Agreement on Tariffs and Trade. Since then, there have been more than 20 working party meetings in Geneva and many more bilateral meetings between our trade negotiators to bring China into what we now call the World Trade Organization. Despite these multiple efforts, there has been very little real progress in getting China to formally bind itself to international trade rules. Nearly every news commentary on last week's Summit—from the New York Times to the Associate Press—has stated that one of the big failures of the Summit was a noticeable lack of progress in these decade-old negotiations.

Earlier this year, conventional wisdom was that this Summit would showcase an agreed framework for China's WTO accession. Yet, as recently as last week the Journal of Commerce called Beijing's efforts to get into the WTO a "ruse." Examining the PRC's offers in many areas from financial services to agriculture to rules on investment leads one to conclude that the Journal of Commerce is correct. Meanwhile, China's trade surplus with the United States is growing significantly and growth rates for U.S. exports are stagnant. Therefore, in both political and economic terms, the huge and growing trade deficit is unsustainable in this country. We must have change.

It is not surprising that China's offers to become a member of the WTO are woefully inadequate and that the decade-old negotiations have stalled. As a recent New York Times editorial pointed out, "Beijing's hesitation is unsurprising. It already reaps, without making concessions, the benefit of [the same tariff status we grant to member countries of the WTO without being a member of that organization." This guarantees that Chinese exports to the U.S. are taxed no more than exports from any other WTO counties. Incidentally, the European Union countries have not automatically granted China such a "free ride."

Recognizing that China gets this "free ride" to U.S. markets without giving U.S. exporters similar treatment, Representative Tom Ewing (R–IL) and I have introduced legislation that gives American trade negotiators the tools to pry open China's

markets. The China Market Access and Export Opportunities Act (H.R. 1712) requires that China make either an acceptable offer to join the World Trade Organization or face "snap-back" tariffs. That's a reasonable approach to negotiations that are going nowhere and a U.S.-China trade deficit that is rapidly growing and unsustainable.

The Bereuter-Ewing legislation would help induce China's leaders to comply with world trade rules by eliminating our annual most-favored-nation (MFN) review when China accedes to the WTO. This would eliminate Beijing's contention that China could make all the major structural and trade liberalization changes necessary to join the WTO only to have the U.S. Congress continue its annual MFN reviews.

Alternatively, if the President determines that China is not making significant progress toward WTO membership, or if Beijing denies U.S. exporters adequate market access in the interim, the China Market Access and Export Opportunities Act would require the President to impose pre-Uruguay Round tariffs (tariffs in effect on December 31, 1994) on one or more categories of imports from China. Because these tariffs average from 4%–7%, rather than the Smoot-Hawley (44% average) tariffs mandated if MFN is revoked, their imposition would be a realistic, enforceable response to China's closed markets and Beijing would be compelled to take notice. Currently, China's leaders ignore Congress' annual threat to revoke MFN because they know we will not impose such draconian tariffs on U.S. imports.

Six months after the law's enactment, the President would be required to announce the tariff increases that he deems appropriate. Six months later, he would impose the tariffs if China still did not meet the bill's criteria. This process would give the Administration an entire year for serious WTO accession negotiations, with the additional leverage of modest, but realistic, tariff increases. Moreover, in imposing the tariffs, the President would be given wide discretion to select items for tariffs, to set tariff rates differentially but within the statutorily imposed limit, and to modify tariff rates depending on Beijing's response. Our scalpel-like tariff raising mechanism—rather than the "meat axe" Smoot-Hawley tariffs of the annual MFN process—would greatly increase the United States Trade Representative's ability to negotiate a commercially acceptable protocol for China's accession to the WTO.

China's desire to join the World Trade Organization represents an historic opportunity for the United States to level the playing field for U.S. companies and workers to sell their products in China. However, this opportunity will be lost if the U.S. Congress and the Administration do not agree on a strategy to coax China into that organization. The China Market Access and Export Opportunities Act is a tough but reasonable way to pressure Beijing to eliminate those trade barriers which currently stand between China and its membership in the WTO. The economic and trade liberalization reforms in China, which this legislation promotes, will reduce our enormous bilateral trade deficit and benefit U.S. workers and consumers while stimulating the most positive forces of political and social change in China.

In conclusion, Mr. Chairman, I urge this committee to ask the Administration whether it will devise a new strategy for China's WTO accession after a decade of failed negotiations. If they don't have such a strategy, they should either get on board with this approach or get out of the way. From my perspective, the status quo of these negotiations with China is no longer acceptable. China's new WTO accession strategy is to close deals with Japan and the European Union while blaming the United States for blocking its membership. Congressman Ewing and I want to eliminate the PRC's excuse for not putting forward a commercially acceptable protocol. We are very open to discuss and negotiate changes to our legislation. We acknowledge it is not perfect; for example, we have endorsed the excellent suggestion by Representative Chip Pickering to tie the snap-back trigger in our legislation to the date of the expiration of our bilateral trade agreement with China (February 1, 1998). But we strongly believe that something like our legislation is necessary to coax China into the WTO.

Chairman CRANE. Thank you, Doug.

Mr. Cox.

STATEMENT OF HON. CHRISTOPHER COX, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. COX. Thank you very much, Mr. Chairman. Thank you also to the Ranking Member, whose statement at the outset I agree with completely. The question is not whether the People's Republic of China should be admitted to the WTO, but when, and on what terms.

The terms should be commercially reasonable. They should be sound. That must be the focus of our negotiations. The object of our policy should be to increase two-way trade with China so that more American products and services are sold in China and so that the standard of living on both sides of the Pacific will rise. The best way to increase American access to the PRC market is first, to eliminate trade barriers, both tariff and nontariff; second, to encourage the transition from a Communist, state-controlled economy to a competitive market economy; and third, to encourage the transition from the political rule of commerce to an authentic rule of law.

In each of these three areas, the status quo in the People's Republic of China renders it unready and unfit for accession to WTO membership.

Communist China's transition to a market economy is proceeding. That is encouraging, but it is unfair at present to say that the economy of the People's Republic of China is based on competition between commercial firms independent of state control and significant State subsidy, a requisite for WTO membership. Instead, we find today that two-thirds of the urban work force continue to be employed in state-owned industries, pursuing state industrial policy, with massive state subsidies.

While we must continue to encourage the People's Republic of China to reduce its tariffs to permit global trade on fair terms, the PRC maintains very high tariffs on foreign imports, including products such as automobiles, where the tariffs are as high as 150 percent.

The rule of law covers dispute resolution, contracts, banking, commercial law, and many other areas. In each of these areas, serious problems exist in the PRC by virtue of its Communist rule. Disputes are governed by at least five overlapping and inconsistent authorities. Chinese courts regularly refuse to honor international arbitration awards, despite the PRC's accession 10 years ago to the New York Convention on Foreign Arbitral Awards.

According to a recent Clinton administration report, a large number of regulations affecting imports remain unpublished, despite Communist China's commitment 5 years ago to publish all laws and regulations affecting imports.

So, the question is, will we best succeed in each of these three areas by quickly admitting the People's Republic of China into the WTO, or by negotiating their accession on these terms?

The People's Republic of China, in its application to the WTO, has complicated this equation by applying as a developing rather than as a developed nation. Accession on such terms would relieve it of the obligations to reduce its tariffs and eliminate its subsidies for government-controlled industries. The People's Republic of China should not be granted entry into the WTO with a leisurely

schedule for removing barriers to trade, whether they be tariffs, unpublished regulations acting as nontariff barriers, or the myriad subsidies and requirements on foreign investors that violate free market norms.

Let me close with one final point. Charlene Barshefsky wrote me a letter on February 13 of this year in response to questions I posed to her in a Commerce Committee meeting. She wrote as follows: "Regarding WTO accession for Taiwan and the PRC, administration policy is that each accession will be judged on its own merits. Further, in our view, all WTO accessions, including those of the PRC and Taiwan, must and will be based on commercial, not political, criteria."

As you all know, Taiwan's application for admission to the WTO is presently being held hostage by the People's Republic of China, not as a commercial matter but as a political matter. Taiwan's merits for admission to the WTO do not even compare with those of the PRC; they are far more advanced. It has a free market economy that's existed for more than three decades. It has a GNP that is the world's 20th largest. I should point out that the per capita GNP, gross national product, of the People's Republic of China ranks it below the Congo. Taiwan's foreign exchange reserves are the third largest in the world. Taiwan has become the seventh largest foreign investor in the world, and its purchases from the United States are more than 60 percent greater than purchases by the People's Republic of China.

Taiwan is the only nation among America's 10 largest export markets that is not a member of the WTO. Most important, Taiwan has already agreed to reduce the tariff level of many of its products and to eliminate nontariff barriers as a condition of its admission to the WTO.

In short, the People's Republic of China is not ready for and does not meet the criteria for admission to the WTO—certainly not as a developing nation, and not yet as a developed nation—while Taiwan can easily exceed all of the requirements for admission to the WTO.

I hope that the administration continues to adhere to the policy outlined in Charlene Barshefsky's letter to me in February of this year. I hope that the Congress will do so as well. Our objective should be to see to it that both Taiwan and the People's Republic of China are ultimately admitted to the WTO, as Mr. Matsui said, on commercially fair and reasonable terms.

I thank the Chairman.

Chairman CRANE. Thank you, Chris.

Mr. Ewing.

STATEMENT OF HON. THOMAS W. EWING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. EWING. I would like to thank my good friend, the Chairman of the Subcommittee, for holding this hearing. Mr. Chairman, Mr. Matsui, Members of the Subcommittee, I congratulate you on the leadership which you have given on trade issues. I hope that that leadership will pay off this week with one more victory for fast track before we leave to go home.

Mr. Chairman, I would like to begin by providing the Subcommittee with a little insight into the process that gave way to the introduction of the Bereuter-Ewing bill, H.R. 1712. It is a combination of H.R. 35 introduced by Congressman Bereuter, and H.R. 941 introduced by myself. At the time I drafted H.R. 941, negotiations over China's entry into the World Trade Organization had momentum. An agreement was predicted by the time the People's Congress met in September. With this timetable in mind, I designed H.R. 941 to show that Congress was willing to discuss permanent most-favored-nation status and to fulfill our obligation under article I of the GATT with respect to the People's Republic of China.

I wanted to provide the U.S. Trade Representative with a carrot, in the hopes that it would entice the Chinese into meeting their stated timetable. However, in the months the followed, negotiations with the Chinese seemed to run out of steam, and the possibility of getting a deal done at the time this year was called into question. This changed the way I looked at the negotiations. While I still recognize the importance of granting China most-favored-nation status on a permanent basis upon entering the WTO, I began to see that our Trade Representative would also need a stick to go along with the carrot. Congressman Bereuter and I realized that by combining our two bills, we would effectively arm the Trade Representative with the power needed.

Negotiations with China over entry into the WTO have dragged on for nearly 10 years. I was sorry to see that virtually no progress was made during the summit. Every magazine and newspaper article that I have read on these negotiations has a quote from the Chinese official regarding their desire for permanent MFN. Why don't we have permanent MFN? Well, there could be two reasons. One reason could be that the Chinese are really bluffing when they talk about getting into the World Trade Organization. The second might be that they don't think the United States is serious and that our negotiator really doesn't have the power to grant them most-favored-nation status which, of course, is the truth without congressional action.

If the Chinese are negotiating in good faith, then we should move on. Either way, this bill clears the way for an agreement by removing the issue of permanent MFN from the table and eliminates the ability for the Chinese to use that as an excuse for not making a commercially acceptable offer.

The WTO membership for China is not, as it has been characterized, a gift to China. I am constantly amazed by the argument because it is so obviously in the U.S. interest to have a multilateral forum to settle trade disputes.

In my full remarks, I have listed several examples of how that has worked to our benefit. The American economy—be it manufacturing, agriculture, or the need for more and better jobs for American workers—would benefit from a stable and reliable Chinese market and from WTO membership for China. That would go a long way toward providing what we need in our relationship with China.

I thank you, Mr. Chairman, for the opportunity to testify on our bill, and for the opportunity for this Subcommittee to consider the

legislation which Congressman Bereuter and I have introduced. I would also ask permission that the full text of my remarks be entered in the record. Thank you.

[The prepared statement follows:]

Statement of Hon. Thomas W. Ewing, a Representative in Congress from the State of Illinois

I would like to thank my friend from Illinois, the Chairman of this Subcommittee, for holding this hearing. Mr. Chairman and Members of the Subcommittee, your leadership on trade issues has been an integral part of the success we have had on trade votes. Lets hope we can get one more victory this year by passing Fast Track later this week.

Mr. Chairman I would like to begin by providing the Subcommittee with some insight into the process that gave way to the introduction of the Bereuter-Ewing bill. H.R. 1712 is a combination of H.R. 35 introduced by Rep. Doug Bereuter and H.R. 941 introduced by myself. At the time I crafted H.R. 941, negotiations over China's entry into the WTO had momentum and an agreement was predicted by the time the Peoples' Congress met in September. With this timetable in mind, I designed H.R. 941 to show that Congress was willing to discuss permanent MFN and to fulfill our obligations under Article 1 of the GATT with respect to the People's Republic of China. I wanted to provide USTR with a carrot in the hopes that it would entice the Chinese into meeting their stated timetable. However, in the months that followed negotiations with the Chinese seemed to run out of steam and the possibility of getting a deal done at all this year was called into question. This changed the way I looked at the negotiations. While I still recognized the importance of granting China permanent MFN upon entering the WTO, I began to see that USTR would also need a stick to go along with the carrot. Doug and I realized that by combining our two bills we would effectively arm USTR negotiators with the necessary leverage to complete this process.

Negotiations with the Chinese over their entry into the WTO have dragged on for nearly 10 years and I am sorry to see that virtually no progress was made during the summit. Every magazine or newspaper article that I have read on these negotiations has a quote from a Chinese official regarding their desire for permanent MFN. There are two possible reasons that the permanent MFN issue is brought up so often by the Chinese. One reason could be that they are bluffing and they are simply using this as an excuse not to make the necessary reforms and concessions for a commercially viable agreement. The second reason could be that the Chinese are negotiating in good faith but see little reason to make serious reforms and concessions when U.S. negotiators do not have the statutory authority to provide China with permanent MFN thus forcing them to negotiate once with the Administration and once with Congress. I believe that the real reason may be combination of both. Regardless of which reason you tend to believe, the Bereuter-Ewing bill is the solution. If the Chinese are indeed bluffing this bill calls that bluff and forces the PRC to get serious or face a credible, but moderate, tariff increase. If the Chinese are negotiating in good faith, then this bill clears the way for an agreement by removing the issue of permanent MFN from the table. Either way, this bill eliminates the ability for the Chinese to use permanent MFN as an excuse not to make a commercially acceptable offer.

WTO membership for China is not, as it has been characterized, a gift to China. I am constantly amazed by that argument because it is so obviously in the U.S. interest to have a multilateral forum to settle trade disputes. In order for China to get into the WTO, they will have to reduce and in many cases eliminate tariffs and non-tariff barriers that currently impede market access for U.S. exports. In addition, WTO membership will lock-in these reforms and prevent backsliding. This is extremely important for agriculture. For years the U.S. negotiated with the European Union, on a bilateral basis, over an EU ban on hormone treated beef. The science that the EU hid behind was laughable but these bilateral negotiations produced no results. Then the WTO came into existence and the U.S. sought relief from the WTO dispute resolution panel. Low and behold, the WTO ruled that the EU ban was not for public health but an unfair trade barrier. As American wheat growers know, there is a similar situation ongoing with China. Currently, China refuses to allow U.S. wheat grown in northwestern United States into their market because of what they claim is a dangerous fungus present on this wheat. This fungus, known as TCK smut, is completely harmless and is consumed here in the U.S. without incident. Once in the WTO, this ban would likely be exposed as an unfair trade barrier and would clear the way for U.S. wheat to gain access to the Chinese market. Backsliding is also a serious concern for agriculture. While corn, soybeans and other oil-

seeds have enjoyed good access to the Chinese market, a recent decision by China to arbitrarily raise tariffs on American soyoil shows how easily this trend can be reversed without WTO protections. American agriculture needs the stable and reliable Chinese market and WTO membership will go along way towards providing that reliability and stability.

Thank you Mr. Chairman for the opportunity to testify and I would be glad to answer any questions that the Subcommittee might have.

Chairman CRANE. Yes, indeed. Thank you, Tom.

I would like to address a couple of questions to Tom and Doug. First, many observers have stated that permanent MFN status is a carrot to use as negotiating leverage to get China into the WTO. Your legislation grants China permanent MFN upon its accession to the WTO. If we were to grant China the benefit of permanent MFN through legislation, before talks are concluded, how would this impact Ambassador Barshefsky's negotiations with the Chinese?

Doug, do you want to go first and then Tom?

Mr. BEREUTER. If I understand it correctly, if we would grant them MFN before they come into the WTO, it completely disarms our negotiator. There really would be no leverage then to have the Chinese make changes to give us adequate market access. I think it would be a substantial mistake, a very serious mistake, if we granted it before WTO negotiations have been completed.

Mr. EWING. The legislation which we have introduced would not give them permanent most-favored-nation status until they were a member of the WTO. That's the carrot. I agree with Congressman Bereuter, it would be a mistake to give that to China until they had made their necessary changes to get into World Trade Organization.

Mr. LEVIN. Mr. Chairman, might I just quickly comment?

Chairman CRANE. Sure thing, Sandy.

Mr. LEVIN. Very quickly, I would think we would want to retain that in terms of our ambassador's negotiating position. But I think we should also understand that if Congress acts now and relates it to when accession occurs, we are essentially giving up Congress' role. I think this is such a serious issue; we need to be an active participant.

Chairman CRANE. Yes. Doug.

Mr. BEREUTER. I would like to make just a brief followup comment on that. Of course, MFN—whether or not we grant it, whether we approve the President's decision to extend it—should really be based upon China's performance in the trade area. There are a whole range of actions that we can and do take on things that are outside trade. So it seems to me entirely appropriate: If they solve the problems that we in the international community believe are in China and make the kind of changes necessary in their economy and structure to come into the WTO, then there is no legitimate reason for the annual MFN extension debate. Because that is meant to be a trade-related action. It has brought in a whole variety of discussions, a laundry list of concerns we have with the Chinese, but we have means of more directly approaching those issues, and MFN should be maintained as a trade-related item.

Mr. EWING. Mr. Chairman, if I may. I think Mr. Levin's comment and our response really gets to the crux of the issue we're laying before your Subcommittee. It's kind of a chicken-or-egg issue: Do we put that out there so China knows they can have most-favored-nation status when they move or do we hold it back saying, You move and then we'll give it to you.

I think for 10 years we have been in the position of saying, You move and we'll give it to you. Now we want to put it out there and say, It's there; Congress has acted. You move and you get it.

Chairman CRANE. In your bill, what does adequate market access mean as a standard that the President must use as a basis to impose snapback tariffs?

Mr. BEREUTER. Mr. Chairman, adequate market access is a standard currently existing in United States law in several places. Most recently, it is a standard the President is supposed to apply to all countries that are not members of the WTO to determine whether he should utilize existing snapback tariff raising authority.

Adequate market access is also a lower standard than the reciprocal standard in section 405 of the Trade Act of 1974; the President must apply every 3 years when he is required to review the 1979 bilateral trade agreement between the United States and China, which expires once again next February.

So we took language that is in existing law and inserted it in this legislation for that purpose.

Chairman CRANE. Do you want to add anything to that, Tom?

Mr. EWING. No. I think he has covered it.

Chairman CRANE. Would specific industry sectors, such as toy manufacturers, be particularly harmed if the snapback mechanism in your bill were imposed by the President?

Mr. BEREUTER. Mr. Chairman, it depends entirely on what exports the President would choose to apply the new 4- to 7-percent tariff rate average on. He can, of course, bring them up to the pre-Uruguay round level of December 31, 1994. He can do it on some products; he can do it on all products. He can do it differentially. When he sees progress, he can lower or increase them differentially all under the cap, of course.

Now, toy manufacturers specifically, I would say this: Some categories of products like toy imports receive greater tariff reductions during the Uruguay round than other categories of products. Therefore, they are potentially exposed to greater tariff snapbacks imposed by the President. But, of course, he wouldn't have to take it up to the limit of where they were in December 31, 1994.

So it is really giving the USTR and the President the kind of leverage they need to make the best case for the Chinese to pay attention to us. These are the kind of reasonable increases in tariffs that can be differentially imposed on exports and really be imposed. They are not a hollow threat, like going back to Smoot-Hawley level tariffs at 44 percent on average.

Mr. LEVIN. Mr. Chairman, can I just comment briefly on the leverage?

Chairman CRANE. Sure thing.

Mr. LEVIN. Very briefly, I think it's interesting to have this kind of a proposal, especially when 10 years ago, we fought over the use

of such approaches vis-a-vis Japan. But I think it's a mistake to think that the basic missing piece of the equation, vis-a-vis China today, is lack of leverage. Our administration has a lot of leverage, for example, the use of 301. We have the leverage of the largest market for Chinese goods. More than the lack of leverage, there is the issue of what our battle plan is, I think. What is our bottom line, and how do we get there?

I think the significance of this hearing, Mr. Chairman and Mr. Matsui and my colleagues who have joined in with you, is that this is a rather unique occasion. We need to do more of this, to talk through where we are going, to handle these vital and difficult issues on trade with the fastest growing and second largest economy—and a very differently structured economy.

Mr. BEREUTER. Mr. Chairman.

Chairman CRANE. Yes, Doug.

Mr. BEREUTER. The leverage that we have today relates to our bilateral trade relationship with China. It is not leverage that really is aimed at pushing them to make the changes necessary to come under the WTO. What we should be wanting to do is subject them to international trade rules. That will serve our purpose. It is beneficial to the United States. Beyond that, frankly, it benefits every other country in the world once we move them into the international trade arrangements.

The leverage on 301 is strictly the leverage that we can apply on our bilateral trade relationship. It's important, but our objective must be to get them into the WTO—and not under any conditions, but under the right conditions where they have really made the structural changes and the changes in tariffs and nontariff barriers that cause them to deserve to have WTO membership. We cannot reward them prematurely; it would be inappropriate.

Chairman CRANE. Mr. Matsui.

Mr. MATSUI. I would like to thank all four gentlemen, and, of course, Mr. Lieberman as well. Actually I don't have a question. I just appreciate the point of view of all four of you and Mr. Lieberman.

I think Mr. Bereuter, Mr. Levin, and others have pretty much stated the issue. This hearing obviously serves a purpose in helping us define our priorities in terms of what we want to do when we do negotiate with the Chinese. One of the frustrations I think all of us have had—the four of you and all of us on this Subcommittee—is the fact that when we were discussing MFN, we had five or six other Members before us. Their main thrust was the release of the dissidents, certainly having the International Red Cross visit the dissidents, the whole issue of human rights, forced abortions, sale of organ parts and things of that nature. Somehow, we have to come to grips with what our priorities are in our negotiations with the Chinese.

I think, at least the thrust from what I am hearing here, that the deficit and obviously market access are important issues. But we can't expect to take the entire relationship we have with the Chinese, and every issue every one of the 435 of us are concerned about, and then dump it on the middle of negotiations. I think it is our responsibility, as well as the administration's, to try to come up with a set of priorities, define those priorities, and then move

forward. I think that, hopefully, will be what comes out of this and any other hearings as we move along.

Chairman CRANE. Thank you.

Mr. Thomas.

Mr. THOMAS of California. Thank you very much, Mr. Chairman. I join my colleague from California: It's nice to have a Trade Subcommittee hearing on China which is focused on economic issues. We have had so many that have been focused on aspects other than economic.

I am also absolutely convinced that all of us believe that China's accession to the WTO is, as it always has been, primarily in the hands of China. Our goal—and that's why I do want to applaud my colleagues Mr. Bereuter and Mr. Ewing—is to create a clear understanding in the Chinese of the path it takes to get there. That's why I'm not opposed to taking something like most favored nation and having it available to the trade ambassador and the President as a tool or a carrot to move China in the direction she may need to go. But I do think of paramount importance is getting China to understand that a set of behavioral parameters are necessary to be met by them before they receive accession.

I believe your product is better than anything I have seen. Combining the two bills is an absolute positive. There may be problems with some of the timelines in the bill but, overall, it is absolutely the best thing that I have seen.

I want to agree briefly with my colleague from California, Mr. Cox. I just find it ironic that once again, China wants to dictate terms, notwithstanding what its current "market economy" looks like in the area of antidumping and tariff laws in the United States, that China wants to be considered a market economy. When we dealt with Poland, Romania, and Hungary under the former regime on GATT, they were nonmarket economies in dealing with dumping and the rest. I think it is absolutely correct to view that position with China as well. I am concerned about the size of the tariffs on a number of agricultural products.

To a certain extent, we have to place a degree of trust in the hands of those individuals who negotiate on behalf of the United States. I am pleased to say that over the years I have been on this Subcommittee with different administrations, almost without exception, the U.S. Trade Representatives have been people that we could trust. I have sometimes been concerned about the resources available to them vis-a-vis other areas of the Federal Government—their ability to do what has been placed before them as timely or as well as they would like. We will be very mindful of that and make sure that they have as many resources as possible.

But until and unless we find additional areas that we can add to this legislation, Mr. Chairman, I am very pleased with the work product of our colleagues on other Committees concerned about this. I see this as a major step forward in communicating to China, This is what you do if this is what you want. If you want it, you do this. If you don't want it, then it's up to you. I am very pleased with my colleagues' presentation, and would invite any comments.

Mr. BEREUTER. Mr. Chairman, may I just respond briefly?

Thank you very much, Mr. Thomas, for your comments. I certainly am in agreement with them, and thank you for the com-

pliments that you have extended to us. I would say this: Of course any legislative product almost always can be improved. We welcome suggestions in that respect. We hope that you can move this legislation, or your own product, based upon the concepts within our bill.

In my full written statement, you will see a reference made to Congressman Chip Pickering of Mississippi. He has been very interested and helpful to us. For example, he came up with an idea which I think has merit: that the trigger date for the President's decision within this bill should really be at the end of our current bilateral trade agreement with China, which is February 1998. The President routinely extends that, but as he suggests, that is probably the appropriate time for the trigger date.

Mr. THOMAS of California. Thank you very much, Mr. Chairman. Thank you all.

Chairman CRANE. Thank you.

Mr. Houghton.

Mr. HOUGHTON. Thank you, Mr. Chairman. Gentlemen, it's good to be with you and thank you for your comments. It seems to me that there are two issues here. First is two-way trade; second is abiding by the rules of international trade. I think we have been talking about the latter more than the former. I think your bill, H.R. 1712, makes a lot of sense, that it is moving in the right direction.

But the thing I really question underneath is, Are we really serious as a Congress? Mr. Levin and I have talked about this many times before vis-a-vis Japan, about making sure that trade is fair. If it's fair, it's both ways. We have not exercised any of the prerogatives which we have, through a variety of laws, to make sure that's happened. We still have this tremendous imbalance of trade with Japan. We are going to have a tremendous imbalance of trade with China. The thing that I worry about is that we'll have the legal documents and they will abide by the basic constructs of the WTO, and yet we still will have this tremendous imbalance in trade. I want to know if anybody would like to make a comment on that.

Mr. BEREUTER. Mr. Houghton, I think we have the structure now in the WTO. The United States needs to bring cases there, including on nontariff barriers, where that is an acceptable procedure. We have to push them toward completion.

As you know, the United States has brought more cases before the WTO than anyone else. I think that's entirely appropriate. As you also know, it's the nontariff barriers and the kind of cultural impediments that are thrown in the way of adequate access to Japanese markets by the bureaucracy. So it is that area, not in the formal tariffs or quotas, which we have successfully knocked down.

But it is through WTO that we now have the mechanism to bring down those existing inequities. We have to have the courage and the tenacity to really insist that there is a followthrough. We have a real test now with the European Union. Now that we have had a favorable ruling toward us on a particular issue that you are familiar with, we have to see if, in fact, it is implemented. It's a real test.

Mr. LEVIN. Let me just say, in response to your salient question, that the bilateral trade relationship is important in addition to the

rules of WTO. Today I wanted to emphasize the difficulty of integrating China into the WTO system, to plead with all of us on this Subcommittee and other Committees to pay attention to it. It far overshadows some other trade issues because of the size of China and the difficulty of its structures. It is so far away from being a free market economy. We have to face up to how this is integrated into the WTO system.

We have some very tough issues, and I don't think we have adequately faced them in a number of instances. I mentioned subsidies, but there are others.

Mr. Houghton, I think your question asks whether there are issues that can't be resolved solely through the WTO and China's accession to it. I think the answer to that is clearly, yes. We have learned from our relationships with Japan, Korea, and other countries that the WTO regimen today is inadequate in terms of nontariff barriers. I don't see how anybody can say that there are adequate safeguards. If there were, we wouldn't be negotiating for improvements in the WTO regimen. I think that's true of a whole variety of trade issues. I view trade issues not in a narrow sense, but in a broader, I think realistic, sense.

So I think your question is absolutely on point: WTO accession for China has some very tough issues. But if we resolve those, as difficult as they are, do not think that there would be no need to pay attention to issues in our bilateral relationship. They cannot be resolved through the WTO alone.

Mr. EWING. Amo, I think you really get to the very bottom line, that's fair trade between China and the United States that doesn't have a tremendous imbalance. I wouldn't want to speak for my colleague Mr. Bereuter, but I don't think our bill addresses all those problems. I think you take it a step at a time. I think we're moving in that direction by considering legislation such as we have introduced. It won't bring about a total solution. But we didn't get here in 1 or 2 years. It will take some years to do that, but it ought to be our goal.

Mr. COX. I would just add to what has been said that the handover of Hong Kong on July 1 offers an opportunity for the People's Republic of China to gain even more familiarity with the terms of trade that the rest of the world finds commercially reasonable. Hong Kong is a separate member of the WTO already. It retained its separate membership in the WTO after July 1. Because our own policy of one China is consistent with the PRC's policy of one China, accepting America's seventh largest trading partner and largest non-WTO market, namely Taiwan, into the WTO right now would actually provide an enhanced opportunity for the People's Republic of China to again gain access to the norms of commercial dealing which actually stand to benefit, as we here in this room all understand, the People's Republic of China. Political insistence on doing something else is actually self-abnegation from a trade standpoint for the PRC. It does not benefit them. It does not increase their standard of living. So that is why, when we are looking for carrots, I suggest that we take very literally the words of Charlene Barshefsky in her letter to me: That we assess the separate merits of the applications of Taiwan and the People's Republic of China for admission to the WTO.

As you know, under Article XXXIII of the General Agreement on Tariffs and Trade, a working group was appointed that's now looking at Taiwan's WTO accession. I think it makes a great deal of sense because some of these things are not strictly lawyers' points. That's the point you made. Some of it's cultural; some of it's the norms of trading and dealing. To the extent that there are more Chinese involved in the WTO, we're better off.

Mr. HOUGHTON. Can I just make one further comment, Mr. Chairman?

Chairman CRANE. If it's brief.

Mr. HOUGHTON. I'm not sure I can make it brief; I'll do the best I can. I really believe that if we are going to reach out to the rest of the world, we must reach out meaningfully to China. We must take them as they are, as they are moving toward rather than as we would like to see them at the moment. Yet, at the same time, I think that we have got to put the flow of trade in perspective, which I don't think we do. This is not just a Chinese issue, it's an overall issue so we don't end up as a warehouse for goods we can't afford to buy. Thank you.

Chairman CRANE. Mr. Ramstad.

Mr. RAMSTAD. Thank you, Mr. Chairman, for calling this hearing. I want to commend our colleagues on this panel for the bipartisan, enlightened, and pragmatic approach they bring to this crucial trade relationship. I represent almost 200 Minnesota companies which do business with China, making it our eighth largest trading partner—and growing. Almost 60 Minnesota companies have joint ventures, factories, or branch sales offices in China.

The question I get asked by representatives of those companies each year is, Why do you engage in the annual ritual of self-flagellation, also known as the China MFN renewal debate. So I commend you and your legislation as alternatives to this annual ritual.

I would like to ask any of the panelists—perhaps Mr. Levin has the best pipeline downtown—whether you have gotten any comments from the administration on your legislation?

Mr. LEVIN. It's not mine.

Mr. RAMSTAD. On this legislation. I realize you're not a sponsor, Mr. Levin, but——

Mr. LEVIN. No. I think we need to engage China; we need to engage ourselves on where these negotiations are going. We really haven't done that. As you hear the testimony this morning, Mr. Ramstad—and I have had a chance to glance over some of it. I think that what leaps out—there are differences of opinion—but what leaps out is that what the terms of the rules of competition with China turn out to be and how they are shaped, in terms of their accession to WTO and otherwise, are going to be critically important to businesses and workers in this country.

What the testimony says to me is, We want more trade. But we have to be concerned about under what conditions. That is not a direct answer to your question because I don't know precisely what the administration's position is. I think, though, we need to rely less on what we do legislatively at the moment and more on engaging the administration in an honest, direct way on our direction on this issue.

Mr. RAMSTAD. So the administration hasn't expressed a position on this legislation to your knowledge?

Mr. LEVIN. Not that I know.

Mr. RAMSTAD. Or the knowledge of the authors?

Mr. LEVIN. Not that I know of.

Mr. BEREUTER. Mr. Ramstad, at the working level we have found very supportive comments from various agencies; I won't be more specific, but more than one. We have a problem, as you know, in that sometimes people forget that there can be good ideas on both ends of Pennsylvania Avenue. The track record suggests that it's time for the legislative branch, consulting of course with the executive branch, to break the impasse and give the trade negotiator some of the tools that she needs.

I don't expect her at this point to come forward and say positively. It needs to be elevated to the highest level in the administration. They need to look realistically at what the opportunities and the prospects are for real progress. I hope they will do that.

Mr. RAMSTAD. I understand our differences, Mr. Levin, and your differences with the authors on this. I was just trying to find out whether the administration has provided any input on this at all. I probably directed the question to the wrong person.

Let me ask you a little more substantive question: Have snapback tariff approaches been used before? If so, have they been effective, to your knowledge?

Mr. EWING. I can't answer whether they have been used before, though I am assuming they have.

What I think is effective is for the administration to have the power of some comeback, some penalty, some retort for unfair trade activities that may be imposed on us. I think history would show that generally there's a standoff and then an agreement; it's worked out and we move on. That to me is the real purpose of having the snapback: It gives the President, whoever he might be, real power in negotiating any trade disputes.

Mr. LEVIN. Mr. Ramstad, about 10 years ago, a form of this was proposed relating to market access. We had a donnybrook of a debate over this type of approach.

I am not conceptually opposed to it under any circumstances. I just think we need to ask whether the problem is that there aren't enough tools in the hands of our negotiators, or is it to figure out where we are really going.

My judgment is that it is less a question of our power than it is a challenge of figuring out where we're really going on these very thorny issues. But in answer to your question—it's a good one—they have been proposed.

Mr. RAMSTAD. Thank you, Mr. Chairman.

Chairman CRANE. Ms. Dunn.

Ms. DUNN. Thank you very much, Mr. Chairman. Welcome, gentlemen. It's been an interesting debate. I especially appreciate the Chairman's effort to disconnect trade from some of the areas that we all appreciate are terribly important for us to look into.

I will tell you, being from a trade State like Washington, where we have Boeing Aircraft, Microsoft, and all sorts of other export materials, I still am intrigued by the point that Mr. Cox makes. I would like to ask each of you to answer this question. Is the obvi-

ous disconnect that exists between Charlene Barshefsky's letter and the actual policy that we're following—which is, in my mind, very, very political—what do you think about the true status of our approach to the WTO, which, I think everybody admits, says Taiwan waits until China gets in?

What do you think about that? What is the reality of it? What do you think would happen with mainland China if Taiwan were allowed accession to the WTO? Start with Mr. Bereuter.

Mr. BEREUTER. I believe Taiwan ought to have WTO membership as soon as they qualify for it. If that's before the PRC, which is quite likely, then so be it. They have some things to change too. They are not quite ready to have WTO membership, but they could do it in a flash. They could make those changes in a flash and be brought in.

I think certainly the reaction of mainland China is not going to be positive, but it provides one more incentive for the Chinese to make the changes. Tell me a single incentive at work in United States-China trade that would cause the PRC to make the necessary changes. I don't think there are any at all. It's not a matter of deciding where we are going or giving the trade negotiator the adequate tools. It's both. But there is no reason why Taiwan cannot be brought in to the WTO as soon as they meet the qualifications, in my judgment.

Mr. LEVIN. I think it's a really good question. I don't think there ought to be any sequential linkage that's automatically done. I do think, though, that you have to look at the issue in relationship to our overall relations with China. I just don't think you can totally separate the trade issues from broader diplomatic ones, because they rebound into trade issues.

I do think we ought to look at China's WTO accession basically as a trade issue. This set of questions about WTO accession illustrates that trade needs to be looked at in a broad rather than narrow way. Market access, as I said before, is too narrow a concept. We're talking about a whole host of issues, embedded in the Chinese structure, that are going to impact competition between the United States and China.

I think we ought to look at the economic issues in their own right. But I don't think I could say that if I were negotiating or advising people who were negotiating with China and Taiwan that I would think the issue of sequence irrelevant. Because for China, it clearly isn't.

Mr. EWING. I think the question is a very good one. I personally would hope that economies like Taiwan, wherever they exist around the world, should be brought into WTO as quickly as possible. I see the WTO as an opportunity for our country to have the most level playingfield with those with whom we do the most business. I think that helps industry. I think it helps agriculture. I think it helps American workers for that to come about.

The sequence—whenever a party is ready, we certainly ought to be encouraging them to be full and complete partners of the WTO.

Ms. DUNN. Thank you, Mr. Chairman.

Chairman CRANE. Thank you all very much for your testimony today regarding China and its possible accession to the WTO.

We'll now turn to Ms. Esserman, General Counsel for the U.S. Trade Representative's Office, and Howard Lange, Acting Deputy Assistant Secretary of State for East Asia and Pacific Affairs. We look forward to your comments about where China is in the process to join the WTO and whether the summit last week will add any momentum to the discussions. Please proceed in the order I introduced you.

STATEMENT OF SUSAN G. ESSERMAN, GENERAL COUNSEL, OFFICE OF THE U.S. TRADE REPRESENTATIVE

Ms. ESSERMAN. Good morning, Mr. Chairman and Members of the Subcommittee. It is a pleasure to be here today to discuss United States-China trade relations and China's efforts to join the WTO. Mr. Chairman, as you know, the United States-China relationship is complex and multifaceted, encompassing a wide range of issues that go far beyond trade. At the summit last week, Presidents Jiang and Clinton had a frank and indepth exchange on the wide array of issues affecting our bilateral relations, ranging from human rights to nonproliferation to environmental protection. Trade was also the subject of the summit. We made progress on specific bilateral issues and China's accession to the WTO, which I will review in a moment.

Trade is an increasingly important part of our relationship. China is the fastest growing economy in the world, and early in the next century it may have the world's largest economy. Today China is the 10th largest trading nation and the United States' 4th largest trading partner. Over the past decade, United States exports to China have nearly quadrupled.

The administration has two principal goals in its trade policy with China. First and foremost, we continue to pursue actively market-opening initiatives on a broad scale for U.S. goods, services, and agricultural products. United States businesses should have access and necessary protections for their properties in China's market equivalent to that which China receives in the United States. Especially in light of our trade deficit, we must see a greater balance in our trade relationship with high growth for our exports to China in areas where United States companies maintain a comparative advantage.

Second, a fundamental principle of our policy has been working to ensure that China accepts the rule of law. That is, ensuring that China's trade and economic policies are consistent with international trade practices and norms. Indeed, this adherence to international norms is fundamental to advancing the entire range of issues between our countries. We have pursued these goals both through WTO accession negotiations and bilateral initiatives. While our bilateral trade agreements cover specific sectors of United States trade, negotiations on China's accession to the WTO provide an opportunity to address trade issues for all sectors of the economy in a comprehensive and systematic fashion.

Turning to the WTO, China has now adopted a more serious attitude about the accession negotiations. Earlier this year, negotiators reached agreement on a series of issues relating to WTO rules, with China making new commitments related to national treat-

ment, transparency, TRIPs, Trade Related Aspects of Intellectual Property Rights Agreement, and agriculture export subsidies.

At last week's summit meeting, President Jiang recognized that China's accession to the WTO must be based on commercially meaningful commitments. The Presidents agreed to intensify negotiations on market access including tariffs, nontariff measures, services standards, agriculture, and on implementation of WTO principles so China can accede to the WTO on a commercially meaningful basis at the earliest possible date.

During the summit, China made two announcements of importance in the WTO market access negotiations. First, China expressed its intention to join the Information Technology Agreement as soon as possible. The ITA, as it's called, calls for elimination of tariffs on all information technology products by the year 2000, with staging permitted for a limited number of products. This will lead to the elimination of tariffs on a wide range of products important to the United States such as semiconductors, computers, telecommunications equipment, and software, and therefore constitutes a major reduction in tariffs on a number of important sectors. It also constitutes an important gain because this is an area where China's market is growing rapidly. China's announcement on ITA is also significant as it is the first time that China has decided to participate in a zero-for-zero initiative.

China's second announcement at the summit indicated a willingness to make further substantial cuts in its tariffs that would lower its overall average tariff rate. China's applied rate has been 23 percent. On October 1, China announced reductions in its tariffs resulting in an overall average tariff rate of 17 percent. Offering further tariff reductions that result in substantially lower average tariff rates is a positive step.

The assessment of tariff concessions, however, depends not only on the average tariff rate but also on whether China meets United States requests on priority products. China also gave us a new written services offer, an indication that China is now taking the negotiations on services more seriously. While some improvements in the offer were made, U.S. requests in important areas like distribution, telecommunications, financial and professional services were not sufficiently addressed. We will continue to seek substantial improvements in the services offer.

While the summit will form the basis for intensive negotiations on market access over the months ahead, much remains to be done. Like every accession negotiation, the details are enormously important.

Over the past year, we have also made some progress on the rules and general principles that are the foundation of the WTO; I would just like to review a couple of these advances. First, on trading rights, or the right to import and export directly: In March, China agreed to increase progressively the right to import and export products so that at the end of 3 years, all foreign individuals and companies and all companies in China will have the right to import and export all products throughout China. This commitment represents a major change in China's trading system since only a few companies in China now have the right to import goods di-

rectly from the United States. This is an important step in providing national treatment to U.S. exports.

China has agreed to eliminate other practices that discriminate against imported goods and foreign producers of goods in China. For example, China will eliminate its system of dual pricing for products and services related to production, distribution, marketing, and sales of goods in China. Under the old system foreigners were charged much more for air or rail freight, or preferential access to these services was granted to a domestic producer. China has already begun to dismantle its system of dual pricing, thus putting United States invested companies on a more equal footing.

China has also made important commitments in the transparency area, such as making information available to other governments and to people engaged in trade on all of the issues covered in the WTO. Translations of laws and regulations will be available, and WTO members will have the opportunity to comment on proposed laws and regulations before they become effective. China has also agreed that it will enforce only those laws and regulations that they publish.

China has agreed to establish independent tribunals to review administrative actions relating to the implementation of WTO agreements, and also to grant the right to seek this judicial review. Both steps will help address corruption and encourage the development of the rule of law in China.

China has also committed to implementing the TRIPs agreement immediately upon accession, thus foregoing any transition period. On agriculture rules, China has agreed not to use export subsidies for agriculture products.

While much work remains on important protocol and rules issues, China has agreed to several significant reforms of its trade regime this year.

I would like to briefly turn to bilateral issues, where we also made progress at the summit. The administration reached an agreement that secures important market access for foreign financial information companies operating in China such as Dow Jones and Reuters, and ensures that Chinese companies and financial institutions will continue to have access to United States information services.

Second, China will now license a second United States company to provide insurance in China. Many highly qualified United States companies are seeking to enter China's growing market for insurance. We will continue to press China to expand access to other United States insurance companies, enabling them to provide the full range of insurance services.

Finally, last week the United States and China signed an agreement with respect to space launches that will provide effective price disciplines in some of the most rapidly growing areas of commercial space launch activity.

Bilateral initiatives and agreements have been and continue to be an important mechanism to address specific sectoral problems requiring immediate action. Monitoring and enforcing current agreements are also an important part of our work with China. For example, in the area of intellectual property, significant progress in dampening piracy has been achieved since 1996. Intellectual prop-

erty rights, IPR, enforcement is now part of China's nationwide anticrime campaign. China has shut down 41 factories with 58 CD production lines. Nevertheless, problems remain, particularly in end-use piracy of business software and the market access area.

In the agricultural area, we continue to press for the removal of sanitary and phytosanitary barriers to our agricultural exports. While we have made progress on products such as apples, cherries, and grapes, we still face barriers to U.S. exports of citrus, Pacific-Northwest wheat, stone fruit, and beef, pork, and poultry products.

In all these areas, we continue work to further open China's markets for United States products. As the Subcommittee is aware, this administration has demonstrated a willingness to threaten or impose sanctions to achieve its objectives, as has been the case in both the intellectual property area and textiles.

In sum, while China has made progress in its WTO accession negotiations, these negotiations are complex and will require extensive further work. China's accession to the WTO is in the interests of the United States, but only on the basis of a commercially meaningful agreement. We are prepared to move quickly, but the pace is up to China.

We look forward to working with the Congress, this Subcommittee, and the private sector as we continue to pursue this important objective. Thank you.

[The prepared statement follows:]

Statement of Susan G. Esserman, General Counsel, Office of the U.S. Trade Representative

Mr. Chairman and members of the Committee, it is a pleasure to appear before you today to discuss U.S.-China trade relations and the People's Republic of China's efforts to join the World Trade Organization (WTO). After describing the general trade relationship with China, I will discuss the status of our negotiations for China's accession to the WTO, including progress made at last week's summit, and then turn to some of our bilateral initiatives.

President Clinton and President Jiang Zemin met last week and held an important and constructive summit meeting. The two Presidents had an in-depth and frank exchange of views on an array of issues affecting the entire relationship ranging from human rights to non-proliferation and environmental protection. They agreed to sustained high-level dialogue through regular summits and communication.

On the trade front, we made progress on specific bilateral issues and China's accession to the WTO. Such progress is important, since China is one of the fastest growing economies in the world, with growth rates averaging around 10 percent in recent years. Already possessing the world's largest population, by early in the next century, China may have the world's largest economy.

Today, China is the world's tenth largest trading nation and the United States' fourth largest trading partner. U.S. exports to China have nearly quadrupled over the past decade. The United States is China's largest export market. U.S. imports from China were nearly $51.5 billion in 1996 (or more than 20 percent of China's exports to the world). By contrast, U.S. exports of goods to China last year stood at $12 billion. This year, we estimate that the United States' largest trade deficit in goods and services will be with China, surpassing the deficit with Japan.

While the large trade deficit with China is the result of many factors, an important factor is China's failure to provide increased market access as demonstrated by a 2 percent growth in U.S. exports to China in 1996 and 5 percent growth in U.S. exports this year. This is in contrast with a 28 percent growth in China's exports to the United States this year. We must see greater balance in our trade relationship—with high growth in our exports to China particularly in sectors where U.S. companies are most competitive.

Despite China's movement away from a centrally planned economy toward a quasi-market economy in recent years, China's markets still remain relatively closed. China is pursuing an export-led growth strategy while protecting its domestic markets through high tariffs, quotas, restrictive standards and activities of state

trading enterprises. In addition, China's failure to meet fundamental international norms—such as national treatment, transparency, or the right to import or export freely—deprives U.S. exports of a level playing field on which to compete.

The Administration trade policy with China is clear. First, we will continue to pursue market opening initiatives on a broad scale for U.S. goods, services and agricultural products through the WTO accession process and bilateral initiatives and agreements. U.S. businesses should have access—and the necessary protection for their properties—in China's market, equivalent to that which China enjoys in the U.S. market.

The second fundamental principle of our trade policy is to ensure that China accepts the rule of law. We seek to encourage China to develop trade and economic policies that are consistent with international trade practices and norms. The rule of law is an important part of ensuring that China provides meaningful market access and underpins our bilateral and multilateral agreements.

WTO Accession

Both China and the United States agree that China's accession to the WTO must be on a commercially meaningful basis. While our bilateral trade agreements cover specific segments of U.S. trade, negotiations on China's accession to the WTO provide an opportunity to address trade issues in a comprehensive and systematic fashion for all sectors of the U.S. economy. The process of negotiating the terms of China's accession to the WTO is a major focus of our efforts to expand market access for U.S. exports, and to bring China into the international rules-based trading system.

China's WTO accession negotiations encompass a number of elements that we can broadly divide into two categories. The first concerns the rules and general principles, such as national treatment, transparency, elimination of non-tariff measures and compliance with WTO agreements such as the Agreement on Application of Sanitary and Phytosanitary Measures. This category would also include any agreed transition periods and other specific provisions to address particular aspects of China's trade regime, e.g., antidumping rules and safeguards. The second broad category concerns the details of market access for industrial and agricultural goods and services. China's tariff and services schedules are an integral part of the protocol. All elements of this package: market access for goods, agriculture and services, acceptance of rules, safeguards and timing, must come together for China's accession to move forward.

China has now adopted a more serious attitude about the accession negotiations. Early this year, negotiators reached agreement on a series of issues related to WTO rules making new commitments related to national treatment (trading rights and non-discrimination), transparency, the TRIPs Agreement, and agriculture export subsidies. On the market access front, China's announcement at last week's summit that it intended to participate in the Information Technology Agreement as soon as possible and that it would agree to further cuts in its tariffs, marked important progress in the negotiations. Let me now briefly review the progress that has been achieved on rules issues and the Summit announcements.

Trading rights (the right to import and export)

In March, China agreed to increase progressively the availability of the right to import and export products so that at the end of three years all foreign individuals and companies and all companies in China will have the right to import and export all products throughout China. This commitment represents a major change in China's trading system since only a comparatively few companies in China now have the right to import goods directly from U.S. companies. This is an important step in providing national treatment to U.S. exports.

Non-Discrimination

China has agreed to eliminate other practices that discriminate against imported goods and foreign producers of goods in China. For example, China will eliminate its system of dual pricing for products and services related to production, distribution, marketing and sale of goods in China. Under the old system, foreigners would be charged much more for air or rail freight or preferential access to these services would be granted to a domestic producer. China has already begun to dismantle its system of dual pricing, thus putting U.S. invested companies on a more equal footing.

Transparency

China has committed to making information available to other governments and to people engaged in trade on all of the issues covered in the WTO. Translations of laws and regulations will be available and WTO members will have the opportunity to comment on proposed laws and regulations before they become effective. Furthermore, China has agreed that it will enforce only those laws and regulations that they publish.

Judicial Review of Administrative Decisions:

China will have independent tribunals for the review of administrative actions relating to implementation of the WTO Agreements and grant the right to seek judicial review of these administrative actions. Both steps will help address corruption and encourage development of the rule of law in China.

Intellectual Property Rights

China has committed to implement the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) upon accession.

Agriculture

China has agreed not to use export subsidies for agriculture products.

Agreement on these points represents progress in the negotiations. A great deal of work, however, still remains to be done on market access, implementation of WTO rules and our safeguards.

Although China has made some progress, China has not yet presented an acceptable offer on market access issues. China's proposal on tariffs needs improvement on timing of cuts and the number and level of tariff peaks and we need to reach agreement on the cuts on U.S. priority products. We have yet to reach agreement on acceptable phase-out periods for China's remaining quotas, licensing and tendering requirements. Other issues, such as China's application of mandatory standards for imports, customs valuation and licensing affect our exports access to China's market and must be addressed.

On agriculture, for example, we are now engaged in intensive discussions on market access for key U.S. export products. These discussions encompass tariff levels, administration of the tariff rate quotas that China wants to put in place, the activities of state trading enterprises and the details of China's implementation of the WTO Agreement on Agriculture. We and other WTO members are also urging China to implement the Agreement on Sanitary and Phytosanitary Measures fairly and effectively.

Services is an area of particular concern to the United States and other WTO members. For example, China's commitment on trading rights is only the first step in ensuring that U.S. exports reach customers in China. The ability to engage in all elements of distribution, including after sales maintenance and repair, is key to establishing long term relationships in the market and thus real market access for goods. We are seeking significant commitments from China in a number of other service sectors including telecommunications, financial services, including insurance, professional services and others. We need to see substantial and comprehensive improvements in China's market access offer on services.

SUMMIT RESULTS

At last week's summit meeting, President Jiang recognized that China must accede to the WTO on a commercially meaningful basis. The Presidents agreed "to intensify negotiations on market access, including tariffs, non-tariff measures, services, standards and agriculture and on implementation of WTO principles so China can accede to WTO on a commercially meaningful basis at the earliest possible date." We are prepared to move quickly, but the pace is up to China. Congress has an important role in these negotiations as the Administration will continue to consult closely with members as negotiations proceed.

During the summit, China made two announcements relevant to the WTO. First, China expressed its intention to join the Information Technology Agreement (ITA) as soon as possible. The ITA calls for elimination of tariffs on all information technology products by the year 2000, although extended staging may be allowed for a limited number of products, but no longer than to the year 2005. China must negotiate and all ITA participants must agree to any staging beyond the year 2000. The ITA permits countries and separate customs territories in the process of acceding to the WTO to participate in the Agreement, China may participate in the Agreement prior to completing the WTO accession process. China's participation in the

ITA means that countries accounting for approximately 95 percent of trade in these products are participants in the Agreement.

Elimination of tariffs on a wide range of products on which the United States is highly competitive is an important benefit for the United States. This constitutes a major reduction in tariffs in a number of important sectors. China's market for ITA products is growing rapidly. One estimate places China's total imports of ITA products at $14.5 billion in 1996 and other estimates are higher. According to industry estimates, China imports about 10 percent of its information technology products from the United States. China's announcement on the ITA is also significant as it is the first time that China has decided to participate in a zero-for-zero initiative.

China's second announcement at the summit indicated a willingness to make further substantial cuts in its tariffs that would lower its overall average tariff rate. Previously, China's applied tariff rate averaged 23 percent. On October 1, China announced reductions in its tariffs that result in an overall average tariff rate of 17 percent. Offering further tariff reductions that result in a substantially lower average tariff rate is a positive step. Ultimately, our assessment of the tariff reductions will depend on whether China meets U.S. requests on priority products and satisfies other key criteria.

China also gave us a new written services offer, an indication that China is taking the negotiations on services more seriously. While some improvements in the offer were made, U.S. requests in important areas like distribution, telecommunications, financial and professional services were not sufficiently addressed. For example, China's offer covers a number of services sectors generally, but provides for liberalization only in a very limited or "experimental" basis. That liberalization is frequently restricted to certain geographic regions. In the telecommunications sector, for example, the offer would permit establishment of two telecom joint ventures with a twenty five percent equity cap in two cities in all of China. We will continue to seek substantial improvements in the offer.

The summit resulted in progress that will form the basis for intensive negotiations over the months ahead. Our negotiators will meet again over the next few weeks to discuss China's market access offers. The APEC Ministerial meetings in Vancouver in November will serve as another important opportunity for discussion. In addition, the next round of formal Working Party meetings is scheduled for December.

Bilateral Initiatives and Agreements

Bilateral initiatives and agreements have been and continue to be an important mechanism to address specific sectoral problems that require immediate action. Monitoring and enforcement of current agreements are also an important part of our work with China. In these contexts, the Administration has demonstrated its willingness to impose sanctions to achieve its objectives. Another important result of our bilateral initiatives is that they often compliment and reinforce the multilateral aspects of U.S. trade policy towards China. Our bilateral agreements on intellectual property rights, for example, provided the foundation for China's commitment to implement the TRIPs agreement immediately upon accession to the WTO. Similarly, effective implementation of agreements and rule of law is a principle that underlies both our bilateral and multilateral agreements.

Recent Developments

The Administration has reached an agreement with China that provides an interim solution to a longstanding problem regarding regulation of U.S. companies providing financial information to China's market. The interim solution secures important market access for foreign financial information companies such as Dow Jones and Reuters operating in China and ensures that Chinese companies and financial institutions will continue to have access to U.S. information services. While the agreement provides an interim solution, we continue to seek commitments from China to provide expanded market access and national treatment for financial information services in China's WTO accession negotiations.

A second recent development involves the insurance services sector. While the United States is requesting China to make significant improvements in its GATS schedule on insurance services, in the interim, we are pleased that China has announced that a second U.S. company, will be licensed to provide insurance in China. Many highly qualified U.S. companies are seeking to enter China's growing market for insurance products and we will continue to press China to expand access to other U.S. insurance companies and to enable them to provide the full range of insurance services.

Finally, last week the United States and China signed an agreement with respect to space launches that will provide effective price disciplines in some of the most rapidly growing areas of commercial space launch activity. The agreement puts new provisions into effect as part of the 1995 U.S.-China space launch accord which clarify conditions included in the pricing of launch services. More information and greater certainty will be provided to industries interested in participating in this market.

ONGOING MONITORING AND ENFORCEMENT ACTIONS

As a result of our bilateral agreements, U.S. access to China's market is far greater now than it was. Nevertheless, our access falls far short of what it should be. Monitoring implementation and enforcement of these agreements is one way to expand U.S. access and build a foundation for future agreements. Let me briefly review our efforts on some of our significant bilateral agreements.

BILATERAL AGREEMENTS ON INTELLECTUAL PROPERTY RIGHTS

In 1995, the United States reached an agreement with China on intellectual property rights enforcement, particularly copyrights and trademarks, and improved market access for U.S. firms in the computer software, motion picture, publishing and sound recording industries. In the 1995 Agreement, China committed to put a basic structure in place for enforcement of IPRs at the central and provincial level and in major cities. China also undertook improved Customs enforcement of IPRs at the border and strengthened protection for well-known trademarks.

Over the next year, we carefully monitored China's implementation of the 1995 Agreement. While China created enforcement task forces and embarked on some enforcement efforts, overall piracy rates remained extremely high and U.S. companies were frustrated in their efforts to achieve market access. That is why, in May 1996, the Clinton Administration threatened to take action against China for its failure to implement satisfactorily commitments from the 1995 Agreement.

In June 1996, after substantial verification activities by the U.S. government and U.S. industry, we decided that the Chinese had taken a critical mass of enforcement actions in connection with the 1995 Agreement. Since June 1996, we have seen continued progress and continuing problems. IPR enforcement is now part of China's nationwide anti-crime campaign. China has put in place a functioning enforcement system, based on the 1995 and 1996 agreements, to protect intellectual property. Chinese authorities have shut down 41 factories with 58 CD/CD09ROM production lines, radically cutting back on pirated sound recording production in South China. China's judicial system has become involved in combating IPR piracy and the number of decisions and the severity of penalties have increased.

Despite China's increased efforts, problems remain, particularly in the area of end-use piracy of business software. Piracy rates of entertainment software (game CD's) are also high.

Besides enforcement activities, our copyright industries have made some limited headway on market access. For example, access for foreign sound recordings, stagnant at 120 titles three years ago, reached approximately 1000 titles in 1996. The elimination of quotas should pave the way for Chinese record companies to sign licensing arrangements that capitalize on the companies' entire catalogues. Given that our copyright industries are among the most competitive in the world, we will continue to push for further market access openings in this important area. Moreover, our bilateral IPR dialogue with China is active and we expect progress on fully implementing our IPR agreements and addressing specific concerns that develop.

TEXTILES

Our February bilateral textiles agreement builds on and improves the 1994 Textiles Agreement with China. For the first time, our bilateral agreement provides market access for U.S. textiles and apparel into China's market. China also agreed to ensure that non-tariff barriers do not impede the achievement of real and effective market access for U.S. textile and apparel exports.

Under this bilateral agreement, China will lower tariff rates over the next 4 years. For certain high priority products, China agreed to accelerate tariff reductions so that they are completed within two years. The first cuts became effective on October 1 of this year.

The issue of illegal transshipments of textiles from China has been a significant concern in the past. In the February 1997 Agreement, we reduced China's quotas in fourteen apparel and fabric product categories where China agreed that violations of the 1994 Agreement, through transshipment or over shipment, had occurred.

Moreover, a special textiles import safeguard mechanism will remain in effect until four years *after* the WTO Agreement on Textiles and Clothing has terminated.

MARKET ACCESS AGREEMENT

Obtaining effective implementation of the October 1992 market access agreement is another example of the Administration's continuing pursuit of market openings. In that Agreement, China committed to make significant changes in its import regime, i.e., to eliminate import substitution policies, publish its trade laws in an official journal, apply the same testing and standards requirements to domestic products and imports, decrease tariffs on certain products, apply sanitary and phytosanitary measures only based on scientific principles and eliminate licensing and quota requirements on more than 1,200 products.

China has taken some significant steps in implementing the 1992 Agreement. China's trade regime is now more transparent; China has lowered tariffs on many products and has eliminated well over a thousand non-tariff barriers. While China has removed a substantial number of these barriers, we are concerned with China's tendency to substitute other barriers for the ones removed. On some products in the medical equipment sector, for example, China has replaced a quota with a tendering and registration requirement, which still impedes market access.

A number of other market access problems remain, in particular for U.S. agricultural products. In the 1992 Agreement, China committed to eliminate unscientific sanitary and phytosanitary restrictions used as barriers to market access. China's implementation of this commitment remains incomplete. Over the last four years, we have reached agreement on measures that permit the importation of live horses; delicious variety apples and cherries from Washington State, apples from Oregon and Idaho; cattle, swine, and bovine embryos. This month U.S. growers exported their first shipments of grapes to China. This new market for grapes could reach more than $45 million in the next two to three years.

We still face unjustified sanitary and phytosanitary (SPS) restrictions on U.S. exports of citrus, Pacific-Northwest wheat, stone fruit, beef, poultry and pork products. While China has granted some access for beef, poultry and pork products through certification and grant of import quotas to individual processing plants, China needs to provide a system wide certification of U.S. plants and eliminate quotas.

For other agriculture products, we seek protocols that will permit access into China's market in the immediate future. We are particularly disappointed with the lack of progress during talks last month on completing a protocol for exports of U.S. citrus to China. Although considerable amounts of U.S. citrus enter China through Hong Kong, Chinese plant quarantine officials have been unwilling to establish formal channels for U.S. exports of oranges, grapefruit and other citrus products. Other countries in Asia accept U.S. citrus. U.S. experts have spent considerable time and effort addressing China's SPS concerns and we believe that a protocol permitting exports from all major citrus producing states should be completed.

CONCLUSION

While China has made progress in its WTO accession negotiations, those negotiations are complex and will require extensive further work. The Administration is determined to see China accede to the WTO, but only on the basis of a commercially meaningful agreement. As we proceed along this difficult course, we are committed to working with Congress to ensure that our mutual objective is achieved.

Chairman CRANE. Thank you, Ms. Esserman.

Mr. Lange.

STATEMENT OF HOWARD H. LANGE, ACTING DEPUTY ASSISTANT SECRETARY FOR EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. LANGE. Thank you, Mr. Chairman, for the opportunity to appear before the Subcommittee. I would like to offer a very brief statement which I hope provides a context for discussion of the WTO accession process and broader economic relations with China.

The administration believes that United States interests are best served by a secure, stable, and open China. The manner in which we engage China will help determine whether it becomes integrated into international norms and institutions, or whether it becomes isolated, hostile, and unpredictable. We believe the strategy of comprehensive engagement is the best approach to encourage the development of a China which is a constructive player in international systems.

Let me mention a few areas in which we have a strong interest in engaging China. China is a nuclear weapons state and a producer of sophisticated technology. If we are to have a world in which weapons of mass destruction are effectively controlled, it will require China's cooperation and adherence to international proliferation norms. Combating alien smuggling, narcotics trafficking, and terrorism also requires a China which participates constructively with a network of international institutions that attack such problems. China's participation in international efforts to address global warming is critical. China has played a very helpful role in recent years in support of our efforts to keep peace and stability on the Korean peninsula.

In no area is China's adherence to international norms more important than human rights. Exposure to the outside world and the exchange of goods, ideas, and people has brought increased openness, social mobility, and personal liberty to China. Nevertheless, China continues to deny or curtail basic freedoms including the freedom of speech, association, and press and the freedom to practice religion. China must do much more to bring its human rights practices into accord with international norms.

Trade, which is the principal focus of this hearing, of course, is an area where China's integration into international institutions, especially the WTO, can reinforce the positive evolution of China and its institutions. Ms. Esserman has covered this issue, including our bilateral trade relationship, in detail.

I would note, however, that the value of a commercially viable WTO accession package to Americans goes well beyond dollars and cents. Increasing China's awareness of international trade norms includes recognition of fundamental concepts of the rule of law such as transparency, contract sanctity, and the need for an independent judiciary. These concepts will have an impact across the board. Our trade agenda actively and directly supports the broader agenda of our engagement policy.

Against the backdrop of our overall strategy, let me sketch some summit results. First, the two Presidents had a good exchange of views on the international situation, on United States-China relations, and the important opportunities and challenges facing the two countries. They also had a very frank exchange of views, both in private and in public, on the areas where we differ, notably human rights. We achieved a number of concrete outcomes. I will cite some of those outside the area of trade, which Ms. Esserman has covered in her testimony.

As a result of the summit, we are bringing China's nuclear nonproliferation policies and practices into line with international norms. We are enhancing cooperation in addressing the intertwined issues of energy and the environment. We will be holding

regular summits and other meetings at senior levels. We are enhancing cooperation in law enforcement and in promoting the rule of law in China. We are also taking steps to develop military-to-military relations.

Even in the area of human rights, where we have such obvious differences, China has recently taken some positive actions. China is inviting a group of American religious leaders to visit. China has also agreed to begin preparatory talks on establishing a forum for United States and China NGOs, nongovernmental organizations, to discuss human rights. She is signing the International Covenant on Economic, Social and Cultural Rights, and is studying the Covenant on Civil and Political Rights. We will continue our strong efforts to advance our interests in this area, which is critical to maintaining a healthy and positive relationship with China.

In conclusion, Mr. Chairman, a commitment to advance United States interests by promoting China's adherence to international norms will remain a central theme of our efforts in all areas of our relationship including, certainly, the area of trade. Thank you, Mr. Chairman.

[The prepared statement follows:]

Statement of Howard H. Lange, Acting Deputy Assistant Secretary for East Asian and Pacific Affairs, U.S. Department of State

Thank you for the opportunity to appear before the Subcommittee. I'd like to offer a brief statement which I hope provides a context for the discussion today of the WTO accession process and broader economic relations with China.

COMPREHENSIVE ENGAGEMEMENT

The Administration believes that US interests are best served by a secure, stable and open China. The manner in which we engage China will help determine whether it becomes integrated into international norms and institutions or whether it becomes isolated, hostile, and unpredictable. We believe the strategy of comprehensive engagement is the best approach to encourage the development of a China which is a constructive player in international systems.

Administration policy is to encourage China's integration into global institutions and its adherence to international norms, and to maintain a constructive and productive relationship with China. Attainment of these objectives is important to the security and well-being of Americans. China is a nuclear weapons state and producer of sophisticated technology. If we are to have a world in which weapons of mass destruction are effectively controlled it will require China's cooperation and adherence to international proliferation norms. Combatting alien smuggling, narcotics trafficking, and terrorism, also require a China which participates constructively in the network of international institutions that attack such problems. As the second largest emitter of greenhouse gasses, China's participation in international efforts to address global warming is critical. In recent years China has played a very helpful role in support of our efforts to keep peace and stability on the Korean peninsula. Yet we hope for more progress on security issues, with, for example, increasing transparency in China's own military establishment.

In no area is China's adherence to international norms more important than human rights. Exposure to the outside world and the exchange of goods, ideas, and people has brought increased openness, social mobility and personal liberties to China. While these developments are positive, they are not sufficient. China continues to deny or curtail basic freedoms, including freedom of speech, association, press, and freedom to practice religion. China must do much more to bring its human rights practices into accord with international norms.

The recent history of Asia shows that over time, economic development leads to growth of an educated and aware middle class and of a civil society. This in turn leads to democracy, and this is the path we want to encourage China to travel.

Trade, the principal focus of this hearing, is an important area where China's integration into international institutions, especially the WTO, and adherence to international norms can reinforce a positive evolution of China and its institutions. Your USTR witness will cover this issue, including our bilateral trade relationship,

in detail, and I will defer to her for that discussion. I would emphasize, however, that the value to Americans from a commercially viable WTO accession package goes beyond dollars and cents. China's increasing recognition of international trade norms entails the recognition of fundamental concepts of rule of law, such as transparency, contract sanctity, and the need for an independent judiciary. These concepts will have an impact across the board as we work with China to address all the issues I have cited above, including weapons proliferation, human rights, and the environment. In this sense our trade agenda actively and directly supports the broader agenda of our engagement policy. Far from being in conflict with our overall goals, our trade objectives support what we are trying to accomplish.

SUMMIT RESULTS

Against this backdrop of our overall strategy, let me sketch some summit results, which we believe have furthered the goals I have described.

First, I'd note that the two Presidents had a good exchange of views on the international situation, US-China relations, and the important opportunities and challenges facing the two countries. They also had a very frank exchange of views, in public and private, on the areas where we differ, especially human rights. Direct communication between the top levels of our governments is essential to addressing differences, deepening mutual understanding, and avoiding misconceptions. In addition, we achieved a number of concrete outcomes, including:

- bringing China's nuclear non-proliferation policies and practices into line with international norms;
- enhancing cooperation in addressing the intertwined issues of energy and the environment;
- holding regular summits and other meetings at senior levels, which will help us expand cooperation and narrow differences with China;
- enhancing cooperation in law enforcement, including stationing of DEA officers at our Embassy in Beijing, and in promoting the rule of law in China;
- taking steps to develop military-to-military relations in ways that minimize the chance of miscalculation, advance transparency, and strengthen communication.

In the area of human rights, China has recently taken some positive actions, which include inviting a group of American religious leaders to visit China to observe Chinese religious practices; agreeing to begin preparatory talks on establishing a forum for US and China NGOs and officials to discuss human rights; and signing the International Covenant on Economic, Social, and Cultural Rights. Human rights is perhaps the most difficult area of our relationship and the one in which progress is slowest and most difficult to measure. We will continue our strong efforts to advance our interests in this area, which is critical to maintaining a healthy and positive relationship with China.

A commitment to advance US interests by promoting China's adherence to international norms will remain a central theme of our efforts in all areas of our relationship with China, including nonproliferation, human rights, and law enforcement, as well as trade.

Thank you.

Chairman CRANE. Thank you, Mr. Lange.

Ms. Esserman, I have long supported negotiating a free trade agreement with Taiwan. However, China has insisted that it be granted membership in WTO ahead of Taiwan. The question in my mind is, with that reversion of Hong Kong back to the mainland, doesn't mainland China have membership in the WTO? I mean, Hong Kong has got it; it's a part of China. It's probably the biggest means of goods and services flowing in and out of China. How do you make the distinction?

Ms. ESSERMAN. Hong Kong is treated as a separate entity under the WTO.

Chairman CRANE. It may be treated as a separate entity, but it isn't. I mean, it's a Province of China.

Ms. ESSERMAN. Well, first and foremost, as we have all discussed today, in order to become a member of the WTO, the entering coun-

try must accept the full range of responsibilities and obligations required of a WTO member. China has not done that yet. It would not be appropriate at this time, simply because Hong Kong is a member, for China to be a member of the WTO.

Chairman CRANE. If California were a member of the WTO, that wouldn't necessarily qualify the United States as a member?

Ms. ESSERMAN. No, it would not.

Chairman CRANE. It seems to me that that argument could have been raised with President Jiang while he was here, that we're going forward now with WTO accession for Taiwan, another Province of China, and maybe in another century they will be reunited with the mainland.

But at any rate, let me get onto a couple of other items. The joint United States-China statement issued after the summit used the phrase "commercially meaningful" instead of "commercially viable" when describing an adequate WTO Agreement on China. Does this reflect any change in United States policy, and how does "commercially meaningful" differ from "commercially viable?"

Ms. ESSERMAN. Mr. Chairman, "commercially meaningful" has the same meaning to us as "commercially viable." It means genuine access in the area of goods, services, agriculture, and compliance with WTO rules upon accession.

Chairman CRANE. OK. I just wanted to make sure there was no difference in the meaning of the terminology.

Do you expect, Mr. Lange, the recent stock market prices in Asia to affect China's ability to make economic reforms or its willingness to modernize its banking and financial system to keep pace with WTO accession negotiations?

Mr. LANGE. So far, Mr. Chairman, China has not been notably affected by the financial volatility in the rest of Asia, but of course it is becoming increasingly involved and integrated into the Asian economy. So over time, it will become more affected by such volatility, but at this time—certainly as far as I know—nothing we have heard from the leadership of China suggests that they are slowing down in their intention to continue with economic reforms in China.

Chairman CRANE. At last week's summit, President Clinton indicated that he will certify China as being in compliance with the 1985 agreement on United States-China nuclear cooperation. What opportunities do you see this providing for small businesses and investors here in the United States vis-a-vis China?

Mr. LANGE. Well, once the 1985 agreement is in fact implemented, United States companies will of course have the opportunity to bid in a very large market for developing nuclear power facilities in China.

I don't know about the structure of the nuclear power industry in the United States in detail, but I presume that the large contractors are served by a large network of small businesses and small contractors as well.

Chairman CRANE. Thank you.

Mr. Thomas.

Mr. THOMAS of California. Thank you very much, Mr. Chairman. I thank both of you for your comments.

Ms. Esserman, the USTR today sounded a little more like State than usual. I don't have my State Department translating dictionary. Frank and indepth discussions made progress "commercially meaningful," which the Chairman commented on; apparently it means the same as viable. Could I ask you to engage, if you are willing, in something that most of us would understand? That is, on a scale of 1 to 10, where was China at the beginning of the year and where are they now?

Ms. ESSERMAN. Well, Mr. Thomas, I hadn't intended to use State Department parlance, but as to your question——

Mr. THOMAS of California. It worries me because you were so good at it.

Ms. ESSERMAN. Let me just say that we think the summit did provide momentum on the WTO accession issue for a number of reasons. First of all, China made two important announcements: The announcement of their intention to join the ITA is an important advance, as is committing to further substantial tariff cuts. Also, President Jiang has recognized that China must join the WTO on a commercially meaningful basis, and the two Presidents agreed to intensify our efforts to deal with the full range of issues necessary to join the WTO.

Mr. THOMAS of California. I understand that; that was in your testimony and that was your response to the Chairman. I don't want to put you on the spot. But does it appear, if 5 is halfway between 1 and 10, that we are on the other side of 5? Are we still on the short side of 5? Did we cross 5 based upon this summit? Is there any way to give us some progress report in a way that most people would understand? I mean, I am only familiar with the terms you are using in my area of involvement, education in terms of pass-fail courses. Can we assign some kind of a grade, if you don't like using 1 to 10? Where are we?

Ms. ESSERMAN. Mr. Thomas, I really don't—I am not able to assign a grade or a number, but I do think it's genuine momentum, that we really ought to work hard to take advantage of. In other words, it provides us a basis for moving more positively. These are two very important steps to provide genuine access. I think it's hard to provide a grade or a number to the situation.

Mr. THOMAS of California. I understand. I appreciate it. I'll see euphemisms under State Department and we'll come up with that.

Another question, back to what the Chairman said: I'm concerned about this because Hong Kong is a member of the WTO and it has reverted back to being a Province of China, mainland China. Are we monitoring the criteria that were essential in allowing Hong Kong to be a member of the WTO? Where is the Government's position on any backsliding that may occur if, in fact, it does occur on those criteria which enabled Hong Kong to be a member of the WTO initially? Do we have any ongoing monitoring of Hong Kong and its structure vis-a-vis where it was prior to its incorporation back into mainland China today or tomorrow or the day after?

Mr. LANGE. May I answer that, Mr. Thomas? Under the Hong Kong Policy Act, we are required to monitor Hong Kong and its autonomy as a trading entity. This involves many aspects of Hong Kong's behavior. But we are very conscious of this requirement; we follow it very closely. I am sure that our trade representatives in

Geneva as well as here in Washington also follow this very carefully and monitor it. We will be very vigilant for signs that they are not acting independently.

Mr. THOMAS of California. And the intent of the Hong Kong Act is that if, in fact, there has been major backsliding, it could include denial of continued membership in WTO, or at least our active opposition to continued membership? I am taking an extreme position, but I am just wondering what leverage you have. I have often found when you go to the extreme position, you have a better understanding of what leverage you have.

Mr. LANGE. I confess that I don't recall the precise requirements of the Hong Kong Policy Act, and whether it specifies that step.

Mr. THOMAS of California. My concern is that we could monitor and then we could fall back into a series of euphemisms like "a view with concern," you know; there's a whole series of words we could use which would not indicate any clear punishment in the area of backsliding, which I am very concerned about.

To conclude, it seems to me that the criteria we used on Hong Kong ought to be used on Taiwan. And that if, in fact, substantive behavioral criteria are met, there should be no interest in timing of admission to WTO. What is the administration's policy on that?

Ms. ESSERMAN. Mr. Thomas, if I could just address the question about the WTO directly, there is a mechanism in the WTO for review of a country's practices. I would be happy to provide further information to you. I don't know the precise date of the review for Hong Kong.

The context of that review provides us another mechanism for determining whether there is backsliding. Ultimately, the United States does have authority to not apply the WTO rules to Hong Kong.

Mr. THOMAS of California. Thank you very much. The Taiwan question remains open, but it just seems to me that if they were to meet the test, there should be no linkage in terms of timing. I think that would be the best possible message we could send mainland China. Fit this behavioral parameter and you will be accepted, just as Hong Kong was accepted and just as Taiwan would be accepted. The goal, of course, would be to get China to understand that before Taiwan reaches a level of acceptance. But I believe we are going to reach that point, that is, Taiwan meeting the criteria. If we were to then withhold admission to Taiwan, I believe that would have severe ramifications.

Ms. ESSERMAN. As Ambassador Barshefsky has said, we do look at each of these situations based on the merits. Based on the merits, Taiwan is not yet ready to join. There are still a number of important outstanding issues in the area of agriculture, where imports of agriculture products are blocked. There are some important issues relating to financial services and tariff staging. So at this point, Taiwan is not yet in a position to join.

Mr. THOMAS of California. Obviously, I am as interested as anyone and probably pushed a number of those agricultural issues.

I have a series of questions, Mr. Chairman, that I would like to submit for the record to have the USTR answer. It has to do with to a certain extent agricultural products with the Republic of China and the issue that was mentioned earlier, the phytosanitary re-

strictions, and a number of other issues. I thank you very much for your vigilance. My goal and your goal, I hope, is to make sure Taiwan understands that as it joins the democratic community of nations and pursues WTO membership if, in fact, they do measure up, they would not be unnecessarily delayed by political considerations. Thank you, Mr. Chairman.

Mr. LANGE. If I may comment?

Chairman CRANE. Mr. Lange.

Mr. LANGE. If I could just comment briefly on the Taiwan angle: I believe, as a matter of principle, it is treated as a customs territory similar to Hong Kong, the difference being that Hong Kong is already in the WTO and has met the requirements. So, as Ms. Esserman suggests, the question is really on meeting the requirements for entry, it's not one of principal.

Mr. THOMAS of California. Mr. Chairman, our goal is to make sure that that is, in fact, presented to you as a dilemma as soon as possible.

Chairman CRANE. Mr. Jefferson.

Mr. JEFFERSON. Thank you, Mr. Chairman.

Ms. Esserman, I guess I am asking you this question: How does the administration plan to approach the issue of whether China enters the WTO as a developed or developing country? And what are the areas of the WTO where this status makes a difference in respect to the kind of commitment we can expect from China in the WTO?

Ms. ESSERMAN. The U.S. Government has determined that it is best to scrap the terms "developed" and "developing" nations, as applied to China's WTO accession. In fact, we think it best to take a practical approach and address each issue based on the merits in a way that would secure genuine market access and compliance to WTO rules, in light of the particular situation presented by China.

Mr. JEFFERSON. The question comes up because, unless this is wrong, the United States accepts 30 percent of China's exports, while China only buys 2 percent of United States exports. Is that figure right as far as you know? Does that sound about right?

Ms. ESSERMAN. Mr. Jefferson, I'm sorry. I couldn't hear you.

Mr. JEFFERSON. I was saying that the United States accepts 30 percent of China's exports, while China only accepts 2 percent of United States exports. I was asking whether you agreed with that. Is that figure right, do you know?

Ms. ESSERMAN. I don't know whether that precise figure is true. There is unquestionably a deficit problem with China. We are concerned about it. We think the most important——

Mr. JEFFERSON. I guess my question really is, even if you can't agree with those numbers, there is a huge disparity. To what do you attribute it?

Ms. ESSERMAN. There is a serious disparity that causes us concern. It's due to a variety of factors. One factor really is the fact that our exports are not given full access to the Chinese market. We think the most important way to address those issues is to push ahead in a systematic way, to break down barriers, particularly through the WTO accession negotiations and through strong bilateral initiatives.

Mr. JEFFERSON. In response to Mr. Thomas's question, I believe you made reference to the Information Technology Agreement.

Ms. ESSERMAN. Yes.

Mr. JEFFERSON. As an important accomplishment of the summit, China said that it would seek to become a part of that, to join the agreement. What is the expected timetable for China to join and does it have any connection with WTO accession?

Ms. ESSERMAN. We would expect the timetable to be between approximately 2 and 6 months. That's the time it has taken other countries to join. There are a number of technical issues that need to be reviewed with all of the countries that have joined the WTO. Further, to answer your question, a country does not need to be a member of the WTO to join the Information Technology Agreement. Other countries have joined—I believe Estonia is an example—when they are not yet members of the WTO.

Mr. JEFFERSON. But in the case of China specifically, there is no connection being made between these two issues, WTO accession and joining the ITA?

Ms. ESSERMAN. What I meant is they could join before they actually accede to the WTO, which is very good and important. It is a part of their overall accession package because it reflects a significant lowering of tariffs on very important products to the United States.

Mr. JEFFERSON. We have had various agreements with China here recently: one on intellectual property, one on prison labor exports, and various market access agreements. Where are we now with the status of those various agreements? Is China complying with these agreements or not? How well is it complying with them or not?

Ms. ESSERMAN. In the intellectual property area, I think that there has been a lot of action taken to comply with the Intellectual Property Agreement. You may recall the agreement was I believe negotiated 2 years ago. A year later the U.S. Government felt that China had not taken strong action and they threatened sanctions—stiff sanctions. China undertook, and has continued to undertake, significant measures to crack down on piracy, closing a number of production lines—I believe 58 production lines, instituting a real infrastructure to deal with piracy; instituting raids and a number of initiatives to deal with the piracy issue overall.

So in the copyright area, there have been important gains, although certainly problems remain. This is why it is very important for us not only to negotiate the agreement, but to continue monitoring the agreement diligently at every step. We're continuing to do that. We are concerned about China's record in regard to business and game software. We are also concerned about market access in this area as well. So we're continuing to monitor. A team recently went to China to take further steps. We'll be following up on that trip.

Mr. JEFFERSON. Is the prison labor agreement being lived up to, antiprison labor agreement?

Mr. LANGE. We find that there are some shortcomings in Chinese compliance with the Prison Labor Agreement. They do not always respond to our requests for inspections of facilities. Recently we have experienced some improvement in Chinese performance, but

it is an area that we are continuing to emphasize and try to get better compliance on China's part.

Mr. JEFFERSON. This has been a very difficult area, the prison labor area, hasn't it?

Mr. LANGE. Yes, it has.

Mr. JEFFERSON. One last thing, Mr. Chairman, if I might. On Bereuter-Ewing H.R. 1712, this so-called carrot-and-stick approach: We have a permanent MFN and some opportunities to go to snapback, to pre-Uruguay round tariffs if compliance isn't met. How does the administration view this bill? Is there support for the Bereuter approach?

Ms. ESSERMAN. First and foremost, we very much appreciate the spirit in which this legislation is offered. We appreciate the objective of Congressman Bereuter to try to facilitate rapid progress on China WTO accession. However, we think that progress has been made over the last year and particularly recently with the summit. So we think it is premature to take a position on the bill.

Questions Received from Hon. Bill Thomas and Subsequent Responses from Ms. Esserman

Question. The PRC has used phytosantiary restrictions lacking scientific justification to prevent imports of U.S. citrus and other produce. In some cases, such as China's assertion that the U.S. has medfly infestations, the restrictions appear unjustified since other countries such as Japan, Korea and Australia accept our methods of quarantine, isolation and eradication of this pest. How does your office intend to get China to follow the WTO requirement for a scientific basis for sanitary and phytosanitary restrictions as a condition of accession to the WTO?

Answer. Compliance by the Chinese Government with its commitments under the 1992 Market Access MOU has been a top priority for USTR. China has thus far opened up its market to U.S. live cattle; bovine embryos; cherries from Washington; delicious variety apples from Washington; and most recently grapes from California. However, China still does not allow imports of our citrus, other varieties of apples, tobacco, wheat and stonefruit.

At recent technical meetings in San Francisco, China offered to accept a protocol and work plan for importing citrus from Texas and Arizona, but maintained its position that the recent incidence of medfly in California and Florida prevented them from agreeing to a similar arrangement for those states. We were very disappointed. The issue has been raised at the highest levels, including by the President, USTR Barshefsky and Ambassador Peter Scher. We are now reviewing our options in close consultation with U.S. citrus exporters.

We are working hard to reduce China's tariffs and VAT rates, as well as any unscientific phytosanitary barriers in the context of China's accession. China's adherence to the Agreement on the Application of Sanitary and Phytosanitary Measures is certainly a condition of its accession to the WTO. We will also continue to raise our concerns bilaterally at the highest policy levels in China.

Question. The PRC tariffs and taxes are extremely high on some U.S. products. For example, the tariff on fresh garlic is 22 percent and there is a 13 percent VAT on top of that. What is your office doing to reduce China's import tariffs on garlic and agricultural products?

Answer. In our WTO accession negotiations with China we have been pressing the Chinese to lower their tariffs, eliminate non-tariff trade barriers and abide by the rules and general principles of the WTO. China has taken some actions to reduce barriers. As of October 1, China's applied tariff rate for garlic was reduced to 13 percent. In our ongoing WTO market access talks, we will continue to seek lower rates and reductions in the VAT for garlic. The Administration is making it clear to the Chinese that significant market access for U.S. agricultural exports is a condition for China's accession to the WTO.

Question. In the past, the U.S. has treated nations such as Poland, Romania and Hungary as non-market economies in dumping cases once they agreed to join the World Trade Organization's predecessor organization, the General Agreement on Tariffs and Trade. I understand that the People's Republic of China has so far asked that it be treated as a market economy in dumping cases. That would be inappropri-

ate. What, given China's restrictive market access, is your office doing to ensure that China is treated as a non-market economy for the purposes of our unfair trade laws?

Answer. We agree that we must ensure that the United States is able to continue to apply its non-market economy (NME) methodology in antidumping investigations of imports from China. While this issue is as yet unresolved, U.S. negotiators have made it clear to China that its accession protocol must include language that permits continued use of NME methodology. Other WTO members that have used antidumping laws on China's exports in the past support the U.S. position on this matter.

Chairman CRANE. Well, we thank you very much for your testimony. I now want to notify everyone that the Subcommittee will stand in recess until 1:15.

[Recess.]

Chairman CRANE. The Subcommittee will now reconvene. Our next witness is Julius Katz, president of Hills & Co. Please proceed, Mr. Katz.

Mr. KATZ. Thank you, Mr. Chairman. Let me say that Bill Frenzel, who was to be here with me, couldn't return this afternoon and asked me to give his regrets. He also wished to be associated with my statement. He has his own statement for the record.

Chairman CRANE. His statement will be included as well. Thank you.

[The prepared statement of Mr. Frenzel follows:]

Bill Frenzel
Guest Scholar
Brookings Institution

Committee on Ways and Means, Subcommittee on Trade, Chairman Philip Crane, Oversight Hearing on the Future of U.S. - China Trade Relations and the Possible Accession of China to the World Trade Organization, Nov. 4, 1997

Mr. Chairman:

Thank you for allowing me testify today. It is always a pleasure to be in this magnificent hearing room in such distinguished company. I must begin with the usual caveat that the written and oral expressions are my own and do not represent the ideas or positions of the.Brookings Institution.

The People's Republic of China was shunned by our Government until the Nixon-Kissinger breakthroughs of the early 1970s. Driven by national security considerations, government to government contacts were built very carefully, but very slowly. Even in that quickly thawing climate, it was not until 1980 that the Ways and Means Committee was urged by the President to go to China to determine whether it might be willing to vote for "Most Favored Nation" trading Status for China.

The Committee visited China, sensed the change, and the opportunity, and returned to recommend a normal trading relationship between the U.S. and China. There were sceptics then as there are now. Many Members of Congress wanted to go slow in dealing with a government of which we had been extremely suspicious for more than 3 decades. Despite this caution, MFN status was soon granted.

In the intervening years trade has grown swiftly. Imports have risen faster than exports. American companies value their business relationships in China, and most are optimistic about the future. American consumers and manufacturers value the price and quality of Chinese goods.

But our "normalized" trading with China is not normal. Annual renewal requirements for MFN wreck havoc with government relationships when must be carefully rebuilt each year. And only the hardiest business risk takers dare to make major investments when MFN depends on a handful Congressional voters willing to sustain a veto of a Resolution of Disapproval each year.

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The Jackson-Vanik Amendment of 1974 was a worthwhile demonstration of U.S. values. I voted for it. All it lacked was a sunset provision so Congress could decide whether to extend it, or how to improve it from time to time. In my judgement, it has long since, at least since the USSR was dissolved, lost its usefulness, if not its value, but it has remained untouchable. Like most unilateral trade sanctions, it has not not forced sovereign nations to change their conduct, and, often, the sanctionor seems to pay a heavier cost that the sanctionee.

For those who are reluctant to repeal Jackson-Vanik but want to solve the China trade problem in ways consistent with U.S. interests, Congressmen Bereuter and Ewing have offered their China Market Access Act (HR 1712). This Subcommittee has already heard the sponsors, one of them the distinguished Chairman of the Asia Subcommittee of what I used to call the Foreign Affairs Committee, describe their bill.

They intend to provide a way for the U.S. to manage the entry of China into the WTO on conditions acceptable to the U.S. and to China. They believe, and so do I, that their Bill would allow the U.S. to manage the situation, over the short as well as the long term. And it could do without the very disruptive penalties of Jackson-Vanik threatening the entire U.S.-China relationship. No one can guarantee that China will act as we wish it would, but we know it has not been afraid to defy Jackson-Vanik.

China has been waiting in line for WTO (GATT) admission for more than ten years. The U.S. has not been willing to support China's membership until it is sure China is ready, in terms of economic organization and international deportment, to accept the full obligations of WTO participation. The U.S. position has been appropriate, but it is unreasonable to expect we can just say no forever.

U.S. influence on the China accession question with the other Contracting Parties of the WTO, will likely begin to wane as China's economy changes and the Contracting Parties' appetite for China trade increases. Without negotiating authority, the waning phase will occur sooner than later. If so, the U.S. will not be able to exercise its customary leadership in the WTO. At some point China may be admitted to the WTO without necessary and desirable changes in its economy and its conduct. The U.S. needs more flexibility to make the best arrangements at the best time it can. HR 1712 makes it more likely that we can do so..

It is time for the U.S. to decide what it expects of China, and lay out its expectations to China before our influence wanes. I believe that HR 1712 is one good way to proceed. There are undoubtedly other ways to do so, but The Bereuter-Ewing Bill is a thoughtful approach which deserves the consideration of this Subcommittee.

Again, thank you, Mr. Chairman, for holding this important hearing.

STATEMENT OF JULIUS L. KATZ, PRESIDENT, HILLS & CO.

Mr. KATZ. Thank you, Mr. Chairman. Thank you for inviting me to appear before the Subcommittee to discuss H.R. 1712, a bill to encourage China to join the World Trade Organization, to remove China from the provisions of the Jackson-Vanik Act, and to provide a more effective remedy to the problem of inadequate market access in China.

There is much in this bill to commend. First, by encouraging the entry of China into the World Trade Organization, it recognizes the

growing importance of China as a major trading nation. As such, it should be a full member of the WTO, as soon as it is able to commit itself to the obligations required of WTO members.

Second, the bill recognizes the importance of assuring China that as a WTO member, it will be accorded permanent most-favored-nation treatment. This would relieve United States negotiators of the inconsistent position they find themselves in: Insisting that China commit itself to the obligations of the WTO—the first principle of which is nondiscrimination, as embodied in article I of the GATT—while at the same time insisting that under current United States law, the United States could not commit itself to apply these same WTO obligations to China. By removing the MFN issue from the accession negotiations with China, the credibility of the United States is significantly enhanced and its bargaining position improved.

Another important advantage of extending permanent MFN treatment is that it will end the annual spring threat to deny such treatment to China. Some view this annual event as a charade, since the threat has so far turned out to be empty. Empty threats are poor policy tools. But we should not assume that the exercise is without cost. It puts U.S. firms at a competitive disadvantage and casts the United States as a less than dependable trading partner; as such, it acts as an obstacle to U.S. exports.

The third major feature of the bill, the snapback provision, seeks to provide a more credible instrument than the nuclear-like MFN weapon to assure the ability of United States firms to compete on an equitable basis in the Chinese market. Unlike the threat to deny MFN treatment, which is usually aimed at a number of nontrade issues with China, the snapback provision is directly related to our trade interests. Sensibly, this provision can be activated only if China is not a member of the WTO. As a member of the WTO, China would be subject to the dispute settlement mechanism, which has proven to be a highly effective instrument for enforcing obligations of member countries.

In short, Mr. Chairman, I believe that the basic thrust of the bill is desirable and worthy of support. I would, however, call attention to several provisions which warrant particular consideration. These relate to the time restraints and certain operative provisions of the bill.

Under section III of the bill, the President is required to determine within 180 days of its enactment whether China is taking adequate steps or making significant proposals to become a WTO member and, if not, whether it is according adequate trade benefits to the United States. Failing an affirmative determination, the President is required to proclaim an increase in the duty rate on one or more products imported from China up to the rate that applied on December 31, 1994, that is, the date on which reductions of duty resulting from the Uruguay round began to take effect.

As I noted at the beginning of my statement, China should be in the WTO. There would be important advantages to having China in the WTO, subject to the rules and disciplines of the world trading system. It would benefit our relations with China in general and our trade interests in particular to be able to bring any trade disputes to the multilateral forum of the WTO.

Negotiations to bring China into the WTO have been underway for several years now, and while considerable progress has been achieved in persuading China to bring down its tariffs dramatically—to 10 percent according to a very recent report—a number of very important unresolved issues remain. These include such subjects as nontariff barriers, services, and the critical issue of "national treatment," which would assure that United States firms are treated the same in the Chinese market as Chinese firms.

The failure to resolve these issues thus far is not, in my view, the result of a lack of effort or of unreasonableness on the part of either China or the United States and other WTO members. Neither is the problem altogether ideological. The problem, I believe, is the complexity of trying to make the Chinese economic system—now dominated by bloated, inefficient state-owned enterprises—compatible with the requirements of the WTO.

To put a time constraint on the negotiations could have the unfortunate result of putting as much pressure to achieve agreement on the United States negotiators as on the Chinese. It is more important, I believe, to get the agreement right than to compromise important principles in order to conclude an agreement by a date certain.

Another provision that needs careful examination is the requirement that the President determine whether "China is according adequate trade benefits to the United States, including equal competitive opportunities." I am concerned that, on the one hand, if taken literally, the threshold is so high as to be incapable of being met. If, on the other hand, the phrase "equal competitive opportunities" is interpreted somewhat loosely, it may have little effective meaning.

In conclusion, Mr. Chairman, let me say that the sponsors of the bill have put forward a thoughtful and constructive approach to the issue of trade with China. Thank you, Mr. Chairman.

[The prepared statement follows:]

Statement of Julius L. Katz, President, Hills & Co.

Mr. Chairman: Thank you for inviting me to appear before the Committee to discuss H.R. 1712, a bill to encourage China to join the World Trade Organization, to remove China from the provisions of the Jackson-Vanik Act, and to provide a more effective remedy to address the problem of inadequate market access in China.

There is much in this bill to commend. First, by seeking to encourage the entry of China into the World Trade Organization, it recognizes the growing importance of China as a major trading nation. As such, it should be a full member of the WTO, as soon as it is able to commit itself to the obligations required of members of the organization.

Second, the bill recognizes the importance of assuring that as a WTO member, China should expect that it will be accorded permanent most-favored-nation treatment. This would relieve U.S. negotiators of the inconsistent position they find themselves in of insisting that China commit itself to the obligations of the WTO, the first principle of which is non-discrimination, embodied in Article I of the GATT, while at the same time insisting that under current U.S. law, the United States could not commit itself to apply these same WTO obligations to China. By removing the MFN issue from the accession negotiations with China, the credibility of the United States is significantly enhanced and its bargaining position improved.

Another important advantage of extending permanent MFN treatment is that it will end the annual Spring rite of the threat to deny such treatment to China. Some view this annual event as a charade, since the threat has, so far, always turned out to be empty. Empty threats are poor policy tools. But, we should not assume that the exercise is without cost. It puts U.S. firms at a competitive disadvantage and

casts the United States as a less-than-dependable trading partner. As such, it acts as an obstacle to U.S. exports.

The third major feature of the bill, the snap-back provision, seeks to provide a more credible instrument than the nuclear-like MFN weapon to assure the ability of U.S. firms to compete on an equitable basis in the Chinese market. Unlike the threat to deny MFN treatment, which is usually aimed at a number of non-trade issues with China, the snap-back provision is directly related to our trade interests. Sensibly, this provision can be activated only if China is not a member of the WTO. As a member of the WTO, China would be subject to the dispute settlement mechanism, which has proven to be a highly effective instrument for the enforcement of member-country obligations.

In short, Mr. Chairman, I believe that the basic thrust of the bill is desirable and worthy of support. I would, however, call attention to several provisions which warrant particular consideration. These relate to the time restraints and certain operative provisions of the bill.

Under section 3 of the bill, the President is required to determine, within 180 days of its enactment whether China is taking adequate steps or making significant proposals to become a WTO member, and, if not, whether it is according adequate trade benefits to the United States. Failing an affirmative determination, the President is required to proclaim an increase in the rate of duty on one or more products imported from China, up to the rate that applied on December 31, 1994, that is, the date on which reductions of duty resulting from the Uruguay Round began to take effect.

As I noted at the beginning of my statement, China should be in the WTO. There would be important advantages to having China in the WTO, where it would be subject to the rules and disciplines of the world trading system. There would be benefits to our relations with China generally and our trade interests in particular to be able to bring any trade disputes to the multilateral forum of the WTO.

Negotiations to bring China into the WTO have been underway for several years now, and while considerable progress has been achieved in persuading China to bring down its tariffs dramatically, to 10 percent according to a very recent report, there remain a number of very important unresolved issues. These issues include such subjects as non-tariff barriers, services, and the critical issue of "national treatment," which would assure that U.S. firms are treated the same in the Chinese market as Chinese firms.

The failure to resolve these issues thus far is not, in my view, the result of lack of effort or of unreasonableness on the part of either China or of the United States and other WTO members. Neither is the problem altogether ideological. The problem, I believe, is the complexity for political, social, and economic reasons of trying to make the Chinese economic system, dominated by bloated, inefficient state-owned enterprises, compatible with the requirements of the WTO.

To put a time constraint on the negotiations could have the unfortunate result of putting as much pressure on the U.S. negotiators as on the Chinese to compromise important principles to achieve agreement. It is more important, I believe, to get the agreement T3right than to conclude an agreement by a date certain.

Another provision that needs careful examination is the requirement that the President determine whether "China is according adequate trade benefits to the United States, including equal competitive opportunities." I am concerned that, on the one hand, the threshold, if taken literally, is so high as to be incapable of being met. If, on the other hand, the phrase "equal competitive opportunities" is interpreted somewhat loosely, it may have little effective meaning.

In conclusion, Mr. Chairman, let me say that the sponsors of the bill have put forward a thoughtful and constructive approach to the issue of trade with China.

Chairman CRANE. Thank you, Mr. Katz.

Mr. Katz, would membership in the WTO provide China with gains and incentives sufficient to justify incurring the costs of domestic restructuring that would be required if it removed its trade barriers?

Mr. KATZ. Well, I think it would, although it is an arguable question in China apparently. I think there are some comrades who take the opposite position that it's not worth doing. But overall, I think it would be important to those in China who want to reform

the economy. It would provide an anchor to those reforms. It would also give them an assurance of benefits in the United States and other markets of the world. So I think the advantages certainly outweigh the disadvantages for China.

Chairman CRANE. This is a repetitive question, but since the Province of Hong Kong has a free trade relationship with the rest of mainland China now, and since Hong Kong is a member of WTO, isn't China, effectively speaking, a member of the WTO?

Mr. KATZ. I don't think so. Hong Kong has a special customs status. It is a special customs territory and is a member of the WTO in that capacity. It has been since the beginning of the GATT. Countries may have free trade arrangements with other countries, but that doesn't give the partner country any rights. So I don't think that having Hong Kong be a member solves China's problem.

Chairman CRANE. Well, except to the extent that as I said, in effect they have a free trade relationship with all the other Provinces. Can't they simply route goods back and forth through Hong Kong?

Mr. KATZ. Well, they have a free trade relationship, but they don't have a common market. There is no common market between Hong Kong and China. It's a somewhat special situation.

Chairman CRANE. Why is it in the best interest of the United States to have China in the WTO in your estimation?

Mr. KATZ. I'm sorry?

Chairman CRANE. Why is it in the best interest of the United States to have China become a member of the WTO?

Mr. KATZ. Well, as I said in my statement, because it would subject China to the norms, the rules, the obligations of the world trading system. I think it would be desirable for that reason. China is a very large trading country and should be subject to the disciplines of the WTO. For somewhat similar reasons to the answer I gave a moment ago as to what China's interests would be. It would also be in our interest to have whatever reforms have taken place in China anchored in an international agreement, particularly a multilateral instrument.

Chairman CRANE. Why is it in China's interest to join the WTO?

Mr. KATZ. Well, again, because I think they get the assurances of consistent and permanent treatment in the markets of the member countries, the United States included. For internal political reasons, I think it is a way of reinforcing the pressure to reform their economy, which I think ultimately they are going to have to do.

Chairman CRANE. But would you not agree that there could be some staggering restructuring costs within China?

Mr. KATZ. Absolutely. That is the greatest obstacle I see at the moment. The Chinese economy is still dominated by these very large, inefficient state-owned enterprises into which the social safety net of the country is embedded. They are being supported by a banking system which is also inefficient and probably largely insolvent. I mean the firms are insolvent and they are being bailed out by a banking system which, under normal circumstances, would be insolvent. I think the Chinese leadership understands and is determined to reform that system but how to do it, and over what period of time, is the question.

Chairman CRANE. That time question is a valid one because I'm sure that restructuring costs would have to be absorbed by the National Government over there. It would be for their long-term benefit, after going through that initial transition, but there would be some political consequences of that. In your estimation, do you think the people in power in China right now are prepared to make that kind of a painful transition?

Mr. KATZ. I think in principle they are. I think as a matter of policy they have pretty much made that decision. But precisely how to carry it out, what the transition should be, and how they deal with the interim problems that would arise in terms of surplus labor, employment, housing, medical care, education, Social Security—all of those elements are embedded in these huge enterprises. How to unwind that system is a formidable task, but I think they are committed to doing it.

Chairman CRANE. Do you have any views on the possible consequences of permitting Taiwan WTO accession before the mainland if the mainland continues to drag its feet?

Mr. KATZ. Well, I think—obviously, the mainland Chinese would be very upset about that. But what they would do as a practical matter I don't know. I assume it's something they would get over after a while. I don't see them as the problem so much as I think other WTO members would probably be reluctant to take on that risk. I mean, I think the People's Republic would get over it after a while. I think the People's Republic of China is moving inexorably to do what they have to do to become a member of the WTO, but I wouldn't care to put that in a timeframe of months. So I think both of these entities should be and will ultimately be in the WTO.

Chairman CRANE. I want to express appreciation to you and apologize to you, Mr. Katz, for our interruption. But we had a bill over on the floor; our Subcommittee brought up on CBI, the Caribbean Basin Initiative, parity and that's why we had to break. I am sorry we missed Bill Frenzel's testimony, but it will be a part of the record, as will yours. Thank you so much for coming today.

Mr. KATZ. Thank you, Mr. Chairman.

Chairman CRANE. We will now move onto the next panel which will begin with Wingate Lloyd, director of international relations for ITT Industries, here on behalf of the U.S. Chamber of Commerce. Then James Whittaker, manager of international public policy for Hewlett-Packard on behalf of the American Electronics Association; George Scalise, president of the Semiconductor Industry Association; and Cal Cohen, president of the Emergency Committee for American Trade.

If you will please now proceed in the order that I called you.

STATEMENT OF WINGATE LLOYD, DIRECTOR, INTERNATIONAL RELATIONS, ITT INDUSTRIES; ON BEHALF OF U.S. CHAMBER OF COMMERCE

Mr. LLOYD. Thank you, Mr. Chairman, for allowing me to testify before your Subcommittee today. I am Wingate Lloyd, director of International Relations for ITT Industries, a global diversified technology and manufacturing company.

Today I am appearing on behalf of the U.S. Chamber of Commerce. I am an active member of the Chamber's International Policy Committee and also serve as the chairman of the WTO Working Group. The Chamber is the world's largest business federation, with an underlying membership of more than 3 million businesses and organizations. I appreciate this opportunity to present the Chamber's views on trade relations with China and on China's accession to the WTO.

The U.S. Chamber of Commerce is committed to building support for full normalization of the United States-China commercial relationship. The U.S. Chamber supports permanent and unconditional extension of MFN trading status for China, China's entry into the WTO under commercially viable terms, and the removal of unilateral economic sanctions. It is the U.S. Chamber's policy to build a solid commercial foundation for our relationship with China which will encourage cooperation in the full range of issues impacting our bilateral relationship, from security and nonproliferation to human rights.

Healthy United States-China trade relations are highly important to our national interest. Looking ahead, the World Bank estimates that China will have $750 billion in infrastructure needs over the next decade. United States companies are very competitive in this area of high priority for China.

The U.S. Chamber believes a good World Trade Organization accession deal with China is critical. What are the components of a good deal? China must show commitment to WTO principles and offer measures that will ensure United States access to China's growing market in agriculture, goods, and services. Only after China takes these steps should the United States support China's accession to the WTO.

China's bid to join the WTO represents an important opportunity. The commitments made by China in the accession negotiations will demonstrate China's willingness to integrate itself into the world trading system.

Mr. Chairman, China is a source of great potential for many United States firms, including my own. All three elements of ITT Industries operate in China: Our Fluid Technology Co. produces pumps. Our defense and electronics unit makes connectors for mobile telephones and other purposes. Our automotive joint ventures in the Shanghai area produce brake systems, wiper systems, and other devices. We and our joint venture partners have invested over $100 million in China in the last 5 years, and expect to expand our presence.

Last June, the Chamber of Commerce released the results of a nationwide survey of small business trade and investment with China. The survey showed that small business has a major stake in United States-China trade, and that United States companies of all sizes struggle with inconsistent rules and regulations; a lack of transparency; unclear division of authority between National, Provincial, and local officials; and difficulties in enforcing contracts. Both small and large business would benefit from a commercially viable WTO Agreement.

However, China must make commitments. China's market should be open to foreign goods and services. Currently, foreign

companies that have not invested in China are not allowed to import, export, distribute, or sell directly into the Chinese market. Beyond providing basic trading rights, China should continue to make progress on tariff reduction and intellectual property protection.

There are critically important commitments that China must undertake before the U.S. Chamber can support its accession to the WTO. China should bring its trading regime into conformance with WTO Agreements and disciplines. China should extend national treatment to foreign companies that invest in China. It should extend MFN trade status to all WTO signatories who extend such treatment to China.

The ongoing China WTO negotiations have quickened over the past year. But as can be clearly seen, more needs to be done. In conclusion, we believe that China will require some latitude from making the transition to a market economy, but USTR must insist that China adhere to basic WTO obligations. We should recognize that expanding our commercial ties with China is vital to America's future and that the terms of China's WTO accession must expand market access for United States companies, strengthen China's commitment to the rule of law, and require China to play by the rules of international trade and investment. Accepting less would mean lost opportunities for United States firms for decades to come. Thank you.

[The prepared statement follows:]

Statement of Wingate Lloyd, Director, International Relations, ITT Industries; on Behalf of U.S. Chamber of Commerce

Thank you, Mr. Chairman, for allowing me to testify before this Subcommittee on Trade. I am Wingate Lloyd, Director of International Relations for ITT Industries, a global diversified technology and manufacturing company. We employ about 60,000 people worldwide, with sales of $8.4 billion. Today I am appearing on behalf of the U.S. Chamber of Commerce. I am an active member of the U.S. Chamber's International Policy Committee and its Asia Task Force, and also serve as Chairman of its WTO Working Group. The U.S. Chamber is the world's largest business federation with an underlying membership of more than three million businesses and organizations of every size, sector, and region. I appreciate this opportunity to present the U.S. Chamber's views on trade relations with China and on the issue of China's accession to the World Trade Organization (WTO).

The U.S. Chamber of Commerce is committed to building support for full normalization of the U.S.-China commercial relationship. The U.S. Chamber supports permanent and unconditional extension of Most Favored Nation (MFN) trading status for China, China's entry into the World Trade Organization under commercially viable terms, and the removal of unilateral economic sanctions on China. It is the U.S. Chamber's policy to build a solid commercial foundation for our relationship with China, which will encourage cooperation on the full range of issues impacting our bilateral relationship, from security and nonproliferation to human rights.

Healthy U.S.-China trade relations are highly important to our national interest. China has the world's third largest economy. In 1996, the United States exported approximately $12 billion in goods and services to China. These exports support tens of thousands of high-wage American jobs. China is the sixth largest market for American agricultural products. Looking ahead, the World Bank estimates that China will have $750 billion in infrastructure needs over the next decade. U.S. companies are very competitive in this area of high priority to China. China will increase in importance for those members of the U.S. Chamber that export high technology equipment, such as aerospace, telecommunications, and petroleum technology, as well as agricultural products and consumer goods.

WTO ACCESSION FOR CHINA: MUST BE A GOOD DEAL

If we are to capitalize fully on China's enormous market opportunities, the U.S. Chamber believes a good World Trade Organization accession deal with China is critical. What are the components of a good deal? China must show a commitment to core WTO principles, including national treatment, non-discrimination, reciprocal market access, transparency, protection of intellectual property rights, binding dispute settlement, trading rights, judicial review, and adherence to state-trading and subsidy disciplines. China must also offer measures that will ensure U.S. access to China's growing market in agriculture, goods, and services. Only after China takes these steps should the U.S. support China's accession to the WTO.

Just last week, Chinese President Jiang Zemin visited the United States for the first summit with a U.S. President in more than a decade. It was a historic opportunity to move our bilateral relationship forward. Strengthening commercial ties was highlighted. Both Chinese and U.S. leaders recognize that China's entry into the WTO will be critical to improving our trade relations. Achieving that end, however, requires action by China.

China's bid to join the WTO represents an important opportunity to apply internationally accepted multilateral disciplines to one of the world's fastest growing economies. The commitments made by China in the WTO accession negotiations will demonstrate China's willingness to integrate itself into the world's trading system, and to open its markets to foreign goods and services.

Mr. Chairman, China is a source of great potential for many U.S. firms, including my own. All three elements of ITT Industries, one of the companies created by the division of the old ITT Corporation in 1995, operate in China. Our Fluid Technology company produces pumps both in Shenyang and in Luhe near Nanjing. Our Defense and Electronics unit makes connectors for mobile telephones and other purposes in Zhenjiang near Nanjing. Two of our Automotive joint ventures in the Shanghai area produce brake systems, wiper systems, electrical switches, small motors and other devices for automobiles manufactured in China. We and our joint venture partners have invested over $100 million in China in the last five years, and expect to expand our presence. We look forward to working with our Chinese partners, customers, suppliers, and employees in joint efforts towards growth and prosperity in the years ahead.

It is not only large U.S. companies like ITT Industries that will benefit from a more open approach by China to international trade and investment. When the U.S. Chamber testified before this subcommittee in June, we released the results of a nationwide survey of small business trade and investment with China. That survey showed that small business has a major stake in U.S.-China trade, and that trade with China is not the exclusive province of large multinational companies. Currently, U.S. companies of all sizes struggle in China with inconsistent rules and regulations, a lack of transparency, unclear divisions of authority among national, provincial, and local officials, and difficulties in enforcing contracts. High tariffs and various import restrictions and licensing requirements are also significant barriers for businesses. Clearly both small and larger businesses would benefit from a commercially viable WTO agreement.

American companies must be given the chance to compete and win in China. We cannot afford to miss out on the great potential represented by the enormous China market. That is why the U.S. Chamber fully supports China's accession to the WTO, but only in a manner consistent with its status as a major trading power and with full adherence to the market principles assumed of all WTO signatories.

A GOOD CHINA WTO DEAL WOULD HELP ADDRESS THE U.S.-CHINA TRADE DEFICIT

China's trade surplus with the U.S. is second only to that of Japan and is growing at a faster rate. There are a number of reasons for the trade imbalance. First, many of the products we used to import from Southeast Asian countries now come instead from China, as manufacturing facilities have moved into southern China to take advantage of lower costs. Second, a strong U.S. economy is drawing in more imports of Chinese goods. Third, certain U.S. government policies have prevented U.S. firms from competing effectively in the Chinese market. The Overseas Private Investment Corporation and the U.S. Trade and Development Agency, for example, cannot do business in China. Other policies prohibit U.S. firms from exporting certain high technology products to China, including civilian nuclear reactors. At last week's summit, President Clinton said he planned to certify that China has met the congressional conditions set in the 1985 agreement on U.S.-China nuclear cooperation. That could pave the way for U.S. firms to gain access to China's vast power market.

COMMITMENTS CHINA MUST MAKE

Yet while there are steps the U.S. can take, there are also actions that China can and should take to address the trade imbalance. China's markets should be open to foreign goods and services. Currently, foreign companies that have not invested in China are not allowed to import, export, distribute, or sell directly into the Chinese market. They must trade through authorized trading companies. Beyond providing basic trading rights, China should continue to make progress on tariff reduction and intellectual property protection. In addition to these measures, there are a number of critically important commitments China must make before the U.S. Chamber can support China's accession into the WTO. These include China's commitment to:

- bring its trading regime into conformance with WTO Agreements and Disciplines;
- extend national treatment on all goods and services to foreign companies that want to invest in China;
- extend MFN trade status to all WTO signatories who extend such treatment to China;
- sign the WTO Government Procurement Code;
- provide market access for textiles and agricultural products, putting aside standards and certification requirements as barriers to trade;
- reduce export subsidies;
- liberalize access to its foreign exchange system for foreign exporters and investors; and
- apply the provisions of the WTO uniformly throughout China.

The ongoing China WTO negotiations have quickened over the last year. China's leadership has indicated a willingness to take steps to open its markets. Effective October 1, China cut import tariffs from 23 percent to an average of 17 percent on nearly three-quarters of the goods on which tariffs are imposed. China has also offered to shorten the period for phasing out quotas and licensing arrangements for some industrial products. However, more concrete steps are necessary to build confidence that a WTO deal is within reach.

China will require some latitude in making the transition to a market economy, but USTR must insist that China adhere to basic WTO obligations. We are concerned that China has shown a reluctance to engage in serious negotiations on fundamental issues such as transparency and uniform application of trade rules. Trade and industrial policies, certification, registration, and licensing procedures should be published so U.S. firms can make informed business decisions. We strongly believe that China must make these commitments prior to receiving membership in the WTO.

The integrity of the WTO system is at stake. Final WTO accession terms for China will doubtless be used as a benchmark for accession negotiations for Russia, Vietnam and other economies that are still in difficult transitions from centrally planned to market economies. Each of these countries, including China, will be tempted to reverse market reforms in the face of political or economic uncertainties that are virtually certain to occur in the process of market transition. As a consequence, we believe that the terms of WTO accession should be defined carefully to ensure that reforms in international trade policies are secure from threats to the reform process.

CONCLUSION

In conclusion, Mr. Chairman, we should recognize that expansion of our commercial ties with China is vital to America's future. The terms of China's WTO accession must expand market access for U.S. companies, strengthen China's commitment to the rule of law, and require China to play by the rules of international trade and investment. Accepting less would mean lost opportunities for U.S. firms for decades to come. Mr. Chairman, I would be pleased to respond to any questions.

Chairman CRANE. Thank you, Mr. Lloyd. Let me remind you that your written statements will all be made a part of the permanent record.

With that, our next witness is Mr. Whittaker.

STATEMENT OF JAMES F. WHITTAKER, MANAGER, INTERNATIONAL PUBLIC POLICY, HEWLETT-PACKARD CO.; ON BEHALF OF AMERICAN ELECTRONICS ASSOCIATION AND CHINA WTO HIGH-TECH COALITION

Mr. WHITTAKER. Thank you, Mr. Chairman. I am pleased to be here on behalf of the American Electronics Association, and the China WTO High-Tech Coalition to present our views on China's accession to the World Trade Organization. The AEA, American Electronics Association, represents more than 3,000 member companies across the spectrum of electronics and information companies, from semiconductors and software to computers and telecommunications systems. In addition to the AEA, the High-Tech Coalition includes the Business Software Alliance, the Electronic Industries Association, the Information Technology Industry Council, the Semiconductor Industry Association, Software Publishers Association, Telecommunications Industry Association, and the United States Information Technology Office.

Before I turn to the WTO negotiations, allow me to put the American high technology industry in perspective. The United States high-tech industry is the single largest manufacturing industry in the United States, with 1.9 million workers. When computer and communication services are included, the industry employs 4.2 million workers. These are high skill, high-wage jobs with average wages 73 percent higher than the average private sector wage. The industry represents 6.2 percent of the U.S. GDP, gross domestic product, with $150 billion in exports.

Now allow me to quickly frame the Chinese market and its enormous growth potential. While today it's only one-tenth the size of the U.S. market, in the future the picture will change dramatically. The IT, information technology, sector's estimated growth rate will range from 20 to 40 percent annually over the next 15 years. The computer market is currently estimated at nearly $7 billion, growing to $22.5 billion by the year 2000. The telecommunications market is estimated to be $7.5 billion with the Ministry of Post and Telecommunications to invest $42 billion between now and the year 2000. Obviously China's electronics market provides United States producers with significant opportunities.

There are several fundamental principles which guide AEA's trade policy toward China. We believe that a strong United States-China relationship is vital to the future of the global trading system. We believe that China's accession to the WTO is critical, but it must be done on viable commercial terms, which I will discuss in a moment. Finally, United States economic leadership and job creation will depend on continued expansion of our trade with Asia in general, and with China in particular since China plays an increasingly important role in the Asian-Pacific region.

Let me now turn to what AEA and the coalition mean by commercially viable terms. The terms referred to are a package of market access commitments and WTO core obligations that China must undertake to ensure meaningful integration into the global trading system I would like to review several of the key issues.

During President Jiang's visit last week, he announced that China would join the ITA, Information Technology Agreement. In our view, this represents a significant move on the part of China,

and indicates that China is serious about negotiations to enter the WTO. Further, it represents China's own recognition of the value to its own economy from participating in the ITA. Currently, China's average tariff rate is roughly 23 percent. In the IT sector, tariffs range between 6 and 35 percent. Clearly, eliminating the tariffs will increase United States exports and prompt further competitive development of China's IT and electronics market. We would urge China to adopt a rapid schedule to phase out its duties as close to the year 2000 as possible.

China's decision to join the ITA, while a significant and welcomed step, is just one part of a package of needed market access commitments. A key element to this package is adoption of the WTO core obligations, including national treatment, transparency, and consistent uniform enforcement. These obligations are fundamental to membership in the WTO, and it is essential that China adopt them not only in letter, but in spirit. As basic elements of WTO membership, AEA and the coalition believe these obligations should take effect immediately upon accession.

Regarding distribution rights, these provide companies with the ability to distribute their imports freely throughout China. These rights are essential but different from trading rights, which allow firms the right to import and export. China has agreed to grant trading rights to foreign firms, but has not yet agreed to grant distribution rights. Consequently, trading rights must be linked to distribution rights to achieve meaningful market access.

Regarding tariffs, there are other high-tech goods not currently covered by the ITA agreement that require dramatic reduction or elimination of duties. For example, tariff rates on medical electronics and scientific equipment are as high as 28 percent. We would encourage China to join the WTO Agreement on zero-for-zero tariffs on medical equipment.

Regarding industrial policies and technology transfer, the Chinese Government has targeted the electronics industry as a so-called pillar industry, which means that it views the development of this industry is key to its national economic development. One way that China can pursue this objective is to insist that foreign firms invest in China and share that technology through joint ventures. The implied message is that such transfers are required to gain market access to China's rapidly growing markets.

While such technology transfers are not spelled out in Chinese law, the Government's practice is to persuade foreign firms to transfer technology for market share. The approval authorities generally look for some technology transfer in training commitments before approving a company's request. The USTR is aware of this important issue; we encourage them to continue to pursue all available options in the WTO to discourage the practices.

On telecommunications and information infrastructure, China currently restricts full participation in competition and basic telecommunications services. In this era of global communications, it is essential that China adopt a competitive model in telecommunications by adopting the terms and procompetitive regulatory principles of the General Agreement on Basic Telecommunications within the WTO.

On intellectual property protection, China should adhere to and enforce all WTO intellectual property rules. While progress has been made under the United States-China bilateral IPR, intellectual property rights, agreements and China has moved to adopt the TRIPs, trade related intellectual property agreement, China must continue to enforce its rules and those of the WTO.

With respect to state-owned enterprises, we point out that they currently represent almost 40 percent of China's GDP. Consequently, they control a significant share of domestic and international trade in electronics goods in China.

The Government has made the difficult but essential decision to allow nonprofitable firms to either be purchased by profitmaking ones or to go out of business. Importantly, China has targeted 39 electronic state-owned enterprises as the best companies and key partners for foreign investors. It is necessary that the WTO negotiations include affirmative obligations to ensure that China's state-owned enterprises make purchases and sales on the basis of commercial considerations and under competitive processes.

Mr. Chairman, the high-tech industry is working closely with the U.S. Trade Representative, who we believe will do an excellent job in a tough, complex, and critical set of negotiations to ensure that China's membership is obtained with the necessary reforms and obligations. We look forward to continuing our work with the USTR and with this Subcommittee to ensure this outcome. Thank you, Mr. Chairman.

[The prepared statement and attachments follow:]

Statement of James F. Whittaker, Manager, International Public Policy, Hewlett-Packard Co.; on Behalf of American Electronics Association and the China WTO High-Tech Coalition

Thank you, Mr. Chairman. I am pleased to be here on behalf of the American Electronics Association and the China WTO High-Tech Coalition to present our views on China's Accession to the World Trade Organization.

The American Electronics Association represents more than 3,000 member companies across the spectrum of electronics and information companies—from semiconductors and software to computers and telecommunication systems. As the largest high-tech trade association in the U.S., AEA represents American high-tech companies nationally through 17 council offices and globally through our offices in Tokyo, Brussels and Beijing.

In addition to AEA, the High-tech Coalition includes the:

- Business Software Alliance (BSA);
- Electronics Industries Association (EIA);
- Information Technology Industry Council (ITI);
- Semiconductor Industry Association (SIA);
- Software Publishers Association (SPA);
- Telecommunications Industry Association (TIA); and,
- United States Information Technology Office (USITO), the Beijing representative office of AEA, SIA, SPA and TIA.

Before I turn to the WTO negotiations, allow me to put the American high tech industry in perspective. The U.S. high-tech industry is the single largest manufacturing industry in the U.S., with 1.9 million workers. When computer and communications services are included, the industry employs 4.2 million workers. These are high-skill, high-wage jobs, wigh-tech wage of $49,586, which is 73% higher than the average private sector wage of $28,582. This industry represents 6.2 percent of the U.S. GDP, with total sales of $866 billion and $150 billion in exports, making high-tech the single largest merchandise export industry.

Now allow me to frame the Chinese electronics market enormous growth potential. While today it is only one-tenth the size of the U.S. electronics market, this picture will change dramatically over the next 15 years. The Information Technology (IT) sectors' estimated growth rates range from 20% to 40% annually over the next 15 years. The computer market is currently estimated to be $6.8 billion, growing

to $22.5 billion by the year 2000. The telecommunications market is estimated to be $7.5 billion, with the Ministry of Posts and Telecommunications (MPT) investing $42 billion between now and the year 2000. As the data indicate, China's electronics market provides U.S. producers with significant opportunity.

There are several fundamental principles which guide AEA's trade policy toward China. We believe that:

• A strong U.S.-China relationship is vital to the future of the global trading system;

• China's accession to the World Trade Organization is critical, but it must be done on viable commercial terms, which I will discuss in just a moment; and finally,

• U.S. economic leadership and job creation will depend on continued expansion of trade with Asia in general and with China, in particular, since China plays an increasingly important role in the Asia-Pacific regional economy.

Let me now turn to what AEA and the Coalition mean by commercially viable terms. The terms referred to are simply a package of market access commitments and core obligations that China must undertake to ensure meaningful integration into the global trading system. I will review eight of the key issues.

THE INFORMATION TECHNOLOGY AGREEMENT

During President Jiang's visit last week he announced that China would join the Informationement (ITA). The ITA is a WTO agreement among 42 countries to eliminate all duties on information technology equipment. In our view this represents a significant commitment on the part of China and indicates that China is serious about negotiations to enter the WTO. Further, it represents China's recognition of the value to its own economy when participating in international agreements. Currently, China's average tariff rate is roughly 23 percent. In the IT sector, tariffs range between 6 to 35 percent. Clearly, the elimination of these tariffs will increase U.S. exports and prompt further competitive development of China's IT and electronics market. We now urge China to adopt a rapid schedule to phase out its duties as close to the year 2000 as possible. This will ensure the greatest economic benefit from the agreement. China's decision to join the ITA, while a significant and welcome step, is just one part of a package of needed market access commitments.

CORE OBLIGATIONS

The first component of the WTO accession talks are the core obligations. These obligations include national treatment, transparency and consistent uniform enforcement. These are fundamental to membership in the WTO and it is essential that China adopt them not only in letter but spirit. As fundamental elements of WTO membership, AEA and the Coalition believe these obligations should have limited, if any, transition periods.

DISTRIBUTION RIGHTS

Distribution rights provide companies with the ability to distribute their imports freely throughout China. These rights are essential but different from trading rights which allow firms the right to import and export. China has agreed to grant trading rights to foreign firms, but has not yet agreed to grant distribution rights. Consequently, trading rights must be linked to distribution rights to achieve meaningful market access. The U.S. high-tech industry views this as a key element of market access measures to be undertaken by the Chinese.

TARIFF REDUCTIONS

In addition to adopting the ITA and phasing out tariffs on these products, there are other high-tech goods not currently covered by the ITA that require dramatic reduction or elimination of duties. For example, tariff rates on medical electronics and scientific equipment are as high as 28 percent. In fact, we would encourage China to join the WTO agreement on zero-for-zero tariffs on medical equipment agreed to during the Uruguay Round. These and other rates should also be dramatically reduced or eliminated in order to increase U.S. exports and enhance the competitive growth of China's market.

DEVELOPMENT OF INDUSTRIAL POLICIES AND FORCED TECHNOLOGY TRANSFER

The Chinese government has targeted the electronics industry as a so-called Pillar industry, which means that it views the development of this industry as key to its national economic development. One way that China can do this is to insist that foreign firms invest in China and share their technology through joint ventures. The

implied message is that such transfers are required to gain increased access to China's rapidly growing markets. Many AEA companies have expressed concern about what is commonly referred to as, "market share for technology transfer." While such technology transfer requirements are not spelled out in Chinese law, the government's practice is to persuade foreign firm to transfer technology for market share. The approval authorities—government agencies that must approve foreign investment, including joint ventures and partnership—generally look for some technology transfer and training commitments before approving a company's request. The USTR is aware of this important issue and we encourage them to continue to pursue all available options in the WTO include the Trade-Related Investment Measures (TRIMs) and other investment related negotiations in order to discourage these practices.

TELECOMMUNICATIONS AND INFORMATION INFRASTRUCTURE

As Henry Schacht, CEO, Lucent Technologies, said last week to China's President Jiang, "weed communication can go a long way toward improving the lives of people throughout the world." China currently restricts full participation and competition in basic telecommunications services. Further, China maintains severe limits on content and transmission of data over the Internet. In this era of global communications, it is essential that China adopt a competitive model in telecommunications by adopting the terms and pro-competitive regulatory principles of the General Agreement on Basic Telecommunications within the WTO. Competition in the communications sector will serve many mutual goals of both the U.S. and China.

INTELLECTUAL PROPERTY PROTECTION (IPR)

China should adhere to and enforce all WTO intellectual property rules. As China's own industries develop and the market becomes more competitive, it will be increasingly important to them to protect their intellectual property rights. While progress has been made under the 1995 U.S.-China IPR agreement, China must continue to enforce its rules and those of the WTO. Further, a strong intellectual property regime is essential to encourage foreign trade and investment.

STATE-OWNED ENTERPRISE

State-owned enterprises currently represent almost 40 percent of China's GDP. Consequently, these enterprises control a significant share of domestic and international trade in electronics goods in China. China is in the process of reforming this sector by privatizing these firms. The government has made a difficult but, in its view, essential decision to allow non-profitable firms to either be purchased by profit-making firms or to go out of business. Importantly, China has targeted 39 electronics state-owned enterprises as the best companies and key partners for foreign investors. It is necessary that the WTO negotiations include affirmative obligations to ensure that China's state-owned enterprises (including partially state-owned and recently privatized enterprises) make purchases and sales on the basis of commercial considerations ative processes.

Mr. Chairman, the high-tech industry is working closely with the United States Trade Representative. USTR is doing an excellent job in what will be a tough, complex and critical set of negotiations as they work to ensure that China's membership is obtained following the necessary reforms and obligations. We look forward to continuing our work with USTR and this committee to ensure this outcome.

Attached for the record is China market information from the soon-to-be-released AEA publication CyberNation, the position paper of the China WTO High-Tech Coalition and a list of the 39 state-owned enterprises China has targeted for the High-Tech industry.

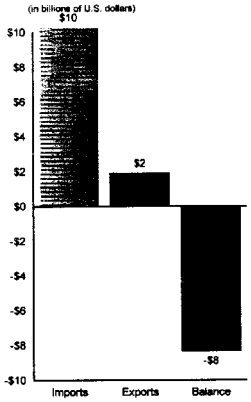
Thank you.

China

1996 Key Statistics

Total U.S. High-Tech Merchandise Exports to China	$1.9 billion
Total U.S. High-Tech Merchandise Imports from China	$10.3 billion
Total High-Tech Merchandise Trade Balance with China	-$8.4 billion
Total Chinese GDP (1995)	$3.5 trillion
Total Chinese Population	1.2 billion

U.S. High-Tech Merchandise Trade with China

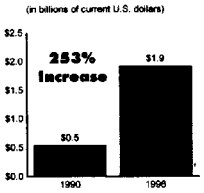


The U.S. high-tech trade deficit with China is the fifth largest.

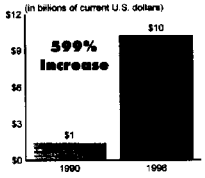
China Is the Fourteenth Largest High-Tech Merchandise Export Market for the United States

Growth

U.S. High-Tech Exports to China 1990 - 1996

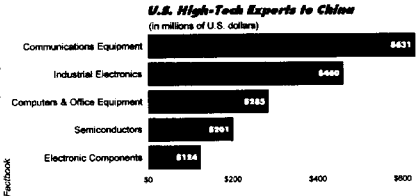


U.S. High-Tech Imports from China 1990 - 1996

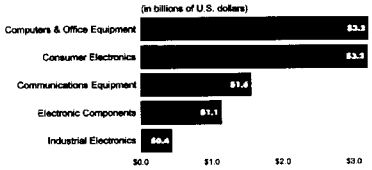


Leading High-Tech Industry Segments

U.S. High-Tech Exports to China



U.S. High-Tech Imports from China



Source: U.S. Bureau of the Census as compiled by Global Trade Information Services
CIA *World Factbook*

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AEA

U.S. High-Tech Industry Coalition on China's WTO Accession Protocol

· American Electronics Association · Business Software Alliance ·
· Electronics Industries Association · Information Technology Industry Council ·
· Semiconductor Industry Association · Software Publishers Association ·
· Telecommunications Industry Association · United States Information Technology Office ·

POSITION PAPER

China's electronics market has enormous growth potential. While today it is only one-tenth the size of the U.S. electronics market, this picture will change dramatically over the next 15 years. For instance, the size of China's personal computer market is projected to double in five years and equal the size of the U.S. market by 2010. China's telecommunications, computers and semiconductor market are experiencing tremendous growth rates, with many of these sectors' estimated growth rates ranging from 20% to 40% annually over the next 15 years. In fact, in the area of semiconductors, China could potentially become the world's second largest semiconductor market by 2010. Similarly, the analytical instruments market in China is experiencing a healthy annual growth rate of about 15%, with significant opportunities in environmental, industrial and energy applications.

China was the United States' fourteenth largest high-tech export market in 1996, with electronics exports of almost $2 billion, more than triple our exports in 1990. Nonetheless, our statistics.on U.S. electronics trade with China underscore the fact that major barriers remain to foreign participation in China's expanding electronics market. Despite the growth in U.S. exports to China, electronics imports from China increased by nearly 600% from 1990. In 1996, the U.S. high-tech trade deficit with China was the fifth largest at $8.4 billion.

In its internal political and economic dialogue, China has indicated that the electronics industry is a "pillar" industry, which means that China views this industry as important to its national economic development.

Among the many current WTO-inconsistent barriers to expanded U.S. trade with China, the Coalition believes that the following should receive priority attention in the WTO accession discussions with the Chinese government and should be included in the accession protocol. Emphasis should be placed on obtaining a comprehensive agreement, addressing not only tariff barriers but also broad array of market access issues. The Coalition appreciates the opportunity to outline the issues most critical to the United States high-technology industry below.

Transition Periods

China should be encouraged to adhere fully to the core obligations of the WTO - such as national treatment, nondiscrimination, transparency, and consistent, uniform enforcement - immediately upon accession. Any transition period(s), *only where absolutely necessary and appropriate*, should be limited to reasonably short time frames -- preferably measured by months, not years.

The focus should be on the actual outcome and conformance to the accession protocol.

Trading Rights

China has reportedly agreed to grant foreign firms trading rights -- the ability to import and export. Until this agreement is implemented, China remains unique among the major trading nations by greatly restricting the ability of domestic and foreign firms to import finished products, to sell directly to the domestic market, and to distribute freely within the internal market. China also restricts imports by foreign-owned companies of spare parts and components to service and repair finished products. Unless they engage in local manufacturing, foreign companies are required to sell through Chinese trading agents who charge a transaction fee equal to about 1-3% of the contract value. Generally, these agents provide no value-added so that their transaction fee represents an additional business tax.

The ban against foreign firms operating their own service centers presents another serious barrier to trade. Even U.S. companies manufacturing in China lack the clear legal right to import and sell directly both finished goods and spare parts needed to service their products there. The right to provide direct service is essential to control quality and ensure the authenticity of the spare parts being delivered. Indeed, in other important overseas markets, U.S. firms increasingly are using quality service as a strategic weapon against foreign competitors to win customers and grow market share.

Distribution Rights

Equally important as trading rights but treated separately in the WTO negotiations, is the right to distribute goods and services. Currently under China's rules and regulations companies are prohibited from distributing their own goods and services and must use Government-authorized distributor and/or trading companies. It is essential that foreign companies be able to choose their own forms of distribution and that they have full rights and opportunities to distribute to directly or indirectly to customers. This must be seen as a key element along with trading rights and the right to after sales service. This trio provides the ability of companies to conduct business completely and fully.

Tariffs and Taxes

In addition to the transaction "tax" referenced earlier (see trading rights section), foreign-manufactured electronics products are subject to steep Chinese tariffs that significantly inhibit foreign exports to China. Current duty rates range from about 6-35%. A hefty value-added tax (VAT) of 17% further adds to the cost of foreign-made goods, making them less attractive to Chinese consumers. This situation weakens another strategic advantage usually enjoyed by many U.S. electronics companies as low cost producers.

China should be required to adopt the Information Technology Agreement (ITA) as part of its accession protocol to the WTO. The benefits of the ITA are clear, as the ITA eliminates most tariffs on IT products by the year 2000. The agreement expands trade in products such as computers, telecommunications, semiconductors, software, semiconductor manufacturing equipment and computer-based analytical instruments. It affects $500 billion in global IT trade,

including $80-100 billion in U.S. exports alone. Tens of billions of dollars per year that are spent on import tariffs will now be dedicated to productive uses.

In addition, tariffs should be dramatically reduced or eliminated on a variety of other information technology products, including but not restricted to: medical electronics, microphones, copiers and audio frequency electronic amplifiers.

Non-Tariff Measures

China subjects electronics imports to a system of quotas and tendering which can be a barrier to trade. Products covered by quota administration are those whose import are deemed by the Chinese authorities to inhibit domestic industry development. By contrast, products exempt from quotas are either those which China has already started to produce, or those which have already been imported but for which domestic production is still in its infancy and development needs to be accelerated. Such products are imported primarily by so-called tendering. The State Office of Import and Export of Electrical and Mechanical Goods issues import certificates that indicate under which of these two categories a product may enter the country.

National Treatment

China's foreign investment laws all contain clauses stating that, when conditions are the same, preference should be given to purchasing within China rather than from overseas (e.g., Article 57 of the Equity Joint Venture Law Implementing Regulations). A recent decision by the State Council urges government departments and institutions to give preference to purchasing "science and technology" products using "Chinese intellectual property." China should be required to adopt immediately the core obligation of national treatment.

Transparency

Most of China's rules, laws, standards and regulations are not developed within internationally-accepted rules of judicial process. Further, participation and/or comments on rules and regulations by affected parties are not provided for or encouraged. Additionally, many of these rules and regulations are not published or if they are published the actual practice is not consistent with the published rule. Finally, many rules, laws, standards, regulations and other requirements vary and often conflict between national and provincial governments. Such an opaque and multifarious system does not lend itself to fair and equal trading rules. Immediately upon accession, if not sooner, China should be required to adhere to this important and core obligation of the WTO.

State-Owned Enterprises

State-owned enterprises control a significant share of domestic and international trade in electronics goods in China. Because state-owned enterprises include both consumers and producers of electronics products, these enterprises have the ability to significantly burden or restrict sales of U.S. electronics products in China of they do not make purchases and sales on the basis of commercial considerations. Therefore, the protocol of accession should include affirmative obligations on the part of China to ensure that its state-owned enterprises (including

partially state-owned and recently privatized enterprises that were formerly state-owned) make purchases and sales on the basis of commercial considerations and afford the enterprises of other WTO Members adequate opportunity to compete for sales to state-owned enterprises. In addition, the special Working Party administering the transitional review mechanism should be directed to review on a regular basis whether state-owned enterprises are in fact making purchases and sale consistent with these obligations. Finally, the protocol should also explicitly provide that WTO Members may continue to apply non-market economy antidumping procedures with respect to goods of Chinese origin.

Government Procurement

Despite its commitment under the 1992 MOU to publish all laws and regulations affecting imports and exports, some regulations and a large number of directives have traditionally been unpublished (for internal use) , and there is no publicly available national procurement code in China. Only one tendering organization, the National Tendering Center for Machinery and Electrical Equipment, has published a tendering guide, which is brief and vague. Since the tone for a competitive environment is often set by the Government, it is essential that China adopt an open, competitive, non-discriminatory and transparent government procurement procedures.

Intellectual Property Rights (TRIPS)

Although some progress has been made in the past year due to the enforcement of the 1995 IPR Agreement and the negotiation of the 1996 IPR Accord, China's rapid economic growth requires further commitments and assurances that IP protection is adequately extended and enforced. Immediately upon its accession to the WTO, China should become a full signatory to the TRIPs Agreement without a transition period.

Trade-Related Investment Measures (TRIMS)

A variety of trade-related investment measures present barriers to foreign investment in China. As part of the proposed Electronic Industrial Policy, some ministries, such as the Ministry of Electronics, apparently intend to impose export, equity cap, and other requirements which are not explicitly written into the published policy. Among the unwritten policies reportedly being considered are the prohibition of majority ownership of joint ventures (JV) to manufacture electronics and a requirement that the JV export as a percentage of its total production commensurate with the equity percentage in the JV held by the foreign investor.

Export Requirements: Foreign investors who want to engage in domestic manufacturing often are subject to export performance requirements. Under Chinese law, export requirements are mentioned in connection with obtaining certain tax benefits and in the Wholly-Owned Enterprise Law which mandates that WOFEs either adopt advanced technology, or export at least 50% of total annual production. However, import in China or export requirements usually must also be specified as a target in a foreign investor's original feasibility study, as approved by the government authorities. These targets are then treated as commitments and spelled out either in the investment contract, or in the approval document. Even when a particular percentage of exports has not been specified, foreign investors often must agree to a volume target or some export indication in order to win project approval by the State Planning Commission (SPC) and

contract approval from the Ministry of Foreign Trade and Economic Cooperation (MOFTEC). Exceptions typically are confined to companies in non-sensitive sectors with sales below $30 million. However, these ventures are small enough to be approved locally rather than by the central government.

Export requirements may not be contained in the new national industrial policies currently being drafted. Nevertheless, the industrial ministries are likely to continue to enforce them anyway. The Electronics Ministry reportedly plans to specify a 100% export requirement for WOFEs, 70% for 70%-owned foreign-invested enterprises (FIEs), etc. Some flexibility will be allowed, depending upon the level of technology transferred or other benefits conferred by the foreign investor.

Local Content: Localization goals typically are set forth in the feasibility studies required of foreign ventures by state planning agencies. Also, for products manufactured in China, local content levels below 40% content level, triggering inspection and other requirements applicable to imports, thus denying national treatment for such products.

Technology Transfer Requirements: Such requirements are not spelled out in Chinese law. However, the government's practice is to require technology transfer for market share. The approval authorities (SPC, MOFTEC, etc.) generally look for some tech transfer and training commitments. There do not appear to be any formal enforcement mechanisms other than to deny certification as a "technologically advanced enterprise," which entitles FIEs to certain tax benefits. However, foreign companies may be encouraged to accept tech transfer commitments as quid-pro-quos for other government approvals or benefits.

Royalty income is capped, normally at 5%. This limit is not imposed by law or regulation but through the negotiation and approval process. The net effect is to deny foreign investors from recouping R&D costs and discourage the continual transfer of updated technologies.

Equity Caps on Foreign Investment: These caps are not mandated by Chinese law, but have been adopted as a matter of policy by several industrial ministries. In particular, the Ministry of Electronics trends to disfavor majority foreign ownership. However, under China's Equity Joint Venture Law, a minimum of 25% is set for foreign equity, which, in theory, can rise to as high as 99.9%. At 100% the entity becomes a WOFE. China should be required to refrain from imposing and/or enforcing equity caps which discourage foreign investors.

Production Limits: In some cases FIEs are subject to production limits. Usually the feasibility study contains estimates of annual production, and FIEs must file an annual production plan with the authorities. However, production limits are not widely applied except for planning purposes. They must be reported to the Customs Agency with tracks imports. These limits may then be used by the state authorities to establish import quotas and related import requirements.

Foreign Exchange Balancing: Under existing investment laws, FIEs must balance foreign exchange (forex), but this requirement is not being enforced by the State Administration of Exchange Control (SAEC). This situation tends to create uncertainty and exposes foreign firms to potential allegations of violating contractual commitments. Especially in view of China's huge forex reserves and its transition to current account convertibility at the end of 1996, the forex balancing requirement should be repealed to reflect current practice.

Product Inspection and Quality Standards

On October 1, 1996, the State Administration of Import and Export Commodity Inspection (SACI) of China implemented mandatory third party safety licensing requirements. Products covered in 1996 include VCRs, personal computers, visual display units, printers, audio equipment, and switching power suppliers. On October 1, 1997, an additional 18 products were covered by these requirements, including telecommunications terminal equipment, security technology protection commodities and medical diagnostic X-ray equipment as well as other medical electronic equipment. Though this regime is not necessarily inconsistent with WTO rules governing technical barriers (it applies equally to domestic and foreign manufacturers), the regime can serve as a market impediment due to its lack of transparency.

Telecommunications and Information Infrastructure

China currently restricts full participation and competition in basic telecommunications services. Further, China maintains severe limits on content and transmission of data over the Internet. In this era of global communications, it is essential that China commit to move towards a competitive model in telecommunications by adopting the terms and pro-competitive regulatory principles of the General Agreement on Basic Telecommunications of the WTO.

Electronics Industry Policy

The Coalition has been closely monitoring the development of China's Electronics Industrial Policy, under review by the State Council for the past year. Even though China has indicated that it will not include any WTO-inconsistent provisions in its official industrial policies, certain Ministries have indicated that they intend to impose their requirements and implement their own policies. As outlined above, some ministries, such as the Ministry of Electronics, apparently intend to impose export, equity cap, and other requirements which are not expressly written into the published policy. Among the unwritten policies reportedly being considered are the prohibition of majority ownership of joint ventures (JV) to manufacture electronics and a requirement that the JV export as a percentage of its total production commensurate with the equity percentage in the JV held by the foreign investor.

Conclusion

In conclusion, China should be pressed to expeditiously bring its laws and *practices* impacting high technology trade into compliance with WTO rules. It is essential that the world trading community ensure a level playing field to enable all trading nations to prosper in the future. The promotion of free trade principles is not only in the interests of the United States, but also to the benefit of China's development as well. We appreciate the opportunity to offer these comments and stand ready to provide any additional assistance which you may require as the negotiations proceed.

U.S. High-Tech Industry Coalition on China's WTO Accession Protocol

· American Electronics Association · Business Software Alliance ·
· Electronics Industries Association · Information Technology Industry Council ·
· Semiconductor Industry Association · Software Publishers Association ·
· Telecommunications Industry Association · United States Information Technology Office ·

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The List of 39 State-Owned Enterprises

Shanghai Beilin Microelectronic Manufacture Ltd.
Shanghai Yonngxin Color TV Tube Ltd.
Shanghai Vacuum Electronic Devices Ltd.
Shanghai Guangdian Group, Ltd.
Shanghai Bell Telephone Device Manufacture Ltd.
Shanghai Telecomm Devices Ltd.
China Great Wall Computer Group, Ltd.
Tianjin Jinjin Boke Ltd.
Dailian Daixian Ltd.
State-run Beijing Wired Telecommunication Company
Northern Fangzheng Group
Xiamen Overseas Chinese Electronic Enterprise, Ltd.
Nanjing Electronic Meshes Ltd.
Guangzhou Wireless Group, Ltd.
Julong Communication Device Ltd.
Guangdong Fenghua High-Tech Group
Chengdu Houngguang Company, Ltd.
Anyang Color TV Tube Company, Ltd.
Kongjia Electronics Group, Ltd.
Shengzhen Zhongxin Communication Devices Ltd.
Zhongguo Huajing Electronics Group
T C L Group
Shengzhen Huaqiang Group
Shengzhen Sangda Electronics Group
Hongzhou Communication Company, Ltd.
Shengzhen Special Economic Zone Company, Ltd.
Lianxiang Group
Shijiazhuang Baoshi Electronics Group
Changlin Group, Ltd
Guangdong Color TV Tube Company, Ltd.
Nanjing Panda Electronics Group
Qingdao Haixin Electronic Devices Group
Wave Electronic Information Industry Group
Yantai Dongfang Electronic Information Industry Group
Rainbow Electronics Group
Shengzhen Saige Group
Shengzhen Science and Technology Company, Ltd.
Luoyang Telephone Equipment Manufacture, Ministry of Post and Telecommunication
Changhong Machinery Company, Ltd.

Chairman CRANE. Thank you, Mr. Whittaker.

Mr. Scalise.

STATEMENT OF GEORGE SCALISE, PRESIDENT, SEMICONDUCTOR INDUSTRY ASSOCIATION

Mr. SCALISE. Thank you, Mr. Chairman. I want to thank you for the opportunity to present the SIA's, Semiconductor Industry Association, views on China's accession to the WTO. We do support China's accession to the organization but, as has been said so many times, only on a commercial basis. I would like to set out the conditions that we think would be appropriate to satisfy that requirement.

First, let me talk just a little bit about the semiconductor industry. It employs about 260,000 Americans. It is the underlying enabling technology for the $400 billion electronics industry. As Mr. Whittaker said, that industry employs about 4.2 million Americans. Roughly half of our sales are exported. Worldwide, it's a $139 billion industry today. By the year 2000, it will be about a $230 billion industry, growing at 17 percent compounded. Fortunately, the U.S. segment of that industry has about a 50 percent market share today. We want to maintain that. Therefore, open markets are critical to maintaining that 50 percent market share.

The Chinese semiconductor market today is estimated to be about $8 million. About 20 percent of that demand is being satisfied from domestic Chinese production. The rest of the market is being met by imports from companies from around the world, in particular, the United States. We believe that the Chinese market could be the second largest segment of the world market by the year 2010. Therefore, it is important that we become a major player in that market as time goes on.

Last week China announced that it would join the Information Technology Agreement. That was a major step forward as far as we are concerned; we are pleased to see that. Chinese tariffs on semiconductors are currently in the 6- to 12-percent range. On the equipment that is used to make semiconductors, tariffs are about 35 percent. Elimination of these duties will certainly increase United States exports and promote the development of a competitive electronics market in China, and will obviously enhance consumer opportunities in China as well. So a critical next step is to reach an agreement on the phaseout schedule of these tariffs that remain. The quicker the phaseout, the better.

Beyond tariffs, there are five key issues that must be resolved in order for China to join the WTO on a commercially sound basis. First, foreign firms must be granted distribution rights, as Mr. Whittaker talked about just a few minutes ago, and on the conditions that he has outlined.

Second, Chinese state-invested enterprises must be obligated to purchase solely on commercial terms. While China is in the process of reforming its state sector by privatizing many of its firms, it's also building up a select group of national champions in the electronics sector. These state firms include both semiconductor producers and users. To ensure that the other market access commitments made by China are not undermined, the Chinese Government should commit not to pressure its state-owned enterprises or

its state-invested enterprises to favor Chinese-made goods over foreign goods.

Third, with respect to forced technology transfer, the Chinese Government is seeking to develop its domestic chip industry by persuading foreign firms to invest in China and share their technology with Chinese firms through joint ventures and other partnership arrangements. In return, it is suggested that increased market access will be available to those firms willing to provide this technology transfer. Discouraging such practices must be a primary objective of our negotiators. The reality is that China will obtain more advanced technology, and its industry will develop more quickly, if foreign firms are allowed to transfer technology through the development of regular business relationships rather than as a result of Government pressure.

Fourth, with regard to intellectual property protection, it is essential that China not only agree to all WTO intellectual property rules, but that it actively enforce these rules. Again, the point that should be made is that it is in China's interest to ensure full and effective protection of intellectual property rights, as this will encourage the high-tech foreign investment it seeks to develop its economy.

Finally, with respect to trade remedies, the SIA, Semiconductor Industry Association, believes it is important that China's accession to the WTO in no way undermine the ability of the United States to enforce its antidumping law against Chinese goods. China's protocol of accession should reaffirm the ability of the U.S. Government to apply nonmarket economy rules in antidumping cases involving China.

Mr. Chairman, USTR is working very hard to ensure that China obtain membership in the WTO, but only after making these essential reforms. We support continuing that approach. Thank you.

[The prepared statement follows:]

Statement of George Scalise, President, Semiconductor Industry Association

I appreciate the opportunity to appear before the Subcommittee on Trade of the Committee on Ways and Means to present the views of the Semiconductor Industry Association (SIA) on the future of U.S.-China relations and the accession of China to the World Trade Organization (WTO).

Before discussing the SIA's position on these important issues, I would like to take a minute to give some background on the U.S. semiconductor industry.

THE U.S. SEMICONDUCTOR INDUSTRY

Semiconductors are an increasingly pervasive aspect of everyday life, enabling the creation of the information superhighway and the functioning of everything from automobiles to modern defense systems.

U.S. semiconductor makers employ 260,000 people nationwide. The presence of the industry is widespread—17 states have 1,000 or more chip workers within their borders. Semiconductor products are the enabling technology behind the nearly $400 billion U.S. electronics industry, which provides employment for 2.5 million Americans.

The U.S. semiconductor industry is currently the world market share leader, with 1996 world sales reaching $60 billion, representing almost 46 percent of the $132 billion world market. Moreover, the world semiconductor market is expected to increase by over 75 percent in the next three years, with projected sales totaling over $232 billion by the year 2000.

U.S. semiconductor producers are highly committed to maintaining their lead in both semiconductor manufacturing and technology. The U.S. semiconductor industry

devotes on average 20 percent of its revenues to capital spending and another 11 percent to research and development—among the highest of any U.S. industry.

While investing heavily in the industry's future competitiveness and technological capabilities, SIA members also have always actively sought to secure foreign market access for U.S. products. Because the semiconductor industry is so global in nature—roughly half of the U.S. industry's revenues are derived from overseas sales—the SIA has been dedicated since its inception to promoting free trade and opening world markets.

For example, the U.S. industry has been in the forefront of efforts to eliminate tariffs on semiconductors and related products worldwide. At SIA's urging, the United States, Japan and Canada eliminated their semiconductor tariffs in the mid-1980s. Earlier this year, another 39 countries agreed to eliminate their semiconductor tariffs through the proposed Information Technology Agreement (ITA), and just last week, at the Clinton-Jiang summit, China agreed to also join the ITA.

Given China's potential to become the largest single market for semiconductors in the world within a few decades, the SIA believes it is essential that the United States ensure that China accede to the WTO on a commercially sound basis.

SEMICONDUCTORS IN CHINA

U.S. semiconductor firms are making substantial commitments to expand their market presence in the People's Republic of China. At the same time, China is seeking to foster its own electronics industry, with a particular emphasis on microelectronics, and is rapidly moving to integrate its economy more fully into the world trading system. As part of this process, the Chinese Government and its electronics industry are inviting closer contacts with the U.S. semiconductor industry, and significant opportunities and challenges have already become evident. In response to these developments, the SIA determined several years ago that an examination was needed of the issues confronting the U.S. semiconductor industry as a result of its growing presence in China and China's emergence as a major trading power with a rapidly emerging electronics sector.

The result was an SIA study on China released in February 1995 entitled "Semiconductors in China: Defining American Interests." SIA intended the study to be a contribution to the information base necessary to support a constructive dialogue on issues of mutual interest and concern as commercial and technological ties grow between the U.S. and Chinese industries. SIA has updated this information through a series of annual trips, which have allowed the industry both to foster a better understanding of the Chinese market and to explain to Chinese officials U.S. semiconductor concerns regarding China's trade and economic regime. The following information is based on our most recent visit to China in September 1997.

While statistical data on Chinese semiconductor demand and output are limited, the market currently is estimated to be over $8 billion and it is growing at a rapid rate. Since 1985, the average growth rate in semiconductor demand in China has been about 24 percent per year. A number of observers believe that in light of China's growing domestic demand for electronics products, China will become the world's second largest semiconductor market by 2010.

Presently local production can only supply about 20 percent of China's semiconductor needs, and these represent primarily low-end devices used in consumer electronics products like refrigerators, washing machines, radios, and televisions. Virtually all sophisticated semiconductors needed by Chinese electronics firms must be imported, a pattern that will not change significantly over the short run. This continuing shortfall creates a major commercial opportunity for U.S. producers.

At the same time, the Chinese Government, through its Ministry of Electronics Industry, is undertaking a significant effort to develop a competitive domestic Chinese semiconductor industry. While most semiconductor technology in China is currently at the 1–2 micron level, the Chinese Government is undertaking a number of projects designed to obtain cutting edge manufacturing technology at the 0.35–0.50 micron level, which would allow the Chinese industry to compete with the U.S. industry and other key world semiconductor producers.

The focus of this Chinese Government plan to develop its own industry is an effort to persuade foreign firms to invest in China and share their technology with Chinese firms through joint ventures and other partnership arrangements. In return, suggestions are made that increased market access may be made available to those firms willing to transfer technology. Reform of such practices must be at the heart of any agreement to admit China to the WTO.

THE INFORMATION TECHNOLOGY AGREEMENT

SIA commends the announcement last week by China that it would join the ITA as soon as possible and thereby eliminate its tariffs on semiconductors, semiconductor manufacturing equipment and related information technology products. This announcement is a critical step forward toward China's accession to the WTO on commercially viable terms.

China currently imposes tariffs of 6–12 percent on semiconductors. Chinese tariffs tend to be higher on low-end semiconductors which China can make domestically, and lower on complex devices which must be imported. Elimination of these tariffs will spur development of a competitive microelectronics industry in China, as it has in other nations. It will allow U.S. producers to sell advanced semiconductors to their Chinese customers at the lowest possible price, thereby both increasing U.S. exports and strengthening the developing Chinese electronics industry.

A related benefit of China signing onto the ITA will be the elimination of the very high tariffs—up to 35 percent—recently reimposed by China on semiconductor manufacturing equipment and other capital equipment imported into China. At the end of December 1995, China's State Council announced that as part of a series of major reforms in its import tax regime it would eliminate previously existing tariff and value added tax (VAT) exemptions for imports of capital equipment for foreign enterprises, effective April 1, 1996. Until this change, foreign-owned companies in China and Sino-foreign joint ventures did not have to pay a VAT or duty on capital equipment imports. Currently these companies must pay an import duty plus a VAT of 17 percent assessed on the value of the equipment plus the customs duty. Given that tariffs on capital equipment continue to be relatively high, this combination had significantly raised the cost of capital imports into China.

POLICY ISSUES RELATING TO CHINA'S ACCESSION TO THE WTO

The SIA supports China's bid to join the WTO, but only if that accession is accomplished on a commercially sound basis. In this regard, the SIA has a number of concerns with regard to trade and investment in China, including: (1) China's trade regime, especially its limitations on trading and distribution rights; (2) purchasing practices of China's state-invested enterprises; (3) investment restrictions in China, including those related to government pressure to transfer technology; (4) intellectual property protection; (5) Chinese targeting of particular sectors, including microelectronics in general and the semiconductor industry in particular; and (6) the U.S. ability to apply the non-market economy provisions of U.S. antidumping law to China. These particular concerns are described in detail below.

1. China's trade regime needs restructuring and does not currently conform to WTO requirements.

China's foreign trade regime is a complex system with many anomalies which restrict the operations of U.S. firms in China:

• *Trading rights.* "Trading rights" (e.g., the ability to import and export from China), are limited to certain designated enterprises, including certain foreign-invested firms, which can trade products they manufacture in China. U.S. firms doing business in China that lack such rights must conduct their business through firms that hold such privileges. Moreover, a foreign company generally cannot directly sell or service end products, spare parts or components not made in China. These limitations are significant impediments to U.S. semiconductor firms' ability to access the Chinese market, and, if not eliminated, may undermine the benefit of other trade liberalization measures agreed to by China. SIA is encouraged by reports that China has committed in the WTO accession negotiations to provide trading rights to all Chinese firms within 3 years of its accession to the WTO, and urges that it move as quickly as possible to provide such trading rights to all firms, without discrimination on the basis of nationality.

• *Distribution rights.* Equally important as the right to import is the right to distribute goods within China. The current system forces U.S. producers to sell through Chinese distributors, adding at least an additional 10 percent in costs and adversely affecting service, inventory, and delivery. This critical issue remains to be negotiated in the context of China's commitments to provide market access and national treatment for foreign service providers.T

• *Transparency.* China's trade regime continues to lack transparency. Rules and procedures are not consistently published, and are subject to varying "interpretations" by individual officials. China should commit to publishing fully all relevant laws, regulations and decisions relating to trade and investment. SIA also believes that China should move to a system of advance notice and publication for comment of all laws and regulations affecting trade and investment, as well as to establish

a system to obtain official interpretations of legislation once it is published (through judicial decisions that are published and authoritative administrative statements).

2. China's accession to the WTO must include a guarantee that state-invested enterprises will make purchases based on commercial considerations.

Enterprises wholly or partially owned by the Chinese central, provincial or local governments (state-invested enterprises) continue to make up a significant portion of the Chinese economy. However, many of these enterprises are inefficient and burdened with costly social responsibilities unrelated to their core businesses. As a result, the state-sector of the Chinese economy is under increasing pressure. Half of China's state industrial enterprises incurred net losses last year, and profits of state-sector companies have fallen from 6 percent of GDP in the early 1980s to less than 1 percent in 1996.

Reform of the state sector is therefore at the top of the agenda for China's leaders. President Jiang Zemin has put forward a plan to "manage the large and let go the small," pursuant to which the state would retain shareholdings only in the largest 1,000 state-invested industrial firms, allowing approximately 117,000 smaller remaining firms to be merged, taken over by private investors, or dissolved.

This proposed reform plan has significant implications for the electronics sector, given its designation as one of four "pillar industries"—industries the Chinese Government has targeted as essential to the nation's economic future. State-invested enterprises already control a significant share of the trade in electronics goods into and out of China. For example, the Ministry of Electronics Industry (MEI) controls the China Electronics Corporation (CEC), which in turn owns or controls a significant share of China's electronics industry, including major consumers of semiconductors for consumer electronics and computer production. In addition, MEI last spring announced the formation of Project 909, a joint venture between Shanghai Hua Hong Microelectronics and Japan's NEC to produce state-of-the-art semiconductors in the Pudong New Area outside Shanghai. Hua Hong is a MEI-owned company, and its chairman is Hu Qili, the Minister of MEI.

As a result of the continuing active government role in the electronics sector, there is a significant risk that as Chinese semiconductor production increases both in volume and quality, other state-invested enterprises will be encouraged by Chinese officials to purchase from domestic suppliers. Such discrimination could significantly burden or restrict U.S. semiconductor sales in China in the future.

These risks have been increased by recent reports that, as the Chinese Government moves out of many sectors, it will actually focus more attention on building up a select group of national champions in the electronics industry. Given the development of a potentially strong state-invested electronics sector in China, containing both semiconductor producers and consumers, it is essential that Chinese state-invested enterprises make purchases and sales only on the basis of commercial considerations. Unfortunately, current WTO rules do not effectively cover the purchasing decisions of state-invested commercial enterprises. For example, such enterprises are not covered by the GATT Government Procurement Code because the purchases of the enterprises are for the purpose of manufacturing commercial goods, not for government use.

Given the inadequacy of current WTO rules on this subject and the potential long-term significance of state-invested enterprises in the Chinese electronics sector, the SIA urges that China's protocol of accession to the WTO include affirmative obligations on the part of the Chinese Government to:

(1) ensure that its state-invested enterprises (including partially state-invested and recently privatized enterprises that were formerly state-invested) make purchases on the basis of commercial considerations; and

(2) afford the enterprises of other WTO Members adequate opportunity, in accordance with customary business practices in market economies, to compete for sales to state-invested enterprises.

SIA also believes that the protocol should require the Chinese Government to refrain from taking any measure, including administrative guidance, to influence or direct state-invested enterprises as to the quantity, value, or country of origin of goods purchased or sold, or otherwise impair the purchase or sale of goods. In addition, the WTO should review on a regular basis whether China's state-invested enterprises are in fact making purchases on the basis of commercial considerations. Where a WTO member country believes that the Chinese state-invested enterprises in a particular sector are acting in a manner inconsistent with the above-recommended obligations, it should be able to initiate consultations through the Working Party with China. This special Working Party should remain in place until the Working Party has determined that state-invested enterprises no longer control a significant portion of the Chinese economy or any significant sector.

3. Investment restrictions in China limit U.S. market opportunities and may force U.S. firms to transfer technology to Chinese firms.

While Chinese officials, especially at the local and provincial level, are quite interested in promoting foreign direct investment in China, a number of complex requirements exist for foreign-owned ventures. These rules place a number of restrictions on foreign investment:

• *Ownership restrictions.* 100 percent foreign ownership of manufacturing facilities is permitted in China, but it appears that, under an unpublished policy applicable to the electronics industry, 100 percent of such a facility's output must normally be exported. A 70/30 foreign majority-owned joint venture is generally required under the same policy to export 70 percent of its production, but there are no uniform rules; each arrangement is negotiated on a project-specific basis. For instance, in one case Chinese authorities reportedly removed the export requirement from a contract, provided the U.S. firm agreed instead to reinvest all profits earned from domestic sales.

• *Export targets.* Despite the absence of any explicit legal obligations to meet specific export percentages (except for purposes of obtaining preferential tax treatment or qualifying to establish a wholly foreign-owned enterprise) many U.S. companies have been pressed by the Chinese approval authorities to agree to export targets. While such rules are not always enforced, a company can legally be held accountable for non-compliance at a future date.

• *Local content requirements.* There are localization requirements for parts and materials for products made in China which are not technically legal requirements, yet firms must file localization plans with their foreign investment application. The Chinese Government also audits foreign firms to determine local content. What constitutes local content can be subject to many definitions. For example, importation via a Chinese distributor can qualify a part as "local." Chinese sectoral industrial policies also contain local content requirements.

• *Pressure to transfer technology.* Ownership restrictions, export targets and local content requirements may be imposed not only as strict legal obligations, but also as quid-pro-quos for decisions by government officials at both the national and subnational level. Regardless of their form, these measures are often used as levers to obtain transfer of technology from foreign firms.

Existing WTO rules on Trade-Related Investment Measures (TRIMs) do not adequately discipline these measures. Yet these measures can have a real and significant competitive impact on U.S. electronics firms, as advanced technology is often the key to competitive success. To the extent that China can maintain such measures, U.S. exports in the electronics sector, such as semiconductors, may be restricted. Moreover, such investment restrictions have a negative effect on China, as they discourage the investment necessary to develop a local Chinese electronics industry on a commercially sound basis.

China's protocol of accession to the WTO should therefore include an explicit provision requiring China to refrain from taking any measure which requires a foreign enterprise to invest, enter into any form of joint venture arrangement with a domestic entity or to transfer any technology or intellectual property to a domestic entity, except in accordance with WTO rules. Such a provision must prohibit any measures that force technology transfer—including any which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain any approval or advantage.

4. Intellectual property protection is inadequate.

China has enacted patent, copyright, and trademark laws, but their credibility requires strengthened enforcement. While there has been no piracy of semiconductor intellectual property to date, China's level of technological development does not yet permit it to manufacture advanced U.S. products or misappropriate U.S. chip designs. However, China's capabilities in the semiconductor sector are rapidly advancing. Therefore, the SIA remains very interested in issues relating to intellectual property protection in China and strongly supports the U.S. Trade Representative's efforts over the last few years to negotiate agreements with China to ensure increased enforcement of Chinese patent, copyright and trademark laws.

Of particular concern is the fact that compulsory licensing remains authorized under Chinese patent law whenever "necessitated by the public interest." The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) prohibits the compulsory licensing of semiconductor technology except in certain limited circumstances. China should revise this law to bring it into conformity with the TRIPs Agreement as part of its WTO accession.

Accession to the WTO would also require China to enact specific legislation extending intellectual property protection to semiconductor layout designs (maskworks). During last year's SIA China trip, the SIA was told that a draft semiconductor layout design protection law had been prepared by the Ministry of Electronics Industry and was under review by the Chinese Patent Office. This is a positive development and every effort should be made to encourage the Chinese Government to continue to move forward on this front as expeditiously as possible. The SIA would like the opportunity to review and comment on the draft legislation prior to its enactment and would be willing to assist the U.S. and Chinese Governments in a cooperative effort designed to ensure that this legislation is fully consistent with all TRIPs obligations.

The SIA believes that China's protocol of accession to the WTO should commit China to abide by the obligations of the TRIPs Agreement as a developed country, without any transition period before the obligations are enforceable. This is in China's interest, as it will encourage the high technology foreign investment it seeks to promote the development of its economy.

Earlier this year, China reportedly did agree in the WTO accession negotiations to observe all obligations of the TRIPs Agreement upon its accession to the WTO. This is a welcome development for which the Chinese Government deserves credit. However, it is equally important that China begin taking concrete steps to bring its laws into full conformity with these TRIPs obligations and to ensure full and effective enforcement of these laws throughout China.

5. Targeting of the electronics sector may restrict U.S. market opportunities.

The Chinese Government has designated four "pillar" industries for targeting as essential to the nation's economic future: automobiles, electronics, machinery and petroleum/petrochemicals. Within electronics, emphasis has been put on microelectronics.

There have been repeated reports that China's Ministry of Electronics Industry and its State Planning Commission have drafted an electronics industrial policy to promote development of its domestic industry. However, this policy plan has not been issued publicly. Obtaining information on the current status of the proposed electronics industrial policy remains an SIA priority objective.

While no details are currently available, earlier reports indicated that the electronics industrial policy could proscribe foreign majority ownership of semiconductor firms, establish export performance requirements for Sino-foreign joint ventures, and provide the basis for eventual displacement of foreign semiconductors in China by domestically-made devices. The recent establishment of Project 909, in which a foreign company (NEC of Japan) has been granted a 28.6 percent share in a Sino-foreign joint venture in return for supplying the advanced technology for the venture suggests a continuing Chinese Government focus on development of a domestic semiconductor production capability. MEI has said that this joint venture is just the first step for Project 909, which ultimately envisages the establishment of four or five advanced semiconductor producers in China, with a dozen specialized plants around the country and around 20 design, development and research institutes. The production bases now appearing in China are centered in Beijing, Shanghai, Shenzhen and Wuxi.

Of particular concern to the U.S. semiconductor industry are policies to pressure foreign firms to transfer advanced technology. If such policies were adopted, either explicitly or as a matter of practice in connection with government approval of specific foreign investment projects, the SIA believes that they would restrict market opportunities for U.S. semiconductor firms. They would also prove counterproductive over the long run to China's interests because they would discourage the foreign investment necessary to promote China's technological, economic and market development.

The 1992 U.S.-China Memorandum of Understanding (MOU) on Market Access provides that China will eliminate the use of import substitution policies and measures. A number of the elements outlined above are arguably inconsistent with this commitment. WTO rules also limit China's ability to establish local content requirements. The SIA believes that any future policies governing China's economic development should adhere to the provisions of the 1992 MOU and WTO rules.

In this regard and consistent with the transparency obligations of the WTO, China should also commit to publish any internal policies or administrative guidance relating to its officially published industrial policies. The negotiation of China's accession to the WTO provides the appropriate forum for obtaining commitments by China to make the necessary reforms with respect to its electronics industry policy.

6. The United States must maintain the ability to apply the non-market economy provisions of U.S. antidumping law to Chinese exports.

Chinese trade officials have cited the use of the U.S. antidumping law against Chinese exports as a "trade barrier" they wish to see removed in the WTO accession negotiations. In particular, Chinese officials are seeking to eliminate application of the non-market economy (NME) provisions of the U.S. antidumping law to Chinese exports, on the grounds that China is now a market economy.

U.S. antidumping law currently provides that, in the case of exports to the United States from a non-market economy such as China, the Department of Commerce is to determine the "normal value" of the product under investigation by valuing the non-market economy producer's factors of production in a surrogate market economy country which is a significant producer of comparable merchandise and which is at a level of economic development comparable to the non-market economy. These NME provisions are critical to ensuring a fair comparison of the normal value of goods produced in China with the export price of those goods in the United States. Without such provisions, the Department of Commerce would have to rely on the price charged for the goods in question in China, which, due to the substantial state control in many Chinese electronics firms, may bear little relationship to true market prices or the actual cost of production of semiconductors and other electronics components in China. Without the NME provisions of the antidumping law in effect, Chinese state-invested enterprises could in the future make significant below-cost sales of semiconductors in international trade, adversely affecting both the foreign trade and the domestic economy of the United States.

A provision therefore should be included in China's WTO protocol of accession to permit the United States to continue to apply the NME provisions of the antidumping law to China. The current draft protocol includes proposed text to this effect, but it has not yet been agreed upon.

CONCLUSION

China's semiconductor market represents a major opportunity for the U.S. industry, but there are significant risks and hurdles to be addressed as well, especially with regard to the rapidly growing Chinese market.

In microelectronics, China could become one of the world's leading producers, and, as such, it warrants continued monitoring to ensure that China's trade and investment regime does not discriminate against foreign producers. Ongoing bilateral and multilateral negotiations with China over the terms of its full integration into the world trading system can be utilized to address those aspects of the Chinese system which are problematic from the perspective of the U.S. semiconductor industry.

The U.S. Government is actively pursuing resolution of U.S. industry concerns in negotiations over China's accession to the WTO. SIA strongly supports the efforts of USTR and other U.S. Government agencies in this regard. Meanwhile, in meetings with SIA, officials of the Chinese Government and its electronics industry have demonstrated receptivity to many of the U.S. industry issues of concern outlined above. The SIA believes that the potential exits for a productive joint effort to address these issues in the context of China's accession to the WTO.

Chairman CRANE. Thank you, Mr. Scalise.

Mr. Cohen.

STATEMENT OF CALMAN J. COHEN, PRESIDENT, EMERGENCY COMMITTEE FOR AMERICAN TRADE

Mr. COHEN. Thank you, Mr. Chairman. I am Calman Cohen, president of the Emergency Committee for American Trade, ECAT. ECAT represents the heads of U.S. international business enterprises consisting of all principal sectors of the U.S. economy. Annual sales of ECAT member companies total over $1 trillion, and our companies employ approximately 4 million persons.

ECAT member companies believe that achieving a strong and stable bilateral relationship with China must remain a priority of United States trade policy into the 21st century. Securing China's

entry on the basis of a commercially acceptable protocol is an essential part of strengthening our bilateral relationship. In the 21st century, China may well become the largest economy in the world. The tremendous size of the economy will have a major impact not only on the global economy, but also on individual economies such as that of the United States.

Due to the vast size and influence of China's economy alone, it is in our interest to have China become integrated into the world trading system and subject to its rules. It is particularly in our interest to have China become subject to the rules of the system that we in the United States help shape. China's markets will not generally be open to United States goods and services until first it is subject to World Trade Organization rules requiring the provision of national treatment and nondiscriminatory tariff treatment. Second, any lack of enforcement of these obligations can be challenged under the WTO dispute settlement procedures.

In particular, ECAT believes that a commercially acceptable protocol should include commitments by China in the following seven areas. First, a substantial reduction in binding of tariffs on 2,300 priority items. Second, a commitment should be obtained to phase out substitution and local content requirements and eliminate discriminatory taxes and restrictions on trading rights that violate the national treatment provisions of GATT article III and GATS, General Agreement on Trade and Services, article III. With regard to trading rights, the United States should refuse to accept an extended phaseout period.

Third, the full implementation of the United States-China bilateral intellectual property rights agreements of 1992 and 1995. Fourth, the elimination of restrictions investment. Fifth, the provision of nondiscriminatory market access to United States service providers. Sixth, the modification of industrial policies which are inconsistent with the WTO. Seventh, the elimination of barriers to United States agricultural exports.

While outstanding bilateral issues remain unresolved after the summit, it did provide a first positive step toward a further strengthening trade and security ties. The lifting of the unilateral United States embargo on the sales of nuclear power equipment to China in exchange for China's commitment to end its nuclear cooperation and missile sales to Iran is a significant achievement and important evidence that the United States policy of engagement is producing concrete results.

The Chinese also made two other commitments during the summit which will serve as meaningful downpayments toward eventual admission to the WTO. The reported Chinese commitment to lower its average tariffs to 10 percent by the year 2005 appears to be a significant response to the United States request for a major tariff reduction. Of course, we all need to review the specifics of their offer. China also agreed, as we have just heard, to join the ITA, which will require eliminating its tariffs on computer and telecommunications equipment.

In moving forward with China's WTO negotiations, the administration should continue to consult with Congress and the private sector on the progress and substance of the negotiations. ECAT believes that any legislation requiring specific congressional approval

for China's WTO accession could prove however to be counterproductive. Such a requirement could further entangle trade and nontrade related issues concerning China. It would effectively tie the President's hands with respect to accession, as well as set an inappropriate precedent requiring congressional approval of the accession of 27 other countries, including Russia, Vietnam, and Saudi Arabia, that have applied for WTO membership.

At a time when the United States and China have just agreed to work toward a constructive strategic partnership, it is more important than ever that United States policy toward China integrate trade, security, and major bilateral concerns. Handling major issues such as human rights, religious persecution, nuclear proliferation, and Taiwan in a piecemeal fashion will only undermine the chances for further progress in these areas under this new relationship. We would urge Members of Congress to resist such an approach.

We note the efforts of Congressmen Bereuter and Ewing to work with the administration and this Subcommittee toward China's admission to the WTO on the basis of a commercially reasonable protocol of accession, and to look to the terms upon which the United States could extend permanent MFN treatment to China. Such positive efforts will improve the chances for securing China's admission and will promote a constructive strategic partnership between the United States and China. Indeed, ECAT believes that upon China's accession to the WTO, the United States should provide permanent MFN trading status to China.

We also commend you, Mr. Chairman, and your colleagues who continue to seek constructive ways to strengthen our bilateral relationship with China by changing the term "most-favored-nation tariff treatment" to "normal trade status." There is no question that the term has been misinterpreted as indicating that the United States is giving China special treatment. This is totally unwarranted, as the term "MFN" simply means, as we here all well know, that an important country will not discriminate against another country's goods in favor of a third.

In conclusion, I want to say thank you for this opportunity to testify. I would be happy to answer any questions.

[The prepared statement follows:]

Statement of Calman J. Cohen, President, Emergency Committee for American Trade

I. INTRODUCTION

I am Calman J.Cohen, President of the Emergency Committee for American Trade (ECAT) and am pleased to appear before the Trade Subcommittee to present ECAT's testimony on the possible accession of China to the World Trade Organization(WTO). ECAT represents the heads of major U.S. international business enterprises consisting of all principal sectors of the U.S. economy. The annual sales of ECAT member companies total over $1 trillion, and the companies employ approximately 4 million persons.

ECAT member companies believe that achieving a strong and stable bilateral relationship with China must remain a priority of U.S. trade policy into the twenty-first century. Securing China's entry into the WTO on the basis of a commercially acceptable protocol of accession is an essential part of strengthening our bilateral relationship.

In the twenty-first century China will become the largest economy in the world. The tremendous size of China's economy will have a major impact not only on the global economy but also on the individual economies of the United States and other

major developed nations. Therefore, due to the vast size and influence of China's economy alone it is in our interest to have China become integrated into the world trading system and subject to its rules.

It is particularly in our interest to have China become subject to the rules of the multilateral trading system that we helped shape. China's markets will not be genuinely open to U.S. goods and services until first, it is subject to WTO rules requiring the provision of national treatment and non-discriminatory tariff treatment and second, any lack of enforcement of these obligations can be challenged under WTO dispute settlement procedures. I would like to comment briefly on those areas in which ECAT believes that China should make significant commitments in negotiating a protocol of accession, noting the prospects for progress in the WTO following the recent summit, and discuss the need for an integrated China policy.

II. WTO Accession

China's accession to the WTO offers a unique opportunity to restructure U.S.-China trade in a direction that leads to a more stable and prosperous commercial relationship. It offers a means for the United States to move from having to enforce a series of bilateral agreements to a comprehensive approach to U.S. market access objectives for goods, services and investment. WTO rules and dispute settlement procedures would also provide a more effective means to enforce China's market access commitments and adherence to WTO obligations. China's accession to the WTO must be based, however, on a commercially acceptable protocol that improves U.S. market access and implements WTO rules and obligations.

ECAT supports U.S. efforts to negotiate a strong protocol of accession. In particular, ECAT believes that a commercially acceptable protocol of accession should include commitments to provide the following:

- A substantial reduction and binding of tariffs on 2,300 priority items identified by the United States and a commitment to phase out residual quotas and import licensing restrictions.
- National treatment with respect to the treatment of foreign goods, services, and investment. In this regard, a commitment should be obtained to phase out substitution and local content requirements and eliminate discriminatory taxes and restrictions on trading rights that violate the national treatment provisions of GATT Article III and GATS Article III. With regard to trading rights, the United States should refuse to accept an extended phase-out period.
- The full implementation of the U.S.-China bilateral intellectual property rights agreements of 1992 and 1995.
- The elimination of restrictions on investment such as the imposition of requirements regarding export performance, import substitution, foreign exchange balancing, and technology transfer.
- The provision of non-discriminatory market access and the liberalization of existing geographic and licensing limitations to U.S. service providers, including financial services and telecommunications.
- The modification of industrial policies which are inconsistent with the WTO.
- The elimination of barriers to U.S. agricultural exports which are inconsistent with the WTO, including sanitary and phytosanitary measures, that operate as disguised restrictions on trade.

Of these elements, ECAT member companies have been particularly concerned with gaining significant commitments on market access, trading rights, services, and investment.

To date, there has been some progress in accession negotiations, including China's commitment to provide a standstill against introducing new trade barriers. The Chinese have begun to discuss further reforms in their economic regime, including greater privatization of state-owned enterprises.

While outstanding bilateral issues remain unresolved after the summit meetings between President Clinton and Chinese President Jiang Zemin, it did provide the first step toward strengthening trade and security ties. The lifting of the unilateral U.S. embargo on the sales of nuclear power equipment to China in exchange for China's commitment to end its nuclear cooperation and missile sales to Iran is a significant achievement and important evidence that the U.S. policy of engagement is producing concrete results.

The Chinese also made two other commitments during the summit meetings which should serve as meaningful "downpayments" toward eventual admission to the WTO. The reported Chinese commitment to lower its average tariffs to 10 percent by 2005 appears to be a significant response to the U.S. request for a major tariff reduction as part of China's WTO market access commitments. Of course, we all need to review the specifics of their offer. China also agreed to join the Informa-

tion Technology Agreement which will require it to eliminate its tariffs on computer and telecommunications equipment.

These new Chinese commitments in terms of tariff reductions will result in major benefits to U.S. exporters. They also suggest what the benefits to the U.S. would be if similar "downpayments" were made in other key areas such as trading rights, barriers to investment, market access for services, and removal of agricultural market access barriers.

In moving forward with China's WTO negotiations, the Administration should continue to consult with Congress on the progress and substance of the negotiations. ECAT believes, however, that any legislation requiring specific congressional approval for China's WTO accession could prove to be counter-productive. Such a requirement could further entangle trade and non-trade related issues concerning China. It would effectively tie the President's hands, with respect to securing China's accession, as well as set an inappropriate precedent for requiring congressional approval of the accession of 27 other countries, including Russia, Vietnam, and Saudi Arabia, that have applied for WTO membership.

III. NEED FOR AN INTEGRATED CHINA POLICY

At a time when the United States and China have just agreed to a "constructive strategic partnership" it is more important than ever that U.S. policy toward China integrate trade, security, and other major bilateral concerns. Handling major issues such as human rights, religious persecution, nuclear proliferation and Taiwan in a piecemeal fashion will only undermine the chances for further progress in these areas under this new relationship, and we would urge members of Congress to resist such an approach.

We note the efforts of Congressmen Bereuter and Ewing to work with the Administration toward China's admission to the WTO on the basis of a commercially reasonable protocol of accession and to look to the terms upon which the United States could extend permanent MFN treatment to China. Such positive efforts will improve the chances for securing China's admission to the WTO and will promote a constructive strategic partnership between the United States and China.

We also commend the efforts of Chairman Crane and others in the Congress who continue to seek constructive ways to strengthen our bilateral relationship with China by changing the term most-favored-nation tariff treatment to "normal trade status." There is no question that the term MFN, despite its well-established meaning, has been interpreted by some as indicating that the United States is giving China special treatment. This is totally unwarranted as the term MFN simply means that an importing country will not discriminate against another country's goods in favor of a third.

The MFN principle has long been embodied in international commercial law under treaties of friendship, commerce, and navigation and is a core principle of the original GATT rules. The United States grants MFN treatment to virtually all of its trading partners, with the exception of a few countries such as Afghanistan, Laos, Korea, and Vietnam. Therefore in extending MFN treatment to China, we are only extending what is normal trading status for the majority of U.S. trading partners. Furthermore, we are not conferring normal trading status for free. In order to receive it, China must give us MFN treatment.

Finally, in terms of an integrated China policy we believe that the one-China policy must be maintained as part of the commitments that the U.S. has made to China. Consistent with this policy, Taiwan in our view should not be admitted to the WTO prior to China. Taiwan's accession should immediately follow China's.

I appreciate the opportunity to appear before the Trade Subcommittee and would be happy to answer any questions.

Chairman CRANE. Thank you, Mr. Cohen. I thank all of you.

I have a question for all of you in the dias. What United States industries do you believe would most negatively be affected if China enters the WTO as a developing instead of a developed country with stricter obligations?

Mr. LLOYD. It would seem to me that virtually every United States firm interested in dealing with China would be adversely impacted through the longer transition period that would be allow-

able to China, and it would simply postpone the day when China must play by the rules.

Mr. COHEN. I would agree and add that, in particular, I would site industries in the manufacturing sector as well as in the services sector. The reason why is that typically developing countries have tried to have a very long phase-in period for obligations under the WTO in the manufacturing sector. One area where China in particular is woefully inadequate in offering market access is in the services sector, which they may try to postpone.

Mr. SCALISE. Speaking briefly on behalf of the semiconductor industry, there's no question in our view that with the rate of change that takes place in technology and the ability for technology to flow across borders, it is important that China come in as a developed country as opposed to a developing country. Otherwise, the advantage that accrues to China is well beyond what would be reasonable.

Mr. WHITTAKER. I would concur with Mr. Scalise. I think it probably reflects the view of all of the high technology manufacturing industries.

Chairman CRANE. Could you provide the Subcommittee with examples of how the presence of United States companies in China helps to promote fundamental human rights for rank-and-file Chinese? In general, are United States business practices superior to those of other foreign investors in China?

Mr. COHEN. I would simply say on that particular issue that it has never been a choice between trade and human rights or, I should say, trade or human rights. It has always been, in my view, a question of trade and human rights going hand in hand.

Some examples of what I mean are best given by the type of involvement of American companies in China today. When it comes to our facilities in China, we are demonstrating an open way of doing business. Our activities in China are ones in which we do not discriminate; we have open employment. We demonstrate to the Chinese our democratic way of life. When it comes to offering them exposure to new ideas, giving them the opportunity of new employment, we feel very strongly that we are increasing the choices of individual Chinese. That indeed is what human rights is all about.

Mr. LLOYD. I think, speaking from my own company, ITT Industries, we adhere to the same environmental rules in China that we do in the United States. Effluent standards are the same. Water purification plants are put in in China just as they would be here. I think that we also see, to some degree, the task of the American firm abroad as one of demonstrating American values.

Mr. SCALISE. For the semiconductor industry, we have three basic pillars that we focus on. One is technology. One is trade. The other is environmental health and safety. The environmental health and safety group makes certain that the principles that we adhere to here in the United States are also the ones used throughout the world. In fact, the semiconductor environmental conference that is held in a different city around the world each year—next year it's in Korea—draws about 500 folks from all over the world including China, Japan, and all the other countries you can think of. So I think that we are doing all of the things necessary to not

only be good producers, but also be good citizens in the broadest sense of that word.

Mr. WHITTAKER. Mr. Chairman, I can only speak on behalf of Hewlett-Packard Co., my one experience. But I do know that with Hewlett-Packard, our Chinese employees benefit from the exact same personnel policies, management styles, training, education, and so on, as do our employees in Palo Alto, CA. That also applies to our environmental, health, and safety programs as well.

It is interesting going to China and visiting a Hewlett-Packard facility. You almost instantly bond with the employees there who share the same experiences as you do: a lot of the same training courses, the same philosophies about entrepreneurship, ownership of a business project, and so on.

Chairman CRANE. I have the corporate headquarters of Motorola in my district. They told me when they opened up a big plant over there that they had to maintain clean working conditions, pay for overtime, and provide health care for their employees. I asked if they brought all that from over here and they said, No, that was Chinese law, but that it apparently only applies to foreign companies coming in, not to domestics.

I thought about that a long time. And I thought, Gee, an American presence or any foreign presence over there under those guidelines has got to be setting a very powerful good example. If, at the end of a long day's labor—say I work for Motorola and you work for some grungy Chinese factory, and we're having our Tsing Taos together at the end of the day—you are moaning to me about your working conditions, wouldn't it be logical for me to say, Hey, come look at Motorola; why don't you work for Motorola? As I have mentioned many times, Ben Franklin said a good example is the best sermon. The presence of American companies over there is the best sermon.

To the best of your knowledge, are other foreign countries that are doing business over in China operating under those same guidelines? Does that apply to all of them?

Mr. COHEN. I think there is a wide disparity among countries. Certainly, companies that are based in the industrial democracies have the best and, I would say, exemplary records, such as the ones you have described. But there are instances of investments by companies from other countries that are not at that high standard.

Chairman CRANE. Mr. Lloyd, you indicated in your testimony elements that you believe should be core components of an acceptable WTO accession, including reciprocal market access, trading rights, and adherence to state trading and subsidy disciplines. Where would you say China's offer is most deficient at the moment?

Mr. LLOYD. Where China's offer is?

Chairman CRANE. Where is its offer most deficient at the moment?

Mr. LLOYD. Well, I think certainly it is in the state trading area, although we learned for the first time this morning that it's China's intention to remedy the problem in 3 years. The requirement that exporters move goods through state trading enterprises and that investments be made through state trading enterprises has been an onerous burden for foreign industry coming into China.

Chairman CRANE. Mr. Whittaker and Mr. Scalise, please discuss the problem of state-owned enterprises in China and how their unfair trade practices can best be addressed by WTO accession.

Mr. WHITTAKER. I think to the extent that the WTO obligations will obligate the Chinese Government to follow WTO rules and so on, it will go some ways toward addressing that problem. For example, if, in the telecommunications area, the global telecommunications agreement were adhered to and some of its policies and terms were adhered to, this would also address a number of the issues.

Mr. SCALISE. The process of privatization is going to drive that solution almost automatically because you move from what is largely a bureaucratic driven set of enterprises that are government invested—not necessarily totally government-owned—to ones that are driven and run by entrepreneurs. Entrepreneurs have a very different set of objectives. Their objectives are to grow the business, to make money, to compete, to be successful. By the very nature of that process, it is likely that they will function on a commercial basis because that's what is in their best interest.

Chairman CRANE. Finally, Mr. Cohen, what can we do to get China to purchase more products from United States companies?

Mr. COHEN. I think one of the most successful ways of accomplishing that would be to have China a member of the World Trade Organization. So many of the problems that we have in the relationship have to do with barriers, whether it's in the manufacturing, services, or other sectors. If we try to negotiate each one of them on a bilateral basis seriatim, the time that it would take is immense. But if, in one fell swoop so to speak, all barriers are negotiated with the Chinese in order for China to be admitted to the WTO, the net result would be increased market access for the United States.

I would just indicate, as I mentioned a moment ago, one of the areas in which the Chinese offers have been woefully inadequate is in the service sector. Typically, when a services company enters China, the company is restricted to a specific city or area, and it's not on a basis of access to the total China market. That is something that indeed does need to be addressed.

Chairman CRANE. I thank you all for your insightful testimony.

We'll now move to our final panel of witnesses for the day. We'll begin with Terry Stewart, managing partner of Stewart and Stewart; and then proceed with Nicholas Giordano, assistant vice president of international trade for the National Pork Producers Council. Then Michael Wootton, director of Federal Government affairs for Sunkist Growers; and we'll conclude with Robert Aronson, chairman of Ross Manufacturing.

If you will please proceed in the order in which I introduced you.

STATEMENT OF TERENCE P. STEWART, MANAGING PARTNER, STEWART AND STEWART

Mr. STEWART. Good afternoon, Mr. Chairman. My name is Terry Stewart. I am managing partner of Stewart and Stewart. I agree with many of the comments made by the prior panel with regard to the importance of WTO accession. I would note that, in response to one of your questions, the concept of a developing or developed

country in an international organization like the World Trade Organization is a self-selecting issue. And to some extent, we have a red herring in the discussion as to what China needs to do.

The United States remedy really is to insist on short transition periods or no transition periods; but at the end of the day, our trading partners basically insist on the right to decide for themselves whether they constitute a developed or developing country.

In my prepared statement, Mr. Chairman, I make basically five points. The first point is that WTO accession is important for China and for the trading system, but can and should be done on commercial terms. What "commercial terms" are—I understand that has been an issue of some discussion today, and I will not try to go back through all of that. But clearly, areas such as State trading, market access, service commitments, reduction of a whole host of nontariff barriers need to be addressed. The only way that can be done is by being willing to take the time to make it happen. The United States to date has been willing to take the time and, because of that, we are making progress and moving closer and closer to something that would be deemed to be a commercial deal.

Second, to the extent that China needs time to adopt all WTO obligations, existing WTO members should maintain transitional rights which will, in fact, permit a maintenance of balance of rights and obligations. That is not true in the draft protocol. What that basically does is put pressure on the United States, European Union, and other members to require immediate compliance with WTO obligations upon accession. The tradeoff that has always existed is if China needs more time to fully adopt the obligations of the WTO, its trading partners need supplemental rights that do not otherwise exist. Those have basically been neutered in terms of the draft text.

Third, the United States should not make China's MFN status permanent unless and until reasonable market access is established. In that regard, I would say, Mr. Chairman, that you need more than WTO accession to have a balanced trade relationship with China. Some of the issues that are needed beyond WTO accession, in my view, include an examination of China's currency valuation. At the present time, China's prices to the United States typically undersell all other producers in the world by roughly 40 percent. That suggests that you have a systemic problem in terms of currency undervaluation.

Similarly, if you take a look at the World Bank statistics in terms of purchasing power parity, China's purchasing power parity on a per capita basis runs four to five times its per capita to GNP, also suggestive of a serious currency undervaluation. If you do not address the currency imbalance under the existing statutory authority that the Secretary of the Treasury has, you will always have a trade imbalance and a trading relationship imbalance.

Second, in that regard, investment measures will not be addressed under the WTO, at least not for the foreseeable future. While there is something called a TRIMs Agreement, Trade-Related Investment Measures, which deals with trade related investment measures, one of the big problems U.S. companies have is the restriction of investment on terms that we would consider to be normal in particular areas, such as automotive and electronics.

That will not be addressed, and should be addressed bilaterally, before we provide permanent MFN treatment to China.

Third, there are important plurilateral agreements that are critical to certain strategic U.S. sectors, such as civil aircraft and those parts of our economy that service government procurement, that will not be addressed under the WTO because those plurilateral agreements are voluntary and not mandatory. There should be some means for the United States to engage in bilateral discussions to get movement in those areas.

Finally, accession creates obligations, but the United States and our trading partners need to provide technical assistance as we have done in the intellectual property area if we expect China to be able to fulfill its obligations in the near term.

Thank you very much, Mr. Chairman.

[The prepared statement follows:]

Statement of Terence P. Stewart, Managing Partner, Stewart and Stewart

Mr. Chairman and members of the Subcommittee: My name is Terence Stewart. I am the managing partner of Stewart and Stewart, a law firm here in Washington which focuses on international trade issues. Over the years, I have monitored developments on China's efforts to accede to the World Trade Organization. I also have written extensively on WTO issues and provide technical assistance to the Government of Ukraine in its efforts to accede to the WTO. My comments today reflect my personal views and do not necessarily reflect the views of either my firm's clients or of my colleagues at the firm.

I am pleased to appear this morning to provide comments on U.S.-China trade relations and on the prospects for China's accession to the WTO. Certainly, China's size, economic growth in the last decade and potential has long captured the imagination of U.S. business. Statistics provided in the press as to level of foreign investment in recent years (second only to that in the U.S.), size of development projects and projected demand in the future for energy and other products should create important opportunities for U.S. companies and U.S. workers. China has proven capable of expanding its export trade rapidly and appears to have the capacity to expand its imports dramatically as well.

At the same time, the major differences in economic systems that continue to exist, the large trade deficit the U.S. has with China which is rapidly expanding, the continued lack of transparency of much of the Chinese system, the high tariffs, major non-tariff barriers, continued lack of trading rights for many, extent of state trading, the relatively poor record of implementation of existing bilateral agreements with the United States, continued heavy subsidization of many industries, to say nothing of the problems that were addressed by many members of the Congress and by the Administration in last week's meetings with President Jiang on political and religious liberties and human rights pose major challenges to the bilateral relationship.

I will limit my remarks to the trade and economic issues today, the area of my background and expertise. I would urge the Trade Subcommittee and the Administration as we move forward with our bilateral trade relationship with China to focus on certain fundamentals:

(l) WTO accession is important for China and for the trading system but can and should be done on commercial terms.

(2) Should China need time for adopting all WTO obligations, existing WTO members should maintain transitional rights which will in fact permit a maintenance of balance of rights and obligations.

(3) The U.S. should not make China's MFN-status permanent unless and until reasonable market access (i.e., accession on commercial terms) is established.

(4) WTO accession, even on commercial terms, will address only some of the existing impediments to U.S. trade flows:

(a) China's currency valuation is suspect and should be addressed bilaterally under existing statutory authority.

(b) Investment restrictions and China's strategic industry initiatives seriously impede U.S. trade and investment flows; most such problems will not be resolved by WTO accession.

(c) Plurilateral agreements in the WTO (Government Procurement and Civil Aircraft) are not mandatory for WTO members. China to date has been unwilling to

join these agreements. Both are important for U.S. industries. Bilateral approaches are needed in the absence of Chinese movement to accede to these agreements.

(d) Accession creates obligations but does not necessarily provide the tools for complying with obligations undertaken. Infrastructure building for complying with WTO obligations (notifications; administrative and judicial review rights; etc.) has been a problem for many existing WTO members. Indeed, at the first Ministerial last December in Singapore, roughly one half of WTO members had not provided notifications in the vast majority of the areas of WTO obligations. The U.S. has provided significant assistance in areas such as Customs and intellectual property rights enforcement. The U.S., Canada, EU and other WTO members need to significantly expand technical assistance to China to permit adequate institution building (this assumes that China will accept the assistance).

(5) Even in areas where WTO accession will create rights and obligations, existing U.S. trade problems suggest the need for additional bilateral efforts, whether through the creation of bilateral Commissions or otherwise, to facilitate rapid resolution. The myriad sanitary and phytosanitary problems faced by U.S. agricultural exporters and the substantial part of agricultural trade controlled by state trading enterprises in China would be two examples.

Let me take up a few of the issues reviewed above in turn.

I. Burgeoning Trade Deficit with China

The press has duly noted the ballooning trade deficit with China. In recent months, the deficit with China has been larger than the deficit with Japan. Of greater concern is the fact that the deficit as a percent of total trade between the U.S. and China is far greater than with any other major trading nation including Japan. In 1996, the figure was roughly $4 of imports from China for every $1 of exports to China. In 1997, the ratio is even worse, roughly 5-to-1. Japan, by contrast, has been running a little under 2-to-1 with the U.S. for many years. In 1996, the U.S. trade deficit with China was $39.520 billion on total trade (imports and exports) of $63.505 billion. In contrast, the U.S. trade deficit with Japan was $47.580 billion on total trade of $182.793 billion.

While it is a truism that a country need not be concerned about running a trade deficit with any one country, it is equally true that the deficit with China does not reflect underlying competitiveness of the two countries. High tariffs and high non-tariff barriers in China, a seriously undervalued currency in China, investment restrictions and other issues identified above contribute to the trade imbalance. Let me just discuss a few of these problems.

China has substantially higher tariffs on most products than the U.S. Indeed, many of China's current tariffs are prohibitive of trade. In the 1997 National Trade Estimate report ("NTE") from USTR (page 44), China's average tariffs in 1996 were identified as being 23% with MFN rates as high as 120%. This average tariff is roughly five times as high as the U.S. weighted average tariff.[1]

A host of non-tariff barriers have been identified by China as part of its accession negotiations and continue to significantly restrict trade. Qutoas, licenses, import tendering are just three identified as applying to many products. Proposed phase outs of such barriers remain quite extended for some products of significant interest to the U.S., such as 15 years for autos and trucks. See also 1997 NTE at 46.

Substantial amounts of trade into and out of China are controlled by state owned enterprises which may not act on commercial considerations. For example, China continues to insist that it will maintain state trading on a wide range of items of potential interest to the U.S. including grain, vegetable oil, sugar, tobacco, chemical fertilizers and cotton.

There are also significant investment restrictions in important sectors which adversely affects trade flows from U.S. parent organizations. Similarly, technology transfer requirements reduce investment and trade.

At the same time, many industries in China are heavily subsidized which keeps inefficient Chinese businesses in operation and reduce import flows from the U.S.

Finally, while improvements have been made in Chinese enforcement of intellectual property rights, China's performance in the past has cost U.S. companies tremendous amounts. China remains subject to monitoring under Section 306 of the Tariff Act of 1974 (See USTR Press Release 97–37, April 30, 1997, "USTR Announces Results of Special 301 Annual Review at 4."

[1] U.S. average tariffs are below 5%; the WTO Trade Policy Review of the United States in 1996 identified the "simple average of duties" in the U.S. as being 6.4% (page 44 of WT/TPR/S/16).

Using the rule of thumb that every $1 billion in U.S. export trade is equal to 20,000 jobs,[2] the $40 billion trade deficit with China, if it could be eliminated through expanded exports would mean an additional 800,000 U.S. jobs.

I should note that China has been arguing for some time that trade imbalance figures overstate two way trade, although even under China's calculus the trade imbalance shows exports substantially more than 2-to-1, meaning that the problem and direction of the problem remain but the magnitude may be smaller.[3]

Estimated Exports, Imports, and Balance of Goods—China, Japan, and Total, All Countries, 1993–1997

[In millions of U.S. dollars]

Exports	1993	1994	1995	1996	1997 (estimated)
Exports					
Total, all countries	465,091.0	512,626.5	584,742.0	625,075.0	687,720.0
Change from prior year ...	4%	10%	14%	7%	10%
China	8,762.8	9,281.8	11,753.6	11,992.6	12,574.5
Change from prior year ...	18%	6%	27%	2%	5%
Japan	47,891.5	53,487.7	64,342.6	67,606.8	65,845.2
Change from prior year ...	0%	12%	20%	5%	−3%
China—percentage of Total, all countries	2%	2%	2%	2%	2%
Imports					
Total, all countries	580,659.4	663,255.7	743,445.0	795,289.3	869,300.8
Change from prior year ...	9%	14%	12%	7%	9%
China	31,539.9	38,786.7	45,543.2	51,512.6	63,141.0
Change from prior year ...	23%	23%	17%	13%	23%
Japan	107,246.4	119,155.7	123,479.1	115,187.0	121,081.0
Change from prior year ...	10%	11%	4%	−7%	5%
China—percentage of Total, all countries	5%	6%	6%	6%	7%
Balance					
Total, all countries	−115,568.4	−150,629.2	−158,703.0	−170,214.3	−181,393.6
Change from prior year ...	37%	30%	5%	7%	7%
China	−22,777.1	−29,504.9	−33,789.6	−39,520.0	−50,590.2
Change from prior year ...	24%	30%	15%	17%	28%
Japan	−59,354.9	−65,668.0	−59,138.5	−47,580.2	−55,552.4
Change from prior year ...	20%	11%	−10%	−20%	17%
China—percentage of Total, all countries	20%	20%	21%	23%	28%

AImports on Customs Value basis; Exports on f.a.s. basis; and Total, all countries on Census basis.
A*Source:* Bureau of Census foreign trade data.

[2] See Statement of Ambassador Barshefsky on "The future of U.S.-Japan Trade Relations" at 2 presented at Georgetown University Law Center Symposium on U.S. Trade Policy in Transition, January 21, 1994.

[3] See Work Report of the Trade Statistics Subgroup of the Trade and Investment Working Group of the Sino-U.S. Joint Commission on Commerce and Trade reprinted in article appearing in Beijing Xinhua, 21 March 1997 (translated in FBIS/CHI–97–056). "First, the U.S. import statistics has ignored entrepot trade and value added from entrepot trade to over-estimate its imports from China." Second, "the U.S. statistics of its exports to China have been underestimated by neglecting reexports."

II. WTO Accession Is Important for China and for the Trading System but Can and Should Be Done on Commercial Terms

The position of this and prior Administrations has been that the U.S. wants China in the GATT and now WTO but on commercial terms. A fews weeks ago, the U.S. identified the average tariff levels it was seeking from China as being 8%. Both the U.S. and the EU have been encouraging China to join the Information Technology Agreement. President Jiang's acceptance of that obligation during last week's summit here in Washington was obviously an important step forward on the market access commitments, as it will reduce duties on computers, semiconductors and telecommunications equipment to zero within an as yet undisclosed period of time. Indeed, press reports indicate that the market access offer made by China last week while not addressing certain important tariff peaks (e.g., autos), would reduce tariffs on 4000 tariff items to an average of 10–12%.

While China is anxious to join the WTO and to have the U.S. make "MFN" treatment permanent, the U.S. should continue its approach of working hard to help China gain access but only on commercially viable terms. The remaining tariff and non-tariff barriers in China are serious impediments to a balanced trade relationship with China. While some of the economic reforms and political decisions needed within China are obviously difficult and time consuming, premature accession would only lock in a trade imbalance that would be difficult to address in the future. It is in both countries' interest to be sure that WTO accession will be sustainable for both countries. As a number of U.S. Administrations have indicated to the Chinese government, accession to the WTO is first and foremost in the hands of the Chinese government. We will have a better ongoing economic relationship if we have confidence that the trading relationship is balanced from the beginning. This does not require parity of rights and obligations, but it does require addressing the major barriers which continue to exist in China.

Steps to intensify the bilateral negotiations between the U.S. and China on China's accession announced during the summit last week are welcome and will hopefully permit the accession process to successfully conclude in the not too distant future. Major issues continue to exist, however, in terms of market access for our service industries, tariff and non-tariff barriers for our goods, standards including sanitary and phytosanitary measures, and agriculture. There also continue to be a handful of important protocol issues that have not been resolved. It is critical that this Subcommittee support the U.S. insisting on commercially viable solutions to all areas before the accession process concludes. The Administration was correct in not setting a date for concluding negotiations. Let us hope that the pace of progress will continue and increase in the weeks and months ahead.

III. Should China Need Time for Adopting All WTO Obligations, Existing WTO Members Should Maintain Transitional Rights Which Will in Fact Permit a Maintenance of Balance of Rights and Obligations

Because of the tremendous changes in the economic system of China that accession to the WTO entails, it is not surprising that China has continued to seek transition periods to bring itself into compliance. One of the obvious trade offs for Members of the WTO in terms of examining China's accession is speed of entry versus balance of rights and obligations. From the beginning, one option to speed the accession process was the possibility of creating a transitional period in which China assumed less than full obligations and, as a result, obtained less than full rights vis-a-vis existing Members. While such an approach has significant intellectual appeal and could have been a basis for an expedited accession, China has been reluctant to accept significantly different rights regardless of the transition periods needed to bring itself into compliance with WTO obligations. While early drafts of the Protocol of Accession would have given significant rights to existing WTO members to address trade problems during the transition period before China accepted full obligations, such an approach has been unacceptable to China. The current draft protocol has largely made the transitional rules unworkable for existing members as any action by an existing Member will require compensation to China. While this development may please the Chinese government, it places greater importance for the U.S. and other members to be sure that the obligations undertaken by China are commensurate with its position as a trading nation at the present time and that transition periods are minimized.

This Subcommittee should encourage the Administration to revisit the transitional rules in the draft protocol to safeguard U.S. rights if transition periods to the assumption of WTO obligations are significant for China.

IV. The U.S. Should Not Make China's MFN-Status Permanent Unless and Until Reasonable Market Access Is Established

Much of the U.S. business community is very anxious to have greater certainty in their business dealings with China. The annual MFN renewal is both time consuming for business and creates significant commercial uncertainty as to the nature of the relationship that will exist month to month. From a strictly commercial perspective, the establishment of permanent MFN status obviously makes the lives of U.S. companies who export or invest in China much easier. Of course, the provisional MFN status flows from Title IV of the Trade Act of 1974 which was added both to permit improved trade relations with Communist controlled countries and to qualify such improvement upon improved freedom of emigration and other non-commercial issues.

Without speaking to the propriety/desirability/problem of non-trade considerations controlling whether MFN status is provided to countries which continue to be subject to Title IV, from a purely commercial perspective, it would appear appropriate to pass legislation that promises unconditional MFN upon accession of China to the WTO *as long as the Administration certifies that the accession is on commercial terms and that the major impediments to a balanced trade relationship (WTO and non-WTO related) have been addressed.*

H.R. 1712 would address part of this commercial concern, although it is limited to the WTO-related issues. The snap-back to December 31, 1994 MFN rates (i.e., before the WTO came into existence) raises some practical questions because of the generally low level of U.S. tariffs that were in effect at the end of 1994 and hence the potential loss of leverage with China to get forward movement. Nonetheless, the bill addresses the underlying commercial issue and could form the basis for forward movement if Congress were to determine that commercial concerns should control or that non-commercial concerns can be better addressed through other means.

V. WTO Accession, Even on Commercial Terms, Will Address Only Some of the Existing Impediments to U.S. Trade Flows

The Subcommittee should keep in mind that addressing the WTO accession issue is very important *but* is not the only issue critical to a balanced and rational trade relationship with China. I review below just a few of the other issues that must be addressed.

(a) China's currency valuation is suspect and should be addressed bilaterally under existing statutory authority

The Chinese currency is believed to be seriously undervalued which both encourages exportation at very low prices typically causing significant market disruption and also retards imports into China by understating purchasing power.

In the last ten years, Chinese exporters have probably found themselves subject to more antidumping actions than any other country in the world. The reason for this is simple: across a huge array of products, prices from China are far, far below any other country in the world. As I mentioned to private sector visitors from China a few weeks ago, in light of the explosive export drive from China at prices which are often 40–70% below *any* other supplier in the world, it is not surprising that there have been trade cases. What is surprising is that there have not been far more.

Let me review some U.S. import statistics for 1996 to give a sense of the magnitude of the underpricing phenomenon. In 1996, there were a total of 8,281 10-digit harmonized tariff schedule categories for which there was import data for products from China. Customs value on all imports from China for the year were $51.512 billion. We calculated average price per unit or average price per weight for imports from China and for imports from all other countries. What we found was that for the vast majority of categories, import prices from China were lower than import prices from all other countries, with thousands of categories being *30%–70%* below. For all products, the average extent of underselling would appear to be slightly above *40%*. Such figures strongly suggest that the Chinese currency is seriously undervalued.

Similarly, the World Bank publishes annually information on per capita GNP (expressed in U.S. dollars) and something called the purchasing power parity on a per capita basis (in "international" dollars). In the World Bank Atlas for 1997, China's purchasing power parity per capita was nearly five (5) times its per capita GNP, again supporting a finding that the currency is seriously undervalued.

Comparison of Per Capita GNP and Purchasing Power Parity

GNP per capita, 1995

	US $	PPP, international $	Ratio of PPP to US $
China	620	2,920	4.71
United States	26,980	26,980	1.00
Japan	39,640	22,110	0.56
Italy	19,020	19,870	1.04
France	24,990	21,030	0.84
Germany	27,510	20,070	0.73
Canada	19,380	21,130	1.09
Thailand	2,740	7,540	2.75
India	340	1,400	4.12
Mexico	3,320	6,400	1.93
Brazil	3,640	5,400	1.48
Indonesia	980	3,800	3.88
Poland	2,790	5,400	1.94

ASource: *World Bank Atlas 1997. The World Bank* at 36–37.
ANote: GNP per capita in international dollars is converted at purchasing power party (PPP) rates. PPP is defined as the number of units of a country's currency required to buy the same amount of goods and services in the domestic market as US$1 would buy in the United States. See Id at 45.

As the Subcommittee is aware, U.S. law already permits the Secretary of the Treasury to address correction of exchange rates where certain conditions are satisfied. See 22 U.S.C. 5304(b) Because China has a material global current account surplus and a significant bilateral trade surplus with the United States, Treasury has the authority to initiate negotiations with China to get a correction to the exchange rate of the Chinese currency.

China's Current Account and Trade Surplus

[In millions of U.S. dollars]

	1990	1991	1992	1993	1994	1995	1996
Current account	11,997	13,272	6,401	−11,609	6,908	1,618	7,243
Trade balance	9,165	8,743	5,183	−10,654	7,290	18,050	19,535
Balance on goods and services	10,668	11,601	4,998	−11,497	7,611	11,958	17,551

ASource: IMF, International Financial Statistics, October 1997 at 196.

While Secretary Rubin raised the issue of currency value with the Chinese on his recent visit to China, the Administration has not used its statutory authority to request bilateral consultations on exchange rates with China. Congress should be encouraging the Administration to resolve the exchange rate problem with China as quickly as possible.

(b) Investment restrictions and China's strategic industry initiatives seriously impede U.S. trade and investment flows; most such problems will not be resolved by WTO accession

Studies by the OECD and the World Bank indicate that multinational companies handle one third of world trade between their own operations. Stated differently, investments abroad usually lead to significant exports from the country whose company has done the foreign investment. This trade may be equipment, raw materials, services or other elements of the product being produced in the foreign country.

The restrictions placed on foreign investment by China both involve aspects that are addressable under the WTO (e.g., local content, trade balancing and other trade-related investment measures) and aspects that are not (e.g., sectors that are off limits or where investment will be controlled). While WTO membership will obviously permit some investment restrictions to be addressed, many of the fundamental concerns of U.S. investors, including concerns over strategic industry investment restrictions (autos, electronics, etc.) and technology transfer requirements will not be addressable within the WTO. See October 25, 1997 Washington Post, page C1 and C2, "China Plays Rough: 'Invest and Transfer Technology, or No Market Access'." As the Subcommittee is aware, efforts by the United States to build into the World

Trade Organization a broader investment regime during the Uruguay Round were not successful. While the U.S. and others have been pursuing a Multilateral Agreement on Investments within the OECD and while a Working Party has been established within the WTO to examine the topic of trade and investment, there is no short or medium-term prospect for a multilateral vehicle that will include China.

While the U.S. and China have a bilateral agreement on investment guarantees, the agreement falls far short of the type of agreement needed to provide open access to the Chinese market.[4] The Subcommittee should encourage the Administration to make a bilateral agreement on investment with China a priority and an important consideration in determining whether to provide unconditional MFN treatment.

(c) Plurilateral agreements in the WTO (Government Procurement and Civil Aircraft) are not mandatory for WTO members. China to date has been unwilling to join these agreements. Both are important for U.S. industries. Bilateral approaches are needed in the absence of Chinese movement to accede to these agreements.

Some of the leading export sectors of the U.S. economy involve companies that sell civil aircraft or components thereof or who are involved in bidding on government procurement contracts around the world. The $3 billion order for Boeing planes announced by the Chinese during President Jiang's visit last week underlines the importance of certain sectors to our overall national export performance. Unfortunately, two agreements within the WTO that could be of great importance to many U.S. companies are not mandatory—the Civil Aircraft Agreement and the Government Procurement Agreement. Despite efforts by the U.S. and the EU to gain agreement by China to join these important agreements as part of the WTO accession, China to date has not moved in this direction. While the U.S. was successful as part of the Singapore Ministerial in getting agreement to establish a Working Party to review transparency issues in government procurement and to seek agreement on transparency needs, such efforts are still in the early stages of development and will only partially address the underlying concerns.

The Subcommittee should encourage the Administration to pursue: (1) bilateral agreements on both issues apart from WTO accession, (2) duty free status for civil aircraft and parts as part of the WTO accession process and (3) a reasonable commitment to a time line for China's accession to the plurilateral agreements. Such agreements should be part of any package needed for permanent MFN status.

(d) Accession creates obligations but does not necessarily provide the tools for complying with obligations undertaken. The U.S., Canada, EU and other WTO members need to significantly expand technical assistance to China to permit adequate institution building.

As I reviewed for the Subcommittee in your February 1997 hearing on the Singapore Ministerial, many developing and least developed countries have had serious problems complying with various obligations undertaken as part of the World Trade Organization. Indeed, on many agreements, during the first two years fewer than half of the Member nations provided notifications of laws, regulations or practices as required by the Agreement.

In looking at the history of enforcement of U.S.-China bilateral agreements, implementation of rights and obligations has often been more difficult than reaching the agreement in the first place. In the area of intellectual property, the United States found that it needed a very broad based program of technical assistance and collaboration if it were to find efforts by the Chinese government to approximate obligations undertaken.

The WTO's general experience and our country's specific experience with bilateral agreements with China suggest that if we want a balanced trade relationship in fact and reasonable compliance with obligations undertaken as part of the WTO or as part of bilateral agreements, it will be important to assist in the institution building that will be central to China's compliance. This does not diminish the need for the Chinese government to bring the political will and to devote the resources necessary to implement international obligations. It does, however, recognize the reality that it is in the U.S.'s interest to help see that the institution building is expedited. Congress and the Administration must see that agreements don't stop at the signing ceremony or aren't left simply for the dispute resolution process. Technical assistance can make implementation a win/win for China and the rest of the trading system.

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[4] See Exchange of Notes Constituting an Agreement Relating to Investment Guarantees. Beijing, 30 October 1980. 32 UST 4010; TIAS 9924; 1267 UNTS 315.

VI. EVEN IN AREAS WHERE WTO ACCESSION WILL CREATE RIGHTS AND OBLIGATIONS, EXISTING U.S. TRADE PROBLEMS SUGGEST THE NEED FOR ADDITIONAL BILATERAL EFFORTS TO FACILITATE RAPID RESOLUTION

Within the Administration's list of priority areas to address as part of China's accession effort are non-tariff barriers, standards and agriculture. The host of sanitary and phytosanitary measures in place that restrict U.S. exports to China have been well documented in various USTR documents. As reviewed in the 1997 National Trade Estimate:

China committed in the 1992 Market Access MOU to base its agricultural import standards on "sound science." Since 1992, China has made some progress on agricultural sanitary and phytosanitary issues, signing bilateral protocols for several agricultural items, including live horses (September 1994); apples from Washington, Oregon and Idaho (April 1995); ostriches, bovine embryos, swine and cattle (June 1995); and cherries (March 1996). However, China's sanitary and phytosanitary measures still prohibit imports of U.S. citrus, plums, grapes, tobacco, and Pacific Northwest wheat. In 1996, China's sanitary requirements for poultry and poultry meat became a major issue. Imports from the U.S. were abruptly stopped on several occasions for reasons inconsistent with international standards.

Many of the statements filed with USTR as part of the effort earlier this year to obtain public input on China's WTO accession process identified problems with SPS issues, as well as state trading, high tariffs and various other non-tariff barriers, as restricting exports to China. *See, e.g.,* letter of 2/28/97 from Indian River Citrus League, letter of 1/14/97 from 16 members of the Senate Committee on Agriculture, Nutrition and Forestry, letter of 3/14/97 from American Farm Bureau Federation and associations representing soybeans, wheat, beef, corn, cotton, pork and rice.

While the federal government, the states and individual industry groups have been working hard to overcome problems that have arisen, the trade effect of many of these issues and the lack of clarity of WTO obligations on others (e.g., state trading) suggest that the establishment of high level, permanent commissions, stepped up exchange of technical experts, and other actions may be appropriate to reduce the level of misunderstanding, expand the areas of common agreement and find solutions that can be implemented quickly.

Again, the Congress may wish to link permanent MFN status to the achievement of working mechanisms on these and the prior issues that may go beyond the WTO itself.

I appreciate the opportunity to testify and would be pleased to answer any questions.

Chairman CRANE. Thank you.

Our next witness, Nicholas Giordano.

STATEMENT OF NICHOLAS D. GIORDANO, ASSISTANT VICE PRESIDENT FOR TRADE, NATIONAL PORK PRODUCERS COUNCIL

Mr. GIORDANO. Mr. Chairman, on behalf of America's pork producers, I very much appreciate this opportunity to appear before you today. U.S. agricultural exports remain a bright spot in our Nation's trade picture. Last year, the U.S. agricultural trade surplus was $27.4 billion, making agriculture the largest contributor to a positive balance of trade.

Mr. Chairman, while our agricultural export performance has been quite good to date, many barriers prevent us from realizing our potential in international markets. The failure of China to agree to a meaningful WTO accession protocol that will provide increased access for United States agricultural exports is a major problem not only for the pork industry, but perhaps for all United States agriculture. The pork industry, possibly more than any other sector of United States agriculture, is disadvantaged because

China, the largest pork-consuming market in the world, has a de facto ban on pork imports.

For the past 10 years, the United States has been negotiating with China regarding that country's accession to the WTO. While some progress has been made, the two sides remain far apart on many matters, including agricultural market access. Pork producers believe that enactment of the China Market Access and Export Opportunities Act, H.R. 1712, would help pave the way for China's accession to the WTO. H.R. 1712 provides the incentives for China to develop a meaningful accession package by pledging to eliminate the annual MFN review under Jackson-Vanik. The legislation effectively addresses China's concern that it could make all the necessary concessions to gain entry to the WTO, only to have the Congress balk at granting permanent MFN or other complications.

However, the legislation provides not only a carrot, but also offers a stick to induce China to develop a meaningful accession protocol. The legislation provides that within 6 months from date of enactment, the President must make a one-time determination as to whether China is "either denying adequate trade benefits to the United States or not taking steps to become a full member of the World Trade Organization."

If the President determines that China is not satisfying either of the foregoing criteria, the legislation directs the President to raise the duties on imports of one or more products from China to levels no higher than the pre-Uruguay round levels.

Pork producers believe that this is a much more sensible approach than that offered by Jackson-Vanik which, if triggered, would virtually lock out all Chinese exports to the United States. The recent stock market swings have underscored the interconnectedness of the economies of Asia and the rest of the world. If Jackson-Vanik were invoked against China, we believe the worldwide economic consequences would be dire.

H.R. 1712 gives the President a reasonable and appropriate tool to use if China is not providing adequate market access or is not making significant progress in its WTO bid. To date, trade with China largely has been a one-way street, as evidenced by the massive trade deficit. Increasing tariffs on Chinese products to pre-Uruguay round levels—levels which I understand are 4 to 7 percent higher than current tariff rates—would be a realistic and fair response to Chinese practices. United States pork producers, along with virtually all of United States agriculture, believe that China must be engaged. The United States cannot, must not turn its back on the most populous nation in the world, a nation which in our lifetimes will likely have the largest economy in the world.

At the same time, the United States must not rush China into the WTO. China is so far from compliance with WTO requirements now that the effectiveness of the WTO would be severely compromised if China were admitted to the WTO at the present time. Clearly, Russia and Ukraine would demand the same lenient treatment extended to China. Moreover, if the United States prematurely supports China's WTO accession, the ramification for United States exporters will be serious. Exporters will be forced to wage a long and arduous campaign to open that market, similar to the ongoing struggle with Japan.

Mr. Chairman, that concludes my comments. Thank you.

[The prepared statement follows:]

Statement of Nicholas D. Giordano, Assistant Vice President for Trade, National Pork Producers Council

Mr. Chairman and members of the subcommittee: I am Nicholas Giordano, Assistant Vice President for Trade with the National Pork Producers Council. I appreciate the opportunity to appear on behalf of U.S. pork producers to express our views on the possible accession of China to the World Trade Organization.

The National Pork Producers Council is a national association representing 44 affiliated states who annually generate approximately $11 billion in farm gate sales. According to a recent Iowa State study conducted by Otto and Lawrence, the U.S. pork industry supports an estimated 600,000 domestic jobs and generates more than $64 billion annually in total economic activity.

With 10,988,850 litters being fed out annually, 1.065 billion bushels of corn valued at $2.558 billion are consumed by U.S. pork producers. Feed supplements and additives represent another $2.522 billion of purchased inputs from U.S. suppliers which help support U.S. soybean prices, the U.S. soybean processing industry, local elevators and transportation services based in rural areas.

Pork is the world's meat of choice. Pork represents 44 percent of daily meat protein intake in the world. Even though there's been a huge global market for pork and pork products, efficient U.S. producers were precluded from exporting significant volumes of pork in the pre-Uruguay Round Agreement, pre-NAFTA era. A combination of foreign market trade barriers and highly subsidized competitors kept a lid on U.S. pork exports. U.S. pork producers were ardent proponents of the Uruguay Round Agreement and NAFTA. The industry strongly supports further trade liberalization measures and, consequently one of the organizations leading the charge for the renewal of fast track trade negotiating authority. These trade agreements permit U.S. pork producers to exploit their comparative advantage in international markets.

Since 1995, when the Uruguay Round Agreement went into effect, U.S. pork exports to the world have increased by approximately 45 percent in volume terms and 75 percent in value terms from 1994 levels. Indeed, the U.S. pork industry exported over one billion dollars of pork for the first time in 1996. Explosive export growth will continue in 1997 and 1998.

U.S. AGRICULTURE IS EXPORT DEPENDENT

U.S. agricultural exports continue to be a bright spot in our nation's trade picture. Last year, the U.S. agricultural trade surplus was $27.4 billion, making agriculture the largest positive contributor to the U.S. balance of trade. We are the world's leading exporter of agricultural products with a 21 percent share of world trade. The agricultural sector is twice as reliant on international trade as the total U.S. economy with exports accounting for an estimated 30 percent of gross cash receipts.

While our agricultural export performance has been good, foreign trade barriers and other factors continue to prevent us from realizing our potential in international markets. The failure of China to agree to a meaningful World Trade Organization (WTO) accession protocol that will provide increased access for U.S. agricultural exports is major problem for U.S. agriculture. The U.S. pork industry, perhaps more than any other sector of U.S. agriculture, is disadvantaged because China, the largest pork consuming country in the world, has a de facto ban on pork imports.

CHINA HAS A DE FACTO BAN ON PORK IMPORTS

High tariff rates and a discriminatory value added tax put imported pork at a sharp competitive disadvantage to domestic pork. Moreover, complicated and nontransparent restrictions on imported pork, administered by China's quarantine administration (CAPQ), make it virtually port pork. While CAPQ officials acknowledge the existence of the restrictions, they have been unwilling to date to supply copies of the restrictions to U.S. trade negotiators stating that the laws are confidential. CAPQ contends that Chinese restaurants and hotels can obtain licenses to import pork. Unlike beef, for which licenses are available through regional CAPQ offices, CAPQ says that it disseminates pork import licenses solely through CAPQ headquarters. In reality, very few licenses have been granted by CAPQ.

Recently China lowered tariffs on imported pork from 45 percent to 23 percent. This development is not significant because the 23 percent duty is in addition to the 17 percent value added tax which is discriminately applied against imports.

Thus, even if the many non-tariff barriers applied against imported pork were rectified, high tariffs would continue to block pork imports.

Earlier this year, CAPQ provided quotas to 11 establishments in Australia, Canada, and the United States as eligible to export meat and poultry to China for general consumption under a one year trial program. While in one sense this is a positive development because, as a matter of law, these imports are not limited to the hotel and restaurant sector, as a matter of fact, high tariffs and other restrictive measures will militate against any significant level of imports. The identified establishments include a pork facility in Australia that received a quota of 2,000 MT, three pork facilities in Canada that received a total quota of 68,000 MT, and one pork facility in the U.S. that received a quota of 5,500 MT. The Australian and U.S. exports must be imported exclusively by Nanjing Five-Star Hotel Corporation Ltd. and the Canadian product must be imported exclusively by Chaoying Foodstuff Ltd. While pork is not on the formal list of state traded products in China, the appointment of these exclusive importers is troubling. Indeed, we understand that CAPQ officials are involved with the ownership/manag these importers. Canadian pork quotas are much higher than U.S. quota levels but must be imported pursuant to the recently executed Canada-China pork protocol. We understand from Canadian industry officials that they are extremely upset with this protocol because onerous and non-scientific restrictions will preclude the shipment of any significant amount of pork from Canada to China.

Moderate quantities of pork are flowing indirectly to China through Hong Kong importers. The pork, almost all variety meats (e.g. hearts, stomachs, intestines), is distributed to the general population mostly through local wholesale markets with a small amount distributed through supermarkets. Technically the importation and distribution of this product is illegal, a fact which is generally acknowledged by the Hong Kong importers and Chinese distributors.

The U.S. pork industry urges the following changes in China:

(1) the abolition of the de facto ban on pork importation;

(2) the establishment of transparent import regulations and licensing requirements;

(3) repeal of the discriminatory value-added tax which is applied to meat imports;

(4) reduction of import duties to minimal levels with no TRQs;

(5) unrestricted entry and participation of non-government import entities;

(6) a protocol governing sanitary issues, which, among other things, recognizes the U.S. safety and inspection system as equivalent and permits the export of pork from any FSIS approved facility;

(7) the termination of subsidies to the Chinese pork industry.

The United States is uniquely positioned to reap the benefits of a liberalized Chinese pork sector. The U.S. exported over $1 billion in pork in 1996 and exports continue to sky-rocket. While the U.S. currently is the world's second largest exporter of pork behind Denmark, the oltural Policy Research Institute (FAPRI) report states: "The U.S. becomes the number one pork exporter because it is able to expand production without placing strong pressure on domestic prices." Danish producers currently have higher costs than U.S. producers and the gap is increasing. There is virtually no room for the expansion of the Danish pork industry. FAPRI projects that Chinese pork consumption will increase by over 23 percent, approximately 8 million metric tons, in the next ten years. To put this number in perspective, during 1996, U.S. pork exports were less than 500,000 metric tons.

Recent statistics reveal that China is surpassing Japan as the single largest source of the U.S. trade deficit. If China liberalized its pork market, the U.S. would be exporting huge volumes of pork to that country. The U.S. pork industry alone could make a significant dent in the U.S.-China trade imbalance.

While the U.S. pork industry arguably stands to benefit more than any other segment of U.S. agriculture from a meaningful WTO accession protocol for China, virtually every other segment of U.S. agriculture will also benefit.

NPPC Supports the China Market Access and Export Opportunities Act

For the past ten years the U.S. has been negotiating with China regarding that country's accession to the WTO. While some progress has been made, the two sides remain far apart on many matters, including agricultural market access. NPPC believes that enactment of The China Market Access and Export Opportunities Act (H.R. 1712) would help pave the way for China's accession to the WTO.

President Clinton's former chief economic advisor, Laura D'Andrea Tyson, wrote in the New York Times during last year's annual most-favored-nation (MFN) debate that the U.S. should give China more incentive to undertake the steps necessary for a meaningful accession protocol. She stated that:

Instead of threatening to terminate China's MFN status, the U.S. should be signaling that we will facilitate China's WTO membership provided Bejing meets the necessary conditions. We should specifically pledge to grant China permanent MFN status in return for such commitments.

(NY Times, May 28, 1997, at A18) H.R. 1712 provides the incentive to China to develop a meaningful accession package by pledging to eliminate the annual MFN review under Jackson-Vanik. The legislation effectively addresses China's concern that it could make all the necessary concessions to gain entry to the WTO only to have the U.S. Congress balk at granting permanent MFN.

However, the legislation not only provides a carrot but, it also offers a stick to induce China to develop a meaningful accession protocol. The legislation provides that within six months from the date of enactment, the President must make a one time determination as to whether: China is "either denying adequate trade benefits to the United States or not taking steps to become a full member of the World Trade Organization." If the President determines that China is not satisfying either of the foregoing criteria, the legislation directs the President to raise the duties on imports of one or more products from China to levels no higher than the pre-Uruguay Round levels.

This is a much more sensible approach than that offered by the Jackson-Vanik provision which, if triggered, would virtually lock out all Chinese exports to the United States. The recent stock market swings have underscored the interconnectedness of the economies of Asia and the rest of the world. If Jackson-Vanik were invoked against China, the worldwide economic consequences would be dire.

H.R. 1712 gives the President a reasonable and appropriate tool to use if China is not providing adequate market access or is not making significant progress in its WTO bid. To date, trade with China largely has been a one way street as evidenced by the massive trade deficit. Increasing tariffs on Chinese products to pre-Uruguay Round levels—levels which I understand are 4 to 7 percen realistic and fair response to Chinese practices.

Should China's position change after pre-Uruguay Round level duties are invoked, the legislation provides the President with the flexibility to modify the duties upon notification to the appropriate congressional committees.

U.S. pork producers, along with virtually all of U.S. agriculture, believe that China must be engaged. The United States must not turn its back on the most populous nation in the world, a nation which likely will have the largest economy in the world not long into the next century. At the same time, the U.S. must not rush China into the WTO. If China were admitted to the WTO at the present time, the effectiveness of the WTO would be severely compromised given that China is so far from compliance with WTO requirements. Clearly, Russia and Ukraine would demand the same lenient treatment extended to China.

Moreover, if the U.S. prematurely supports China's WTO accession, the ramifications for U.S. exporters will be serious. We will be forced to wage a long and arduous campaign to open that market similar to the ongoing struggle with Japan.

If enacted, the China Market Access and Export Opportunities Act improves the prospects for China's entry into the WTO on commercially acceptable terms.

Chairman CRANE. Thank you.

Our next witness is Mr. Aronson.

STATEMENT OF ROBERT R. ARONSON, CHAIRMAN, ROSS MANUFACTURING CORP., FORT LAUDERDALE, FLORIDA; AND REVPOWER LIMITED, HONG KONG, CHINA

Mr. ARONSON. Thank you very much, Mr. Chairman. Thanks for the opportunity of being here and testifying on this most timely topic.

My name is Robert Aronson. I am chairman of the Ross Manufacturing Corp. of Fort Lauderdale, Florida, and Revpower Limited, an American-owned company in Hong Kong. I have entered my written testimony, so I will just add a few more remarks.

You may have seen this Business Week article. The date of publication was October 6, 1997, and the article is entitled "Cheated in

China." It talks about four companies that have been cheated in China: Kimberly Clark, Borg Warner, Asimco, and my company, Revpower. I could add a number of other names to that list—McDonnell Douglas, Occidental Petroleum, Chrysler, Microsoft, Revmaster, and quite a few others—but why are American companies being cheated in China?

The basis for all commercial relations in China is the agreement. There has to be a Chinese company and there has to be an American company, and there has to be an agreement between the two. What we found out is that Chinese can breach agreements with impunity because there is really no rule of law in China, no protection for American investments in Chinese courts. The Chinese courts will not enforce arbitration awards in favor of American companies.

What do we do when we are cheated? What do all the 10,000 American companies with agreements do—agreements with arbitration clauses? Well, an example of what happens follows. Senitron Co., an Arizona electronics company, lost an arbitration award in Stockholm—over $1 million—and the Chinese state-owned entity was able to collect through American courts.

On the other hand, Revpower, my company, has a $9 million arbitration award now. Another company in New Jersey, Petro Chemical Co., has a $5 million arbitration award. It's totally impossible to collect; the Chinese courts just won't enforce. Our case is over 4 years old, and we have had just one stall after another. In fact, the latest thing—which we just learned today at lunchtime—is that SFAIC, Shanghai Far East Aero-Technology Import and Export Co., the Chinese state-owned entity which is a subsidiary of Shanghai Aviation Industries—the company that does the McDonnell Douglas aircraft—and which owes $9 million to Revpower has now declared bankruptcy. We learned right after we received the award in Stockholm in 1993 that the company had been conducting an espionage operation at the McDonnell Douglas headquarters in Long Beach.

They had a liaison office at McDonnell Douglas in connection with their agreement with us, so we were really a cover for an espionage operation which went bad. The FBI arrested five of them. One of them confessed everything and renounced his Chinese citizenship and he's now under protective custody; the others were sent back home. So this company, SFAIC, used us as a cover; they never intended to engage in the business that we were in, which was the battery business. After having confiscated our battery plant and lost an arbitration case in Stockholm, now SFAIC has simply declared bankruptcy. This is a State-owned entity, so something really needs to be done about those things.

American companies are running scared in China. Why? Because everyone knows—the seasoned negotiators know—that the Chinese can breach agreements with impunity, any time they want, and get away with it. So we're scared to death of what might happen.

We have another company in China, operating in Xiamen, that makes fiberglass products. This project started 4 or 5 years ago, and it's been running along fine, increasing in volume each year. But we are really afraid that, at any moment, there could be a major breach in this agreement. And what would we do? We have the standard Swedish arbitration clause in our agreement, but

should we go to Stockholm and spend $500,000 over 2 years to arbitrate and receive an award which would then be totally uncollectible?

Another friend of ours has a company called Revmaster Aviation. Revmaster deals with the same company that we deal with in Xiamen, which is a large Chinese state-owned entity. Revmaster began producing crankshafts in Harbin in north China in 1985. Its partner, a Chinese state-owned company, produced the crankshafts and shipped them to California. They were sold all over the country by Revmaster.

Two years ago, all of a sudden Revmaster learned that its sales had drastically declined, to almost nothing. Upon investigation, Revmaster discovered that its partner—the state-owned company which is also our partner in Xiamen—has begun selling those crankshafts directly to Revmaster's customers and competitors through an intermediary company in Australia. Now what can Revmaster do about that? What could we do about it if that particular Chinese state-owned entity does the same thing to us?

Arbitration doesn't seem to be the answer. Yet these 10,000 agreements that exist in China all contain arbitration clauses. They are like time bombs ready to go off. When the Chinese are ready to breach an agreement or to confiscate a property or whatever they want to do, when they are ready to do it, they do it. They know they can get away with it.

I think the solution is to enact the bill that was introduced by Congressmen Bill McCollum, Clay Shaw, and Floyd Spence. H.R. 2141 would enable companies like ours to collect against Chinese state-owned assets located in the United States in the event we're not able to collect in China. So I would urge the Subcommittee to do whatever is necessary to get this bill through Committee and to the floor for a vote because it's something that every American company operating in China really needs: a way to really collect and to foreclose all the Chinese tricks that they have been playing on us.

This is a simple amendment to a bill that already exists which is called the Foreign Sovereign Immunities Act. Under this act, arbitration awards can even today be collected in the United States through the Federal district court, but only against the offending debtors. If those offending debtors have no assets in the United States, why, then it would be impossible to collect.

This amendment would broaden the base for collection against any State-owned, foreign State-owned assets in the United States. So I would really hope that the Subcommittee and others give this consideration.

Under the 1958 New York Convention on Recognition and Enforcement of Arbitral Awards, China is required to do just that: recognize and enforce; they do not. China does not recognize and enforce arbitral awards under that treaty. So if China is not willing to abide by its international obligations under the New York Convention, then how could we expect China to abide by any promises that would come out of its accession to the World Trade Organization?

So I would say we have got to deal with first things first. That concludes my comments. Thank you.

[The prepared statement follows:]

Statement of Robert R. Aronson, Chairman, Ross Manufacturing Corp., Fort Lauderdale, Florida; and Revpower Limited, Hong Kong, China

Mr. Chairman and members of the Subcommittee, my name is Robert R. Aronson. I am Chairman of Ross Manufacturing Corporation (formerly Ross Engineering Corporation) of Fort Lauderdale, Florida, and President of Revpower Limited ("Revpower"), an American-owned Hong Kong manufacturing company. I appreciate the Subcommittee's courtesy in inviting me to appear before you and applaud your initiative in holding this timely hearing on China Trade Relations and the possible accession of China to the World Trade Organization.

Also, I want to express my thanks to you, Mr. Chairman, and to Congressman E. Clay Shaw, Jr. for the help you have given me over the years in our attempt to collect an arbitration award made to Revpower by the Arbitration institute of the Stockholm Chamber of Commerce ("Swedish Arbitration Institute") on July 13, 1993. That award now stands at $9 million, including accumulated interest. (Exhibit 1)

On May 23, 1995, 1 testified before this same committee on the Revpower case and at that time covered the history of the Revpower dispute with a Chinese state-owned entity, Shanghai Far East Aero-Technology Import & Export Corporation ("SFAIC") which led to arbitration, and subsequent efforts to collect on the award through the Shanghai Intermediate People's Court (the "Shanghai Court"). Since that Statement and all those details are already in the record, I will not repeat that information here but simply refer you to the record.

Over four years have passed since we won that arbitration award. We expected to receive payment in 1993. SFAIC had ample assets with which to pay and was part of the powerful Chinese Military-Industrial Complex. (Exhibit 2) According to a Dun & Bradstreet report ("D & B Report") on SFAIC, they had a paid-in capital of 500,000,000 Yuan. They owned the 4th floor of a large office building in downtown Shanghai. They were in the process of building a factory in Pudong, across the river from Shanghai, for a joint venture with a Fortune-500 company to manufacture an electronic check-out apparatus that is found at all check-out counters in large U.S. markets. They had property in California and Nevada and operations in Hong Kong and other parts of the world. In Shanghai, they had a staff of 50 persons.

According to the D & B Report, SFAIC is a State-owned enterprise which is defined as follows in that report: "State-owned Enterprises refers to Corporations, Enterprises, other economic entities registered in China either financially supported or ultimately controlled by the State, Provinces, Municipalities, Autonomous Regions or Chinese Enterprises."

SFAIC is a wholly owned subsidiary of Shanghai Aviation Industrial Corporation ("SAIC"), the company which assembles MD–80 aircraft for McDonnell Douglas. Our original oral agreement was with SAIC, made in June of 1985 at the headquarters of McDonnell Douglas in Long Beach, California. SFAlC did not exist at that time. It was formed by SAIC initially to do business with us in February, 1986. The relationship between SFAIC and SAIC can be seen in a letter from Shanghai Aircraft Manufacturing Factory, a division of SAIC, dated July 15, 1994 (Exhibit 3) and addressed to Mr. Du Jianping, General Manager of a company which manufactures Sheltered Bus Stop Equipment. In that letter, the director of Shanghai Aircraft is attempting to explain to Mr. Du that SAIC cannot sign documents with foreign companies and that such documents must be signed by SFAIC (the company which owes us the award). The letter states:

> ...I have explained to you in the past that Shanghai Aviation Industry Corporation (SAIC) has authorized Shanghai Far-East Aero-Technology Import & Export Corporation (SFAIC) as its representative to sign for it all contractual documents directly with foreign parties. SFAIC signs all such documents on behalf of the head office.

Thus, SFAIC is the alter-ego of SAIC.

COLLECTION

Since Revpower's original understanding was with SAIC which later created SFAIC to do business with us, I felt quite secure about receiving payment when receiving the arbitration award. Both SAIC and SFAIC had ample assets. Moreover, SAIC was a subsidiary of the Ministry of Aeronautics and Astronautics (now called Aviation Industries of China or "AVIC"), a part of the Military-Industrial Complex of China, backed by billions of dollars of Chinese foreign exchange reserves.

Instead of receiving payment in 1993 as I had expected, I was in for a very rude awakening.

First shock

SFAIC refused to pay the award saying that "it was unfair."

Second shock

When we filed the award with the Shanghai Court, the court refused to give us a receipt for the award, or a case number, and for the next two years refused to even acknowledge that the award existed.

Third shock

Soon after receiving the award, late in 1993, we learned that SFAlC was transferring its business and assets to its parent, SAIC, and to its grandparent, AVIC.

Fourth shock

We began learning that China has a policy of Non-enforcement of arbitral awards in favor of foreigners.

Matthew D. Bersani, an attorney with Paul, Weiss, Refkind, Wharton & Garrison, with offices in New York and Beijing, talked of "the virtual impossibility of enforcing arbitration awards in China" in his article entitled, ENFORCEMENT OF ARBITRATION AWARDS IN CHINA, published in *The China Business Review*, May–June 1992. And the April, 1996 article entitled ALL CHANGE IN CHINA published in *International Commercial Litigation* April 1996 stated, "Foreign companies know that the rule of law carries less weight. For a start, lawyers say, the local courts show hostility to foreigners. 'Frankly, going there is ill-advised' says one. The system is renowned to be slewed against strangers. 'You are going to run into a wall know as local protectionism. It is present in all cases, to an extreme degree, and it is the decisive factor'."

One example of local protectionism is the Petro-Chemical Case Petro-Chemical U.S.A. Company Incorporated of Fort Lee, New Jersey has been unable to collect a $5 million award granted in 1995 by the Swedish Arbitration Institute. A copy of a letter on this matter from attorney Magnus Andren of Lagerlof & Leman, New York City, is attached. (Exhibit 4)

Fifth shock

Shortly after receiving the award in 1993, I learned that SFAlC had been conducting an espionage operation at its Liaison Office at the McDonnell Douglas headquarters in Long Beach, California. This office was set up just after SFAlC/Revpower Letters of Intent were signed in February, 1986 (the month that SFAlC was formed by SAIC). The FBI arrested the SFAIC officials in June, 1993. One of them defected and confessed what had been going on. The others were deported back to Shanghai. This confirmed what I had thought all along. SFAIC did not really want to be in the battery business. Their liaison office, set up ostensibly to monitor business with Revpower and others, was really a cover for espionage activities. Officials at McDonnell Douglas worked with the FBI to uncover these activities.

Present status

The Shanghai Court has been sitting on the award for four years and has made no effort to enforce collection from SFAIC. SFAIC has gone out of business. It is obvious that China has no intention of paying this award.

Assistance by U.S. Government agencies

We have had a great deal of support from the U.S. Departments of Commerce, State, Treasury, Office of U.S. Trade Representative, U. S. Embassy in Beijing and American Consulate General in Shanghai whose officials have brought up the matter with their counterparts in Washington, D. C. and in China on many occasions, but to no avail. The Chinese ignore the matter. We have an office in Shanghai and our staff members report that the Chinese laugh at the 1958 New York Convention on Recognition and Enforcement of Arbitral Awards. The comment we hear most often is, "The New York Convention has no teeth."

EFFECT ON U.S. COMPANIES OPERATING IN CHINA

Many of these companies are very apprehensive in their dealings with their joint venture partners or others with whom they have signed agreements. They know that the Chinese can breach these agreements with impunity at any time and that

there is really no recourse. We all have come to learn that there is no legal protection for American investments in China. I can give you dozens of examples of major breach of contract and outright confiscation, as in our case.

HOW TO LEVEL THE PLAYING FIELD

Most agreements between American companies and the Chinese are with Chinese State-owned entities such as SFAIC. If these entities knew that they could not get away with major breaches of contract and confiscation, the whole relationship between American and Chinese business would change for the better and would be beneficial to both sides. This year, American investment in China is off by 50%, the first time ever. Partly responsible for this decline is the growing awareness that there is no legal protection for American investment in China.

From the American business point of view, one of the best ways to reverse this one-sided situation would be to have enacted the International Arbitration Enforcement Act of 1997, H.R. 2141, a Bill introduced by Congressman Bill McCollum and co-sponsored by Congressmen E. Clay Shaw, Jr. and Floyd Spence. It is my opinion, shared by many other business men with operations in China, that *H.R. 2141 is, by far, the most important business related Bill pending in Congress and would do more good for more American companies in China than any other pending Bill in Congress.*

H.R. 2141 is basically an amendment to the Foreign Sovereign Immunities Act ("Act"). The Act protects foreign states from U.S.A. lawsuits, but with an exception. The exception is that U.S. persons can collect international arbitration awards against foreign states (or foreign State-owned entities) through the Federal District Court.

The amendment would rectify this situation in that U.S. persons with international arbitration awards could collect against any non-diplomatic assets of the foreign state located in the U.S.A. China has a great many State-owned companies operating in the U.S.A. and most of them have assets in the form of property, inventories, cash in banks, etc. It would be difficult for all of them to dispose of their assets.

Passage of H.R. 2141 would be a breath of fresh air for all American companies with business in China. It would stop the Chinese from playing games with us and our investments in China. It would put US-China business relations on a solid footing which would be good for both sides. It would stop major U.S. companies from backing out of China or freezing present China projects. And it would encourage newcomers to test the waters in China, with foreknowledge that their investments would be legally protected.

My recommendation to the Subcommittee, therefore, is that everyone get behind H.R. 2141 and do whatever is necessary to get this Bill enacted as quickly as possible for the sake of all of us.

CHINA'S POSSIBLE ACCESSION TO THE WORLD TRADE ORGANIZATION

I frankly can not see how China can be allowed into this organization when China does not honor its obligations under the 1958 New York Convention on Recognition and Enforcement of Arbitral Awards. China's shameful behavior of allowing one of its State-owned entities to transfer its business and assets to its parent and grandparent in order to avoid the award, and the shameful behavior of the Shanghai Court in ignoring the award for 2 years and making no attempt to enforce the award over a 4-year period is inexcusable.

And China's disgraceful behavior in using the Revpower agreement as a cover for an espionage liaison office at the McDonnell Douglas headquarters in Long Beach, California is not the behavior of a county mature enough to join the World Community of Nations.

Therefore, at this point in time, I could not recommend that China be allowed to become part of the World Trade Organization for the above reasons.

Mr. Chairman, that concludes my remarks. I look forward to working with you and the Subcommittee to assist in getting H.R. 2141, perhaps coupled with several other China related Bills, to the floor for a vote. I would be pleased to answer any questions you may have and pleased to submit for the record any documents or correspondence the Subcommittee requests.

[Exhibits are being retained in the Committee files.]

Chairman CRANE. Thank you, Mr. Aronson.
Mr. Wootton.

STATEMENT OF MICHAEL WOOTTON, DIRECTOR, FEDERAL GOVERNMENT AFFAIRS, SUNKIST GROWERS

Mr. WOOTTON. Mr. Chairman, Mr. Shaw, I am Mike Wootton, director of Federal Government affairs for Sunkist Growers. We are headquartered in Sherman Oaks, CA. We are one of the oldest agricultural cooperatives in the United States—104 years old—and represent 6,500 citrus farmers in California and Arizona in bringing their products to market.

Export markets have become a more and more significant source of revenue for Sunkist and other citrus entities in California, Arizona, Florida, and Texas. Today, 45 percent of our growers, fresh fruit sales annually are derived from export sales.

Since the late seventies, Sunkist has been working deliberately to develop relationships and build a foundation for market development in the People's Republic of China through trade in our processed citrus products. But since World War II, we have been denied the opportunity to sell fresh fruit in China, as have all of the other citrus producing States in the United States.

In 1992, the United States and the PRC entered into a market access memorandum of understanding in which the Chinese Government committed itself to open its markets to American agricultural products, including fresh citrus fruit. Since that time, officials at the Department of Agriculture and the Office of the U.S. Trade Representative have been meeting with their counterparts in the Chinese Government to address all outstanding technical issues. Bilateral agricultural trade meetings have been held several times this year—both in China and in the United States, as recently as a week before last in San Francisco—to negotiate the terms and conditions of agricultural trade compatible with obligations of country membership in the WTO.

Unfortunately, these efforts have yet to produce a satisfactory resolution. The Chinese Government persists in its resistance to protocols that would open its markets to American agricultural products, including fresh United States origin citrus fruit. China has yet to demonstrate full acceptance and implementation of WTO Agreements on the application of sanitary and phytosanitary measures, on technical barriers to trade, and on import licensing measures.

In our case, China has maintained a quarantine against our fresh fruit under the auspices of concern about exotic pests such as Mediterranean fruit fly, which are not indigenous to the United States, which find no permanent habitation here, and which periodically are brought into this country from abroad. China's prohibition against fresh American citrus fruit continues, despite proven successful isolation and eradication of the pest in the United States following each detection incident.

As I noted, these periodic outbreaks—this year in the heavy tourist area of central Florida and more recently in the urbanized area

of South-Central Los Angeles—are usually caused by illegal importation of infested contraband fruit brought in by casual international travelers at major ports of entry, and also by illegal entrants from countries of Central and South America carrying fruit from locations where Med fly and other exotic pests have become established.

Our other major trading partners, notably Japan, Korea, Australia, and New Zealand—all citrus producing countries themselves—recognize and subscribe to the success of our quarantine isolation and eradication program for Med fly. They readily accept U.S. Government certification of pest free, fresh California and Arizona citrus fruit into their markets from pest-free zones in the United States. The standards adhered to by WTO and other international organizations demand sound science as a foundation for sanitary and phytosanitary policies, including quarantines. Regrettably, China has yet to demonstrate acceptance of this international standard.

China is a very significant prospective market for fresh American citrus fruit. If the Chinese Government would finally allow our fruit to pass over the Great Wall and into the Chinese marketplace, we anticipate citrus fruit sales from California alone of $300 million annually during the early startup years. Building upon that volume, we could do our part to help reduce the $50 billion trade deficit that we currently suffer in commercial transactions with China.

However, despite the best efforts of our Government, notably the Department of Agriculture and the Office of the U.S. Trade Representative, America's fresh citrus fruit continues to be excluded from the marketplace in the People's Republic of China. We therefore urge Congress to resist granting permanent MFN status to China at this time, and to oppose also China's accession to the WTO at this time until China opens its markets to American products, including citrus fruit, lives up to its commitments expressed in bilateral agreements, and fully demonstrates adherence to the obligations inherent in WTO membership.

Thank you, Mr. Chairman.

[The prepared statement follows:]

Statement of Michael Wootton, Director, Federal Government Affairs, Sunkist Growers

Chairman Crane, Members of the Subcommittee, I am Michael Wootton, Director of Federal Government Affairs for Sunkist Growers, which is headquartered in Sherman Oaks, California. As you may know, Sunkist Growers is a non-profit, grower-owned marketing cooperative serving 6,500 citrus farmers in Arizona and California. For 104 years, Sunkist Growers has successfully marketed high quality citrus fruit produced by its grower-members. Today, Sunkist Growers produce approximately 65 percent of the oranges, lemons and grapefruit grown in Arizona and California. Our cooperative enjoys a long history of dedicated effort to create and expand markets around the world for our American citrus fruit. Sunkist exports today account for about 45 percent of our growers' annual fresh fruit sales.

Since the late 1970s, Sunkist Growers has been working to establish relationships and build a foundation for market development through trade in processed citrus products in the People's Republic of China.

In 1992, the United States and the PRC entered into a Market Access Memorandum of Understanding in which the Chinese government committed itself to open its markets to American agricultural products, including fresh citrus fruit. Since that time, officials of the U.S. Department of Agriculture and the Office of the U.S. Trade Representative have been meeting with their counterparts in the Chinese

government to address all outstanding technical issues. Bilateral agricultural trade meetings have been held several times this year both in China and in the U.S. to negotiate the terms and conditions of agricultural trade compatible with obligations of country membership in the World Trade Organization. Unfortunately, these efforts have yet to produce a satisfactory resolution. The Chinese government persists in its resistance to protocols that would open its markets to American agricultural products, including fresh U.S.-origin citrus fruit.

China has yet to demonstrate full acceptance and implementation of WTO agreements on the Application of Sanitary and Phytosanitary Measures on Technical Barriers to Trade and on Import Licensing Measures.

In the case of our industry, the PRC has maintained a quarantine against the importation of fresh citrus fruit from the U.S. under the auspices of concern about the Mediterranean fruit fly, an exotic pest which is not indigenous to the U.S. and which finds no permanent habitation here, but which is periodically brought into this country from abroad. China's prohibition against fresh American citrus fruit continues despite the proven successful isolation and eradication of the pest in the U.S. following each detection incident. As I noted, these periodic outbreaks—this year in the heavy tourist visitation area of central Florida and most recently in an urbanized area of South-Central Los Angeles—are usually caused by the illegal importation of infested contraband fruit brought into the U.S. by casual international travelers at major ports of entry and by illegal entrants into the U.S. from countries of Central and South America carrying fruit from locations where Med fly and other exotic pests have become established.

Our other major trading partners—notably Japan, Korea, Australia, New Zealand—all citrus producing countries themselves—recognize and subscribe to the success of our quarantine, isolation and eradication program for the Med fly. They readily accept U.S. government certification of pest-free, fresh California and Arizona citrus fruit into their markets from pest-free zones in the United States. The standards adhered to by the WTO and other international organizations demand sound science as the foundation for sanitary and phytosanitary policies, including quarantines. Regrettably, China has yet to demonstrate acceptance of this international standard.

Prospectively, China is a very significant market for fresh American citrus fruit. If the Chinese government would finally allow our fruit to pass over the Great Wall and into the Chinese marketplace, we anticipate annual citrus fruit sales for California alone of $300 million during the early startup years of market development. Building upon that volume, we could do our part to help reduce the now $50 billion annual trade deficit suffered by the U.S. in commercial trade with China.

However, despite the best efforts of our government—notably the U.S. Department of Agriculture and the Office of the U.S. Trade Representative—America's fresh citrus fruit continues to be excluded from the marketplace in the People's Republic of China. We, therefore, urge the Congress to resist granting permanent MFN status to China and to oppose, at this time, China's accession to the WTO until China opens its markets to American products, including American citrus fruit, lives up to its commitments expressed in bilateral agreements earlier referred to and fully demonstrates adherence to obligations inherent in WTO Membership.

Chairman CRANE. Thank you. Mr. Wootton, what further steps does China need to take to demonstrate its intention to accept and implement the WTO Agreements on the application of sanitary and phytosanitary measures and also on import licensing measures?

Mr. WOOTTON. Well, in the case of sanitary and phytosanitary measures, what we have simply asked them to do is do what other trading partners, such as Japan are doing. That is, to accept the type of phytosanitary protocols and work plans and standards that we are able to devise, along with the expertise of the Animal Plant Health Inspection Service at USDA, in identifying those areas where we perhaps have a Med fly outbreak—as we did recently in Tampa, Florida area—and quickly isolate and eradicate the pest, quarantine the fruit coming out of that area, and exclude it from the export market.

Our other trading partners—and certainly Japan is a good example of that—are readily willing to accept our protocols and our assurance that the fruit that they are getting from us is pest-free. We ask China to simply do the same type of thing that seems to be the international standard in this area.

At this point, you know, we have discussed technically with the Chinese ad nauseam all of these points. We have had our scientific experts in from Gainesville, Florida, California, and the other citrus producing States. The industry has insisted that China not be given the opportunity to nickel-and-dime us to the point where they'll let in certain counties but not others, certain States but not other States. We have insisted on their adherence to the WTO standards and not be allowed to selectively choose a particular county or State.

Chairman CRANE. Mr. Giordano, are other WTO partners who produce pork, such as Canada and Australia, in agreement with our general approach to Chinese accession to the WTO?

Mr. GIORDANO. Yes, they would be, Mr. Chairman. In fact, this weekend I met in Mexico with representatives from both the Canadian and Mexican industries. This was on the agenda; we're all in agreement. I believe that they have made their concerns known to their governments. Certainly, the European producers, who we also frequently meet with—just this month, in fact, in Europe—would also agree with that.

Australia—we don't have much of a relationship with them yet. Unfortunately, they also have a ban on our product, which is very much a bogus sanitary restriction. But they are not much of a significant exporter. I would assume that their position also would be that China should open the market, but I don't know how much oxygen the issue has gotten in Australia.

Chairman CRANE. Mr. Stewart, you say in your testimony that investment restrictions in China's strategic industry initiatives seriously impede United States trade and investment flows with China, and that these barriers can't be resolved by WTO accession.

Could you elaborate on that concern?

Mr. STEWART. Yes, Mr. Chairman. The reality is that China has a strategic industry program: The automobile sector, the electronics sector—as I believe a speaker on the prior panel revealed—and one or two others have been identified. Basically, in those sectors, foreign investment is either not allowed or is tightly controlled.

The result is that in sectors where the United States is highly competitive, our companies are not able to exploit that advantage, both from an export point of view and from an investment-in-country point of view. The highest tariffs that exist on an MFN basis in China at the moment are reserved for the auto sector, where I believe the tariffs are 120 percent. Obviously, those are prohibitive tariffs in any country. They are coupled by a restriction as to the amount of investment that can go in and the number of companies that can go in. That has obviously presented problems for the Big Three here in the United States, and certainly for many of the auto parts suppliers.

Chairman CRANE. Mr. Aronson, do you believe the United States is making reasonable demands for China's accession to the WTO?

Mr. ARONSON. Could you repeat that?

Chairman CRANE. Do you believe that the United States is making reasonable demands for China's accession to the WTO?

Mr. ARONSON. Oh, yes. I certainly think so. I think that the United States position is that China should be considered a developed country rather than a developing country, and should have to adhere to the standards of a developed country. But again, I think that until China adheres to its obligations under other international agreements, such as the New York Convention on Recognition and Enforcement of Arbitral Awards, that no consideration should even be given to China for accession to WTO.

If China does not adhere to one particular treaty, why should it adhere to another? I think we need to go back to the basics, you know, and review all the other international treaties to which China is a signatory and make sure that China has lived up to its commitments on all of those treaties before we even think about WTO.

Chairman CRANE. Mr. Shaw.

Mr. SHAW. Thank you, Mr. Chairman. Mr. Aronson and I talked about the problems that he's had over in China over the years. I would like to pose a couple of questions. First, how can Congress protect American investment in China if they refuse to equally apply their own laws to foreigners, as the situation is in your case?

Mr. ARONSON. Under the situation we have today, American investment in China is really not protected at all. There's no protection for our investment there. Why? Because the Chinese can confiscate property. They can materially breach contracts and completely get away with it because should such actions result in disputes that end in arbitration awards in favor of Americans, those awards are neither recognized nor enforced by Chinese courts. So there's really no protection.

The only way, in my opinion, that American investment can be protected is to take it away from the Chinese court and bring it to American courts, to the Federal District Court. The bill proposed by you and Congressmen Bill McCollum and Floyd Spence, H.R. 2141, would do that. It would enable companies with international arbitration awards to collect against Chinese state-owned assets in the United States. That would level the playingfield. It would cause the Chinese to stop playing around with our companies and with our assets over there.

Mr. SHAW. I understand that that might be made an order as an amendment on the floor this week, which I think would be very helpful. That would give a cause of action in our own—would that help you in your situation?

Mr. ARONSON. Pardon me?

Mr. SHAW. Would that help you in your situation?

Mr. ARONSON. Yes, that would help us. Especially if action could be taken quickly on it.

We just learned today—at noon today, while we were having lunch—that the company that owes us the $9 million in China, the state-owned company, has filed bankruptcy. Amazing. Here's a state-owned company that has engaged in espionage activities using our contract as a cover, and then, after having lost an arbitration award, has filed for bankruptcy. I think H.R. 2141 could solve that problem.

Mr. SHAW. Is Chinese bankruptcy something like ours?

Mr. ARONSON. Yes, it is. It is. It's very much like ours.

Mr. SHAW. So without this, you would be reduced to just being one of the claimants?

Mr. ARONSON. Yes.

Mr. SHAW. But you haven't established the enforceability from the subsidiary that you did business with, isn't that correct? Under Chinese law, they just sort of ignored it.

Mr. ARONSON. Yes. The subsidiary, Shanghai Far East, actually has been acting for its parent, Shanghai Aviation Industries. We have hard evidence that one is the alter ego of the other. We really have been dealing with Shanghai Aviation Industries, which produces the McDonnell Douglas MD–80s, all the while.

The subsidiary was a cover that was set up for espionage purposes. They—the officials—were all arrested by the FBI in California. Of course, one of them defected and confessed everything. The others were sent back to China. Now the subsidiary has gone into bankruptcy. But the subsidiary was always an alter ego, part and parcel of its parent, and acting for and on behalf of the parent. So we believe that under H.R. 2141, we could hold the parent responsible. The parent does have assets in the United States. However, H.R. 2141 would enable us to collect against any State-owned assets in the United States since we're dealing with State-owned companies that owe us money in China.

Mr. SHAW. Thank you. Thank you very much. I am pleased that I was able to be here during most of your testimony.

Mr. ARONSON. I hope that happens tomorrow.

Mr. SHAW. I welcome you to the Subcommittee as a constituent of mine.

Mr. Wootton, going a little bit beyond the Sunkist situation, we are presently going through a situation with Mexico regarding the sanitation issue and citrus. How does what you refer to with the Chinese differ from the problems that we are presently experiencing—and about which I have been advised by several people that we have not been successful in exporting one single orange to Mexico. They are now claiming the sanitation problem with the fruit fly.

Mr. WOOTTON. Well, certainly the use of phytosanitary arguments has become a new methodology in creating trade barriers. We have experienced that as well with Mexico. Only recently did Mexico agree to open up its market to Arizona-produced citrus fruit, arguing all along that they were concerned about a Mediterranean fruit fly—which, historically, not one Mediterranean fruit fly has ever shown up in Arizona.

So in the end, I think when the United States worked out their concerns about Mexican avocado imports into the United States, all of a sudden that phytosanitary concern about Arizona disappeared. Some months after they agreed to open up the market for Arizona, we are still without any of the specific work plans and protocols that they have agreed to in place. So, you are right; they do use phytosanitary arguments on occasion to create barriers to trade.

In the case of China, they have taken it to the extreme of excluding all United States citrus fruit, including that from Florida. I might add that we are working in concert with the citrus industry

in Florida, Texas, Arizona, and California to jointly demand full access for all United States citrus producing States, not just one or two.

Mr. SHAW. Is China a producer of citrus?

Mr. WOOTTON. They are a producer of citrus.

Mr. SHAW. How large are they?

Mr. WOOTTON. They are a very large producer in terms of acreage. But in terms of production volume, quality, and so on they are not competitive with the United States. They are OK for small fruit, some juice, some specialized items like mandarin oranges, and that type of thing. But, for example, in the case of grapefruit, Florida would certainly be the dominant producer and provider in the China market for that.

It all started with China. Then Marco Polo took it to the Mediterranean, and from there back to South America, and up the coast to the United States. So we just want to complete the circle.

Mr. SHAW. Thank you. Thank you all for your testimony.

Chairman CRANE. Thank you all for your testimony. This concludes the Subcommittee hearing on United States-China relations and possible accession of China to the World Trade Organization.

The record will remain open until November 18. The Subcommittee stands adjourned.

[Whereupon, at 2:53 p.m., the hearing was adjourned, subject to the call of the Chair.]

[Submissions for the record follow:]

Joint Statement of American Beekeeping Federation, Inc., American Honey Producers Association, Inc., and Fresh Garlic Producers Association

Pursuant to the October 22, 1997 announcement by the Subcommittee on Trade of the Committee on Ways and Means, the American Beekeeping Federation, Inc. ("ABF"), the American Honey Producers Association, Inc. ("AHPA"), and the Fresh Garlic Producers Association ("FGPA") submit the following statement for consideration by the Committee and for inclusion in the printed record of the November 4, 1997 hearing held by the Subcommittee regarding the future of United States-China trade relations and the possible accession of China to the World Trade Organization (WTO).

In particular, ABF, AHPA and FGPA submit this statement concerning two issues that deserve attention and priority commensurate with the United States' other top-priority negotiating positions. First, this statement addresses the anticipated impact China's WTO membership would have on certain U.S. industries that are vulnerable to Chinese imports. China's accession may pose considerable danger to the U.S. Commerce Department's continued ability to treat China as a non-market economy ("NME") country under U.S. trade law. Second, ABF, AHPA and FGPA recommend that China's membership to the WTO also be conditioned on China granting significant concessions as to its tariff barriers restricting imports of U.S. merchandise. With 1.2 billion citizens, China is the world's largest market for virtually all merchandise. Nevertheless, China's tariff barriers to trade effectively close that market to potential U.S. exporters.

I. THE TERMS OF CHINA'S ACCESSION TO THE WTO SHOULD ENSURE THE CONTINUED TREATMENT OF CHINA AS A NON-MARKET ECONOMY COUNTRY UNDER U.S. TRADE LAW

Briefly summarized, China's accession to the WTO will likely affect certain aspects of U.S. antidumping law. Specifically, China's admittance to the WTO could threaten the continued treatment of China as an NME country in future U.S. antidumping investigations and administrative reviews, unless China expressly consents to special treatment in its WTO Protocol of Accession. The likely outcome of future trade cases against China, absent NME treatment, could be either very small, or zero percent, dumping margins found in most, if not all, cases. Therefore, AHPA, ABF and FGPA urge the United States to negotiate for the insertion of specific language in China's draft Protocol of Accession that would allow WTO Members to con-

tinue to make allowances for the special difficulties involved in making price comparisons in Chinese trade cases. Inclusion of such language may be essential to the continued prosperity of AHPA, ABF and FGPA, and many other important U.S. domestic industries.

A. Certain U.S. Industries Are Extremely Vulnerable to Imports From China

If China's accession to the WTO is not made conditional upon the ability of the United States and other WTO members to treat China as a non-market economy country when enforcing their trade laws, many U.S. industries that are vulnerable to Chinese imports could be threatened. The potential adverse impact that such a result could have on the U.S. honey and fresh garlic industries is described below.

1. Vulnerability of the U.S. Honey Industry

In the early 1990s, China exported only a few million pounds of honey each year to the United States. During the three-year period 1992–94, Chinese annual imports rose to an average of about 70 million pounds, which were sold here at about half the price U.S. producers needed to recover their costs of production. In contrast to China, U.S. producers supplied less than 60 million pounds to the U.S. market during 1992–94. The explosion in Chinese honey imports into the United States created a massive oversupply situation, which caused U.S. producers' prices to fall well below their costs of production.

In October 1994, the ABF and AHPA formally asked the U.S. Government to conduct an antidumping investigation of honey imports from China. In November 1994, the U.S. International Trade Commission preliminarily determined that the facts it had gathered thus far in its investigation demonstrated a reasonable indication that the U.S. honey industry was materially injured, or threatened with material injury, by reason of Chinese honey imports.

In March 1995, the U.S. Commerce Department issued its affirmative preliminary determination that all of the Chinese honey exporters were dumping honey into the United States at rates at or over 127 percent *ad valorem*, and imposed provisional dumping duties based on its findings.

In August 1995, Commerce and the Government of China signed the first and only suspension agreement with China which essentially "suspended" the dumping investigation[1] in return for China's commitment to limit its exports to the United States over a five-year period to 44 million pounds. China also agreed to limit the sales price of Chinese honey into the United States to 92 percent of the weighted average price of honey imports into the United States from all third countries. This suspension agreement, supplemented by the five months of provisional dumping duties on Chinese honey imports at or above a 127 percent *ad valorem* rate, saved the U.S. honey industry from destruction.

2. Vulnerability of the U.S. Fresh Garlic Industry

The FGPA,[2] representing the U.S. fresh garlic industry, recently faced a similar threat from Chinese imports. Several years ago, the U.S. fresh garlic industry was nearly destroyed by a tidal wave of dumped fresh garlic imports from China. Chinese imports rose from 3.5 million pounds in 1992, to 9.4 million pounds in 1993, and then to a staggering 63.5 million pounds in 1994. That year, Chinese imports were available in the United States in huge quantities for a few pennies per pound *delivered*. Only the imposition of significant antidumping duties saved the domestic industry from certain collapse.

In January 1994, the FGPA asked the U.S. Commerce Department to impose dumping duties against fresh garlic imports from China in hopes of neutralizing their damaging effect. Commerce ruled that, for purposes for fresh garlic production, China was an NME country. Commerce has made the same ruling in more than a dozen other dumping cases it has conducted against Chinese imports. This NME designation meant that, in determining the amount of dumping attributable to the

[1] Under a suspension agreement in an antidumping duty investigation, Commerce promises to suspend the dumping investigation and not to impose dumping duties of any kind. The foreign industry (or, in the case of China, the Chinese Government) promises to take steps that in essence will eliminate the injurious effects of the foreign imports on the U.S. industry. Commerce reserves the right to terminate the suspension agreement and immediately resume the investigation if it determines that the foreign parties have not fulfilled their commitments under the agreement.

[2] The FGPA is an *ad hoc* trade association that represents the country's major producers of fresh garlic. Almost all fresh garlic produced in the United States is produced in California by the 13 members of the FGPA. For the 1996–97 crop year, the FGPA members are growing approximately 130 million pounds of fresh garlic, representing about $100 million in potential sales.

Chinese industry, the Commerce Department did not compare China's home market prices to the prices of Chinese exports to the United States.

Using its NME factors of production analysis instead,[3] Commerce found in July 1994 that Chinese exporters were selling fresh garlic in the U.S. market for as little as $.06/lb.—or 376 percent below the cost of production for fresh garlic in China. The U.S. International Trade Commission also found that the Chinese imports were a cause of material injury to the domestic industry. As a result, Commerce issued a final dumping order in November 1994 that confirmed the 376 percent dumping duty on fresh garlic from China found by Commerce in July 1994.[4]

Today, due largely to the dumping order, the FGPA members collectively have over 1,700 employees dedicated to fresh garlic production. In addition, the FGPA members each year contract with more than 100 independent farmers in California to supervise the growth of fresh garlic in relatively small plots throughout that state.

Accordingly, the FGPA—on behalf of domestic garlic producers—and the ABF and AHPA—on behalf of the U.S. honey industry—urge the United States not to concede to China on the issue of continued NME treatment under the WTO/GATT regime. As discussed further below, these industries firmly believe that their hard-fought victories against dumped Chinese exports could be undermined swiftly if Commerce were required to treat China as a market economy country. Indeed, such a result could lead to their rapid demise.

B. China's Status as an NME Country Can Be Preserved by the Inclusion of Appropriate Language in China's Protocol of Accession to the WTO

The U.S. honey and fresh garlic industries' cases against imports from China wholly depended on Commerce treating China as a NME, as Commerce has done in every other of the two dozen dumping cases it has conducted against China over the past ten years. Were China to be admitted to the WTO under terms that endangered Commerce's ability to treat China as an NME, these and other U.S. industries would be destroyed by Chinese imports within a few years.

Under the General Agreement on Tariffs and Trade ("GATT"), Article VI is the provision that governs dumping investigations initiated among WTO Members. In particular, when a Member conducts a dumping investigation, paragraph 1 of Article VI provides the relevant administering authority (such as the U.S. Commerce Department) with instructions as to the method for calculating dumping margins. Pursuant to Article VI, the administering authority must compare home market prices in the country under investigation (*i.e.*, normal value) to the prices of the product as exported by that country to the investigating country.

There is one exception to this requirement. An interpretive note to paragraph 1 of Article VI authorizes the relevant administering authority to make an exception in dumping cases against WTO Members that are non-market economy countries.[5] In those cases, normal value may be determined by using a method different from the method required to determine normal value in cases against market economy WTO Members.

Since the GATT entered into force, three countries with state or centrally controlled economies have become GATT Members, and are now WTO Members: Poland (1967), Romania (1971), and Hungary (1973). For each country, the U.S. Government successfully negotiated language in their Protocols of Accession whereby the countries effectively recognized that they fit into the exception of Interpretative

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[3] In the NME factors of production analysis, Commerce determines the actual factors, or elements, that go into making the relevant product in the NME country under investigation. Commerce then determines the value for each factor based on prices in a market economy country that is at the same level of development as the relevant NME country. The values are then summed on a weighted basis, and the resulting sum is used as normal value in the dumping margin calculation. For dumping cases against Chinese exports, Commerce has typically used factor values from India or Indonesia.

[4] While the dumping order has reduced *official* Chinese fresh garlic imports to a mere 200,000 pounds in 1996, many million pounds of Chinese imports continue to be illegally smuggled into the United States each year without the payment of *any* antidumping duties by importers. *See* attached February 24, 1997 press release from the U.S. Attorney's Office in Los Angeles on the criminal fraud guilty pleas of two dishonest importers regarding their avoidance of over $9 *million* in dumping duties on their smuggled imports of fresh garlic from China.

[5] Pursuant to Interpretative Note 2 to Article VI, paragraph 1 of the GATT, "contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices . . . may not always be appropriate." This exception applies in cases involving imports from countries whose governments have "a complete or substantially complete monopoly of [their] trade and where all domestic prices are fixed by the state." 1994 General Agreement of Tariffs and Trade, Interpretative Note 2, art. VI, para. 1. This note was made part of the General Agreement in 1955.

Note 2 to GATT Article VI, paragraph 1. None of these countries has challenged the United States' designation of the country as an NME country in antidumping investigations.

Thus, in light of the current international antidumping regime, China must be persuaded to come to an agreement with the WTO Members that would enable the Members to treat China as within the terms of Interpretative Note 2 to GATT Article VI, paragraph 1. Thereby, any WTO Member that initiates an antidumping case against Chinese exports would be able to take into account the "special difficulties" involved in determining price comparability between the price of Chinese exports and Chinese home market prices.

With this in mind, the United States in December 1994 proposed specific language to be inserted in China's Protocol of Accession that would make clear that WTO Members would retain the ability to treat China as an NME country after China's accession to the WTO. Thus, the most recent version of China's draft Protocol contains the following section on "Price Comparability in Determining Subsidies and Dumping" proposed by the United States:

[It is recognized that, in the case of imports of Chinese origin into a WTO Member, special difficulties may exist in determining price comparability in the context of antidumping and countervailing duty investigations. In such cases, the importing contracting parties may find it necessary to take into account the possibility that a strict comparison with domestic prices in such a country may not always be appropriate.]

The brackets around this language indicate that the text has been proposed for purposes of negotiation, but that it has not yet been officially adopted as a final term of accession. In fact, from the time the United States proposed this provision, China apparently has refused to make any concessions on this point.

As a result, more pressure must be brought to bear upon China on this issue. Indeed, the consequences of giving in to the Chinese on this issue could be profound. The omission of this language from China's final Protocol of Accession might create doubts about whether a WTO Member like the United States could continue to treat China as within the exception of Interpretative Note 2 to GATT Article VI, paragraph 1. These doubts may encourage China to challenge at the WTO any decision by the United States to continue to treat China as a NME country under the U.S. antidumping law. There is a risk that, in such an appeal, a WTO dispute resolution panel would rule in China's favor if China's final Protocol of Accession is silent on this issue.

Therefore, a clear provision explicitly authorizing the continued use of NME treatment should be included in China's Protocol of Accession. At minimum, the United States must ensure that the provision on "Price Comparability in Determining Subsidies and Dumping" remains an important part of China's final Protocol of Accession. In addition, ABF, AHPA and FGPA strongly urge that the current bracketed language in the draft Protocol would be significantly improved if it ended with this sentence: "In such cases, the relevant WTO Member may use an alternative method for calculating normal value as long as that method is appropriate and not unreasonable."

For the foregoing reasons, AHPA, ABF and FGPA do not support the accession of China to the WTO unless China simultaneously agrees to allow other WTO Members to take into account for purposes of Article VI of the GATT the "special difficulties" involved in determining price comparability in the Chinese home market. Chinese accession without a negotiated agreement in this area would undoubtedly have a severe, adverse impact upon the U.S. honey and fresh garlic industries, as well as all other U.S. industries vulnerable to massive dumped imports from China.

II. The Terms of China's Accession to the WTO Should Require That China Undertake Trade Liberalization Commitments That Are Commensurate With Those of Other WTO Members

In light of their strong interests in improving access to the Chinese market, ABF, AHPA and FGPA set forth below the U.S. honey and the fresh garlic industries' concerns about the tariff rates currently in place in China that effectively impede access to the Chinese market for U.S. merchandise.

A. China's Huge Tariff and VAT Rates on Honey Imports Have Entirely Closed China's Massive Market to Honey Imports from WTO Members

The ABF and AHPA are associations representing domestic producers of honey. Their membership accounts for approximately 75 percent of honey production in this country. ABF is comprised of about 1,500 members located in 48 states, most of

whom manage apiaries for the purpose of honey production. A majority of commercial beekeepers are ABF members.

Likewise, the AHPA represents over 500 honey producers in 48 states and Puerto Rico, who account for over 50 percent of the commercially produced honey in the United States. Both ABF and AHPA are recognized in the U.S. beekeeping industry as representatives of the interests of commercial honey producers.

Although China represents the world's largest producer and exporter of honey, its potential as a consumer and importer of honey has been beyond the reach of U.S. honey producers. China is able to both exclusively serve its home market and export hundreds of millions of pounds of honey by maintaining an extremely high MFN tariff rate—55 percent *ad valorem*—on honey imports. This tariff is supplemented by China's value added tax ("VAT") of 13 percent *ad valorem* on honey imports, which is assessed against the declared value of the import plus the import tariff charged. *See* Exhibit 1. Thus, China's effective tariff rate on honey imports is a staggering 75.15 percent.

Indeed, China's current published tariff and VAT on this product is many times higher than the U.S. MFN tariff rate on honey imports, which converts to an estimated *ad valorem* rate of 1.4 percent, or only two percent of China's combined tariff and VAT on honey imports.[6] (The United States maintains no VAT on these imports.)

As a result, no U.S. honey is exported to China, despite the fact that the U.S. honey industry exports a significant portion of its production to foreign countries other than China. Further, other significant WTO producers of honey are similarly locked out of the huge Chinese market by its insurmountable tariff and VAT rates.

Were China's tariff as low as the U.S. tariff on honey imports, and were China to eliminate its VAT rate on this import, major honey producers such as Taiwan, Korea, Russia, Mexico, Argentina, Vietnam, and the countries of the European Union, would be able to direct more of their exports to China, and reduce their exports to the Western Hemisphere and Europe. This would create significant export opportunities for the U.S. honey industry.

For this reason, ABF and AHPA strongly urge that China's access to the WTO be conditioned upon it meeting the trade liberalization commitments that other developed nations have undertaken. Until such time when China removes, or reduces, these tariff barriers, any potential market that exists in China cannot be developed by the U.S. honey industry.

B. China's Import Tariffs and VAT Taxes on Fresh Garlic Effectively Close China's Market to Fresh Garlic Imports from the United States

Almost all fresh garlic produced in the United States is produced in California by the 12 FGPA members. *See* enclosed membership list at Exhibit 2. For the 1996–97 crop year, the FGPA members are growing about 130 million pounds of fresh garlic, which represents about $100 million in potential sales.

Fresh garlic production is an extremely complex, capital-intensive business. The FGPA members collectively have invested over $120 million in their fresh garlic operations, all of which are dedicated to fresh garlic production. The FGPA members collectively have over 1,700 employees dedicated to fresh garlic production. In addition, the FGPA members each year contract with more than one hundred independent farmers to supervise the growth of fresh garlic in relatively small plots throughout California.

The U.S. fresh garlic industry has struggled to remain viable, notwithstanding that China represents the world's largest producer and exporter of fresh garlic products (principally fresh whole bulbs and fresh peeled cloves). Moreover, in light of China's ongoing WTO accession negotiations, China now shows significant potential as a consumer and importer of fresh garlic. However, until now, this potential has been unrealized by U.S. fresh garlic producers, because China is able to both exclusively serve its home market and export hundreds of millions of pounds of garlic by maintaining an extremely high MFN tariff rate.

China's current published tariff and VAT on this product is 22 percent *ad valorem*. Moreover, this tariff is supplemented by China's standard value added tax ("VAT") of 13 percent *ad valorem* on fresh garlic imports. *See* Exhibit 3. Thus, China's combined MFN tariff and VAT on fresh garlic imports is approximately 38 percent.

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[6] The U.S. tariff on honey imports is $.021/kg., or $.01/lb. The total volume of all honey imports (not for retail sale) from all foreign countries was 147.12 million pounds, so theoretically, $1.47 million was collected in regular U.S. import tariffs. The value of U.S. honey imports from all countries in 1996 was $105.4 million. Thus, the theoretical U.S. *ad valorem* tariff on honey imports is 1.4 percent.

This effective tariff rate on fresh garlic imports is many times higher than the U.S. MFN tariff rate (the United States maintains no VAT on these imports), and far exceeds the corresponding rates charged for this product by the other major WTO fresh garlic producers. Indeed, the effective U.S. *ad valorem* rate is less than 100 times lower than China's combined tariff and VAT on fresh garlic imports.[7]

As a result, no U.S. garlic is exported to China, despite the fact that the U.S. industry exports a significant portion of its production to foreign countries other than China. Further, other significant WTO producers of fresh garlic are similarly locked out of the huge Chinese market by its insurmountable tariff and VAT rates.

If China's tariff were as low as the U.S. tariff on fresh garlic imports, and it were to eliminate its VAT rate on this import, major garlic producers such as Taiwan, Korea and Russia, which are more closely situated to China than the U.S. fresh garlic producers, would be able to direct more of their exports to China, and reduce their exports to the Western Hemisphere and Europe, thereby creating significant export opportunities for the U.S. industry.

Accordingly, FGPA strongly encourages the United States to demand in negotiations with China that its accession to the WTO be conditioned upon it meeting the trade liberalization commitments that other developed nations have undertaken. Until such time when China removes, or reduces, these tariff barriers, any potential market that exists in China cannot be developed by the U.S. fresh garlic industry.

C. Conclusion

China's combined import tariffs and VAT duties on the goods and products discussed in this statement are huge, and effectively close the massive Chinese market to imports from many WTO countries (including the United States). In comparison, the corresponding tariff rates for these products of other WTO countries (again including the United States) are tiny. Unless China agrees to lower its tariff rates to the very small levels maintained by the United States, and to eliminate its VAT, China will continue to be able to keep its market closed to U.S. exports.

Accordingly, the United States should accept a tariff binding offer from the Chinese only if it includes a commitment to match the U.S. tariff rates on the products named here, and to eliminate China's significant VAT on those imports.

We appreciate the opportunity to submit this statement on behalf of AHPA, ABF and FGPA.

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[7] The U.S. tariff on fresh garlic imports is $.0128/kg., or $.005/lb. *See* Exhibit 2. In 1996, 48.4 million pounds were imported from all countries into the United States, so that a theoretical total of $242,000 in regular import duties was collected. Since the total declared customs value of these imports was $27.1 million, the effective U.S. *ad valorem* tariff rate is .28 percent, which is .7 percent of China's combined tariff and VAT of 38 percent.

EXHIBIT 1

Articles of Interest to AHPA and ABF by U.S. Harmonized Tariff Schedule Number and by Chinese Import/Export Tariff Classification Number

UNITED STATES

CLASSIFICATION NO.	PRODUCT	GENERAL RATE
HTSUS 0409.00.00	Natural honey	2.1¢/kg
HTSUS 0409.00.00.25	Comb honey and honey packaged for retail sale	2.1¢/kg
HTSUS 0409.00.00.42	Other: White or lighter	2.1¢/kg
HTSUS 0409.00.00.44	Other: Extra light amber	2.1¢/kg
HTSUS 0409.00.00.62	Other: Light amber	2.1¢/kg
HTSUS 0409.00.00.64	Other: Amber or darker	2.1¢/kg
HTSUS 2106.90.99.88	Flavored honey	8.8%
HTSUS 1521	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or colored	
HTSUS 1521.90.20.00	Bleached beeswax	6.6%
HTSUS 1521.90.40.00	Other	Free

CHINA

CLASSIFICATION NO.	PRODUCT	RATE	VAT
0409.0000	Natural Honey	55/80*	13
21.06	Food preparations not elsewhere specified or included		
2106.9090	Other	40/90*	17
15.21	Vegetable waxes (other than triglycerides), beeswax, other insect waxes and spermaceti, whether or not refined or colored		
1521.9000	Other	25/80*	17

* Most favored nation duty rate/general duty rate.

EXHIBIT 2

CALIFORNIA FRESH GARLIC PRODUCERS ASSOCIATION

MEMBERS

A&D Christopher Ranch
305 Bloomfield Avenue
Gilroy, CA 95020

Belridge Farms and Packing LLC
21707 Lerdo Highway
McKittrick, California 93251

Colusa Produce Corporation
Box 1438
Colusa, CA 95932

Crinklaw Farms
P.O. Box 706
King City, California 93930

Dalena Farms
7636 Road 34
Madera, CA 93638

Denice & Filice Packing Co.
10001 Fairview Road
Hollister, CA 95023

El Camino Packing
P.O. Box 597
Gilroy, CA 95021

Frank Pitts Farms
P.O. Box 415
Five Points, CA 93624

The Garlic Company
P.O. Box 607
Shafter, CA 93263

Rich Peel Garlic Company, Inc.
13704 Hanford-Armona Road
Hanford, California 93230

Thomson International, Inc.
9852 Buena Vista Boulevard
Bakersfield, California 93307

Vessey and Company, Inc.
P.O. Box 2766
El Centro, CA 92244-2766

ASSOCIATE MEMBERS

Basic Vegetable Products
9301 E. Lacey
Hanford, CA 93230

Empire Farms
P.O. Box 40
Empire, Nevada 89405

EXHIBIT 3

Articles of Interest to FGPA by U.S. Harmonized Tariff Schedule Number and by Chinese Import/Export Tariff Classification Number

UNITED STATES

CLASSIFICATION NO.	PRODUCT	GENERAL RATE
HTSUS 0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled	
HTSUS 0703.20.00.00	Garlic	1.28¢/kg
HTSUS 0703.20.00.10	Fresh whole bulbs	1.28¢/kg
HTSUS 0703.20.00.20	Fresh whole peeled cloves	1.28¢/kg
HTSUS 0703.20.00.90	Other	1.28¢/kg

CHINA

CLASSIFICATION NO.	PRODUCT	RATE	VAT
07.03	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled		
0703.2000	Garlic	22/70*	13/17*

* Most favored nation duty rate/general duty rate.

Statement of Charles P. Heeter, Jr., Partner, Office of Government Affairs, Andersen Worldwide

INTRODUCTION

Mr. Chairman and distinguished members of the Subcommittee: My name is Charles Heeter. I am a Partner with Andersen Worldwide and am responsible for addressing international trade and related public policy issues that affect my firm's global operations. I appreciate the opportunity to submit this statement concerning China's possible accession to the World Trade Organization (WTO), and I wish to commend you for taking a close and thoughtful look at this critical issue.

ANDERSEN WORLDWIDE

Andersen Worldwide is the world's largest professional services organization, operating through two business units—Arthur Andersen and Andersen Consulting—with member firms in 80 countries and correspondent relationships in 39 more. The Arthur Andersen business unit has a multidisciplinary practice in accounting, tax, legal, business advisory and specialty consulting services. The Andersen Consulting business unit provides global management and technology consulting services. Our global revenues exceeded $11 billion in the fiscal year ending August 31, 1997, and we employ more than 100,000 people worldwide. We presently have offices in three Chinese cities—Beijing, Shanghai and Shenzhen—and employ more than 500 people there.

ANDERSEN WORLDWIDE'S SUPPORT FOR THE WTO

Our organization has more than doubled in size over the past five years. This record growth is in large part attributable to our increasing involvement in markets overseas. We have benefited tremendously from the worldwide trend toward trade and investment liberalization. Such liberalization helps economies grow and helps our clients grow. When our clients grow, we grow. We view continuing liberalization as vitally important to our continued success.

More specifically, our success in servicing clients around the globe depends upon our ability to gain access to national markets and to supply our professional services through the establishment of member firms and through cross-border transactions. For this reason, we attach a great deal of importance to a healthy, rules-based international trading system, and we strongly support the WTO and, especially, the General Agreement on Trade in Services (GATS), which embodies the basic rules of international trade and investment for service providers.

SUPPORT FOR CHINA'S ACCESSION TO THE WTO

It goes without saying that China is the largest and most dynamic of the emerging economies, and it looms large in any company's plans for growth in the Asia-Pacific region. For this reason alone, it is important to bring China into the WTO at the earliest possible date, and we at Andersen Worldwide fully support that objective. China's membership in the WTO will be good for the countries and companies that do business with her, and equally important, it will be good for China, helping to protect her interests and reinforcing the profound market-oriented changes in her economy.

Having said this, however, I must quickly add that the terms of China's accession are vitally important. The regulatory environment in China imposes significant constraints on the operations of international professional services firms, especially in the area of regulated services, such as auditing. The negotiations on China's accession to the WTO provide an opportunity to address some of these regulatory constraints by making sure that China's governmental policies conform to the disciplines of the GATS.

FOCUS ON THE TERMS OF ACCESSION

The critical issue is that China make concrete and substantial commitments on market access and national treatment in its GATS schedule. Many of the GATS disciplines (in addition to market access and national treatment) only take effect for the sectors in which a signatory makes scheduled commitments. Examples include Article VI on domestic regulation and Article XI on payments and transfers. So, the quality of China's GATS schedule is especially important to service providers.

With respect to our particular businesses, we believe that China should schedule commitments on accounting, auditing and bookkeeping, tax services, legal services, management consulting, and computer-related services. Furthermore, we believe these commitments should be structured in such a way as to ensure that China:

- Permits international firms to establish or affiliate with local member firms of their choosing on contractual terms substantially equivalent to those used elsewhere in the world;
- Allows joint venture firms and member firms to open branches in multiple locations with full rights to provide statutory services;
- Assures that any individual who meets the educational, experience and examination requirements to become a Chinese Certified Public Accountant (CPA) is allowed to be certified and registered;
- Removes the citizenship requirement for becoming a CPA and provides assurance that onerous residency and employment requirements will not be instituted;
- Removes the ban on advertising by accounting firms;
- Changes the basis for mandatory fees paid to the Chinese Institute of CPAs from an assessment on gross income to a membership fee per individual professional;
- Adopts and promotes the use of international accounting and auditing standards for all publicly held companies in China, whether or not they are permitted to have foreign shareholders, including the use of international standards of auditor independence;
- Improves the transparency of regulation by adopting administrative procedures that permit comment on proposed regulations and provide for an appeal of regulatory decisions, and by publishing all laws, regulations and administrative decisions in a timely fashion; and

• Eases controls on exit visas so that greater numbers of Chinese staff can be placed in offices in Hong Kong and abroad for training and experience purposes.

Accepting these obligations would give substance to China's market opening initiatives, would pave the way for a more rapid modernization of the accounting profession and the broader financial services sector, and would assure China's transition into the global marketplace.

CONCLUSION

As I said earlier, Mr. Chairman, we at Andersen Worldwide strongly support China's membership in the WTO at the earliest possible date. But we also believe that the terms of membership should be structured in such a way as to reinforce and strengthen the still fragile services trade regime.

I have taken the liberty of attaching to this statement a "white paper" that we have developed to further explain the regulatory challenges in China and our ideas about how China can make a more rapid and successful transition to international norms.

Thank you very much.

Accounting Modernization and the Chinese Regulatory Environment: Making a Successful Transition to International Norms

INTRODUCTION

This document presents a constructive assessment of the regulatory environment in which international accounting firms operate in China—the progress made and some of the remaining tasks as China continues its opening to the outside world and integration into the global trading system. Substantial progress has been made over the past 15 years, and it is evident from their public statements that the Chinese authorities and leaders of the profession are committed to addressing the remaining issues. The observations herein, based on experience, are intended to encourage a dialogue among all parties interested in completing the reform process and achieving China's goal of a modern accounting profession at the earliest possible date.

THE VALUE OF A MODERN ACCOUNTING PROFESSION

A thriving accounting profession employing modern accounting practices is an essential element of the financial infrastructure required by emerging economies. Accounting is the universal language of business. Modern practices help enterprise management evaluate and control operations. They ensure that investors receive essential information and facilitate the development and efficiency of capital markets. They help integrate national economies into an increasingly global marketplace. And they assist government in performing its role of oversight and regulation to protect public interests. Indeed, the success of accounting reform in economies opening to the outside world is an important factor in determining the overall pace and success of economic modernization.

International accounting firms are the most dynamic agents of accounting modernization—helping nations move from the bookkeeping traditions of command economies to the modern practices and standards necessary to the functioning of market-based economies. These firms transfer technology, deliver state-of-the-art training, provide career paths to local professionals (leading to management and ownership), and, most important, make modern professional services available to local companies and foreign investors to help them succeed in the marketplace.

It follows that international firms need a regulatory environment that permits innovation and expansion at acceptable levels of risk if they are to deliver these benefits to the degree and at the pace necessary to meet the demands of a rapidly expanding economy. Put another way, inappropriate regulation of the accounting profession and accounting firms can impede or, at least add significant inefficiencies to, the modernization process.

THE OPENING OF THE CHINESE ACCOUNTING MARKET AND THE ROLE OF INTERNATIONAL FIRMS

China reportedly has some 53,000 certified accountants in over 6,000 firms, the vast majority of which are affiliated with, or sponsored by, governmental ministries and agencies at the national, provincial or local levels. The Ministry of Finance

(MOF) in Beijing exercises close supervision of the Chinese Institute of Certified Public Accountants (CICPA) and must give prior approval of many of the Institute's decisions. The indigenous profession and firms are not the private, independent, professional entities common in most nations around the globe. In addition, practice standards, while improving, are well below international norms.

China has recognized since at least the early 1980s the need for accounting modernization and has sought to achieve it by developing linkages to the worldwide profession and by opening its market to participation by international firms. Steady progress has been made and relationships have deepened. This is most recently evident in the announcement that the CICPA will join the International Federation of Accountants and the International Accounting Standards Committee.

Nonetheless, the regulatory situation and operating environment in China impose certain constraints on the role of international firms—constraints that ultimately limit the full contribution that they can make to integrating China into the global marketplace, moving the accounting profession to international standards of performance, and providing higher levels of protection to Chinese investors.

Bifurcated Market

There is a significant disparity between the standards of performance, the level of fees charged and the market's expectations of local firms and the performance, fees and expectations of the international firms. This is best seen in the development of a bifurcated market for audits of Chinese enterprises whose shares are publicly traded. The China Securities Regulatory Commission determines which Chinese companies qualify for public listing and, indirectly, the firms that can audit those companies. International firms are permitted to audit "B" share listings, or those companies in which foreign investment is allowed. Very few, if any, international firms perform audits for "A" share listings, which are solely for Chinese investors.

In effect, international firms have not been able to access the major share of the audit market and their penetration is limited largely to cases in which China wishes to provide assurances to international investors. One important reason for this is the disparity between the fees charged by international firms and those charged by local firms, but these fee levels also reflect the quality of the work and the expectations of the market. Another significant reason is that newly listed companies often use auditors who are linked to the same government entities from which the listed companies come, thereby bringing into question the auditors' independence. A unified market for audit services, with high expectations and standards of performance at internationally-acceptable levels, would provide significant assurance to Chinese and international investors alike and would significantly strengthen China's capital markets.

Business Structures

China permits international accounting firms to operate in three forms:

- As representative offices, which may provide consulting services to local and foreign enterprises, but may not employ Chinese CPAs or provide audit and attest services;
- As joint ventures subject to a 50 percent foreign equity limit and certain management conditions, as well as a requirement that they be converted to member firms within five years; and
- As member firms with a 30 percent foreign equity limitation and a requirement to phase out foreign ownership in the future.

All international firms are committed to localization of management and ownership. They operate this way throughout the world. But the foundation for localization in China is still being laid. In an economy without the traditions and experience of modern accounting practices, considerable time is required to develop local member firms and professionals to a sufficient level of expertise to meet the international firms' global standards—typically 15, 20 or more years. Even in countries with "mature" accounting professions, it normally requires ten or more years for a newly-hired college graduate to gain the training and experience needed to be eligible for partnership, that is, to become an owner of the firm. And many do not survive the competition to achieve partnership.

The typical local member firm of an international accounting firm, moreover, is subject to contractual relationships with its affiliated member firms in other countries. These contractual relationships ensure that all member firms perform to a common standard and otherwise uphold the values and practices represented by the international firm's name and inherent in its reputation. They also provide the basis for transferring technology and sharing global resources. Uncertainty about whether these normal contractual arrangements will be permitted increases the commercial

and legal risk to the international firm. A legal environment preserving the right to execute these contractual relationships will be essential to the successful creation of local member firms.

In an environment such as China's, international firms need time and flexibility to develop local member firms to expected levels of performance, and they require contractual assurances that standards will be observed. Regulatory requirements that impose unprepared local partners on them, force them to accelerate the development process unreasonably, deny their normal contractual relationships and increase their risk exposure only serve to reduce the international firms' ability to commit the types of investment needed to develop China's accounting profession.

Operating Restrictions and Impediments

The Chinese authorities impose a number of other restrictions on the operations of international accounting firms, which interfere with the delivery of services and the development of the profession.

• International firms are limited to one joint venture, and that entity *is limited to one office,* although with a license to practice throughout China. Despite the fact that the law permits the establishment of branches, the CICPA takes the position that the joint venture cannot exercise adequate control over branches in distant locations. This imposes a significant constraint on the delivery of services and on growth. (Although international firms may affiliate with more than one Chinese member firm in different locations, this is a sub-optimal solution because the two Chinese entities are not affiliated themselves and have no experience in working together.)

• Only the joint venture or member firm may employ Chinese CPAs. Although other operations, such as a consulting firm or representative office, may employ accounting majors *these employees may not be certified and registered as CPAs* in these other locations. Thus, these restrictions serve as a constraint on career development and opportunities for Chinese citizens, and work to the detriment of the local profession as a whole.

• There have been indications that the Ministry of Finance has questioned *the number of expatriates* assigned to foreign-affiliated operations in China. While all international firms are committed to localization, expatriates play an essential role in managing a practice and delivering services. They are critical to delivering training—the medium by which technology is transferred—as well as to filling gaps in technical and management skills until these can be developed locally.

• Foreign accountants, since 1994, have been permitted to take the professional examination, which is part of the professional qualification process in China, but they still must be Chinese citizens to practice. The CICPA announced this year its intention to remove the citizenship requirement, but it is likely to retain or impose other *significant restrictions related to residency and employment* To date, no action has been taken to eliminate the citizenship requirement, or to impose alternative conditions.

• Accounting firms are *prohibited from advertising* their services. This is a constraint on the ability of all firms to get necessary information to consumers and to compete in the marketplace. Reasonable guidelines regarding honesty and decency in advertising ought to be sufficient to meet any public interest need.

• International firms are subject to *an assessment* by the CICPA equal to two percent of gross income, which means that the vast majority of the Institute's funding comes from international firms without a tangible relationship to benefits received. Moreover, the CICPA assessment is frequently the subject of dispute over who collects it and the precise definition of the revenue base from which it is calculated. Professional membership fees should be assessed on the individual members of the professional body.

• *Restrictions on exit visas,* especially to Hong Kong, have proven to be a significant constraint on training opportunities. The inability to secure visas prevents international firms from assigning Chinese staff to other offices, in Hong Kong and outside China, where they could acquire on-the-job experience and exposure to the international business environment. This would reduce training costs by improving off-season utilization of manpower.

Regulatory Transparency and Consistency

While Chinese laws affecting the accounting profession are published and available, they establish a skeletal framework which must be fleshed out through regulation and administrative decision-making. The regulatory decision-making environment in China is highly opaque—international firms rarely have a voice in the process; there is no established administrative procedure; decisions are frequently not published; new rules are applied retroactively; and there is no appeals process. In

addition, there is a concern that enforcement is somewhat arbitrary and may even discriminate against international firms. This naturally creates uncertainty in the operating environment and often places those outside the system at a disadvantage.

TRANSITIONING TO INTERNATIONAL NORMS THROUGH WTO ACCESSION

The negotiations leading to Chinese membership in the World Trade Organization (WTO) provide an opportunity to assist China's market opening and transition to international norms by establishing a predictable regulatory environment conducive to the rapid growth and development of China's accounting profession. As part of the terms of accession, China will become a signatory to the General Agreement on Trade in Services (GATS). Because many of the GATS rules only apply to service sectors for which the signatory country has scheduled specific commitments, it is crucial that China include accounting, auditing and bookkeeping services in its schedule. In addition, China should schedule commitments on tax services, management consulting and computer-related services.[1]

An important feature of the GATS is that it goes beyond traditional trade measures at the border to address internal regulatory requirements and conditions that *de facto* impede the ability to take advantage of market openings. In this light, China's schedule of commitments under the GATS should:

- Permit international firms to establish or affiliate with local member firms of their choosing on contractual terms substantially equivalent to those used elsewhere in the world;
- Allow joint venture firms and member firms to open branch offices in multiple locations with full rights to provide statutory services;
- Assure that any individual who meets the educational, experience and examination requirements to become a Chinese CPA is allowed to be certified and registered;
- Remove the citizenship requirement for becoming a CPA and provide assurance that onerous residency and employment requirements will not be instituted;
- Remove the ban on advertising by accounting firms;
- Change the basis for CICPA fees from an assessment on gross income to a membership fee per individual professional;
- Adopt and promote the use of international accounting and auditing standards for both "A" and "B" listings on China's stock exchanges, including the use of international standards of auditor independence;
- Improve the transparency of regulation by adopting administrative procedures that permit comment on proposed regulations and provide for an appeal of regulatory decisions and by publishing all laws, regulations and administrative decisions in a timely fashion; and
- Ease controls on exit visas so that greater numbers of Chinese staff can be placed in offices in Hong Kong and abroad for training and experience purposes.

Accepting these obligations would give further substance to China's market opening initiatives in the field of accounting, would pave the way for a more rapid modernization of the accounting profession, and would assure China's transition into the global marketplace. On the basis of these and other commitments, China should be welcomed into full WTO membership.

Statement of Cast Iron Soil Pipe Institute

Pursuant to the October 22, 1997 announcement by the Subcommittee on Trade of the Committee on Ways and Means, the Cast Iron Soil Pipe Institute ("CISPI") submits the following statement for consideration by the Committee and for inclusion in the printed record of the November 4, 1997 hearing held by the Subcommittee regarding the future of United States-China trade relations and the possible accession of China to the World Trade Organization (WTO).

Briefly summarized, CISPI submits this statement recommending that China's membership to the WTO be conditioned on China granting significant concessions as to its tariff and non-tariff barriers restricting imports of U.S. merchandise. With 1.2 billion citizens, China is the world's largest market for virtually all merchandise. Nevertheless, China's tariff and non-tariff barriers to trade effectively close that market to potential U.S. exporters.

[1] International firms have multidisciplinary practices involving all these services. As a practical matter, client engagements frequently commingle services, individual professionals cross practice lines, and the skills and intellectual capital underlying the various service lines reinforce each other.

Accordingly, CISPI has strong interests in improving access to the Chinese market. In particular, the comments set forth below address CISPI's concerns about the tariff rates currently in place in China that effectively impede the industry's access to the Chinese market.

I. CISPI: China's Tariff and Non-Tariff Barriers Relating to Cast Iron Soil Pipe and Fitting Imports Deny Fair Access to China's Market

CISPI, first organized in 1949 by the leading American manufacturers of cast iron soil pipe, is a national trade association dedicated to advancing the interests of its member foundries in the manufacture, use, and distribution of cast iron soil pipe and fittings.[1] Currently, CISPI's membership is comprised of the three leading foundries manufacturing cast iron soil pipe and fittings in the United States, with significant production and levels of employment in North Carolina, California, and Texas.[2] Through cooperative efforts with its members, CISPI conducts research and other programs in order to improve the industry's products, achieve standardization of cast iron soil pipe, and provide continuous programs for product testing, evaluation, and development.

The U.S. cast iron soil pipe industry is competitive worldwide and, more and more, the business strategy of CISPI's membership has been export-oriented. CISPI members currently export U.S. cast iron soil pipe and pipe fittings to buyers in Canada, Mexico, Korea, and Malaysia. More recently, CISPI members are looking for additional markets in the Pacific Rim region. With respect to China, CISPI believes there may be significant potential for its members to expand their sales into the Chinese market as well. However, the Chinese market currently offers more in the way of potential than it does immediate rewards. As a result, it is very important to CISPI that China remove, or significantly reduce, its barriers to entry of cast iron soil pipe and fittings before it is admitted as a member of the WTO.

Under China's current two-tiered customs regime, however, the cast iron soil pipe and fittings expected to be exported to China in the future are subject to excessive tariffs, with effective rates as high as 38 percent *ad valorem*. *See* Exhibit 1. By contrast to the U.S. tariff rates for cast iron soil pipe and pipe fittings, which are respectively 3.9 percent and 4.8 percent, the Chinese rates are exceptionally high. Indeed, these rates significantly reduce access to the Chinese market for U.S. producers of cast iron soil pipe and pipe fittings.

Given these barriers, China successfully shields its domestic producers of cast iron soil pipe from competition by imports. In response, the United States ought to insist during the course of the accession negotiations that China either remove these tariff barriers, or at least reduce their effective rates to levels commensurate with those of the United States.

Finally, U.S. cast iron soil pipe and pipe fittings have been adversely affected by China's non-compliance in the area of intellectual property rights. CISPI is aware that U.S. product designs and patterns, and those of its members, have been copied and used by competitors in China without risk of punishment and even less hope for effective redress for the U.S. producers and trademark holders. Thus, like tariff barriers, these obstacles to fair access also demand attention from the United States during its negotiations with China.

For the foregoing reasons, CISPI strongly urges that China's accession to the WTO be conditioned upon it meeting the trade liberalization commitments that apply to other developed nations. Until China removes its excessive tariffs and complies with international norms for open and fair trade, the potential market that exists in China cannot be developed by the U.S. cast iron soil pipe and pipe fitting industry.

II. Conclusion

China's combined import tariffs and VAT duties on the goods and products discussed in this statement are huge, and effectively close the massive Chinese market

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[1] Cast iron soil pipe comprises the major input product of the plumbing industry. It is characterized by superior performance in terms of durability, resistance to corrosion from fluids and gases, resistance to infiltration and exfiltration, and the ability to withstand extremes in temperature as well as pressure. Consequently, cast iron pipe is used primarily in building construction for sanitary and storm drain, waste, and vent piping applications. The product is installed in residential construction, hospitals, schools, and commercial and industrial structures. As a result, the pattern of cast iron soil pipe shipments and sales is directly related to the pattern of building activity.

[2] The member foundries of CISPI are Charlotte Pipe & Foundry Company, Charlotte, NC; the American Brass & Iron Foundry, Oakland, CA; and Tyler Pipe Industries, Tyler, TX.

to imports from many WTO countries (including the United States). In comparison, the corresponding tariff rates for these products of other WTO countries (again including the United States) are tiny. Unless China agrees to lower its tariff rates to the very small levels maintained by the United States, and to eliminate its VAT, China will continue to be able to keep its market closed to U.S. exports.

Accordingly, the United States should accept a tariff binding offer from the Chinese only if it includes a commitment to match the U.S. tariff rates on the products named here, and to eliminate China's significant VAT on those imports.

We appreciate the opportunity to submit this statement on behalf of CISPI.

Exhibit 1.—Articles of Interest to CISPI by U.S. Harmonized Tariff Schedule Number and by Chinese Import/Export Tariff Classification Number

United States

Classification No.	Product	General rate
HTSUS 7303	Tubes, pipes and hollow profiles, of cast iron.	-
HTSUS 7303.0010	Tubes and pipes of circular cross-section, of the internal diameter of 500 mm or more.	2.6
HTSUS 7303.0090	Other	2.6
HTSUS 7307	Tube or pipe fittings (for example, couplings, elbows, sleeves), or iron or steel.	-
HTSUS 7307.1100	Cast fittings; of non-malleable cast iron	4.8
HTSUS 7307.1900	Cast fittings; other	5.8

China

Classification No.	Product	Rate	VAT
7303	Tubes, pipes and hollow profiles, of cast iron.	-	
7303.0010	Tubes and pipes of circular cross-section, of the internal diameter of 500 mm or more.	13/40 [1]	17
7303.0090	Other	18/40 [1]	17
7307	Tube or pipe fittings (for example, couplings, elbows, sleeves), or iron or steel.	-	
7307.1100	Cast fittings; of non-malleable cast iron.	10/20 [1]	17
7307.1900	Cast fittings; other	10/20 [1]	17

[1] Most favored nation duty rate/general duty rate.

Joint Statement Committee on Pipe and Tube Imports; and Weirton Steel Corp.

These written comments are submitted to the Trade Subcommittee of the House Committee on Ways and Means on November 18, 1997 in response to the November 4, 1997 hearing on U.S.-China Relations and Possible Accession to the World Trade Organization (WTO) on behalf of the Committee on Pipe and Tube Imports (CPTI) and Weirton Steel Corporation ("Weirton"). The CPTI is a not-for-profit trade association consisting of 27 United States producers of steel pipe and tube products. Weirton of Weirton, West Virginia, is a manufacturer of flat-rolled steel products with 5,300 employees.

As a whole, the CPTI and Weirton have supported global trade policies which promote free and fair trade. During the recent Uruguay Round the CPTI was engaged in the debate over strengthening the U.S. unfair trade laws to ensure there was a level playing field in steel trade. Weirton Steel also participated in this dialogue and

supported measures to ensure that U.S. trade laws would not be weakened in the final Uruguay Round Agreement. Since the completion of the Round, the U.S. pipe and tube industry and steel manufacturers throughout the country have carefully monitored activities that would involve the admission of new WTO members. These comments reflect the views of U.S. pipe and tube producers and Weirton and address the primary issue of China's accession to the WTO and the impact China's membership will have on the global steel market.

CHINESE STEEL INDUSTRY—OVERVIEW

Since China's economy opened in the early 1980s, steel consumption and production have grown at a tremendous rate. In fact, China is now the largest steel consumer and producer in the world. Crude steel production has doubled from 1986 to 1995. In 1996, China produced over 100 million metric tons of steel and consumed over 110 million metric tons. China has informed the OECD that by 2000, an additional 20 million metric tons of capacity and production are likely. China's steel exports are now greater than U.S. steel exports and its steel import levels have fallen to less than half the levels of U.S. imports. Continuation of these trends could result in China taking the lead as a significant global leader in steel exports. The Chinese steel industry is still almost completely state owned and controlled. Furthermore, there are numerous major producers and an even greater number of smaller and less efficient companies in the market. In an effort to be admitted into the WTO, China reduced its average tariff on steel products from approximately 13% to 9%. Tariffs for other steel products like stainless steel, tin-plate, and pipe and tube, remain above 20%.

APPLICATION OF THE NON-MARKET ECONOMY PROVISIONS OF U.S. LAW

China is asking that its WTO accession agreement provide for the treatment of China as a market economy under the Dumping Code. The current Dumping Code does not address the criteria for treating a country as a market or non-market economy. Under U.S. law the application of criteria for non-market economy status is not determined by WTO membership, but rather by a set of economic factors delineated by the U.S. Congress and determined by the Secretary of Commerce. It is inappropriate for this issue to be addressed in the WTO accession negotiations. For myriad reasons affecting both import competition and export opportunities, CPTI and Weirton both look forward to a time when China is in fact a market economy. However, this must occur through the Chinese government taking actions to remove import licensing, liberalize credit and financial markets, remove domestic price controls of key commodities, and end massive subsidization of state-owned enterprises. However, while China should eventually be rewarded when it achieves market economy status, this goal should be achieved through economic reforms not through political pressures for WTO accession.

CHINA SHOULD BE SUBJECT TO SUBSIDY CODE DISCIPLINE AFTER A PHASE-IN PERIOD OF NOT MORE THAN THREE YEARS

China is requesting admission to the WTO as a "least developed country," which if allowed by the WTO would provide for a lengthy phase-in period for subsidy code commitments.[1] The Subsidy Code would also allow China, as a non-market economy undergoing a transformation to a market economy, to apply programs and measures necessary for such a transformation during the phase in period. If China is permitted to join the WTO under these terms, China could continue to provide massive subsidies to its state owned steel industry and avoid both Subsidy Code violations and penalties and national countervailing duty laws while it continues to modernize its steel production facilities and adopt new export strategies.

It is disturbing to think that China views itself as a "least developed" country. Their request for this status should not be granted. Its economy is no longer in infancy. Given that China will soon have the largest economy in the world, it is difficult to believe that it would qualify as a "least developed" country by definition. The entire premise for offering "developed" country status is to enable poorer countries with temporary protection to build a manufacturing base. The past decade and a half proves that China no longer needs to build its manufacturing base and sup-

[1] Whereas "developing" country members are given a Subsidy Code phase I period of eight years, a "least developed" country may be excused from compliance in a manner consistent with their individual development, financial and trade needs, or their administrative and institutional capabilities.

port this expansion through government subsidies. This request for special treatment is no longer valid.

CPTI and Weirton are certainly concerned about the massive subsidies previously granted to and currently being granted to the Chinese steel industry by the Chinese government. All major Chinese steel producers remain state-owned enterprises. It has been widely reported in the press that most of these steel producers suffer from large losses. Therefore, the Chinese government is making regular direct equity infusions into these money losing enterprises. In addition, most of these enterprises are believed to borrow from Chinese government owned banks, with little hope that these government owned banks will ever be repaid these loans. Finally, the Chinese Ministry of Metallurgical Industry admitted in a Salomon Brothers investment report issued in mid 1997 that the Chinese government supports the steel industry by providing raw material inputs, such as iron ore, coal, and energy from state-owned enterprises to steel producers at prices that are only half the market value of these inputs. These types of massive subsidy practices must be stopped within a very short period of time after China's accession to the WTO. This is particularly appropriate given the injury from these subsidies that can be suffered by the U.S. steel industry both in the U.S. market and in export markets. China was the second largest exporter of plate to the United States in 1996 and the first quarter of 1997 and was the second largest exporter of standard pipe to the U.S. in the third quarter of 1997. In general, U.S. steel imports from China have risen rapidly in 1996 and 1997 from previous levels.

The U.S. steel industry has fought long and hard to ensure that global trading partners adhere to the rules of the world trading system. We have supported strong laws which provide for a level playing field. Allowing China to enter on its requested and preferred terms would undermine the objectives of the WTO and allow China to continue to subsidize industry and distort trade. These practices can not and should not be permitted by the U.S. or by WTO members. The current WTO provisions on Subsidies should be enforced as to China. If they are enforced, China will be forced to undertake the necessary reforms to steer their economy toward becoming a true market-based system.

CONCLUSION

In sum, the members of the CPTI and Weirton cannot support China's accession to the WTO absent strong conditions that they will adhere to the WTO Subsidy Code. The U.S. government should carefully look at Chinese business practices to evaluate the terms of their accession into the WTO. Entrance into this global trading body is a privilege and not a right. WTO membership should be an opportunity to curb unfair trade practices and to remove tariff and non-tariff barriers to foreign trade with China. Absent conditions which would ensure that China would be held accountable to the Subsidy Code, Congress should urge the U.S. Government to deny China's entry into the WTO. Non-market economy dumping issues should not be addressed in the WTO, but rather continue to be addressed under U.S. law.

As an industry which employs thousands of American workers, we ask Members of the Ways and Means Committee and the Congress to carefully review this important trade policy consideration. We believe it is important that all global trading partners adhere to the same rules and fulfill their obligations. If China is unwilling to comply with these guidelines, then its request to enter into the WTO should be denied.

Statement of Paul H. DeLaney, Jr.

HISTORY AND BACKGROUND

The People's Republic of China was shunned by the United States government until the Nixon-Kissinger breakthroughs of the early 1970's. In 1980, the House Ways and Means Committee was urged by the President of the United States to go to China to determine whether it might be willing to vote for Most Favored Nation ("MFN") trading Status for China. Based on this visit, the Committee recommended a normal trading relationship between the United States and China, and MFN status was granted soon thereafter.

China has been seeking World Trade Organization ("WTO") admission for more than ten years. To date, the United States has not been willing to support China's membership, unless it is sure that China is ready, in terms of economic organization and international deportment, to accept the full obligations of WTO participation.

In recent months, it has been suggested again that the United States should decide what it expects of China and lay out its expectations to China for the purposes at hand.

The Chinese government has undertaken a slow but steady deregulation of the economy since it allowed for free enterprise in the countryside in 1982. Marketization of the Chinese economy has led to unprecedented improvements in the living standards and purchasing power of ordinary Chinese. In the past 15 years, China's per capita GDP has more than tripled, from $889 to $2,923, and it is forecast to be $4,190 in 2000.

The United States trade deficit with China has been growing at an unacceptable rate, and a prosperous and stable relationship with the United States can only continue as long as the United States has fair access to China's markets (See Attachment A). Bringing China into the WTO should help to establish a level playing field for Americans to compete with China.

Many believe that the time has come for China to be a full member of the new global economic system and to share in the maintenance and growth of that system and that the sooner China is a part of the WTO the better for everyone.

In considering United States-China trade relations and China's efforts to join the WTO, it is useful to review the general trade relationship with China and the status of negotations for China's accession to the WTO, including possible signs of progress at last month's United States-China summit.

It appears that President Clinton and President Jiang Zemin held an important and constructive summit meeting and that the two Presidents had in-depth and frank exchange of views on an array of issues affecting the entire relationship ranging from human rights, to non-proliferation, environmental protection and various economic issues.

China is now the world's tenth largest trading nation and the United States' fourth largest trading partner. The United States is China's largest export market. United States imports from China were over $51 billion in 1996 (or more than 20 percent of China's exports to the world). By contrast, United States exports of goods to China last year stood at $12 billion. China is rapidly approaching Japan as the single largest bilateral trade problem for the United States. It is important that China recognize that the United States must see greater balance in this trade relationship.

Despite China's movement away from a centrally planned economy toward a quasi-market economy, China's markets remain relatively closed. China is still protecting its domestic markets through high tariffs, quotas, restrictive standards and activities of state trading enterprises. China's failure to meet fundamental international norms, such as national treatment, transparency, or the right to import or export freely, deprives United Sates exports of a level playing field.

The United States should continue to pursue market opening initiatives on a broad scale for American goods, services and agricultural products through the WTO accession process and through bilalteral initiatives and agreements. American firms should have access, and necessary protection for their properties, in China's market, equivalent to that which China enjoys in the United States market.

The United States should also ensure that China accepts the rule of law and encourage China to develop trade and economic policies that are consistent with international trade practices and norms. The rule of law is important in assuring that China provides meaningful market access and meets its obligations under bilateral and multilaternal agreements. It now appears that China may have adopted a more serious attitude about the accession negotiations, and the United States should take advantage of this opportunity by pressing China further on the need for China to move more aggressively on these issues.

China has committed to make information available to other governments and to people engaged in trade on all of the issues covered in the WTO. Translations of laws and regulations will be available and WTO members will have the opportunity to comment on proposed laws and regulations before they become effective. Further, China has agreed that it will enforce only those laws and regulations that are published.

China has agreed to have independent tribunals for the review of administrative actions relating to implementation of the WTO Agreements and grant the right to seek judicial review of these administrative actions. This should help address corruption and encourage development of the rule of law in China. China has committed to implement the Agreement on Trade Related Aspects of Intellectual Property Rights upon accession.

China has agreed not to use export subsidies for agriculture products. Although agreement on these points represents progress in the negotiations, a great deal still remains to be done on market access, implementation of WTO rules and safeguards.

On agriculture, the United States is now engaged in negotiations on market access for key United States export products. These discussions encompass tariff levels, administration of tariff rate quotas, the activities of state trading enterprises and the details of China's implementation of the WTO Agreement on Agriculture. The United States and other WTO members are also urging China to implement the Agreement on Sanitary and Phytosanitary Measures. China now has the world's third largest economy, and China is the sixth largest market for American agricultural products.

Many United States businesses are committed to building support for full normalization of the United States-China commercial relationship. This includes support for permanent and unconditional extension of MFN trading status for China, China's entry into the WTO under commercially viable terms, and the removal of unilateral economic sanctions against China. Such a policy would strengthen the commercial foundation between the United States and China and would encourage cooperation on the full range of issues impacting the bilateral relationship from security and nonproliferation to human rights.

TERMS AND CONDITIONS FOR CHINA'S WTO ACCESSION

If the United States is to capitalize fully on China's enormous market opportunities, a sound WTO accession deal with China is critical. For this reason, China must show a commitment to core WTO principles, including national treatment, nondiscrimination, reciporcal market access, transparency, protection of intellectual property rights, binding dispute settlement, trading rights, judicial review, and adherence to state-trading and subsidy disciplines. China must also offer measures that will ensure United States access to China's growing market in agriculture, goods, and services. Only after China has demonstrated that it is taking these steps should the United States support China's accession to the WTO.

During Chinese President Jiang Zemin's recent state visit to the United States, it was clear that there is now an opportunity to move the bilateral relationship forward by strengthening commercial ties. Both Chinese and United States leaders recognize that China's entry into the WTO will be important for improving trade relations, but achieving that end will require action by China.

China's efforts to join the WTO represents a significant opportunity to apply internationally accepted multilateral disciples to one of the world's fastest growing economies. Commitments made by China in the WTO accession negotiations should demonstrate China's willingness to integrate itself into the world's trading system and to open its markets to foreign goods and services.

American companies must be given the chance to compete fairly in China. The United States cannot afford to miss out on the great potential represented by the enormous China market. Therefore, many American firms fully support China's accesion to the WTO, but only in a manner consistent with its status as a major trading power and with full adherence to the market principles assumed by all other WTO signatories.

UNITED STATES-CHINA TRADE DEFICIT

China's trade surplus with the United States is second only to that of Japan and is growing at a faster rate (See Attachment B).

There are steps the United States and China should take to address this trade imbalance. China's markets should be open to foreign goods and services. Currently, foreign companies that have not invested in China are now allowed to import, export, distribute, or sell directly into the Chinese market.They must trade through authorized trading companies. Beyond providing basic trading rights, China should continue to make progress on tariff reduction and intellectual property protection. In addition to these measures, there are a number of other important commitments that China must make before the United States should should support China's accession into the WTO.

Although China may require some latitude in making the transition to a market economy, the United States must insist that China adhere to basic WTO obligations. In this regard, China has shown a reluctance to engage in serious negotiations on fundamental issues such as transparency and uniform application of trade rules. Trade and industrial polcies, certification, registration, and licensing procedures should be published so United States firms can make informed business decisions.

It is also important to understand that WTO accession terms for China will possibly serve as a precedent for accession negotiations for Russia, Vietnam and other economies that are still in transition to market economies. This only reinforces the need to make certain that the terms of WTO accession for China should be defined for the purposes at hand.

Based on these considerations, it is clear that expansion of United States commercial ties with China is vital to America's future and that the terms of China's WTO accession must expand market access for American companies, strengthen China's commitment to the rule of law, and require China to play by the normal rules of international trade and investment.

UNITED STATES-CHINA SUMMIT

At the invitation of President William Clinton of the United States of America, President Jiang Zemin of the People's Republic of China visited the United States from October 26 to November 3, 1997. This was the first state visit by a President of China in twelve years.

During the Summit, the two Presidents related that while the United States and China have areas of agreement and disagreement, they have a significant common interests. Although the United States and China have major differences on human rights, it was noted that there is great potential for cooperation in maintaining global and regional peace and stability and promoting world economic growth.

China stressed that the Taiwan question is still the most important and sensitive issue in China-United States relations. The United States indicated that it contines to adhere to a "One China" policy and the principles set forth in United States-China joint communiques.

The two Presidents indicated that they are prepared to take positive and effective measures to expand United States-China trade and economic ties. China expressed its intention to participate as soon as possible in the Information Technology Agreement, and in the context of WTO negotiations, China confirmed that it would continue to make further substantial tariff reductions.

The United States and China recognize that China's full participation in the multilaterial trading system is in their mutual interest. It was agreed to intensify negotations on market access, including tariffs, non-tariff measures, services, standards and agriculture with a view toward implementation of WTO principles so that China could accede to the WTO on a commercially meaningful basis at the earliest possible date.

The United States and China intend to establish a joint liaison group to pursue cooperative legal activities, which would include exchanges of legal experts, training of judges and lawyers, strengthening legal information systems and the exchange of legal materials, sharing ideas about legal assistance, consulting on administrative procedures, and strengthening commercial law and arbitration.

PROTECTION OF TRADEMARKS AND BRAND NAMES AND REVERSION OF HONG KONG TO CHINA

In recent years, a number of American firms have made substantial financial and people commitments to China, and several have been quite successful doing branded products business in China. To reinforce American trends and lifestyle appeal, such firms have undertaken a range of marketing activities. In addition to advertising and promotion (sometimes in conjunction with local licensees), these American firms have sponsored public service efforts.

American firms which sell different products in different parts of the world make substantial efforts to comply with the rules of law of each country in which they do business. For example, certain products may be considered more appropriate for Hong Kong than Mainland China.

American firms realize the importance of the broader relationship with China and therefore they have often made considerable efforts to respect cultural differences and to be in full compliance with Chinese rules of law, regulations and procedures.

In this regard, China clearly stated its support for the principle of "One China and Two Systems" as this relates to Hong Kong's reversion to China this past summer. Senior officials of the Chinese government have confirmed that they intend to respect the economic and political differences between the two systems.

In their efforts to be good citizens in Mainland China and Hong Kong, American firms have provided scholarships and technical training for Chinese nationals. Such initiatives help to support general rule of law considerations and the protection of intellectual property (including trademarks and brand names) by involving Chinese nationals more directly in this process.

PRIVATE SECTOR VIEWS

In the Twenty First Century, it is expected that China will become the largest economy in the world. This will have a major impact not only on the global economy, but also on the individual economies of the United States and other major developed

nations. Therefore, due to the vast size and influence of China's economy, it is in the United States interest to have China become integrated into the world trading system.

China's accession to the WTO offers an unusual opportunity to restructure United States-China trade in a direction that leads to a more stable and prosperous commercial relationship. WTO rules and dispute settlement procedures would provide a more effective means to enforce China's market access commitments and adherence to WTO obligations. China's accession to the WTO must be based on a commercially acceptable protocol that improves United States market access and implements WTO rules and obligations.

China should provide substantial reduction and binding of tariffs and commit to phase out residual quotas and import licensing restrictions. China should provide national treatment with respect to the treatment of foreign goods, services, and investment. China should fully implement the United States-China bilateral intellectual property rights agreements of 1992 and 1995.

China should eliminate barriers to United States agricultural exports which are inconsistent with the WTO, including sanitary and phytosanitary measures that operate as disguised restrictions on trade.

In recent weeks, considerable attention has been directed to the efforts of Congressmen Bereuter and Ewing to work with the Administration to bring about China's admission to the WTO on the basis of a commercially reasonable protocol of accession and to look to the terms upon which the United States could extend permanent MFN treatment to China. Such positive initiatives should improve the chances for securing China's admission to the WTO and could promote a constructive strategic partnership between the United States and China.

In terms of an integrated China policy, it should be clear that the maintenance of the One China policy must be maintained as part of the commitments that the United States has made to China.

IMPORTANCE OF UNITED STATES AGRICULTURE EXPORTS AND VIEWS OF AMERICAN AGRICULTURE

United Sates agricultural exports continue to be a bright spot in America's trade picture. Last year, the United States agricultural trade surplus was $27.4 billion, making agriculture the largest positive contributor to the United States balance of trade (See Attachment C). The United States is the world's leading exporter of agricultural products with a 21 percent share of world trade. The agricultural sector is twice as reliant on international trade as the total United States economy, with exports accounting for an estimated 30 percent of gross cash receipts.

While American agricultural export performance has been good, foreign trade barriers and other factors continue to prevent American farmers and ranchers from realizing their potential in international markets. The failure of China to agree to a meaningful WTO accession protocol that will provide increased access for United States agricultural exports is a major problem for American agriculture.

For the past ten years the United States has been negotiating with China regarding its accession to the WTO. While some progress has been made, the two sides remain far apart on many matters involving agricultural market access.

If the United States prematurely supports China's WTO accession, the ramifications for American agricultural exporters would be serious. This could result a long and arduous campaign to open China's markets with many adverse consequences in the years ahead.

Despite these problems, many American firms have been working to establish relationships and build a foundation for market development through trade in the People's Republic of China.

In 1992, the United States and China entered into a Market Access Memorandum of Understanding in which the Chinese government committed itself to open its markets to American agricultural products. Since that time, officials of the United States Department of Agriculture and the Office of the United States Trade Representatives have been meeting with their counterparts in the Chinese government to address outstanding technical issues. Bilateral agricultural trade meetings have been held several times both in China and in the United States to negotiate the terms and conditions of agricultural trade compatible with obligations of country membership in the WTO. To date, these efforts have yet to produce a satisfactory resolution. The Chinese government persists in its resistance to protocols that would open its markets to American agricultural products.

China has yet to domonstrate full acceptance and implementation of WTO agreements on the Application of Sanitary and Phytosanitary Measures on Technical Barriers to Trade and on Import Measures.

China is clearly a significant market for American agriculture. If the Chinese government would finally allow more American agricultural products into the Chinese marketplace, this would help to reduce an annual bilateral trade deficit with China now approaching $50 billion (See Attachment A).

Therefore, various American agricultural groups have urged Congress to resist granting permanent MFN status to China and to oppose China's accession to the WTO until China further opens its markets to American agricultural products, lives up to its existing commitments in bilateral agreements, and fully demonstrates adherence to obligations inherent in WTO Membership.

ATTACHMENT A

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November 18, 1997

United States Merchandise Trade Balance with China for Calendar Years 1990 through 1996 (Value in Millions of United States Dollars)

	United States Exports	United States Imports	United States Trade Balance
1990	4,806	15,237	(10,431)
1991	6,278	18,969	(12,691)
1992	7,418	25,728	(18,310)
1993	8,763	31,540	(22,777)
1994	9,282	38,757	(29,475)
1995	11,754	45,543	(33,789)
1996	11,978	51,495	(39,517)

These statistics are based on data provided to the United States Department of Commerce Bureau of the Census by the United States Treasury Department Customs Bureau.

ATTACHMENT B

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The United States January, February, March, April, May, June July, and August 1997 monthly merchandise trade deficit was $121.20 billion (United States dollars) as compared with $110.36 billion for the same period in 1996.

The statistics noted below set out by country those nations running the largest trade surpluses with the United States (in billions of United States dollars) for the first eight months of 1996 and 1997.

1996		1997	
1. Japan	$ 30.30	1. Japan	$ 35.37
2. China	$ 24.25	2. China	$ 31.04
3. Canada	$ 14.43	3. Germany	$ 11.97
4. Mexico	$ 11.93	4. Canada	$ 11.00
5. Germany	$ 10.13	5. Mexico	$ 10.19

For the same periods, the following figures show the combined trade balance with the "Pacific Rim" countries (Australia, China, Japan, Republic of South Korea, Hong Kong, Singapore, Indonesia, Taiwan and others) in billions of United States dollars.

1996	$	63.13 (deficit)
1997	$	73.33 (deficit)

ATTACHMENT C

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Comparative Analysis and Trends concerning United States Agricultural Exports (Values in Billions of United States Dollars) for Calendar Years 1975 into 1997 (including Monthly Data for 1996 and 1997)

	Exports	Increase or Decrease
1975	22.1	---
1976	23.3	1.2
1977	24.2	0.9
1978	29.8	5.6
1979	35.2	5.4
1980	41.8	6.6
1981	43.8	2.0
1982	37.0	(6.8)
1983	36.5	(0.5)
1984	38.2	1.7
1985	29.6	(8.6)
1986	26.6	(3.0)
1987	29.1	2.5
1988	37.6	8.5
1989	41.6	4.0
1990	39.4	(2.2)
1991	39.3	(0.1)
1992	43.0	3.7
1993	42.8	(0.2)
1994	46.0	3.2
1995	56.1	10.1
1996	61.2	5.1

January 1996	5.45	January 1997	4.90	(.55)
February 1996	5.21	February 1997	4.83	(.38)
March 1996	5.38	March 1997	4.82	(.56)
April 1996	5.02	April 1997	4.52	(.50)
May 1996	4.72	May 1997	4.25	(.47)
June 1996	4.28	June 1997	4.00	(.28)
July 1996	4.36	July 1997	3.85	(.51)
August 1996	4.54	August 1997	4.27	(.27)
Totals	38.96		35.44	(3.52)

Source: See *United States Foreign Trade Annual 1974–1980,* United States Department of Commerce, Bureau of the Census; and FT 990, *Highlights of United States Export and Import Trade, United States Department of Commerce, Bureau of the Census.*

Statement of NACCO Materials Handling Group, Inc.

Pursuant to the October 22, 1997 announcement by the Subcommittee on Trade of the Committee on Ways and Means, the NACCO Materials Handling Group, Inc. ("NACCO") submits the following statement for consideration by the Committee and for inclusion in the printed record of the November 4, 1997 hearing held by the Subcommittee regarding the future of United States-China trade relations and the possible accession of China to the World Trade Organization (WTO).

Briefly summarized, NACCO submits this statement recommending that China's membership to the WTO be conditioned on China granting significant concessions as to its tariff and non-tariff barriers restricting imports of U.S. merchandise. With 1.2 billion citizens, China is the world's largest market for virtually all merchandise. Nevertheless, China's tariff and non-tariff barriers to trade effectively close that market to potential U.S. exporters.

Accordingly, NACCO has strong interests in improving access to the Chinese market. The comments set forth below address NACCO's concerns about the tariff rates currently in place in China that effectively impede the industry's access to the Chinese market.

I. NACCO: CHINA'S TARIFF AND NON-TARIFF BARRIERS RELATING TO IMPORTED FORK LIFT TRUCKS AND TRUCK PARTS DENY FAIR ACCESS TO CHINA'S MARKET

NACCO is one of the leading worldwide designers, manufacturers, and marketers of forklift trucks and truck parts, which comprise the largest segment of the materials handling equipment industry. In terms of unit sales, NACCO leads all other producers of forklift trucks in the United States. NACCO has facilities in Alabama, Kentucky, Illinois, North Carolina, and Oregon, employing thousands of Americans. In addition, NACCO has a network of dealers in more than 200 locations across North America.

NACCO markets two full lines of a wide variety of forklift trucks and related service parts. The principal categories include electric rider, electric narrow-aisle, and electric motorized hand forklift trucks primarily for indoor use, and internal combustion engine forklift trucks for indoor and outdoor use. NACCO also derives significant revenues from the sale of service parts for its products, as well as replacement parts for most competing brands.

NACCO is also highly competitive worldwide, with facilities in Europe, South America, and Australia. Based on the number of lift-trucks sold, NACCO is the leading manufacturer of forklift trucks in the world. NACCO's business strategy is export-oriented and, in particular, NACCO believes that the Chinese market offers an opportunity for growth.

Currently, China imports approximately 4,000 industrial trucks annually, compared to domestic sales by Chinese producers numbering over 20,000 units per year. And although the Chinese market may be relatively small, it is growing at a rate of about 10 percent each year. Even so, the Chinese market currently offers more in the way of potential than it does immediate rewards. As a result, it is very important to NACCO that China remove its barriers to entry of industrial lift-trucks and truck parts as a condition to its accession to the WTO.

However, under China's current two-tiered customs regime, the majority of industrial lift-trucks and parts that are anticipated to be exported to China would be subject to excessive tariffs, with effective rates as high as 38 percent *ad valorem*, which significantly reduces access to this important market for U.S. producers. *See* Exhibit 1.

By contrast to the U.S. tariff rate for forklift trucks and truck parts—which is zero—the Chinese rates are exceptionally high, even by Chinese standards. Moreover, there is an apparent inconsistency between China's tariff schedules and its application of customs duties, at least with respect to forklift trucks. NACCO's experience in China indicates that, in fact, a tariff rate of 25 percent has been applied to forklift trucks upon their entry into China, making the effective rate 46 percent *ad valorem*. Thus, in addition to excessive rates, there exists an even more troubling lack of transparency in the enforcement of China's law.

In addition, China's value added tax in practice unfairly discriminates against importers who re-export industrial trucks and truck parts. For example, re-exporters receive a credit for the VAT paid, but only up to 9 percent of the article's value. Moreover, it may take as long as one year after they pay the VAT for the credit to be paid. By contrast, domestic producers that export the same products often receive credit for their VAT payments more quickly than foreign importers and for amounts over 9 percent, up to the full 17 percent VAT. In light of these kind of barriers, China successfully shields its domestic producers of forklift trucks and truck parts from competition by imports.

With respect to non-tariff barriers, NACCO's experience in the Chinese market has exposed it to measures that further inhibit access to U.S. industrial trucks and their parts. Although China's tariff schedule does not mention the existence of any licensing requirements for these imports, NACCO understands such licenses are required. These are often difficult and, therefore, expensive to obtain. Of even more concern to NACCO is the somewhat arbitrary availability of so-called "low duty" import licenses from state trading companies. These licenses offer benefits to those importers able to obtain them in the form of reduced tariff and tax rates on imports. Often, the amount of savings depends on the terms of the arrangement the importer manages to strike with the state trading company. The result is that, without such a license, an importer simply cannot compete, either with other importers or with Chinese producers.

NACCO has also been competitively disadvantaged and deterred by general complexities and bureaucratic nuances involved in doing business in China. For example, if a company has helpful connections, or is willing to offer financial "inducements" to state trading companies, it may receive preferential low duties when importing or VAT tax breaks when selling in the domestic Chinese market. However, none of these "programs" are either transparent or uniform in their application.

Finally, industrial forklift trucks and truck parts have not been immune from China's well-documented non-compliance in the area of intellectual property rights. Foreign technology and product designs are frequently copied and used by competitors in China without risk of punishment and even less hope for effective redress for the foreign importers. Thus, like tariff and non-tariff barriers, these obstacles to fair access also demand attention from the United States during its negotiations with China.

For the foregoing reasons, NACCO strongly urges that China's accession be made conditional upon it meeting the trade liberalization commitments that apply to other developed nations.

II. Conclusion

China's combined import tariffs and VAT duties on the goods and products discussed in this statement are huge, and effectively close the massive Chinese market to imports from many WTO countries (including the United States). In comparison, the corresponding tariff rates for these products in the United States are zero. Unless China agrees to lower its tariff rates, and to eliminate its VAT, China will continue to be able to keep its market closed to U.S. exports.

Accordingly, the United States should accept a tariff binding offer from the Chinese only if it includes a commitment to match the U.S. tariff rates on the products named here, and to eliminate China's significant VAT on those imports.

We appreciate the opportunity to submit this statement on behalf of NACCO.

Exhibit 1.—Articles of Interest to NACCO by U.S. Harmonized Tariff Schedule Number and by Chinese Import/Export Tariff Classification Number

United States

Classification No.	Product	General rate
HTSUS 8427	Fork-lift trucks; other works trucks fitted with lifting or handling equipment	-
HTSUS 8427.1000	Self-propelled trucks powered by an electric motor, other self-propelled trucks	Free
HTSUS 8427.2010	Fork-lift trucks for containers	Free
HTSUS 8427.2090	Other	Free
HTSUS 8427.9000	Other trucks	Free
HTSUS 8431	Parts suitable for use solely or principally with the machinery of headings Nos. 84.25 to 84.20.	-
HTSUS 8431.2000	Of machinery of heading No. 84.27	Free

China

Classification No.	Product	Rate	VAT
84.27	Fork-lift trucks; other works trucks fitted with lifting or handling equipment	-	
8427.1000	Self-propelled trucks powered by an electric motor, other self-propelled trucks	18/30 [1]	17
8427.2010	Fork-lift trucks for containers	18/30 [1]	17
8427.2090	Other	18/30 [1]	17
8427.9000	Other trucks	18/30 [1]	17
84.31	Parts suitable for use solely or principally with the machinery of headings Nos. 84.25 to 84.20.	-	
8431.2000	Of machinery of heading No. 84.27	10/30 [1]	17

[1]Most favored nation duty rate/general duty rate.

Statement of National Juice Products Association

Pursuant to the October 22, 1997 announcement by the Subcommittee on Trade of the Committee on Ways and Means, the National Juice Products Association ("NJPA") submits the following statement for consideration by the Committee and for inclusion in the printed record of the November 4, 1997 hearing held by the Subcommittee regarding the future of United States-China trade relations and the possible accession of China to the World Trade Organization (WTO).

Briefly summarized, NJPA submits this statement recommending that China's membership to the WTO be conditioned on China granting significant concessions as to its tariff barriers restricting imports of U.S. merchandise. With 1.2 billion citizens, China is the world's largest market for virtually all merchandise. Nevertheless, China's tariff barriers to trade effectively close that market to potential U.S. exporters.

Accordingly, NJPA respectfully requests that the United States not accede to China's membership in the WTO without a significant improvement in China's treatment of imported fruit juices. The comments set forth below address NJPA's concerns about the tariff rates currently in place in China that effectively impede the industry's access to the Chinese market.

I. NJPA: China's Tariff Barriers Relating to Fruit Juice Imports Deny Fair Access to China's Market

NJPA is a national trade association comprised of over 70 juice growers and processors located throughout the United States. *See* enclosed membership list. NJPA understands that the United States, along with other members of the WTO, is negotiating with China for entry into the WTO. It is very important to NJPA that China remove its barriers to entry of U.S. fruit juices before it is admitted into the WTO.

China imposes excessive tariffs on fruit juice, significantly reducing access to this important market for U.S. juice producers. China currently imposes a 55 percent tariff on fruit juice imported from most favored nations such as the United States. In addition, China imposes a value added tax ("VAT") of 17 percent on fruit juice, which, because it is imposed on the tariff-inclusive price of the juice, raises the effective import tariff rate to 81 percent.

Indeed, China's current published tariff and VAT rates on juice products are dramatically higher than the U.S. MFN tariff rates on fruit juice, which range from no duty to a duty of 8.58/liter. *See* 1997 Harmonized Tariff Schedule of the United States, Heading 2009 (Fruit juices (including grape must) and vegetable juices, not fortified with vitamins or minerals, unfermented and not containing added sugar or other sweetening matter).

NJPA, therefore, strongly urges that China not be admitted to membership in the WTO unless it meets the trade liberalization commitments that apply to other developed nations. NJPA members represent 90 percent of U.S. juice production and employ thousands of Americans. The Chinese market represents a significant opportunity for U.S. juice producers to expand their exports, thereby creating jobs in Florida, California, and throughout the United States. This potential market cannot be developed, however, until China removes its excessive tariffs and complies with international norms for open and transparent trade.

II. Conclusion

China's combined import tariffs and VAT duties on the goods and products discussed in this statement are huge, and effectively close the massive Chinese market to imports from many WTO countries (including the United States). In comparison, the corresponding tariff rates for these products the United States are tiny. Unless China agrees to lower its tariff rates to the very small levels maintained by the United States, and to eliminate its VAT, China will continue to be able to keep its market closed to U.S. exports.

Accordingly, the United States should accept a tariff binding offer from the Chinese only if it includes a commitment to match the U.S. tariff rates on the products named here, and to eliminate China's significant VAT on those imports.

We appreciate the opportunity to submit this statement on behalf of NJPA.

NATIONAL JUICE PRODUCTS ASSOCIATION
MEMBERSHIP LIST 1997-98

1. AGRIGOLD JUICE PRODUCTS
2. AGRONA, S.A.
3. A. LASSONDE, INC.
4. AMERICAN BEVERAGE CORP.
5. AMERICAN FRUIT PROCESSORS
6. AMERICANA JUICE PRODUCTS
7. BASCITRUS AGRO INDUSTRIA
8. CAMBUHY AGROINDUSTRIA
9. CAMERICAN, A CON-AGRA CO.
10. CANADAIGUA CONCENTRATES
11. CARGILL CITRO-AMERICA
12. CAULKINS INDIANTOWN CIT.
13. CCPA/VALLEY FOODS
14. CHIQUITA BRANDS, INT'L
15. CITROFRUT, S.A.
16. CITROSOL, S.A. DE C.V.
17. CITROSUCO NORTH AMERICA
18. CITROSUCO PAULISTA, S.A.
19. CITRUS BELLE, DIV. A. DUDA
20. CITRUS PRODUCTS, INC.
21. CITRUS SERVICE, INC.
22. CITRUS WORLD, INC.
23. CLEMENT PAPPAS & CO., INC.
24. CLERMONT, INC.
25. CLIFFSTAR CORPORATION
26. COCA-COLA FOODS
27. CONFRUTTA, S.A.
28. COUNTRY PURE FOODS
29. CUMBERLAND FARMS, INC.
30. CUTRALE CITRUS JUICES USA
31. DEL MONTE FOODS
32. DEL ORO, S.A.
33. DELANO GROWERS GRAPE
34. DINTER GMBH
35. DOLE PACKAGED FOODS
36. FARMLAND DAIRIES, INC.
37. FIRMENICH
38. FLAVORS FROM FLORIDA
39. FLORIDA GLOBAL CITRUS LTD
40. FLORIDA JUICE, INC.
41. FOREMOST FARMS, USA
42. GOLDEN GEM GROWERS, INC.
43. GREGORY PACKAGING INT'L
44. H.J. HEINZ COMPANY
45. HOLLY HILL FRUIT PRODUCTS,
46. HOME JUICE COMPANY
47. INDIAN RIVER FOODS, INC.
48. JOHANNA FARMS, INC.
49. JUGOS CONCENTRADOS, S.A.
50. JUGOS DEL SUR, S.A.
51. JUGUERA VERACRUZANA, S.A.
52. KERR CONCENTRATES, INC.
53. THE KROGER CO.
54. LE VIGNOBLE, S.A.
55. LOUIS DREYFUS/FUTROPIC
56. LYKES PASCO, INC.
57. MCCAIN CITRUS, INC.
58. MRS. CLARKS FOODS, INC.
59. NESTLE
60. NORTHLAND CRANBERRIES, INC.
61. OCEAN SPRAY CRANBERRIES
62. OLYMPIC FOODS, INC.
63. ORANGE-CO., INC.
64. ORFIVA, S.A.
65. PEACE RIVER CITRUS PROD.
66. PEPSICO, INC.
67. QUALITY KITCHEN CORP.
68. SABROSO COMPANY
69. SAN JOAQUIN VALLEY
70. SENECA FOODS CORP.
71. SILVER SPRINGS CITRUS COOP
72. SOCIEDAD COOPERATIVA
73. SUNBASE U.S.A., INC.
74. SUNDOR BRANDS, INC.
75. SUNKIST GROWERS, INC.
76. SUN PAC FOODS, INC.
77. SUNPURE
78. TECNOVIN DO BRASIL ICIE, LTDA
79. TEXAS CITRUS EXCHANGE
80. TICOFRUT, S.A.
81. TREE TOP, INC.
82. TROPICANA PRODUCTS, INC.
83. UNITED STATES SUGAR CORP.
84. VENTURA COASTAL CORP.
85. VERY FINE PRODUCTS, INC.
86. VIE DEL COMPANY
87. VITA-PAKT CITRUS PROD. CO.
88. VOLVIC
89. WELCH'S
90. WHITLOCK PACKAGING CORP.
91. WINTER GARDEN CITRUS

Statement of U.S. Integrated Carbon Steel Producers

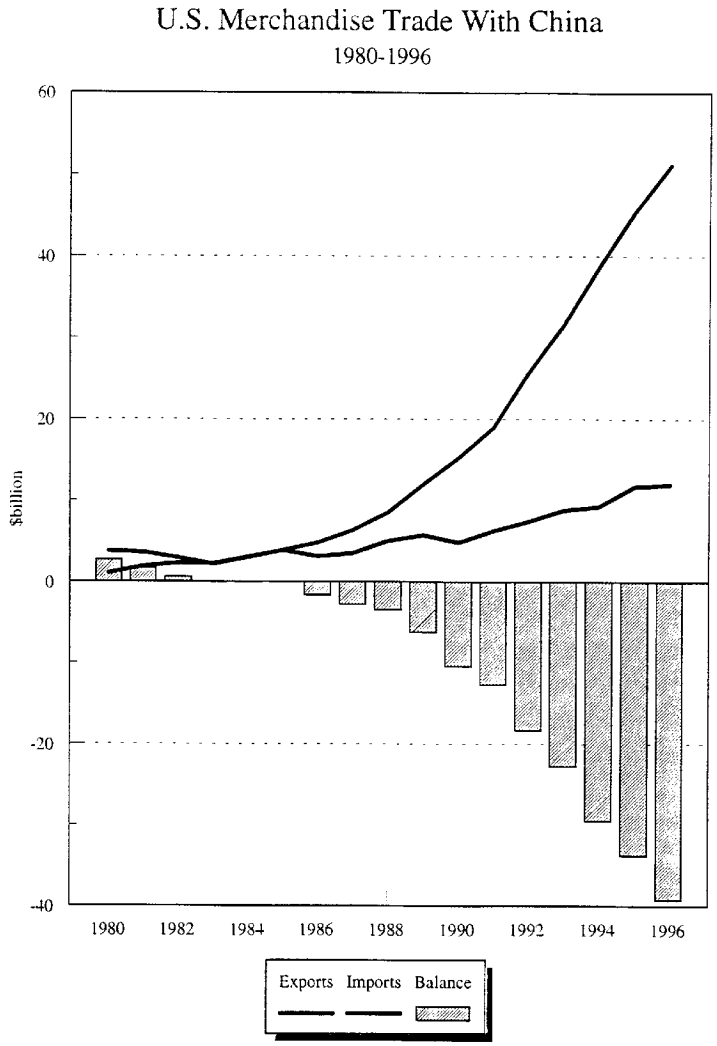
This statement sets out the views of five major integrated U.S. producers of carbon steel products—Bethlehem Steel Corp., U.S. Steel Group a Unit of USX Corp., LTV Steel Co., Inland Steel Industries, Inc., and National Steel Corp.—on U.S.-China trade relations and, in particular, China's possible accession to the World Trade Organization (WTO). We commend the Subcommittee for holding this hearing and appreciate the opportunity to express our views.

China's bid to join the WTO raises issues of great commercial as well as political importance. China has become a major player in the international economy, as reflected in the steel sector where China is now the world's largest producer. (See Chart 1.) To cite just one example of the shifts that are underway, Chinese exports

of cut-to-length carbon steel plate to the U.S. market grew from zero in 1993 to 300,000 tons in 1996.

U.S. Merchandise Trade With China

1980-1996



Source: U.S. Department of Commerce, International Trade Administration, U.S. Foreign Trade Highlights, 1988 and 1995 and IM-145 for 1996.

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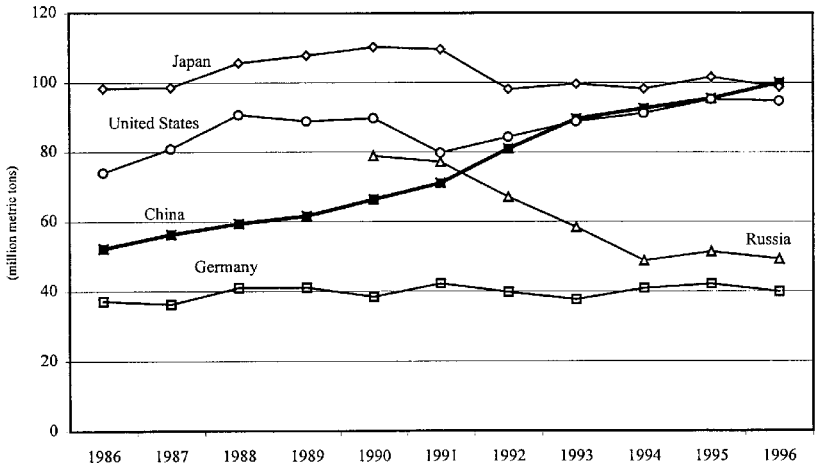
While China's rapidly growing economy offers a huge potential market for U.S. exports, U.S.-China bilateral trade continues to be significantly out of balance. (See Chart 2.) The U.S. trade deficit with China, nearly $40 billion last year, continues to grow. Among the many causes of this deficit are Chinese policies that promote export-led growth in certain sectors while restricting imports through a discriminatory and nontransparent trade and investment regime. Many of these policies are inconsistent with both the letter and spirit of the WTO agreements.

The Rapid Increase in China's Steel Production Has Made It the World's Largest Steel Producer



At the Same Time China Has Become a Major Supplier to the U.S. Market of Numerous Steel Mill Products

	China's Rank in Total U.S. Imports
Cut-to-length Plate	2nd
Electrogalvanized Sheet	3rd
Oil Country Goods	4th
Standard Pipe	4th

Source: [Top Panel]:International Iron and Steel Institute, Steel Statistical Yearbook 1995 (Brussels 1996) at table B-1 and IISI, World Steel in Figures 1997 (Brussels, 1997) at 3.
[Bottom Panel]: AISI Imports 3, August 1997. Data based on January-August 1997.

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The two pillars of the WTO are free and fair trade—elimination of barriers coupled with clear and enforceable rules against unfair trade. In the steel sector and many others, China today does not trade fairly. China's WTO accession must be handled carefully in order to address these concerns and ensure fair global competition.

With an appropriate protocol of accession, U.S. steel producers are prepared to support China's accession to the WTO. The existing draft protocol, however, does not adequately address several key issues. Of these, three are of particular importance to the steel industry: antidumping rules, purchasing by state-owned enterprises, and subsidies. These issues must be addressed, and addressed successfully, well before the conclusion of the accession negotiations.

NON-MARKET ECONOMY ANTIDUMPING RULES

Current U.S. law provides that, in the case of imports from a nonmarket economy ("NME"), the Commerce Department is to determine the "normal value" of a product under investigation by valuing the NME producer's factors of production (plus amounts for general expenses and profit) in a surrogate country that is similarly developed but market-oriented. This methodology is critical to ensuring a fair comparison of the normal value of goods produced in China, and other NMEs, with the export price of those goods to purchasers in the United States. Other GATT signatories (now WTO members) have long applied similar rules.

The basis in the GATT for this methodology has been a note to GATT Art. VI, which recognizes that, "in the case of imports from a country which has a complete or substantially complete monopoly of its trade and where all domestic prices are fixed by the State, . . . importing contracting parties may find . . . that a strict comparison with domestic prices in such a country may not always be appropriate."

Citing recent reforms that have occurred in China, Chinese trade officials argue that China is no longer a non-market economy and therefore should not be subject to NME antidumping rules in the United States, the EU and other jurisdictions. Nevertheless, a substantial percentage of Chinese manufacturers continue to be state-owned and controlled, and state control over input prices persists. This is especially true in the steel industry. In fact, in recent cases both inside and outside the steel sector, the Commerce Department has reaffirmed that China continues to be a non-market economy. The Department's consistent findings in this regard should not be negotiated away to smoothen WTO accession.

Were the Commerce Department to begin relying on state-controlled prices, the Chinese Government could easily manipulate these prices in such a way as to mask the true level of dumping taking place. For this reason, application of a "market economy" antidumping analysis is inappropriate and will produce inequitable results so long as prices and enterprises remain under state control in China. For this very reason, in the accessions of other non-market countries such as Poland and Romania, the continued ability to use NME methodology has been made explicit.

Without a clear provision in China's protocol, there is a risk that applying NME antidumping rules to post-accession imports from China would be found inconsistent with the WTO agreements. Accordingly, clear language must be included in China's protocol that specifically guarantees the right of the United States and other countries to continue to apply NME antidumping rules with respect to goods of Chinese origin—at least until such a time as substantial state control over prices no longer exists in China. The language included in the current draft protocol, intended to meet this concern, has not been accepted by China.

Because this is such a fundamental requirement for an acceptable protocol, it should be addressed decisively at an early stage in the discussions. Experience has shown that such issues cannot be effectively addressed in the pressured atmosphere that prevails at the end of a negotiation.

PURCHASING BY STATE-OWNED ENTERPRISES

China, although the world's largest producer of steel, continues to import some steel products from countries such as Japan and Russia. However, the Chinese Government is undertaking a significant effort to boost domestic steel production, with the goal of reaching self-sufficiency and ending imports of basic steel by the year 2000.

There exists, therefore, an increasing risk that the Chinese Government will exercise the power it maintains over state-owned enterprises in the steel sector and downstream industries in order to induce these enterprises to purchase only domestic steel. If Chinese state-owned enterprises do not make purchases of steel on the basis of commercial considerations, and are instead influenced by the Chinese Government's import substitution policies, foreign steel products will no longer be able to be sold in China.

A closing of the Chinese market to imports of steel will not only affect U.S. exports, but will divert third-country exports away from China and toward the world's few open markets for steel. The United States—the single largest open market for steel—would face an even greater onslaught of excess world steel production, often at dumped prices.

Accordingly, China's protocol of accession should include an affirmative obligation on the part of the Chinese Government to ensure that state-owned enterprises make purchases solely on the basis of commercial considerations. The protocol should also provide for a regular review of purchasing decisions by Chinese state-owned enterprises to ensure compliance with this obligation.

SUBSIDIES

The accession protocol should commit China fully to WTO subsidy rules and include a realistic and enforceable schedule for phasing out existing subsidies. The protocol "annex" establishing a timetable for phasing out Chinese subsidies has not been made publicly available, but must be fully vetted with Congress and affected U.S. industries well before any accession pact is finalized.

Equally important is ensuring, through appropriate protocol provisions and statutory amendments, that U.S. anti-subsidy laws can be applied to offset and deter such subsidies. While China already is a prolific subsidizer, the risk of improper use of subsidies in an economy like China's increases as the economy becomes more market-oriented. U.S. trade remedies must be capable of responding effectively to this problem both during and after China's transition.

CONCLUSION

Carbon steel producers welcome the Subcommittee's active oversight of what promises to be one of the most significant U.S. trade policy initiatives over the next several years. As U.S. trade with China continues to grow, the domestic and international rules applicable to that trade will take on ever-greater importance.

Joining the WTO will require China to reform its legal and commercial structures to make them compatible with the international trading system and its rules. It is widely stated and accepted that the accession pact itself must be "commercially viable" if accession is to be in the U.S. national interest. From the carbon steel industry's perspective, no protocol can be "commercially viable" unless it successfully addresses the fundamental issues of antidumping rules, purchasing by state-owned enterprises, and subsidies.

UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS
NEW YORK, NY
November 18, 1997

The Honorable Philip M. Crane
Chairman, Trade Subcommittee
Committee on Ways and Means
1104 Longworth House Office Building
Washington, DC 20515–6354

Dear Chairman Crane:

The future of United States trade relations with China and China's accession to the World Trade Organization (WTO) are very important issues for the members of the United States Council for International Business (USCIB). Your November 4 hearing on this subject was very timely and we encourage you to maintain your Subcommittee's focus on these issues.

In the context of our work for U.S. business on issues relating to the WTO, USCIB takes the position that all prospective members regardless of size must comply with established disciplines and commit to comparable trade liberalization. It would be damaging to the WTO rules, which define the trade opportunities for all our companies, and to the WTO institution itself if a two-tier set of rules is created through accession requirements that accord certain countries a lesser discipline. The specific requirements for comparable trade liberalization that our members seek in China's accession are elaborated in two recent letters to the United States Trade Representative. We would respectfully request that these letters (which are attached) be included in the written record of your hearing.

USCIB membership comprises 300 American corporations, professional firms and business associations. A copy of our membership list is also attached for the Subcommittee's reference.

Thank you for your consideration. We appreciate your attention to this very important trade issue.

Sincerely,

ABRAHAM KATZ
President

Attachments

UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS
NEW YORK, NY
March 17, 1997

Mr. Frederick L. Montgomery
Chairman, Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th St., NW
Washington, DC 20508

Dear Mr. Montgomery:

The U.S. Council for International Business is pleased to submit the recommendations of its China Working Group in response to your request for public comments on negotiations regarding China's accession to the World Trade Organization (WTO).

The U.S. Council is the American affiliate of the International Chamber of Commerce (ICC), the Business and Industry Advisory Committee (BIAC) to the OECD, the International Organization of Employers (IOE). As such, it officially represents U.S. business positions both in the main intergovernmental bodies and with foreign business communities and their governments. The U.S. Council formulates its positions in over forty committees and other working bodies composed of experts drawn from its membership of 300 multinational corporations, service companies, law firms and business associations.

China's WTO accession negotiations offer an important opportunity for the U.S. Government to effectively address various barriers to trade with that country. We support China's accession to the WTO under a commercially acceptable protocol that commits China to comply with established WTO disciplines and includes specific market-opening measures.

To assist you in addressing market access issues in particular, we sent out a questionnaire asking our working group members to prioritize specific market access issues of concern to U.S. businesses operating in China. The results are summarized below.

TRANSPARENCY AND UNIFORMITY OF LAWS

The majority of respondents cited a lack of transparency and uniformity of laws as the most serious obstacle faced by American companies operating in China. Companies mentioned ongoing problems with undisclosed rules and regulations, laws that are vague and subject to varying interpretations, and inconsistent application and enforcement of laws at different levels of government and between different entities.

GATT Article X calls for trade regulations to be published promptly and administered in a uniform, impartial and reasonable manner. The U.S. Government should press China to publish in advance and circulate laws, directives and regulations governing foreign trade and investments. Further, many existing laws require clarification and additional details on procedural guidelines, requirements, and consequences. There should be a uniformity of laws and their implementation at all levels.

This complaint applied across numerous sectors, including consumer products, manufacturing, natural resources, services companies, etc.

TARIFFS AND NON-TARIFF MEASURES

Companies cited tariffs and non-tariff measures together as the second most pressing set of issues. While China announced at the APEC Summit in November, 1996 that it would lower tariffs by 30 percent on 4,000 items, duties on many products remain over 50%, particularly raw materials, chemicals, and some finished goods. The U.S. Government should press China to substantially reduce its overall tariff rate (which currently stands at 32%) to a level comparable to the commitments of WTO members.

Many companies also indicated that import licensing restrictions and quotas on hundreds of imported products inhibit their competitiveness in China. The U.S. government should insist that China adhere to GATT Article XI, which prohibits such practices.

SERVICES

China continues to maintain barriers to foreign service providers in areas such as financial services, telecommunications, publishing and tourism. The U.S. Government should press China to provide non-discriminatory market access and to liberalize existing limitations so as to bring its practices into conformity with the obligations in the General Agreement on Trade in Services (GATS) and it annex on telecommunications services.

Moreover, now that the WTO negotiations on basic telecommunications have concluded successfully, it is especially important that basic telecommunications be addressed as part of the process of China's accession to the WTO. Chinese commitments on basic telecommunications must be meaningful and commensurate with the stature and importance that China has assumed in the world economy, including full adoption of the regulatory principles.

INTELLECTUAL PROPERTY PROTECTION

On paper, China has made significant progress toward bringing its intellectual property regime up to international standards, particularly since the 1992 and 1995 agreements signed with the U.S. on this subject. However, piracy of U.S. software, books, magazines, videos and sound recordings remains a serious problem. And some companies argued that the IP laws in place are not enforced objectively. As one respondent put it, the "rule of men" still takes precedence over the rule of law. The U.S. Government should continue to press China to vigorously enforce its IP laws under the terms of the two bilateral agreements and the WTO Agreement on Trade-Related Intellectual Property Rights (TRIPs).

INVESTMENT POLICIES

Some companies noted that they are generally prohibited from retail marketing, that investment approvals by the Chinese Government are set at extremely low levels, and that foreign firms are generally forced to joint venture with local firms. China's requirements of foreign investors to enter into commitments regarding technology transfer, import substitution, exchange rate balancing and export performance are overly restrictive and in violation of GATT Article III and the WTO Agreement on Trade-Related Investment Measures (TRIMs). Automotive companies complained about China's lengthy transition period for phasing out barriers to investment in the auto sector. China must take on the TRIMs obligations within the time frame prescribed in the WTO.

OTHER ISSUES

Members raised several other issues, including the following:

Trading rights

Some companies cited concerns with the Chinese policy of limiting the import of goods into China to authorized trading companies.

Dispute resolution

Problems mentioned in this area include difficulty enforcing contracts in court; difficulty enforcing judgments/decrees from Chinese courts; the fact that foreign arbitral decrees are often ignored by Chinese courts; and that arbitration awards made in one region of China are not enforced in other regions.

Customs

Some companies complained that the Chinese customs authorities do not apply their regulations uniformly. Chinese customs practices need to be modernized to incorporate the key procedures set out in the ICC International Customs Guidelines, which include implementation of the WTO agreement on valuation, rules of origin and preshipment inspection.

Access for agricultural products.

Some companies suggested that, before joining the WTO, China must remove GATT-illegal barriers to foreign agricultural products. The Chinese Government's phyto-sanitary measures, for example, operate as disguised trade restrictions.

I hope that this information is useful to your discussions with the Chinese government. We stand ready to meet with you to discuss these concerns in more detail, if necessary.

Sincerely,

ABRAHAM KATZ
President

USCIB MEMBERSHIP

CORPORATIONS AND PROFESSIONAL FIRMS

ABB Inc.
Air Products & Chemicals, Inc.
AirTouch Communications
Allegheny Teledyne, Inc.
AlliedSignal, Inc.
America Online
American Express Company
American International Group, Inc.
American Standard Inc.
Ameritech
Amoco Corporation
AMP Incorporated
Ampex Corporation
Andersen Worldwide
Anheuser Busch Companies, Inc.
Aramco Services Company
Arthur D. Little
ASARCO Incorporated
AT&T Corporation
Avon Products, Inc.
The Bank of New York Company, Inc.
Bankers Trust Company
BASF Corporation
BellSouth Corporation
BHP Copper/Minerals International, Inc.
The Boeing Company
Booz Allen & Hamilton International
BP America, Inc.
Bristol-Myers Squibb Company
Brown Brothers Harriman & Co.
Browning Ferris Industries, Inc.
Bulgari Corporation of America
Cable & Wireless North America
Cadwell Laboratories, Inc.
Caltex Petroleum Corporation
Carter Wallace, Inc.
Cartier, Inc.
CBS Inc.
The Chase Manhattan Corporation
Chevron Corporation
Christie, Manson & Woods
Chubb Corporation
CIB
CIGNA Corporation
Citicorp
The Coca-Cola Company
Colgate-Palmolive Company
COMSAT Corporation
Coopers & Lybrand
Corning Inc.
CSI Complex Systems, Inc.
Cullen International
J. & S.S. DeYoung, Inc.
Deloitte & Touche
Dow Chemical Company
DuPont
Duke Power Company
Dun & Bradstreet Corporation
Eastman Chemical Company
Eastman Kodak Company
EDS Corporation
Enron Corp.
Ernst & Young LLP
Evans & Sutherland
Exxon Corporation
Federal Express Corporation
First Chicago NBD
Paul Fisher, Inc.
Food Lion, Inc.
Ford Motor Company
General DataComm Industries, Inc.
General Dynamics Corporation
General Electric Company
General Motors Corporation
Gerber Scientific, Inc.
Glaxo Wellcome Inc.
The Goodyear Tire & Rubber Company
GTE Corporation
Hearst Corporation
Hewlett-Packard Company
Hills & Company
Honeywell, Inc.
Hughes Electronics Corporation
Hunt Consulting, Inc.
Hunton & Williams
IBM Corporation
Inframetrics, Inc.
Intel Corporation
International Registries, Inc.
International Trade Services
ITT Industries
Johnson & Higgins
Johnson & Johnson
Kollsman, Inc.
KPMG Peat Marwick LLP
Kraft General Foods
L-3 Communications Corporation
Lazare Kaplan
LENNOX International, Inc.
Leo Burnett Company, Inc.
Lockheed Martin Corporation
Lucent Technologies
Manpower Inc.
Marquette Electronics, Inc.
Mars, Inc.
Matsushita Electric Corporation of America
Mattel, Inc.
McDonald's Corporation
McDonnell Douglas Corporation
McGraw-Hill, Inc.
MCI International
Merck & Co., Inc.
Metrum, Incorporated
Microsoft Corporation
3M
Mobil Corporation
Morgan Stanley International, Inc.
Morrison Knudsen Environmental Group
Motorola, Inc.
Nabisco, Inc.
Nestle USA
Netscape Communications Corporation
Northrop Grumman
NYNEX
Occidental Petroleum Corporation
Oracle Corporation
Orbital Sciences Corporation
Organization Resources Counselors
Oscar Heyman Brothers, Inc.
Owens Corning
Paromar Technologies Corporation
PepsiCo, Inc.
Pfizer Inc
Philip Morris Companies, Inc.
Phillips Petroleum Company
Price Waterhouse LLP
The Procter & Gamble Company
The Reader's Digest Association, Inc.
Ringling Brothers
Roanoke Brokerage Services
Rock-It Cargo USA, Inc.
Rockwell
Rohm & Haas Company
Sara Lee Corporation
SBC Communications, Inc.
S.C. Johnson & Son, Inc.
Scarbroughs
Schering-Plough Corporation
Scientific Atlanta, Inc.
Sea-Land Service, Inc.
Seagram's
Shell Oil Company
Sifco Industries, Inc.
Sikorsky Aircraft Corporation
Social Policy Considerations
Sony Electronics, Inc.
Sotheby's Holdings, Inc.
SourceFile
Sprint Corporation

Sun Microsystems, Inc.
Sundstrand Corporation
TCI/BR Communications
Tektronix, Inc.
Teleglobe, Inc.
Texaco, Inc.
Texas Instruments, Inc.
Textron Inc.
Tiffany & Co.
Time Warner
Trusted Information Systems
TRW Inc
Unilever United States, Inc.
Union Camp Corporation
United Parcel Service
U S WEST, Inc
USX Corporation
Van Cleef & Arpels, Inc.
VeriSign, Inc.
Visa International, Inc
The Walt Disney Company
Warner Lambert Company
Washington International Insurance Company
Watkins Johnson Company
Wavetek Corporation
Kurt Wayne, Inc.
Westinghouse Electric Corporation
Westvaco Corporation
Wiltron Company
Harry Winston, Inc.
WorldCom, Inc.

LAW FIRMS

Akin, Gump, Strauss, Hauer & Feld
Alston & Bird
Arnold & Porter
Arter & Hadden
Baker & McKenzie
Beveridge & Diamond
Barnes, Richardson & Colburn
Carroll, Burdick & McDonough
Chadbourne & Parke LLP
Cleary, Gottlieb, Steen & Hamilton
Collier, Shannon, Rill & Scott
Coudert Freres
Covington & Burling
Curtis, Mallet Prevost, Colt & Mosle
Law Offices of David F. Day
Debevoise & Plimpton
Dewey Ballantine
Donovan, Leisure, Newton & Irvine
Finnegan, Henderson, Farabow, Garrett & Dunner
Fish & Neave
Fish & Richardson P.C
Fried, Frank, Harris, Shriver & Jacobson
Fulbright & Jaworski
Gardere & Wynne, L.L.P.
Gardner & Gardner
Gibson, Dunn & Crutcher
Greenberg Traurig
Groom and Nordberg
Hughes, Hubbard & Reed
Jones, Day, Reavis & Pogue
Kavinoky & Cook
Kaye, Scholer, Fierman, Hays & Handler
LeBoeuf, Lamb, Greene & MacRae
Lipstein, Jaffe & Lawson
Loyens & Volkmaars
Mayer, Brown & Platt
O'Melveny & Myers
Miller & Chevalier
Powell, Goldstein, Frazer & Murphy
Reid & Priest
Rogers & Wells
Salans, Hertzfeld, Heilbronn
Sandler, Travis
Schwab Goldberg Price & Dannay
Seyfarth, Shaw, Fairweather & Geraldson
Skadden, Arps, Slate, Meagher & Flom
Smith, Heenan & Althen
Squire, Sanders & Dempsey
Stein Shostak Shostak & O'Hara
Steptoe & Johnson
Sullivan & Cromwell
Weil, Gotshal & Manges
White & Case
Willkie Farr & Gallagher
Wilmer, Cutler & Pickering
Winthrop, Stimson, Putnam & Roberts

ORGANIZATIONS

The Aluminum Association
American Association of Advertising Agencies, Inc.
American Chamber of Commerce in Mexico
American Forest & Paper Association
American Petroleum Institute
American Plastics Council
Association of National Advertisers, Inc.
Center for International Business Education
Chamber of Commerce of the United States of America
Chemical Manufacturers Association
Cosmetic, Toiletry and Fragrance Association
Council on International Banking
Electronic Industries Association
Electronic Messaging Association
Global Climate Coalition
Grocery Manufacturers of America
Information Technology Association of America
Information Technology Industry Council
National Association of Manufacturers
National Football League
National Mining Association
National Retail Federation
Non Prescription Drug Manufacturers Association
Software Publishers Association
World Trade Centers Association

UNITED STATES COUNCIL FOR INTERNATIONAL BUSINESS
NEW YORK, NY
October 30, 1997

The Hon. Charlene Barshefsky
United States Trade Representative
Office of the U.S. Trade Representative
600 17th St., NW
Washington, DC 20506

Via FAX: 395–3911

Dear Charlene:

I am writing to follow up on my correspondence with your office of March 17 regarding the negotiations on China's accession to the World Trade Organization. The U.S. Council for International Business is particularly concerned that the interests of service providers should be vigorously pursued in the negotiations. Our earlier letter covered the full range of WTO issues; I would like to take this opportunity to elaborate on the issues affecting the services sector.

As you know, the U.S. Council's position is that China's accession to the WTO must be based on a commercially viable terms that commit China to comply with WTO disciplines and to open its markets to additional imports of both goods and services. The terms should include special measures to ensure that the transparency of China's laws and regulatory procedures is improved significantly. This issue is vitally important to all our members, but it has special implications for those companies, such as service providers, many of which require a local commercial presence and operate in more regulated environments. The accession negotiations offer an important opportunity to seek improvements in China's administrative and regulatory procedures to bring about a high degree of transparency and to bring them more into line with practices in other major markets.

With regard to market access for services, China's adherence to the General Agreement on Trade in Services will be a welcome step forward, but China must include in its GATS schedule specific market access and national treatment commitments on a broad range of service sectors. Many of the other GATS rules (in addition to market access and national treatment) only apply to service sectors for which the signatory has scheduled specific commitments, so the quality of China's GATS schedule is especially important to our service providers. With regard to specific sectors, we strongly recommend the following measures.

TELECOMMUNICATIONS

As with other countries acceding to the WTO, China should make meaningful commitments under the WTO Agreement on Basic Telecommunications. At a minimum, meaningful commitments would include a date certain for full liberalization and adoption of the Reference Paper in its entirety.

FINANCIAL SERVICES

China should make high-quality commitments under the GATS to liberalize access to its financial service sector, including banking, insurance, securities and diversified services.

PROFESSIONAL SERVICES

In its scheduled GATS commitments, China should cover the full range of professional services, including accounting, auditing and bookkeeping services, as well as tax and management consulting, legal services, services related to advertising and media sales, and advertising and marketing services. Those commitments should eliminate a variety of de facto impediments. For example, in the accounting sector China should assure the right to choose local affiliates on contractual terms substantially equivalent to worldwide norms; permit the establishment of branches or other offices authorized to perform statutory work; adopt the use of international standards; and remove the ban on the advertising of professional services. As another example, China should extend complete reciprocity to legal services and permit American firms to hire Chinese attorneys licensed to practice law in China.

There should be no restrictions on the number of licenses or locations for legal practice.

PUBLISHING

China should make timetabled commitments to liberalize both investment (including joint ventures) and access to publishing services for books, magazines and newspapers, such as financial information services. As a related matter, it is essential that China demonstrate a significant commitment to enforcing its intellectual property protection legal system and to stop piracy and exploitation of copyrighted materials.

TOURISM

China should agree to repeal by a date certain its law prohibiting non-Chinese companies from establishing full service travel agencies in China. As part of this liberalization, China should permit non-Chinese companies the same rights that are enjoyed by travel companies in other WTO countries. A full service travel license would permit the sale of standard tourist financial services such as selling travelers checks and would permit all licensed travel agencies to act as ticketing agents for international and domestic airlines.

In addition to the specific service sectors mentioned in this letter, a broad issue of concern to many U.S. firms remains the ability of foreign firms to distribute their products within China. Currently foreign firms are not permitted to distribute directly their products within China, but must instead use government-authorized Chinese distributors. Such restrictions on the ability to distribute goods within China impose a significant barrier to market access for foreign firms. China should agree to provide all foreign firms with the right to determine how their products are distributed within China. This is a fundamental market access issue which must be resolved in the services negotiations related to China's WTO accession.

In closing, while all the areas we identified in my March 17 letter remain important to our members, we believe that the United States cannot afford to accept Chinese membership in the WTO without clear and meaningful commitments on services. The U.S. is the world's leading service exporter, and China is an increasingly important market for our service providers and for the international companies they serve. China itself, moreover, will benefit from access to modern, state-of-the-art services which provide an essential infrastructure for business growth and development.

I wish you every success in completing the negotiations with China, and want to assure you that the U.S. Council stands ready to assist your effort in any way we can.

Sincerely,

ABRAHAM KATZ
President

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