Awakening the Dragon: Trading With China Under WTO Rules

By Eric Wenberg

In 2001, China may be reaching final steps toward membership in the World Trade Organization (WTO). To become a member, the Chinese government will have to make historic concessions to open its markets. In its bilateral accession agreement with the United States, China agreed to lower tariffs and establish tariff rate quotas, a move that would make U.S. goods more affordable for China's consumers. The agreement also introduced legal reforms for intellectual property and telecommunications.

New provisions extend the right to import and distribute products beyond China's state trading enterprises and a few privileged private companies. These reforms are vital to the interests of U.S. agricultural exporters. China's trade policy differs from the international norm in that foreign companies are generally prohibited from importing, warehousing and selling foreign products. Reduced tariffs are of little benefit if U.S. companies lack flexibility in managing their supply chain.

Distribution Rights Are Critical

China heavily regulates distribution of imported products. Foreign companies, including U.S. exporters, are generally pro-

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hibited from distributing products that are imported into China. When a foreign company formally registers to conduct business, this limitation is printed on a business license.

These restrictions, which have the effect of creating inefficiencies, tend to fragment the import market, in turn constraining the number of companies that import, complicating supply chain management and reducing foreign investments in distribution infrastructure. They also interrupt clear transmission of market information from consumers to company executives.

Regulation has also meant that Chinese importers and distributors able to buy abroad and sell your product into China's domestic economy are few, while competition to find these companies is fierce.

Currently, a foreign company cannot easily transfer assets to, or control, a subsidiary sales company, which limits the willingness of some companies to expand their distribution network. China's regulations have created a scarcity of reliable distributors and importers. Moreover, with more intermediaries needed, corruption abounds.

Competition to find reliable partners is fierce.

Trouble With Trading Rights

The other side of the distribution bind is the right to import. This right is currently confined to Chinese companies or foreign-invested enterprises—also known as joint ventures. But these firms are limited in what they can do.

Joint venture companies may market products they produce in China, but they are unable to import and market products from the United States, even if they are identical to the joint-venture product. Meanwhile, Chinese companies can get

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Resources on China

For more insights into China and trade policy, here are some useful sources of information:

The U.S. Department of Agriculture's offices in Beijing, Shanghai, Guangzhou, and Hong Kong can help you find more information on the market and increase your sales opportunities through a number of upcoming promotions and trade shows.

U.S. Office of Agricultural Affairs at the U.S. Embassy in Beijing
Tel.: (011-86-10) 6532-3831 ext. 5400/ 5179
Fax: (011-86-10) 6532-2962
E-mail: AgBeijing@fas.usda.gov

U.S. Agricultural Trade Office in Guangzhou, China
Tel.: (011-86-20) 8666-3388, ext. 1283
Fax: (011-86-20) 8666-07

U.S. Agricultural Trade Office in Hong Kong
Tel.: (011-852) 2841-2350
Fax: (011-852) 2845-0943.
E-mail: atohongkong@fas.usda.gov.
E-mail: ato@gitic.com.cn

U.S. Agricultural Trade Office in Shanghai, China.
Tel.: (011-86-21) 6279-8622.
Fax: (011-86-21) 6279-8336.
E-mail: atos@public.sta.net.cn
http://www.atoshanghai.org

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authority to import, but most are legally blocked from having foreign currency.

Currently, the only way Chinese importers can effectively operate is to find a partner with access to a foreign currency bank account and form a joint venture.

Foreign representative offices are closely monitored and legally constrained. For example, a foreign company without the proper licensing or corporate structure can either sell a product or warehouse it, but not both.

This policy makes the simple practice of clearing and warehousing goods for sale an enormous headache for exporters. The U.S-China Business Council ranked it as one of U.S. companies' top three concerns in doing business in China.

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How Companies Cope Today

Successful companies have strategies for distribution. They can register in special free-trade zones where regional officials have authority to supersede some restrictions. They can create a Chinese company. They can also develop a business partnership with an importer with rights to process documents.

How WTO Will Help

U.S. trade negotiators used the WTO accession process to address these concerns. The resulting agreement included provisions that address the issue of trading and distribution rights–a subject rarely seen in multilateral negotiations.

Once these reforms are in place, Chinese companies will be forced to compete more directly against each other and foreign firms. This ultimately will give Chinese consumers greater access to a diversity of goods.

So what are some of these provisions? Over three years, if the agreement becomes China's WTO commitment, it will gradually open the door for foreign companies to distribute imported products. In agriculture, changes will open trading rights first to joint ventures, then to wholly owned foreign subsidiaries. Generally, current restrictions on distribution of products are to be phased out within three years of the date of China's WTO accession.

There are certain trade areas where China's regulations will still apply, such as tobacco and salt. Still, the benefits of WTO are getting good reviews from companies in China now.

Trying China Now

If your export plans include any deeper arrangement than a direct sales contract, check out trading rights with a microscope to be sure you understand the situation. Find a good international consultant or law firm to assist in proper registration. Investigate potential distributors carefully. The current regulatory climate gives distributors substantial leverage over how they may act on your behalf, so choose wisely. ■

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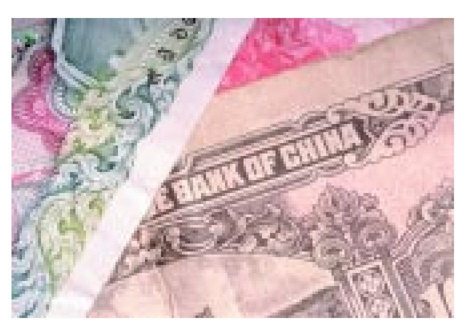

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