

# U.S.-China Trade Relations: Entering a New Phase of Greater Accountability and Enforcement

## Top-to-Bottom Review



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United States Trade Representative

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## **EXECUTIVE SUMMARY**

Thirty years ago, China was a nation mostly closed to international commerce. Today, it is the world's third largest trading power. China's emergence over this period as a major international player has not only redefined the global trading system, but also has far-reaching economic and political impact on China, the United States, East Asia and the world.

China's integration into the global economy and progressive embrace of market principles have been encouraged by more than 25 years of U.S. political and economic engagement, pursued on a largely bipartisan basis across administrations. These developments have helped broaden and deepen relationships between the United States and China at all levels, to the benefit of both countries. But they have also caused some friction.

The trade relationship between our two countries has become increasingly central to the economies of both our countries. China's economy has been growing at roughly ten percent a year for more than two decades, and its growth has been closely tied to the open trade and investment regimes of the major economies of the world. Exports account for 40 percent of China's gross domestic product (GDP), and China has depended on the growth of its export sector to spur modernization of its economy and support improved standards of living. The World Bank estimates that during the past two decades (1980s and 1990s), nearly 400 million people in China have been lifted out of poverty. According to Chinese data, the United States market has directly accounted for 22 percent of China's phenomenal export growth over the last twenty years.

The United States has also derived certain benefits from the trade relationship. American consumers now have access to a wider variety of less costly goods, and low-cost consumer and industrial goods from China have helped spur U.S. economic growth while keeping a check on inflation. Together, the United States and China have accounted for roughly half of the economic growth globally in the past four years.

American manufacturers, service providers, and farmers continue to eye China's increasingly fast growing middle class and new businesses as potential consumers of U.S. products, ranging from capital equipment to financial services to high-quality and efficiently produced brand name and specialty consumer products, services, agricultural products, and technology. Indeed, since 2001, U.S. exports to China have grown five times faster than they have to the rest of the world, and China has gone from being the 9<sup>th</sup> to the 4<sup>th</sup> biggest export market for the United States. America's exports to China increased by an impressive 20% in 2005, building on 22% growth in 2004 and making China our fastest growing export market among our major trading partners. Market forces continue to drive broader and deeper economic ties between our two countries.

That said, the enormous scope and scale of the changes that have occurred in China's trading posture and in our bilateral trade relationship pose continual challenges. In particular, there is concern that the U.S.-China trade relationship lacks balance in opportunity, as well as equity and durability, with China's focus on export growth and developing domestic industries not being matched by a comparable focus on fulfilling market opening commitments and on the protection of intellectual property and internationally recognized labor rights. Specific U.S. concerns

include: continued Chinese barriers to some U.S. exports; failure to protect intellectual property rights; failure to protect labor rights and enforce labor laws and standards; unreported and extensive government subsidies and preferences for its own industries; environmental concerns; spotty compliance with some international trade rules; and a large and growing imbalance in our bilateral trade flows, resulting in a trade deficit of almost \$202 billion in 2005. Chinese barriers to U.S. exports that contribute to this deficit and appear inconsistent with China's multilateral and bilateral commitments have a corrosive effect on political support for the bilateral trade relationship. Absent tangible evidence that China is acting responsibly with respect to these issues, popular support for a twenty-five-year-old trade policy of constructive economic engagement with China could be in danger, with potentially damaging consequences for both countries.

China's emergence has also created opportunities and challenges for the Asia Pacific region. China has become both the largest single goods export market and the largest single supplier of imports for developing countries in Asia, helping to spur broader regional growth. At the same time, China has emerged as a tough competitor for third countries that traditionally have been major suppliers to the United States. Indeed, while our trade deficit has widened with China, it has narrowed with other Asian trading partners. China's share of U.S. imports has grown from 5.8 percent to 14.6 percent over the past 11 years, while the share of the U.S. global trade deficit represented by the Asia Pacific Rim as a whole (including China) has actually fallen from 57% in 1999 to 43% in 2005. Moreover, China is competing with these Asian neighbors not only for sales to the United States, but also for foreign direct investment.<sup>1</sup>

China's ascendancy as a major international trading partner brings with it certain responsibilities for the maintenance of the multilateral, global trading system. As the size of its market and trade flows have increased, China's constructive participation is increasingly critical to the international regimes governing trade practices – regimes that foster free and open markets, a level playing field, and transparent regulations.

Given the importance of our trade relationship with China and the challenges that confront us in that relationship, it is an appropriate time to review U.S. trade policies toward China. To that end, the United States Trade Representative (USTR) has led an interagency "top-to-bottom" review of our China trade policy, drawing upon input received from Congressional hearings; Government Accountability Office (GAO) reports; discussions with industry associations; and written submissions and oral testimony on China's compliance with its World Trade Organization (WTO) obligations, provided pursuant to notice in the Federal Register.

This review focused on:

- (i) Identifying the core principles and key objectives of our trade policy with China;

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<sup>1</sup> This is not to say that the growth of U.S. imports from China is a zero-sum proposition for the Asian region. To a large extent, these statistics reflect China's growing role as final assembler of components and products manufactured in other economies in Asia. Though U.S. trading partners such as Malaysia, Indonesia and the Philippines have seen their relative shares of direct U.S. imports decrease, they have seen rapid growth in exports of components to China that are re-exported as finished goods to the United States and other destinations.

- (ii) Assessing the current status and establishing priority goals for each key objective; and
- (iii) Identifying specific action items that will help us achieve our priority goals.

This report summarizes the results of the review. It concludes that the United States is entering an important new phase in our trade relationship with China. For the past 20 years, U.S. trade policy was focused principally on encouraging market-based reforms in China and bringing China into the international trading system. Now, as we near the end of China's transition period as a new WTO member, the report recommends that U.S. trade resources and priorities should be readjusted to meet new challenges.

Specifically, in addition to strengthening our current focus on China's WTO compliance and adherence to international norms, this report urges that more focus be put on ensuring that: (1) the bilateral trade relationship offers more balanced opportunities and is equitable and durable; (2) U.S. trade policymaking is more proactive and informed by more comprehensive information regarding China's economic trends and developments and stronger coordination within the Executive branch and between the Executive and Congressional branches; (3) China participates more fully in the global trading system as a responsible trading partner; and (4) the United States remains an active and influential economic and trading power in the Asia Pacific region.

Based on the results of the review, the Administration will take a series of actions to help ensure that we are best positioned to meet our key China trade objectives. The list below includes initial steps we will be taking. Additional action items will be developed and implemented in consultation with Congress and other stakeholders to ensure meaningful progress in achieving these key objectives.

- *Expanding USTR trade enforcement capacity to better ensure China's compliance with trade obligations*, including through establishment of a China Enforcement Task Force at USTR, to be headed by a Chief Counsel for China Trade Enforcement;
- *Expanding USTR capability to obtain and apply comprehensive, forward-looking information regarding China's trade regime and practices to U.S. trade policy formulation and implementation*, by: (1) adding personnel to USTR's China office to coordinate collection and integration of information on current and potential China trade issues from other U.S. government agencies and other sources; and (2) establishing an Advisory Committee for Trade Policy and Negotiation (ACTPN) China Task Force to provide strategic advice and recommendations related to U.S.-China trade policy;
- *Expanding U.S. trade policy and negotiating capacity in Beijing and other resources in China* to more effectively pursue top priority issues, especially the protection of intellectual property rights;
- *Increasing coordination with other trading partners on China trade issues of common interest*, such as enforcement of intellectual property rights;

- *Deepening and strengthening trade relations with other Asian economies, and within the Asia-Pacific Economic Cooperation (APEC) forum, to maintain and enhance U.S. commercial relationships in the region;*
- *Increasing the focus on regulatory reform in China, including through initiating a high-level dialogue on steel with China under the U.S.-China Joint Commission on Commerce and Trade (JCCT), deepening and expanding the State Department's high-level dialogue with China's economic planners regarding structural reform, launching an initiative to evaluate, assess and engage on China's subsidies issues, expanding initiatives led by the U.S. Department of Agriculture (USDA) to improve China's transparency and compliance with its sanitary and phytosanitary (SPS) obligations under the WTO, and focusing intensive interagency efforts to address China's development of standards and of an anti-monopoly law;*
- *Increasing effectiveness of high-level meetings with China's leaders, including through holding annual, elevated meetings of the JCCT prior to presidential-level meetings where possible and conducting mid-year reviews of goals and progress under the JCCT at the Vice Minister/Deputy level;*
- *Strengthening and expanding US-China dialogue on numerous other specific issues of significance to the global trading system and on bilateral trade issues that pose potential problems for the relationship, including, e.g., China's participation in global institutions; market access and standards issues related to telecommunications, financial services, healthcare and direct sales; subsidies and structural issues, especially in the steel industry; standards; labor; environmental protection; and transparency and the rule of law;*
- *Strengthening U.S. government interagency coordination, including through monthly review, by the Trade Policy Review Group and Trade Policy Staff Committee, of strategies and progress made in achieving the key objectives identified in this report; and*
- *Strengthening the Executive-Congressional partnership on China trade, through initiation by USTR of a program of regular briefings for Congressional members and staff, to update them on progress in pursuing the objectives outlined in this report and to ensure that the Administration's China trade policy is informed by Congressional priorities.*

## REVIEW OF U.S. TRADE PRINCIPLES AND OBJECTIVES

### *Overall Trade Policy*

U.S. trade policy towards China must be viewed against the backdrop of our international trade policy more broadly. Since World War II, the United States has consistently focused on two core principles in trade policy: (1) promoting an increasingly open, rules-based international trade system, and (2) capturing the economic benefits of more open global markets for the American people.

This policy has produced tremendous results:

- Since the creation of the General Agreement on Tariffs and Trade (GATT) system in 1948, the average tariff rate of industrialized countries has been reduced from 40% to 4%. During roughly that same period, world exports of goods grew from \$50 billion to \$9 trillion, and U.S. real GDP per capita, expressed in 2000 dollars, grew from less than \$12,000 to nearly \$38,000.
- Since 1994, freer trade has contributed to a 81% rise in U.S. goods and service exports to nearly \$1.3 trillion per year. This, in turn, has contributed to a 42% increase in U.S. real GDP; an increase of more than 25% in real per capita incomes and an expansion of U.S. private sector productivity by more than one-third.
- As a result of the North American Free Trade Agreement (NAFTA) and Uruguay Round liberalization, average annual income for an American family of four is estimated to have risen by \$1,300 to \$2,000.
- According to Department of Commerce data for 2001, manufacturing exports alone supported 7.4 million jobs in the United States, and USDA estimated that agriculture exports supported over 900,000 jobs in 2005. The average wage of goods export-supported jobs is estimated to be 13% to 18% higher than the average wage for the overall economy.
- Evidence shows that U.S. firms engaged in international trade or investment are more productive and more innovative than their purely domestic counterparts, and that these firms offer higher wages and benefits.

In short, U.S. trade policy seeks to enhance domestic prosperity and raise real labor compensation through expanded exports and job creation in areas where the U.S. is most competitive. And by lowering import barriers, U.S. trade policy seeks to expand domestic purchasing power and choice through increased access to fairly traded imported products. It also creates incentives for U.S. firms to become more productive and more innovative.

At the same time, U.S. trade policy seeks to serve broader U.S. interests by: promoting global growth, poverty reduction and prosperity abroad; supporting sustainable economic development;

and strengthening freedom and stability in our trading partners. Trade liberalization has been shown to be a win-win undertaking, increasing global output and income as producers specialize to sell in global markets and workers and consumers benefit from fair and open competition. The economic success of countries such as Korea, Singapore, Malaysia, Brazil, Chile, India and China are testimony to the benefits of trade liberalization.

The degree of benefits that countries draw, however, depends, in part, on how willing they are to lower their own barriers and open their markets further. A study by World Bank economists, for example, has found that developing countries that lowered their trade barriers more in the 1990s had economies that on average grew almost three times faster than other developing countries.

### *China Trade Policy*

Although generally consistent with U.S. trade policy, U.S. trade policy towards China has had some distinct features and has evolved over the past few decades. Indeed, in some senses, the United States is entering a third stage of its economic relationship with China, since China decided in the late 1970s to reform its economic system and move towards integration with the world economy.

Phase 1 (1986-2001) -- The first stage consisted of a 15-year period when China was working to join the GATT and then its successor, the WTO. United States trade policy towards China during this period was principally focused on negotiating foundational trade agreements with China necessary to bring China into the rules-based world trading system. Bilateral trade (goods exports plus imports) between the United States and China grew substantially during this period - from \$8 billion to \$121 billion -- and China ascended from the United States' 18<sup>th</sup> to our 4<sup>th</sup> largest trading partner.

By the end of this stage, U.S. trade policy had achieved its key objectives with the accession of China to the WTO in late 2001. At that time, China agreed, as a new WTO member, to implement a set of sweeping reforms that required it to lower trade barriers in virtually every sector of its economy, provide national treatment and improved market access for goods and services imported from the United States and other WTO members, and protect intellectual property rights. China also agreed to special rules regarding subsidies and the operation of state-owned enterprises, in light of the state's large role in China's economy. In accepting China as a fellow WTO member, the United States also secured a number of concessions from China that help protect U.S. interests during China's WTO implementation stage.

Throughout this 1986-2001 timeframe, China's compliance with international trade obligations was not a dominant focus of our bilateral trade relationship, as China was not yet a party to the GATT or a member of the WTO. However, the United States stimulated Chinese action to address non-compliance with bilateral intellectual property rights (IPR) agreements on a number of occasions by moving to implement sanctions. At times, our bilateral trade relationship during this period was also impacted by political developments in our relationship. For example, U.S. trade was restricted to a certain extent following the Tiananmen Square incident in 1989, and the U.S. Congress conducted yearly debates about maintaining Normal Trade Relations with China.



Phase 2 (2001-2005) -- The second phase of U.S. trade policy toward China began in December 2001, when China joined the WTO, and ended four years later when most of China's phased-in WTO obligations had come into effect. During this period, the bilateral relationship – political and economic – deepened on all levels, and our ability to work through problems using dialogue and international institutions gradually increased as the relationship continued to mature.

During the four years since China's WTO accession, the principal focus of U.S. trade policy towards China has been to monitor China's integration into the global trading system and ensure compliance with its accession obligations. The U. S. assessment of China's performance was largely based on how well China implemented its WTO obligations, which detailed specific commitments related to scheduled reductions in tariff rates, expansions in market access for services, protection of IPR, improvements in transparency, and elimination of non-tariff barriers. The U.S. assessment was informed by input from Congress, the business community, and other interested stakeholders. During this period, bilateral trade continued to grow substantially – from \$121 billion to \$285 billion – and China ascended still further to its current position as the 3<sup>rd</sup> largest U.S. trading partner.

U.S. trade policy towards China during this period achieved some notable successes in promoting economic reforms in China and ensuring that those reforms serve to benefit the United States. For instance:

- China's entry into the WTO and implementation of market access commitments translated into substantially reduced tariffs for U.S. products. China lowered tariffs on goods of greatest importance to U.S. industry from a base average of 25% in 1997 to 7% today.
- Since China's accession to the WTO, U.S. exports to China have risen five times faster than to the rest of world, and China has risen from our 9th to 4th largest export market. Supported by U.S. government efforts, U.S. producers and service providers have been able to penetrate the Chinese market in a number of sectors. For example:
  - The United States ensured, in 2004 and 2005, that China implemented its WTO obligations to eliminate import monopolies and allow foreign enterprises to establish distribution networks in China, making it possible for U.S. firms to more freely distribute their products in China.
  - With the successful resolution of disputes regarding access to China's insurance, express delivery, and auto finance markets, and phased-in WTO market openings in legal services and banking, U.S. service exports to China grew by 20% in 2004, compared to global U.S. service export growth of 11%. China is now our 10th largest services export market, and we enjoyed a bilateral surplus in services of \$1.6 billion in 2004..
  - With the assistance of commercial advocacy by the Administration, U.S. aircraft sales to China in 2005 were \$4.4 billion, making China the second largest market for U.S. aircraft.

- The United States – through high-level diplomacy – successfully addressed China’s efforts to limit access to its soybean and cotton markets, and as a result, one-third of U.S. soybean and cotton exports – \$2.3 billion and \$1.4 billion, respectively – went to China during 2005. China is today our largest export market for both of these commodities.
- The United States – through a challenge at the WTO – obtained the reversal of tax rules that discriminated against imported semiconductors, and – through high-level diplomacy and the threat of WTO dispute settlement – obtained the indefinite postponement of discriminatory wireless encryption rules. United States semiconductor exports to China were \$3.4 billion in 2005. Most recently, to avoid facing a WTO suit about to be filed by the United States, China’s Ministry of Commerce rescinded an order on January 9, 2006 that had unfairly imposed antidumping duties on Kraft linerboard exported from the United States.

However, despite these successes in opening China’s markets for U.S. goods and services, many challenges persist. As noted above, on a number of occasions, access to the Chinese market was obtained only after the United States used or threatened to use trade remedies available in the WTO or under U.S. law. As noted below, important gaps remain in China’s implementation of its WTO commitments. Moreover, while engaging constructively in a number of dialogues during this phase, China generally declined to go beyond its WTO accession commitments or to play a role in strengthening the global trading system commensurate with its economic heft and the economic benefits it receives.

Phase 3 (2006 forward) -- Now that the deadline for phase-in of most of China’s WTO obligations has passed – and China has developed an initial track record as a new WTO member – we are entering a third stage in our bilateral trading relationship. At this point, the easiest obligations for China to meet have largely been fulfilled, and the hardest obligations are those that are still outstanding, precisely because their full implementation has proven especially difficult. Successfully addressing these remaining implementation issues will require serious attention and deliberate action by both governments.

Moreover, for the United States, a critical aspect of this more complex relationship is the impact of China’s much larger role in the world trading system on U.S. trade and global balances. The scale and rate of growth of the Chinese expansion are unprecedented in the history of global trade, as is the entry into the global economy of a country as large as China. China has benefited from its access to the open global trading system and the rapid growth of the world economy. But in order to sustain that growth, both economically and politically, China must play its part in addressing the global imbalances that have arisen during the past four years of rapid global growth.<sup>2</sup> While our trade imbalance with China may, to some extent, reflect China’s size and its

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<sup>2</sup> China’s exchange rate mechanism also affects China’s trade and plays an important role in the adjustment of global imbalances. The Administration has insisted that China swiftly carry out the commitments made in the announcement of its new exchange rate mechanism on July 21, 2005 and the Joint Economic Committee (JEC) statement of October 17, 2005 to move to a market-based, flexible exchange rate regime. But to date, China’s actions have been insufficient. On delivering his last Report to Congress on International Economics and Exchange

relatively recent emergence into the global economy, a large and growing trade deficit with China remains a significant concern.<sup>3</sup>

Thus, in addition to the two core principles of United States trade policy that have served us well since World War II – *i.e.*, promoting an increasingly open, rules-based international trade system, and capturing the economic benefits of this system for the American people – a third core principle with respect to China must now be added: the pursuit of a trade relationship that is more equitable and durable, with more balanced opportunities that generate corresponding growth in U.S. export-supported employment.<sup>4</sup>

As we enter the third phase of our relationship, U.S-China trade policy challenges will move beyond monitoring compliance with a discrete set of obligations to actively cooperating in an increasingly complex and dynamic relationship. To accomplish this successfully, our two governments will need to strengthen our ability to engage in proactive anticipation and resolution of bilateral trade challenges. To this end, the United States will need to marshal and focus the resources necessary to monitor and address upcoming challenges in the relationship, and the United States and China will need to strengthen existing bilateral mechanisms to spot, address and head-off difficulties.

More broadly, we also believe that China has now clearly ascended to the ranks of global trading powers who – like the United States, European Union and Japan – must assume responsibility not only to fulfill commitments, but also go beyond them to ensure the continued health of the global trading system.

In view of these circumstances and the three core principles of U.S. trade policy towards China identified above, the United States will be working to achieve the following six objectives:

1. Participation. Integrate China more fully as a responsible stakeholder into the global rules-based system of international trade and secure its support for efforts to further open world markets.
2. Implementation and Compliance. Monitor China's adherence to international and bilateral trade obligations and secure full implementation and compliance.

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Rate Policies, Secretary Snow declared that China's "progress to date is limited and far too slow to be sufficient. The actual operation of the new system is highly constricted. As a result, the distortions and risks created by China's rigid exchange rate still persist." Treasury's next foreign exchange report is scheduled to be released in April.

<sup>3</sup> We recognize that the imbalance is not solely a function of trade policy. The relative growth of imports and exports -- and thus the trade imbalance -- are affected by macroeconomic factors outside of trade. In particular, economists note that differences between the U.S. and our trading partners in national economic growth rates and patterns of saving, investment and consumption are primary reasons U.S. imports exceed exports. Nevertheless, United States and Chinese trade policies can positively affect the trade imbalance to the extent it arises from closed markets or unfair trade practices.

<sup>4</sup> United States trade policy since World War II has favored the creation of more productive, higher paying jobs related to exports, rather than protecting existing jobs in sectors where the United States is less competitive. United States access to the rapidly growing Chinese market helps us expand exports of some of America's most successful products and sustain the high paying jobs in the goods and services sectors involved in their production and delivery.

3. Enforcement of U.S. Trade Laws. Ensure that U.S. trade remedies and other import laws are enforced fully and transparently, so that Chinese imports are fairly traded, and U.S. and Chinese products are able to compete in the U.S. market on a level playing field.
4. Further Market Access and Reform. Beyond what is granted under China's current commitments, secure further access to the Chinese market and greater economic reforms in China to ensure that U.S. companies and workers can compete on a level playing field.
5. Export Promotion. Pursue effective U.S. export promotion efforts with special attention to areas of particular U.S. export growth potential in China.
6. Proactive Identification and Resolution of Trade Problems. Identify mid- and long-term challenges that the trade relationship may encounter, and seek proactively to address those challenges.

In addition, U.S. trade policy towards China must inform and be informed by our trade policy towards East Asia as a whole, especially with other key partners in the region.

## KEY CHINA TRADE OBJECTIVES AND PRIORITY GOALS

Below is an assessment of the current status of the six key trade objectives for China, a summary of outstanding issues and opportunities, and a list of practical, short-to medium term priority goals. The priority goals are based on an assessment of their relative importance to U.S. economic interests, their appropriateness within the context of China's multilateral and bilateral obligations, and – where they exceed the scope of China's current obligations – China's potential amenability to negotiate “win-win” resolutions. The interagency group stressed that it was important to understand the obstacles and challenges we and the Chinese face in pursuing these goals, so that we can develop the most effective strategies for achieving them.

### *Objective 1. Participation*

Current Status. The watershed event in integrating China into the global rules-based system of international trade was its accession to the WTO in 2001, based upon the bipartisan policy endorsed by Congress in the 1990s. China is also a member of a number of regional or sectoral trade-enhancing institutions, including Asia Pacific Economic Cooperation (APEC), World Intellectual Property Organization (WIPO), Codex Alimentarius Commission (Codex), and the International Plant Protection Convention (IPPC).

Outstanding Issues and Opportunities. Although China is becoming an increasingly active member within those organizations, it still plays a modest role relative to its economic and political heft. China also remains outside of several key trade arrangements, including the WTO Government Procurement Agreement (GPA), WIPO Internet Treaties, and the World Organization for Animal Health (OIE). In addition, it has participated on only a limited basis in a number of important organizations that enhance trade by developing international standards, including the IPPC, Codex, the International Organization for Standardization (ISO), the International Telecommunications Union (ITU), the International Electrotechnical Commission (IEC) and the Institute of Electrical and Electronics Engineers (IEEE).

Priority Goals. The interagency group identified the following priority goals to help ensure more constructive participation by China in the global rules-based system of international trade:

- Secure more active and constructive participation of China within the WTO's Doha Development Agenda (DDA) negotiations, which offer the world a once-in-a-generation opportunity to break down barriers to greater international trade and prosperity.
- Have China join the WTO Government Procurement Agreement (GPA), accede to the WIPO Internet Treaties and join OIE.
- Secure more active and constructive participation by China in international standard-setting organizations including the IPPC, Codex, ISO, ITU, IEC and IEEE.

Obstacles and Challenges. Obstacles to accomplishing these priority goals include, with respect to GPA, Chinese government concerns about limitations on their ability to favor domestic industries following accession to the GPA, as well as concerns about insuring compliance by local government offices with GPA rules; with respect to DDA, China's standing with certain developing countries who do not favor further opening and its own reluctance to open further; and with respect to OIE, Taiwan's membership in the organization.

## *Objective 2. Implementation and Compliance*

Current Status. China's most comprehensive trade commitments were made in the context of its accession to the WTO, though it has important bilateral commitments to the United States as well, principally made in the context of the JCCT. USTR issues comprehensive annual assessments of China's compliance with and implementation of its WTO commitments, based on discussions with industry associations, and written submissions and oral testimony provided pursuant to notice in the Federal Register. This report has been informed by the results of those assessments.<sup>5</sup>

Outstanding Issues and Opportunities. IPR enforcement is one of China's greatest shortcomings. The United States took several aggressive steps in 2005 in an effort to obtain meaningful progress in this area. First, the United States conducted an out-of-cycle review under the Special 301 provisions of U.S. trade law. At the conclusion of this review in April 2005, the Administration elevated China to the Special 301 "Priority Watch" list and set forth a comprehensive strategy for addressing China's ineffective IPR enforcement regime, which included the possible use of WTO mechanisms, as appropriate. The United States immediately began to pursue this strategy during the run up to the July 2005 JCCT meeting, and China subsequently agreed to take a series of specific actions designed to increase criminal prosecutions of IPR violators, improve enforcement at the Chinese border, counter piracy of movies, audio visual products and software, address Internet-related piracy, and assist small and medium sized U.S. companies experiencing China-related IPR problems.

Because a lack of transparency on IPR infringement levels and enforcement activities in China has hampered the United States' ability to assess the effectiveness of China's efforts to improve IPR enforcement, the United States also submitted the first ever information request to China under Article 63.3 of the TRIPS Agreement in October 2005. The United States' request, made in conjunction with similar requests by Japan and Switzerland following outreach to these countries by the United States, seeks detailed information from China on its IPR enforcement efforts over the last four years.

Other key areas where limitations in China's implementation and compliance efforts continue to cause trade friction include: (1) services sectors in which Chinese regulators continue to frustrate the efforts of foreign suppliers to achieve their full market potential in China through the use of an opaque regulatory process, overly burdensome licensing and operating requirements, and other means; (2) industrial policies that appear to limit market access by non-

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<sup>5</sup> The most recent assessment, issued in December 2005, can be found on the USTR Web page at [www.ustr.gov/assets/Document\\_Library/Reports\\_Publications/2005/asset\\_upload\\_file293\\_8580.pdf](http://www.ustr.gov/assets/Document_Library/Reports_Publications/2005/asset_upload_file293_8580.pdf).

Chinese origin goods or bring substantial government resources to bear to support increased Chinese production and exports; (3) China's failure to fully implement its WTO subsidy obligations, particularly with respect to (i) prohibited subsidies and (ii) providing notification of its subsidies to the WTO, as required by WTO rules and as it committed to do at the 2005 JCCT; (4) promulgation of standards and other technical regulations that appear to favor locally-produced products, and discriminatory enforcement of standards against non-Chinese products; (5) selective intervention in the agriculture market by Chinese regulators; (6) administration of China's antidumping laws in ways that appear inconsistent with WTO requirements; and (7) inadequate regulatory transparency and uneven application of laws.

Priority Goals. Although, as reported above, China has made significant progress in meeting its international trade commitments, it continues to fall short in a number of areas. Ensuring full compliance and implementation is critically important, both to preserving domestic U.S. support for our policy of constructive engagement and to ensuring that China itself reaps the benefits of its integration into the global trading system. Consistent with the list of outstanding issues noted above, the interagency community identified the following as priority areas for U.S. government efforts to secure improved Chinese implementation and compliance:

- Greatly enhanced IPR protection.
- Elimination of market access barriers for services (especially telecom, distribution, and construction) that may be inconsistent with China's WTO obligations.
- Elimination of subsidies, industrial policies and preferences for state-owned enterprises, including state-owned banks, that may be inconsistent with China's WTO obligations.
- Ensuring that standards, technical regulations, and conformity assessment procedures are promulgated and implemented in accordance with WTO requirements.
- Elimination of sanitary and phytosanitary barriers and export subsidies for agricultural products that may be inconsistent with WTO requirements.
- Ensuring that China's administration of antidumping laws is consistent with WTO requirements.
- Ensuring that China complies with WTO requirements regarding transparency and uniform application of laws.

Obstacles and Challenges. Many of the shortfalls in China's implementation and compliance efforts stem from China's incomplete transition from a state-planned to a market economy. Not all Chinese officials or government departments have fully embraced the key WTO principles of market access, non-discrimination, and national treatment, nor has the Chinese government fully institutionalized market mechanisms and made its trade regime predictable and transparent.

While China has made some important progress, it continues to use an amalgam of administrative measures and traditional industrial policy instruments such as preferential tax

rates to promote or protect favored sectors and industries, and these tools at times collide with China's WTO obligations. These are important trade issues, in part because the industries most affected by the protectionist instincts of some Chinese officials and by shortcomings in China's IPR protection are often those where the United States is most competitive.

The particular obstacles and challenges impeding full implementation and compliance by China vary from obligation to obligation, but they include: lack of consensus within China's government and competing Chinese government priorities, including differences in views among China's national, regional and local government officials; systemic rule of law problems in China; and inadequate Chinese capacity to achieve compliance with certain obligations.

The challenge for the United States in monitoring – and seeking to secure – implementation and compliance is enhanced by: difficulty in obtaining data needed to support potential U.S. trade actions; challenges in collecting data from, and achieving consensus among, multilateral/U.S. stakeholders; lack of transparency in China's use of subsidies, including the failure of China to notify its subsidies to the WTO; difficulty in determining precise causes for China's non-compliance, so that appropriate and effective responses can be undertaken; difficulty in measuring progress in Chinese compliance for specific obligations; the need for rapid responses to the common Chinese pattern of delay, partial implementation, and creation of new barriers; and complications in dealing with overlapping Chinese agency jurisdictions.

### *Objective 3. Enforcement of U.S. Trade Laws*

Current Status. The Department of Commerce's Import Administration in 2004 created a new 78 position China/Non-Market Economy (NME) Unit to oversee the investigation of NME cases and enforce U.S. trade laws against injurious, unfairly-priced imports. This restructuring successfully concentrated China/NME experts in one office, leading to better and more consistent determinations. Commerce currently has approximately 70 antidumping proceedings pending against Chinese merchandise, more than for goods from any other country. In addition, Commerce recently adopted a new policy that increases the effectiveness of antidumping orders by preventing Chinese suppliers from switching exporters to evade antidumping duties.

The United States has also worked to block counterfeit and pirated goods at the U.S. border. Since 2000, annual seizures of counterfeit and pirated goods at U.S. land borders and seaports are up 125%. The number of U.S. International Trade Commission proceedings instituted to enforce intellectual property rights and to prevent imports of infringing goods from China and other countries is up more than 80% over the last five years, when compared to the previous five years.

Further, the United States has increased U.S. enforcement of a prohibition on importing goods made with forced or bonded labor, including prison labor.

Outstanding Issues and Opportunities. The volume of counterfeit goods from China seized at the U.S. border continues to rise. Commerce will be working aggressively with Customs and Border Protection to track down Chinese shippers that have evaded duties. In addition, USDA is



increasing monitoring of China's agricultural trade compliance, particularly in the area of sanitary and phytosanitary (SPS) requirements.

Priority Goals. Interagency agreed priorities in this area include:

- Ensuring full and transparent enforcement of U.S. trade remedy laws and agreements (e.g., antidumping, Sections 201 and 421 of the Trade Act of 1974, as amended, Section 337 of the Tariff Act of 1930, as amended, and the U.S.-China MOU on Textiles).
- Ensuring China's compliance with U.S. rules for ensuring food safety, and for preventing U.S. importation of invasive species (via agricultural imports, in wood packing materials, etc.) through: (a) completion of thorough risk analysis of China's market access requests for animal and plant products, (b) increased surveillance of China's food safety system, and (c) enhanced port inspection of imported Chinese agricultural products.
- Seizing, at U.S. borders, counterfeit products and products made with forced or bonded labor.

Obstacles and Challenges. Challenges in achieving these priority goals include rapid increases in uneconomic Chinese production capacity and output in numerous industries – particularly when facilitated by Chinese government intervention or inaction – resulting in problems with overcapacity and subsidized products; rapidly increasing volume of exports of counterfeit products from China; an inadequately developed regulatory system in China to monitor and control pests and diseases to ensure overall food safety; and lack of sufficient USDA/APHIS staff in China to effectively work with China's government on capacity building.

#### *Objective 4. Further Market Access and Reform*

Current Status. Although China launched a program of domestic economic reform and openness to the outside world in 1979, in many sectors China has yet to embrace a significant opening of its domestic markets to international competition. By seeking to enhance our access to China's markets, U.S. trade policy has encouraged China's domestic economic reform process and sought more balanced opportunities in our bilateral trade relationship. More broadly, the United States is urging China to look beyond the scope of its current commitments and play a role in strengthening the international trading system commensurate with its commercial heft and the level of benefit it has obtained from that system.

There has been some progress and opening beyond what was negotiated as part of China's WTO accession. For instance:

- China has taken steps to improve regulation and liberalization of the financial sector and opened several cities ahead of schedule for foreign banks' domestic currency business.

- Maritime authorities signed a far-reaching bilateral maritime agreement in 2003 that helped open markets for American shipping by allowing U.S. carriers to open full branches in China and operate without restrictions.
- The United States and China signed a landmark aviation agreement in 2004 that greatly expands opportunities for U.S. air services over the next six years. The agreement provides for a major expansion of both passenger and cargo air services between the two countries over this time period (*e.g.*, overall weekly flights permitted between the two countries will increase on phased basis from 54 to 249).
- In 2004 and 2005, China expanded its cotton import tariff-rate quota to more than double its WTO commitment.

Moreover, dialogue in this area continues. The State Department and China's economic planning authorities (the National Development and Reform Commission (NDRC)) launched in 2003 the U.S.-China Economic Development and Reform Dialogue to discuss structural issues, such as using market approaches to achieve energy security and improving the investment climate. Treasury's U.S.-China Joint Economic Committee (JEC) dialogue, begun in 1980, has emphasized in recent years the need for China introduce greater exchange rate flexibility and take steps to reform its financial system and open it up for greater foreign investment. Both the JEC and the State-NDRC Dialogue have also encouraged China to stimulate domestic consumption (rather than exports and investment) as a source of growth. Similarly, the Department of Commerce has organized a variety of programs with Chinese regulators and legislators aimed at deepening China's reforms in areas of key economic interest to the United States, including in logistics; standards and conformity assessment; healthcare; and chemicals notification. In addition, the Department of Labor has initiated cooperative programs with the Chinese Ministry of Labor and Social Security that address the issues of coal mine safety and labor rule of law.

However, as discussed in greater detail below, there are a number of areas in which Chinese policies effectively preclude U.S. companies from meaningfully accessing China's markets.

Outstanding Issues and Opportunities. In many areas, China has taken the position that further market opening can only be made in the context of the ongoing Doha Round of multilateral trade negotiations, and then, in Doha negotiations, has maintained that recently acceded WTO members like China should have limited or no additional obligations. There are still important areas of the Chinese economy where non-market forces play a significant role, and where government decision-making is not well-anchored in market principles. These problems are exacerbated by persistent transparency and rule of law issues, which continue to constrain Chinese economic reform and limit opportunities for U.S. goods and service providers to participate more fully in the Chinese market.

Priority Goals. As noted above, while China has made certain limited efforts to reform and open its domestic markets beyond the scope of its WTO commitments, much more remains to be done. The following are priority areas:

- Promoting reliance on market forces to allocate resources rather than on administratively implemented outcomes (*e.g.*, in the steel and auto sectors).
- Fostering a rules-based competitive environment in China for foreign and domestic interests alike, including through application of non-discriminatory competition laws and policies (*e.g.*, a sound anti-monopoly law; reliance on voluntary, industry-led standards; elimination of barriers created by provincial and local governments; and elimination of government control of business interests).
- Expanding market access in IPR-intensive sectors, such as the audiovisual and publishing sectors.
- Addressing limitations on market access and regulatory barriers in the telecommunications and other services sectors.
- Achieving greater market access and expanded scope of business in financial services.
- Ensuring independence of regulators (especially in the postal and telecom sectors).
- Reducing tariff and non-tariff barriers for manufactured and agriculture goods of competitive interest to U.S. firms.
- Promoting reform of the healthcare system to promote patient choice, support innovation, and ensure quality, based on the principles of transparency, objectivity and sound science.

Obstacles and Challenges. Obstacles to further progress vary by issue, but they fall into the following broad categories: competing priorities and lack of consensus within China's government in support of further reform and opening (including a belief by some Chinese officials that industrial planning and government intervention in the market are key to China's economic success); significant socio-economic demands; inadequate capacity to carry out reforms; fears of foreign economic dominance; and inefficiencies in the State sector (*e.g.*, overcapacity and underemployment).

#### *Objective 5. Export Promotion*

Current Status. The U.S. government has devoted significant resources to promoting U.S. exports to China, which has helped increase U.S. exports to China by 156% over the past five years. The foreign services of the Departments of Commerce and Agriculture have their largest overseas presences in China (the Commerce Department's Foreign Commercial Service (FCS) stations 22 American officers and 85 local hires at five posts in China; the Foreign Agricultural Service (FAS) and Animal and Plant Health Inspection Service (APHIS) combined station 12 American officers and 32 local hires in three cities in China).

The Foreign Commercial Service's China posts reported 544 export successes in FY2005, totaling \$12.3 billion, while U.S. food and agriculture exports to China have risen dramatically over the past five years, to reach \$6.2 billion in 2004. Each service runs China-specific initiatives. For example, in 2005, the Commerce Department announced two new China initiatives to assist U.S. exporters: The China Business Information Center (CBIC), a one-stop shop for U.S. companies to explore opportunities and address challenges to doing business in China; and the American Trading Centers, which expand the Foreign Commercial Service's on-the-ground export promotion capabilities to 14 additional major Chinese markets. The State Department officers in the large and growing Economic Sections at the Embassy and consulates also provide critical market information to U.S. businesses and support the operations of FCS and FAS as part of an integrated Mission-wide strategy

Outstanding Issues and Opportunities. In many cases, market access is still limited by a variety of factors to major coastal population centers. As China continues to improve its infrastructure, export promotion efforts can substantially increase U.S. exports to large inland cities in China.

Moreover, many potential U.S. exporters, particularly small and medium-sized enterprises (SMEs), are unfamiliar with the China market and export opportunities that may exist there. While U.S. SME exports to China are in line with U.S. SME exports to the rest of the world (at about 30 percent of total exports), further outreach to SMEs still promises to lead to substantially increased U.S. exports to China.

#### Priority Goals.

- Increasing exports to areas other than major coastal population centers.
- Promoting familiarity of U.S. exporters, particularly SMEs, with the Chinese market and export opportunities.
- Maximizing U.S. high-tech exports to China while ensuring that security concerns are appropriately addressed.
- Focusing export promotion efforts on goods and services sectors in which U.S. businesses are competitive and where there is actual or potential Chinese demand.
- Ensuring that U.S. government efforts to achieve Chinese compliance with WTO and bilateral obligations and further market access and reform are guided in part by U.S. export potential in particular product and service sectors.

Obstacles and Challenges. Obstacles to achieving our export promotion priorities include insufficient knowledge of the Chinese market among U.S. firms and the expense of entering the market, especially for SMEs; China's desire, in services sectors, to allow only the biggest and best to enter the market; lack of effective IPR protection in China; challenges in arranging end-use visits in China to facilitate trade in sensitive high-technology items; and, in agriculture particularly, continuing Chinese government desire to manage trade flows in sensitive products.

*Objective 6. Proactive Identification and Resolution of Trade Problems*

Current Status. The United States and China have pursued a robust dialogue on economic and trade issues throughout the three phases of our bilateral trade relationship. Key bilateral dialogues include:

- The U.S.-China Joint Commission on Commerce and Trade (JCCT), established in 1983 by the Chinese Minister of Foreign Economic Relations and Trade and the U.S. Secretary of Commerce, and since the end of 2003, led by Vice Premier Wu Yi on the Chinese side, and by the Secretary of Commerce and United States Trade Representative on the U.S. side;
- The U.S.-China Joint Economic Committee (JEC), established in 1980 by the Chinese Minister of Finance and the U.S. Secretary of the Treasury, with expanded participation in 2004 and 2005 to include leaders of the People's Bank of China (the central bank), the National Development and Reform Commission (NDRC) and heads of the key U.S. and Chinese financial regulators;
- The Joint Liaison Group (JLG), established by the U.S. State Department's Legal Advisor and China's Foreign Ministry in 1997;
- The U.S.-China Economic Development and Reform Dialogue (State-NDRC Dialogue), established by China's National Development and Reform Commission (NDRC) and the U.S. Department of State in 2003; and
- The Joint Committee on Cooperation in Agriculture (JCCA), established by the Chinese Ministry of Agriculture and the U.S. Department of Agriculture in 2003.

Each of these fora deals with issues related to U.S. trade with China. In addition, the State Department has established, at our Embassy in Beijing, one of the largest Economic Sections of any of our overseas missions, and includes a trade policy unit dedicated to assessing China's policy and regulatory issues that impact market access for U.S. goods and services. Economic sections in each of our four consulates, for instance, support the Ambassador's continuous efforts to strengthen China's intellectual property rights enforcement through regular contact with China's central and provincial governments. At the same time, U.S. and Foreign Commercial Service and Foreign Agricultural Service officers also posted at the Embassy and consulates collect and disseminate information on local regulations and practices that impact U.S. commercial interests.

In sum, hundreds of working-level exchanges on trade-related matters are held each year between U.S. and Chinese officials representing numerous ministries and departments. On the U.S. side alone, over twenty Executive branch departments and agencies play a role in the

bilateral trade relationship with China.<sup>6</sup> These channels, together with bilateral meetings involving the President and other senior U.S. officials, have generally been used to achieve the successes in our bilateral trade relationship noted above.

Outstanding Issues and Opportunities. U.S. officials have generally devoted resources to resolving the numerous problems brought to our attention by industry, members of Congress, and other interested parties. U.S. policy formulation could benefit from the dedication of resources to analyzing long term-trends and anticipating and addressing early on trade problems that may arise. Moreover, as noted above, China trade issues involve numerous U.S. government departments and agencies. Therefore, as the U.S.-China trade relationship continues to expand rapidly and becomes increasingly complex, the U.S. government will need to increase its information collection and analysis capabilities related to U.S.-China trade and strengthen interagency coordination, in order to identify challenges early and proactively engage to address them before they become major problems.

Priority Goals. In order to ensure proactive identification and resolution of bilateral trade problems, the interagency group concluded that our formulation and implementation of trade policy towards China should include the following elements:

- *Coordinated U.S. government interagency focus on specific priority trade goals.* This can help ensure that the Chinese government receives clear and consistent messages from U.S. government officials, and that the diverse capabilities and resources of the U.S. government are coordinated and focused on the most important issues.
- *Effective monitoring and measuring of China's compliance with specific obligations.* As noted above, developing objective and well-founded metrics has been a difficult challenge in assessing and responding to shortfalls in China's WTO implementation, particularly in areas such as IPR protection, subsidies and SPS matters.
- *Enhanced capability to obtain and analyze comprehensive, forward-looking information regarding China's trade regime and practices.* An accurate and detailed understanding of the causes for China's non-compliance or unwillingness or inability to fully address specific trade concerns is necessary so that we can develop appropriate and effective responses to specific problems. Moreover, effective gathering of complete and compelling data needed to support specific negotiations and dispute resolution activities is especially important as we move into the third phase of our bilateral trade relationship with China and focus more on issues that have been relatively difficult to resolve through simple dialogue.

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<sup>6</sup> For example, member agencies of the Trade Policy Staff Committee (TPSC) and the Trade Policy Review Group (TPRG) include the Departments of Commerce, Agriculture, State, Treasury, Labor, Justice, Defense, Interior, Transportation, Energy, Health and Human Services, Homeland Security, the Environmental Protection Agency, the Office of Management and Budget, the Council of Economic Advisers, the Council on Environmental Quality, the International Development Cooperation Agency, the National Economic Council, and the National Security Council. The U.S. International Trade Commission (USITC) is a non-voting member of the TPSC and an observer at TPRG meetings. Representatives of other agencies also may be invited to attend meetings depending on the specific issues discussed. The Office of the U.S. Trade Representative chairs the TPSC and the TPRG.

- *More formalized input from relevant stakeholders to help identify and address prospective problems.* Outreach is important to ensure that we are apprised of all relevant issues and options for dealing with them, and that support for implementation of solutions will be provided as needed. Relevant stakeholders include:
  - Congress;
  - The private sector;
  - All levels of the Chinese government; and
  - Other trading partners.
  
- *Development of a full range of options for addressing concerns.* The most effective approach or combination of approaches for dealing with a particular issue depends very much on the nature of the specific problem being addressed and the obstacles that must be overcome. Possible options, which should be implemented without prejudice to the rights of U.S. industry to seek relief under U.S. trade remedy laws, include:
  - Collaborative (“win-win”) initiatives, including capacity building;
  - High-level and working-level exchanges;
  - Public and private sector initiatives;
  - Bilateral and multilateral initiatives; and
  - Recourse to remedies available under the WTO or U.S. law.

Obstacles and Challenges. Although, as noted above, the United States seeks proactively to identify and resolve trade issues with China before they become irritants, this is difficult to do with any sizable trading partner. It is particularly difficult in the case of China because: domestic economic developments, trends and government decision-making in China are not always transparent; the magnitude and pace of China’s economic development and export expansion are unprecedented in the history of the international trading system; and important actors in the Chinese government (including central, provincial and local authorities) and Chinese industries are not wholly committed to fundamental norms of international trade. Such norms include opening markets and reducing trade barriers for foreign goods and services, protecting intellectual property rights; and upholding transparency and the rule of law.

## KEY ACTION ITEMS

As discussed above, the purpose of this top-to-bottom review has been to identify the core principles and key objectives of our trade policy with China, assess the current status and establish priority goals for each key objective, and identify specific action items that will help us achieve our priority goals. .

Based on the results of the review, the Administration will take a series of actions to help ensure that we are best positioned to meet our six key China trade objectives. The list below includes initial steps we will be taking. Additional action items will be developed and implemented in consultation with Congress and other stakeholders to ensure meaningful progress in achieving these key objectives.

### *1. Expand Enforcement Capacity*

- USTR will establish an internal China Enforcement Task Force, to be headed by a Chief Counsel for China Trade Enforcement. This Task Force will include staff from the USTR Office of the General Counsel and China Office, and will focus on the preparation and handling of potential WTO cases with China. It will work closely with industry, other U.S. government agencies and other relevant stakeholders to collect information, but it will be charged specifically with pursuing meritorious cases in pursuit of U.S. rights negotiated under trade agreements.
- Under the Secretary of State’s new initiative on transformational diplomacy (“The Global Repositioning Initiative”), the State Department will be adding at least seven new mid-level and senior officers in the Embassy and two smaller consulates in China to report on economic developments relating to U.S. interests, including monitoring of China’s compliance with its trade obligations. The State Department is also exploring the establishment of single-officer “American presence posts” in the interior.
- The U.S. Patent and Trademark Office will fund the hiring of two additional American citizens and local staff to place additional IPR Attachés or dedicated IPR Foreign Service Nationals in Beijing and Guangzhou. The State Department will also fund an additional IPR Foreign Service National position in Beijing.
- The Commerce Department will expand the IPR SME Advisory Program, which provides U.S. companies with a free, one-hour consultation with an experienced IPR attorney on protecting and enforcing IPR in China.
- The Commerce Department will expand the mechanism launched in 2004 that enables the U.S. government to pass, to China’s government for action, vetted cases of IPR infringement involving U.S. rights holders who have been unable to effectively enforce their IPR in China,. This mechanism improves the ability of U.S. companies to protect and enforce their IPR in China and highlights systematic problems in the protection and enforcement of IPR to the Chinese government.



- U.S. Customs and Border Protection is beginning technical exchanges with Chinese authorities on risk assessment, risk management tools, and regulatory issues to improve China's enforcement of IPR at its own borders. In addition, we will step-up law enforcement cooperation between U.S. customs, immigration, and criminal law enforcement authorities and their Chinese counterparts to reduce China's exports of IPR infringing goods and address transnational IPR cases.
- Relevant U.S. government agencies will conduct seminars that bring together U.S. government experts on IPR and legislative drafting with the National People's Congress (initial sessions were convened in 2004 and 2005), with a goal of improving the legislative framework for the protection and enforcement of IPR.

2. *Expand USTR capability to obtain and apply comprehensive, forward-looking information regarding China's trade regime and practices to U.S. trade policy formulation and implementation*

- USTR will add personnel to its China Office to coordinate collection and integration of information on current and potential China trade issues from other U.S. government agencies and other sources and to support the China Enforcement Task Force.
- USTR shall create an ACTPN<sup>7</sup> China Task Force to consider strategic issues related to U.S.-China trade relations and provide forward-looking, strategic advice on matters related to trade policy with China. The Task Force will consist of ACTPN members and their staff liaisons, and the Chair and Vice Chair of the Task Force shall be appointed by the USTR.<sup>8</sup>

3. *Expand U.S. Trade Policy and Negotiating Capacity in Beijing*

- USTR will work with the State Department on the posting of a senior trade official at the U.S. Embassy in Beijing to support the pursuit of U.S. trade policy interests in China. This individual will work closely with Embassy staff from other agencies and with the

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<sup>7</sup> The Advisory Committee for Trade Policy and Negotiations (ACTPN) is appointed by the President and is the preeminent advisory committee providing overall policy advice on trade matters to (USTR). Established by Congress under the Trade Act of 1974, the ACTPN is comprised of senior leaders from industry, agriculture, services, small business, and other key sectors of the economy broadly affected by trade. It provides information and advice with respect to U.S. negotiating objectives and bargaining positions before entering into trade agreements, on the operation of any trade agreement once entered into, and on other matters arising in connection with U.S. trade policy. The ACTPN considers trade policy issues in the context of the overall national interest. ACTPN members obtain security clearances and have access to sensitive and confidential documents and information.

<sup>8</sup> Membership on the Task Force shall be open to all ACTPN members. ACTPN members of the Task Force may designate staff liaisons with China expertise, subject to approval of USTR, to obtain security clearance and assist with the work of the Task Force. The Task Force will report to the USTR through the ACTPN.

U.S. business community resident in China to help prepare for and conduct trade negotiations and dialogues, and to help support other U.S. government trade policy initiatives in China.

#### *4. Increase Coordination with Other Trading Partners*

- The United States will work more closely with other trading partners on China trade issues of common interest, such as enforcement of intellectual property rights and China's implementation of its WTO obligations.

#### *5. Deepen and Strengthen Regional Engagement*

- The United States will pursue increased trade liberalization and expanded trade relations with other Asian economies and within APEC. Negotiations to conclude a free trade agreement with the Republic of Korea, announced on February 2, 2006, are one important element of this effort. This increased engagement will help to maintain and enhance U.S. commercial relationships with these economies, even as China also strengthens its commercial relationships with them. At the same time, it should help spur further market access and reform in China's trade regime, as well as increase momentum for multilateral trade liberalization within the WTO.

#### *6. Increase Focus on Regulatory Reform in China*

- The Administration will step-up efforts to promote regulatory reform in China, in place of subsidies and administrative measures and policies that distort resource allocation and trade flows, including: (1) deepening and expanding the State Department's high-level dialogue with China's economic planners regarding structural reform; (2) broadening and intensifying assessment of subsidies in China and continuing pressure on the Chinese government to comply with its subsidy-related obligations under the WTO, including making a full WTO subsidies notification (expected early 2006); (3) expanding USDA-led initiatives to improve China's transparency and compliance with its SPS obligations under the WTO; and (4) giving intensive attention to China's development of standards and of an anti-monopoly law.

#### *7. Increase Effectiveness of High-Level Meetings with China's Leaders*

- USTR and the Department of Commerce will continue to hold annual, elevated meetings of the JCCT prior to presidential-level meetings, where possible, and conduct periodic reviews of goals and progress under the JCCT at the Vice Minister/Deputy level.

## 8. *Strengthen and Expand Bilateral Dialogues on Numerous Current and Potential Problem Areas*

- Dialogue on Participation in Global Institutions:
  - *Doha Initiative:* USTR will pursue a DDA initiative with China's government, to seek enhanced participation by China in the Round and increased liberalization of its trade regime.
  - *WTO Government Procurement Agreement (GPA) Accession:* USTR, the Department of Commerce, and the Department of State will pursue initiatives to encourage China's accession to the GPA, including providing training on GPA and other procurement issues, and conducting GPA accession technical consultations that China agreed to at the July 2005 JCCT meeting.
  - *World Intellectual Property Organization (WIPO) Internet Treaties Accession:* The Patent and Trademark Office is coordinating a program to assist China in bringing its copyright law and regulations into compliance with WIPO Internet Treaties standards so it can accede to the Treaties in 2006.
  - *Increasing Chinese Participation in Agricultural Standard-Setting Bodies.* U.S. government agencies will carry out initiatives to bring China into the OIE and increase its participation in IPPC and Codex.
  
- Dialogue on Services
  - *Conduct Enhanced Dialogue on Telecommunications.* As agreed at the July 2005 JCCT, China and the United States have recently launched a new telecommunications dialogue under the JCCT Information Industries Working Group to address WTO implementation and compliance concerns and market reform issues.
  - *Promote Regulatory Reform for Direct Selling Industry.* Work with the private sector to increase China's understanding of the direct selling industry and other countries' regulatory approaches, to facilitate easing of current restrictions.
  - *Facilitate Government Liberalization of the Distribution Sector.* Commerce will convene a logistics forum with NDRC that will invite Chinese officials to the United States to further explore logistics and infrastructure development in China.
  - *Convene U.S.-China Informatization Policy Roundtable,* for U.S. and Chinese government and industry representatives to discuss government policies affecting the information technology, e-commerce, and telecommunications industries.
  - *Healthcare Reform.* Bring together U.S. government and U.S. industry experts on healthcare services with Chinese counterparts at the Ministry of Commerce

(MOFCOM) and the Ministry of Health (MOH), following U.S.-China Healthcare Forum that was launched by the Commerce Department in 2005.

- *Post Financial Attaché in Beijing and Launch Financial Regulators Dialogue.* These initiatives aim to promote the modernization and opening of China's financial sector to broaden opportunities for U.S. financial services providers and enhance financial system stability.
- Dialogue on Subsidies and Structural Issues
  - *Continued Engagement on Subsidies.* In addition to pressing for the long overdue, comprehensive WTO subsidy notification from China, USTR and Commerce will address continue to address subsidies issues – an area of concern to many U.S. producers – both at the WTO and through the JCCT's Structural Issues Working Group in 2006.
  - *Launch Steel Dialogue.* As agreed by China in late December 2005, the United States and China will hold a steel dialogue under the JCCT to discuss non-market forces and overcapacity in China's steel sector.
- Dialogue on Standards
  - *Launch Standards and Conformity Assessment Program in Beijing.* Commerce and the U.S. Trade Development Agency will help launch a public-private initiative to provide standards and conformity assessment training for Chinese regulators and businesses.
  - *Technical Exchanges and Roundtables with AQSIQ.* Commerce, in its fourth year of standards cooperation with AQSIQ (China's inspection and quarantine agency), will convene roundtable meetings on RoHS (restriction of hazardous substances), energy efficiency, and other topics to be agreed.
- Labor Dialogue
  - We will strengthen U.S.-China dialogue on labor issues, including the promotion of respect for internationally recognized labor rights and enhancement of enforcement of labor laws and standards.
- Dialogue on Environmental Protection
  - We will support the recently launched U.S.- China Joint Committee on Environmental Cooperation established by a Memorandum of Understanding concluded between the U.S. Environmental Protection Agency and the Chinese State Environmental Protection Administration.
- Dialogue on China's Administration of Antidumping Laws

- We will focus on systemic issues involving transparency and injury determinations, leveraging the favorable resolution in January 2006 of the dispute regarding antidumping duties improperly imposed on Kraft linerboard.
- Dialogue on Transparency and Uniform Application of Laws
  - We will organize technical exchanges and high-level discussion to encourage adoption of a Federal Register-type system, as well as support activities of the State Department legal attaché in China and rule of law programs that address broader issues in the legal system, and expand judicial training.

9. *Strengthen U.S. Government Interagency Coordination*

- The Deputies-level Trade Policy Review Group (TPRG) and staff-level Trade Policy Staff Committee (TPSC) will conduct monthly reviews of the strategies and progress made in achieving the key objectives identified in this report. These reviews will help ensure coordination of China trade policy formulation and implementation and appropriate focus among agencies on key U.S. trade objectives with China. *Ad hoc* interagency working groups to drive particular China trade policy initiatives will also be established, as appropriate.
- The Trade Promotion Coordinating Committee (TPCC) will intensify its efforts to direct U.S. export promotion initiatives for China and ensure that they are optimally effective. The TPCC will coordinate these activities with the TPSC to ensure that China trade and export promotion policies are complementary.

10. *Strengthen the Executive-Congressional Partnership on China Trade*

- USTR will initiate a program of regular briefings for Congressional members and staff, to update them on progress in pursuing the objectives outlined in this report and to ensure that the Administration's China trade policy is informed by Congressional priorities.