

**TESTIMONY OF  
DEPUTY U.S. TRADE REPRESENTATIVE  
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BEFORE THE  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
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**Overview**

Mr. Chairman, I welcome this opportunity to testify regarding U.S.-China economic relations and China's role in the global economy. I have just returned from the second of two trips to China this month, where I delivered this simple message: China must increase the openness of its market and treat U.S. goods and services in a fair and transparent manner, if it wants to maintain support in the United States for an open market with China.

During the last three weeks, I met with my counterpart at the Ministry of Commerce and with high-level officials from several other ministries to address critical U.S.-China economic and trade issues in the run-up to the October 19 meeting between Presidents Bush and Hu. I accompanied Ambassador Zoellick to the APEC Ministerial, where we bluntly and directly addressed these issues with Executive Vice Minister of Commerce Yu Guangzhou. I traveled with Ambassador Zoellick to Beijing for a meeting with Vice Premier Wu Yi, where we emphasized the vital importance of improving access to Chinese markets for U.S. manufacturers, service suppliers, agricultural exporters and their workers. And, we met with Governor Bo Xilai from Liaoning Province in Northeast China to discuss ways to increase agricultural trade and to improve intellectual property rights (IPR) enforcement.

I will return to Beijing in mid-November to lead the U.S. delegation in our second Trade Dialogue with China this year, where we will address the range of our bilateral trade concerns. In addition, I will hold meetings there with my counterparts to press our concerns about IPR enforcement, and participate in the Ambassador's IPR roundtable, which will bring together U.S. and Chinese government and private sector officials.

The Administration attaches great importance to improving China's openness to U.S. goods and services as a basis for building a healthy trading relationship. China's large and growing market offers tremendous potential for U.S. manufacturers, service suppliers and agricultural exporters. Indeed, less than two years after China's accession to the World Trade Organization, China has become our fourth largest trading partner and the sixth largest market for U.S. exports. We sold \$22 billion in goods to China in 2002 – up from \$9.3 billion in 1994 – and we should exceed last year's figure by more than 20 percent in 2003. Perhaps more significantly, exports to China have grown some 62 percent in the last three years, while U.S. exports to the world have declined by 9 percent over the same period. We are working to ensure that strong U.S.-China economic and trade ties benefit U.S. workers, farmers and ranchers.

Despite growing U.S. exports, our largest bilateral goods trade deficit is with China – and that deficit continues to grow. It stood at \$103 billion last year and is running at an annualized rate of \$125 billion so far this year. China will represent between 21 and 22 percent of our overall goods trade deficit with the world this year, like last year.

But while the bilateral deficit is large, it is worth putting those numbers into context. It should be noted, for example, that:

- Within the overall goods deficit, the United States ran a surplus of \$1.1 billion in agricultural trade in 2002, and that surplus is projected to rise to \$3.5 billion in 2003. The United States also runs surpluses in services trade. Last year, the services trade surplus with China was just under \$2 billion.
- Much of the import increase from China has come at the expense of other Asian countries. In fact, when goods imports from China, Japan, Korea and Taiwan are combined, they actually represent a smaller share of U.S. global goods imports than they did in 1990, falling from 29 percent to 27 percent of the U.S. import market.
- China's economy is relatively open to imports. Imports as a share of GDP are 22.8 percent in China, 11.2 percent in the United States and 7.6 percent in Japan.
- And, as the National Association of Manufacturers and others have pointed out, imports are not bad for the U.S. economy. Goods that can be produced more efficiently in other countries provide a broad range of products to industry and consumers that enhance our standard of living.

The Administration is determined to continue to address market access problems that contribute to the deficit. Our markets are certainly open to exports from Chinese companies, and we need to ensure that China operates with fair, transparent and predictable rules when it comes to our companies' access to China's market. That means, most importantly, that China must live up to the commitments that it made upon joining the WTO. We also need to ensure that China engages in fair trade when it comes to its exports to the United States. Our companies want, and are entitled to, a level playing field.

The areas we have been pressing are:

- WTO implementation, including implementation of China's obligations to open its agricultural market and provide for full liberalization of trading rights and distribution services;
- Fairness in market access, such as providing for effective enforcement of intellectual property rights, lifting excessive restrictions on financial services firms, and non-discriminatory value-added tax policies;

- Fair and transparent standards and regulations, including science-based sanitary and phytosanitary measures and technology neutrality for new high technology products;
- Better cooperation on the international economic issues, including in the WTO; and
- Enforcement of U.S. trade remedies.

### **China's Implementation of its WTO Commitments**

China's accession to the World Trade Organization on December 11, 2001 was one of the most anticipated and hotly debated subjects in international economics of the last decade. By joining the WTO, China committed to a sweeping series of market-opening reforms that will require a fundamental shift in China's economy. While China had, for over two decades, been moving from a command economy to a more market-oriented economy, China's WTO accession was meant to be the crescendo to this movement.

For the United States, accepting China into the WTO served a number of purposes. The accession provided an opportunity to negotiate a favorable package of tariff cuts and the elimination of many non-tariff measures to open China's market to U.S. farmers, manufacturers, workers and service providers. China's WTO accession also subjects China to the same rigorous trade rules by which the United States and all other WTO members operate. The WTO has, for the United States, served as a valuable forum at which to address trade concerns with China. While we have yet to initiate dispute resolution proceedings against China, the United States has frequently used both formal and informal consultative mechanisms to achieve progress on many issues of concern to the United States. Indeed, the progress we have made toward resolving concerns with China's trading practices through such mechanisms is the primary reason we have not had to resort to WTO dispute resolution or other measures.

Of course, there are forces in China, as elsewhere, that are resistant to the changes wrought by WTO implementation. Despite the best of intentions by many Chinese officials, these forces have not been unsuccessful in limiting China's progress toward the goals the United States and other WTO members foresaw through China's WTO accession. As a result, China's market for U.S. goods and services is not as open as it should be, our engagement with China in the WTO has not been as useful as it should be, and China's record of WTO implementation is too fraught with inconsistencies to allow definitive statements on Chinese progress toward the rule of law.

Over the past 22 months, China has taken many positive and sometimes difficult steps to meet its WTO commitments. China has completed much of the nuts-and-bolts work of WTO implementation by reviewing thousands of laws and regulations and making necessary revisions to effect its WTO commitments, and by establishing new transparency procedures in many

national and sub-national agencies. It has also reduced tariffs to their committed levels, and has begun the process of removing market access barriers affecting a wide range of goods and services sectors.

China's potential as a market for U.S. exports of bulk agricultural commodities was a key factor in U.S. support for China's WTO accession and grant of Permanent Normal Trade Relations status to China. While bumper harvests of some crops in China in 2002 may have limited the commercial potential of some U.S. exports, China's attempts to restrict certain agricultural imports has been a recurring problem since China's WTO accession. The use of – or even the threat to use – questionable GMO standards and sanitary and phytosanitary (SPS) measures to restrict imports of some products for alleged health and safety concerns has frustrated efforts of U.S. agriculture traders, most notably in the case of soybeans. In the case of those bulk agricultural commodities subject to negotiated tariff-rate quotas (TRQs) in China, the setting of sub-quotas, use of burdensome import licensing procedures, allocation of TRQs in commercially unviable quantities and a lack of transparency in TRQ allocation and management have restricted what should be a ready market for U.S. exports, particularly wheat, corn and cotton.

After the efforts of Ambassador Zoellick, Agriculture Secretary Veneman and others in the Administration, the commercial impact of these potential barriers was contained. U.S. exports of soybeans topped \$1.2 billion – a record – and cotton sales were already 8-10 times greater than in any previous calendar year by July, 2003. In fact, as noted earlier, we are actually running a surplus with China in the agricultural area, which is projected to triple to \$3.5 billion in 2003. Chinese officials have assured us that systemic problems with both GMO and SPS regulation will be addressed, and a negotiated settlement to our concerns with China's TRQ system is in progress. However, until solutions are successfully implemented, these issues will hang like a cloud over the marketplace. These and other emerging concerns will require continued vigilance and engagement by the Administration in order to ensure fair competition and market access for U.S. goods.

With regard to China's future WTO implementation, the top concern of many U.S. industries involves trading rights and distribution services. These were key areas for WTO members when negotiating the terms of China's entry into the WTO. Within three years after its WTO accession, or by December 11, 2004, China agreed to make trading rights automatically available, which means that U.S. businesses will be able to import and export goods on their own, without having to use Chinese trading companies. By that same time, China also agreed to fully open up the distribution services sector, which will allow U.S. companies to sell their goods freely in China, without being required to turn the job over to Chinese wholesalers and retailers or establish a joint venture with a Chinese enterprise. In the interim, China agreed to progressively liberalize in these areas pursuant to timetables set out in its accession agreement. So far, however, while China has begun the required liberalization, it has imposed stringent conditions, which have greatly limited the number of enterprises eligible to take advantage of the intermediate liberalization. China's "go slow" approach also raises concern that China will not

complete full implementation of its commitments in these areas on a timely basis. The Administration is actively engaged with China on these issues – most recently in Ambassador Zoellick’s meeting with Vice Premier Wu Yi – and has made clear its views on the importance of China’s full and timely implementation of this important commitment.

### **Fairness in Market Access**

In our meeting earlier this month with Vice Premier Wu Yi, Ambassador Zoellick and I stressed the importance of not just predictability and consistency but also fairness in the rules governing access to China’s market. We explained that China’s conspicuous failure to effectively address rampant counterfeiting and piracy greatly undermines China’s credibility as a fair market. We also highlighted other fairness concerns by conveying the frustrations of many U.S. service providers with China’s restrictive regulations and U.S. exporters’ concerns regarding China’s apparently discriminatory value-added tax (VAT) policies.

In the year leading up to WTO accession, China made significant improvements to its framework of laws and regulations protecting patents, copyrights, trademarks and other intellectual property rights. However, the lack of effective IPR enforcement in China is a major obstacle toward a meaningful system of IPR protection. IPR problems run the gamut, from rampant piracy of film and other entertainment products, to sophisticated software and semiconductor products, to counterfeiting of consumer goods, electrical equipment, automotive parts and pharmaceuticals. IPR infringements not only have an economic toll, but they also present a direct challenge to China’s ability to regulate those products that have health and safety implications for China’s population and international purchasers of such products. While a domestic Chinese business constituency is increasingly active in promoting IPR protection for self-interested reasons, the problem is immensely widespread. If significant improvements are to be achieved on this front, China will have to devote considerable resources and political will to this problem, and there will continue to be a need for sustained efforts from the United States and other WTO members.

We understand that Madame Wu Yi will be leading a new and more focused effort by China to tackle the IPR enforcement problem. In the view of the Administration, the key to making concrete progress on IPR enforcement will be for China to demonstrate a clear commitment to fight piracy at the highest levels, to increase deterrent-level criminal penalties for IPR violators, to show a willingness to increase prosecution and punishment of IPR offenders, to lower thresholds for criminal prosecution, to increase resources and devote more training for enforcement in all parts of China, and to establish more effective communication procedures between relevant officials of China’s courts and investigative units, the Supreme People’s Procuratorate and China’s lawmaking bodies. I will continue to press our concerns in this important area later this month in meetings with my Chinese counterparts and with representatives of the U.S. and Chinese private sectors.

In the services area, several sectors have generated concerns, particularly regarding China's use of capitalization requirements that exceed international norms. The United States and China have had reasonably cooperative talks to resolve these concerns in many of the affected sectors, but progress has been slow and at times frustrating. Other issues, however, such as implementation of China's commitments on branching by insurance companies, the United States and China remain at odds. In addition, even when we have made progress toward resolving concerns with trade-restrictive regulations, as in the case of express courier services, we have sometimes had to revisit problematic issues in subsequently proposed measures.

Meanwhile, China has increasingly used VAT policies to encourage domestic industrial or agricultural production in a number of sectors. In the case of semiconductors, China's policy of providing rebates of VAT to domestic semiconductor producers disadvantages U.S. exports and raises significant WTO compliance concerns. In the case of fertilizer, China exempts from the VAT fertilizers that compete directly with the principal U.S. fertilizer export, a practice that is difficult to justify under WTO rules. In addition, we also have received reports about questionable tax policies used to promote exports of domestically produced agricultural goods, including corn. The Administration has engaged China on all these practices, and will continue to pursue the elimination of discriminatory or trade-distorting VAT policies through appropriate channels in Beijing, Washington and Geneva.

### **Fair and Transparent Standards and Regulations**

One important incentive behind U.S. support for China's WTO accession was the role we foresaw WTO implementation would play in promoting transparency and the development of the rule of law in China. Indeed, in the first year of its WTO membership alone, China issued, modified or repealed more than one thousand laws and regulations to conform with WTO requirements. A China that plays by the rules of international trade, promotes more accountable government and is building a transparent, open and fair regulatory environment is a China that all Americans want to see.

While China has made significant progress in revising its legal framework, other problems have persisted. In particular, China has a poor record of providing opportunities for public comment on draft laws and regulations. In addition, many of the regulatory measures that China has adopted have been issued without advance notice and, in some cases, have unfairly prejudiced foreign companies and their goods and services.

Since China's accession to the WTO, we have repeatedly engaged China on the need for transparency in the operation of its trade regime, as China grapples with the fundamental changes required of it. And as we have witnessed how China has been implementing its new laws and regulations, we have urged China, for example, to use only science-based SPS measures. We have also stressed the importance of regulating with technological neutrality, citing areas such as the wireless 3G field, and the need for a fairer approach in areas such as basic versus value-added

telecom services and automobile industrial policy, among others. We are committed to pursuing these efforts for as long as these problems persist.

### **Enforcement of Trade Remedies Laws**

The rapid expansion of trade between our two countries has inevitably led in some cases to competition between our domestically produced goods and Chinese imports. When our industries face injurious trade with China, the Administration is fully committed to enforcing U.S. trade remedy laws and to exercising the important rights that the United States has under China's WTO accession agreement, including our ability to continue to apply special methodologies to China under the antidumping laws.

China also agreed to two separate China-specific safeguard mechanisms to allow WTO members to cope with market disruptions caused by increasing economic integration with China. One such mechanism, the product-specific safeguard, was codified as Section 421 of the Trade Act of 1974, as amended, and is available until December 11, 2013. Since the implementation of Section 421, four petitions have been brought requesting import relief. In one case, the International Trade Commission found that our domestic producers' market had not been disrupted by imports from China. In two other cases, while the ITC found market disruption, the President determined that the adverse impact on the U.S. economy was clearly greater than the benefits from providing import relief. The fourth case is pending preliminary determination of market disruption by the ITC. While to date no import relief has been granted under Section 421, the President, in his most recent determination, reiterated his commitment to using the safeguard when the circumstances of a particular case warrant.

The second safeguard agreed to by China as part of its WTO accession package is an additional mechanism specific to textiles, and allows WTO members under certain circumstances to invoke limited import relief – specifically a 7.5 percent cap on growth in imports of a given textile category for up to one year (6 percent for wool products) – until December 31, 2008. The Administration is currently reviewing three requests under this safeguard mechanism, and initial determinations are scheduled for mid-November.

### **Broader Cooperation**

As China becomes more integrated into the global economy, it becomes more important for the United States and China to work together to promote our mutual interests. We have discussed various ways in which we can cooperate on international economic and trade issues, particularly given our largely complimentary economies, and we have generally received constructive responses from China. Of particular importance at this time are the Doha Development Agenda negotiations. We have had frank discussions with China on the progress of those negotiations and will continue to engage China in an effort to promote our common areas of interest. I note that China was a member of the G-21 at the recent WTO Ministerial meetings in Cancun, Mexico. But, China also made some constructive interventions during

those meetings, and as a member of APEC it has now agreed to build on the Cancun Ministerial text of September 13, 2003, which is a positive development.

**Conclusion**

Mr. Chairman and members of the Committee, thank you for providing me with the opportunity to testify. I look forward to your questions.