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Report to Congressional Committees

March 2000

WORLD TRADE ORGANIZATION

China's Membership Status and Normal Trade Relations Issues

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Abbreviations

WTO	World Trade Organization
GATT	General Agreement on Tariffs and Trade
USTR	U.S. Trade Representative

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United States General Accounting Office
Washington, D.C. 20548

National Security and
International Affairs Division

B-284686

March 17, 2000

The Honorable William V. Roth, Jr.
Chairman
The Honorable Daniel Patrick Moynihan
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable Bill Archer
Chairman
The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

China is the world's largest economy that is not subject to the World Trade Organization's (WTO) trade liberalizing requirements. Since 1986, China has been in negotiations to join, or "accede to," the World Trade Organization and its predecessor, the General Agreement on Tariffs and Trade. The United States has taken a leading role in these negotiations, which have been taking place on two tracks—bilateral and multilateral negotiations—over these 14 years. The bilateral negotiations are designed to secure China's commitment to remove specific market access barriers and open China's domestic market to more foreign goods and services. The focus of the multilateral negotiations is to ensure that China will adopt all the rules, practices, and obligations required by WTO agreements to improve its general trade regime.

A fundamental principle in the WTO agreements is that members, including the United States, must grant each other most-favored-nation status, meaning that they must grant each other trade privileges as favorable as they give to any other WTO member.[1] China currently does not have permanent normal trade relations status because title IV of the Trade Act of 1974[2] requires the President to deny it to certain designated countries, including China. However, China has been granted normal trade relations status since 1980 on an annual basis. As China moves closer to becoming a member of the World Trade Organization, Congress will need to consider whether to grant China permanent normal trading status.

Because of your continued interest in these issues, we are providing an update on our past work on (1) the status of the negotiations for China to join the World Trade Organization, (2) the results of the negotiations as compared to U.S. objectives for these negotiations, and (3) trade and legal considerations about granting China permanent normal trade relations status.

Results in Brief

Although the United States and China have reached agreement on many issues, the negotiations with China about its membership in the World Trade Organization are not complete. While the President announced a bilateral agreement covering market access issues with China in November 1999, some U.S. negotiating objectives have yet to be achieved, and many of those tentatively achieved must still be finalized in a WTO agreement that outlines the terms of China's membership. China must also conclude similar bilateral negotiations with some other WTO members, notably the European Union. In addition, China must finish the multilateral negotiations with WTO members. Then, all participants must complete several important tasks, including verifying the text of the agreement, before the approval and implementation phases of the accession process can begin. It could take several months after all these negotiations conclude before China can become a WTO member.

[1]In June 1999, the term "normal trade relations" replaced the term "most-favored-nation" in U.S. law; however, the term most-favored-nation continues to be used in the WTO agreements and other trade agreements.

[2]19 U.S.C. sections 2431 through 2439.

Based on our review of the negotiating record as of November 1999, U.S. and Chinese negotiators have reached tentative agreement or have only minor differences in eight broad areas where the United States is seeking to change China's trade practices. However, the negotiators still have major differences to resolve in some other areas. The eight areas of agreement and/or minor differences are tariffs, nontariff barriers, services, trade framework, intellectual property rights, standards and regulatory practices, agriculture, and monitoring and compliance mechanisms. The actions that China has committed to take in these areas are generally consistent with what U.S. negotiators originally sought. Most of these commitments will be phased in from 1 to 6 years, after China becomes a member of the World Trade Organization. The result of the agreed-upon actions would be a Chinese market more open to foreign goods, services, and investment; enhanced protection against import surges of Chinese products; and a Chinese commitment to comply with many WTO requirements. However, U.S. and Chinese negotiators still have major differences to resolve in some other areas, a number of which are significant in terms of the concerns they cover. The details of remaining U.S. objectives and issues to be negotiated are deemed national security information and have been classified by the Office of the U.S. Trade Representative.

China's prospective WTO membership will raise a critical issue about how the United States should handle China's normal trade relations status under U.S. law. For both legal and policy reasons, the administration plans to ask Congress to agree to grant China permanent normal trade relations before China joins the World Trade Organization. If Congress does not do this, the administration plans to invoke a WTO provision, called the "nonapplication clause," which would permit the United States and China, as an incoming member, to not apply WTO trade liberalizing commitments and obligations to each other. The administration believes this is necessary to avoid a conflict between current U.S. law, which requires annual approval of China's normal trade relations status, and the U.S. obligation as a WTO member to provide unconditional most-favored-nation status to other members. Should the United States invoke the nonapplication clause, U.S. trade relations with China would continue to be based on a 1979 U.S.-China trade agreement and other bilateral agreements.[3] These agreements obligate China to provide a number of benefits to U.S. products. The consequence of this situation is that China would be obligated to extend some benefits to the United States that it would give to other WTO

[3]Nonapplication may be rescinded later.

members, including tariff rates as low as those given any other country's products. However, the obligations in these bilateral agreements would not give the United States many other benefits, such as the general right to provide services and to engage in importing and exporting goods in China.

Background

The WTO was established on January 1, 1995, as a result of the Uruguay Round of international trade negotiations. The WTO provides the institutional framework for the multilateral trading system. It administers rules for international trade, provides a mechanism for settling disputes, and offers a forum for conducting trade negotiations, as set forth in the WTO agreements.[4] It currently has 135 members, and another 31 have applied for membership. The process for joining, or "acceding to," the WTO consists of four phases: (1) "fact-finding,"[5] (2) negotiation, (3) WTO decision, and (4) implementation. China is currently in the second phase of this process and is negotiating with a working party comprised of all interested WTO members, including the United States,[6] to join the WTO.[7]

[4]The WTO agreements refer to a number of international trade agreements, including the WTO's predecessor, the General Agreement on Tariffs and Trade (GATT), that are enumerated in the 1994 Marrakesh Agreement Establishing the World Trade Organization.

[5]The first two phases often overlap, as parties request more information from the applicant before proceeding with the negotiations.

[6]There are 43 other members of the WTO working party for China's accession.

[7]For a more detailed explanation of the WTO accession process, *see China Trade: WTO Membership and Most-Favored-Nation Status* (GAO/T-NSIAD-98-209, June 17, 1998).

As previously mentioned, China currently does not have permanent normal trade relations status because title IV of the Trade Act of 1974 requires the President to deny it to products from certain designated countries, including China.[8] Section 402 of the act, better known as the "Jackson-Vanik amendment," has permitted 1-year waivers when the President determines that China substantially complies with certain freedom of emigration objectives.[9] China first received a waiver in 1980, and U.S. presidents have renewed the waiver annually from 1981, to most recently, June 3, 1999. The framework for current U.S. trade relations with China is based upon the 1979 Agreement on Trade Relations, which established reciprocal most-favored-nation status between the two countries in some areas. Since 1979, the United States has attempted to increase market access and reduce trade barriers and other trade-distorting policies and practices by entering into a number of other bilateral trade agreements with China, as well as by supporting China's membership in the WTO.

Trade negotiations between the United States and China have been affected by overall U.S.-China relations, including the May 1999 accidental bombing by the North Atlantic Treaty Organization of the Chinese embassy in Belgrade, Yugoslavia. Furthermore, U.S. concerns about Chinese actions regarding human rights, proliferation of weapons of mass destruction, espionage, and Taiwan, among others, have heightened the debate over whether to grant China permanent normal trade relations status as part of China's WTO membership. In response, the administration has stated its belief that bringing China into the WTO will advance critical economic and national security goals by opening a growing market to American workers, farmers, and businesses and encourage domestic reform, human rights, the rule of law, and international cooperation. This report focuses only on certain trade and legal issues in U.S.-China relations pertaining to China joining the WTO.

[8]Most communist countries, which had nonmarket economies, were originally covered by this provision. Currently, Albania, Armenia, Belarus, Georgia, Kazakhstan, Laos, Moldova, Russia, Ukraine, Uzbekistan, and Vietnam also wish to join the World Trade Organization and receive temporary normal trade relations status from the United States.

[9]The country cannot deny its citizens the right or opportunity to emigrate; impose more than a nominal tax on emigration or on documents required for emigration; or impose more than a nominal tax, fee, or any other charge on any citizen because of his or her desire to emigrate to any country.

WTO Negotiations Not Over; Some Procedural Steps Remain

The United States has sought Chinese membership in the WTO through an accession agreement that would address problems impeding U.S. firms from gaining access to the Chinese market and putting them at a disadvantage when competing in world markets against Chinese goods. The WTO negotiations to achieve U.S. objectives are on two separate tracks–bilateral and multilateral. Both negotiating tracks are critical to U.S. objectives.

U.S.-China Bilateral Negotiations Are Completed

China has been negotiating on a bilateral basis with each interested WTO member on its specific market access commitments under the WTO agreements. The United States and China reached tentative agreement on the bilateral track of the negotiations in November 1999 with the signing of the U.S.-China Market Access Agreement. China's market access commitments cover China's tariffs; nontariff barriers, such as quotas and licensing requirements; and its agriculture and services sectors. Although these negotiations are conducted bilaterally, any agreement reached between the two countries will apply to all WTO members, as the most-favored-nation principle requires. Because China's final commitments will reflect the best made to any country, the final commitments will probably improve on those made to the United States in November 1999 to some degree. China must still conclude bilateral negotiations with a number of other WTO members, most notably the European Union. Once all these bilateral negotiations are completed, all of China's commitments must be consolidated and verified; this is no small task. It usually takes approximately 3 months, according to U.S. Trade Representative (USTR) officials, but they note that the process can be accelerated.

Multilateral Negotiations Have Not Been Completed

In the multilateral negotiations, China has been negotiating specific terms with a working party of WTO members, including the United States, for how it will adhere to the obligations and responsibilities of WTO membership. For example, China has made various commitments to make its trade practices more transparent; these commitments both meet and, in some respects, exceed WTO requirements. Whether or not China will be able to take advantage of longer phase-in or phase-out periods afforded developing countries to implement its obligations under certain WTO agreements will also be specified. These negotiations should conclude with the acceptance of two documents: (1) the protocol, which contains the terms of accession and commitments affirming China's adherence to WTO guidelines and principles and (2) the working party report, which provides

a narrative on the results of the negotiations and specific commitments made by the applicant regarding how it will meet WTO requirements. Commitments detailed in either the protocol or the working party report carry the same legal weight for the applicant, according to WTO and U.S. officials.

There has been much progress in the multilateral track, and there is tentative agreement in many, but not all, areas, based on our review of the negotiating record. The United States and China reached bilateral agreement on a few additional "multilateral" subjects in November 1999, most notably on how members will be able to protect themselves from problems related to the growth or pattern of Chinese imports. Nevertheless, WTO working party members, who have not met since July 1998, must still reach agreement among themselves and with China on the final text of both the protocol and the working party report before the accession process can move on. Although much of the draft protocol has tentatively been agreed upon, neither it nor the working party report has been revised since May 1997, in part because the negotiators have focused on the bilateral track since late 1997. There are a number of subject areas where the parties have yet to reach agreement, and even in those areas where they have reached tentative agreement, the protocol text must still be revised and finalized. Moreover, the draft working party report still requires much more text to be drafted to capture China's commitments on implementation and to document the history of the negotiations. USTR officials have noted that China's working party report could end up being over 100 pages long, while the current draft is about 10 pages.

Procedural Steps Remain After the Negotiations Conclude

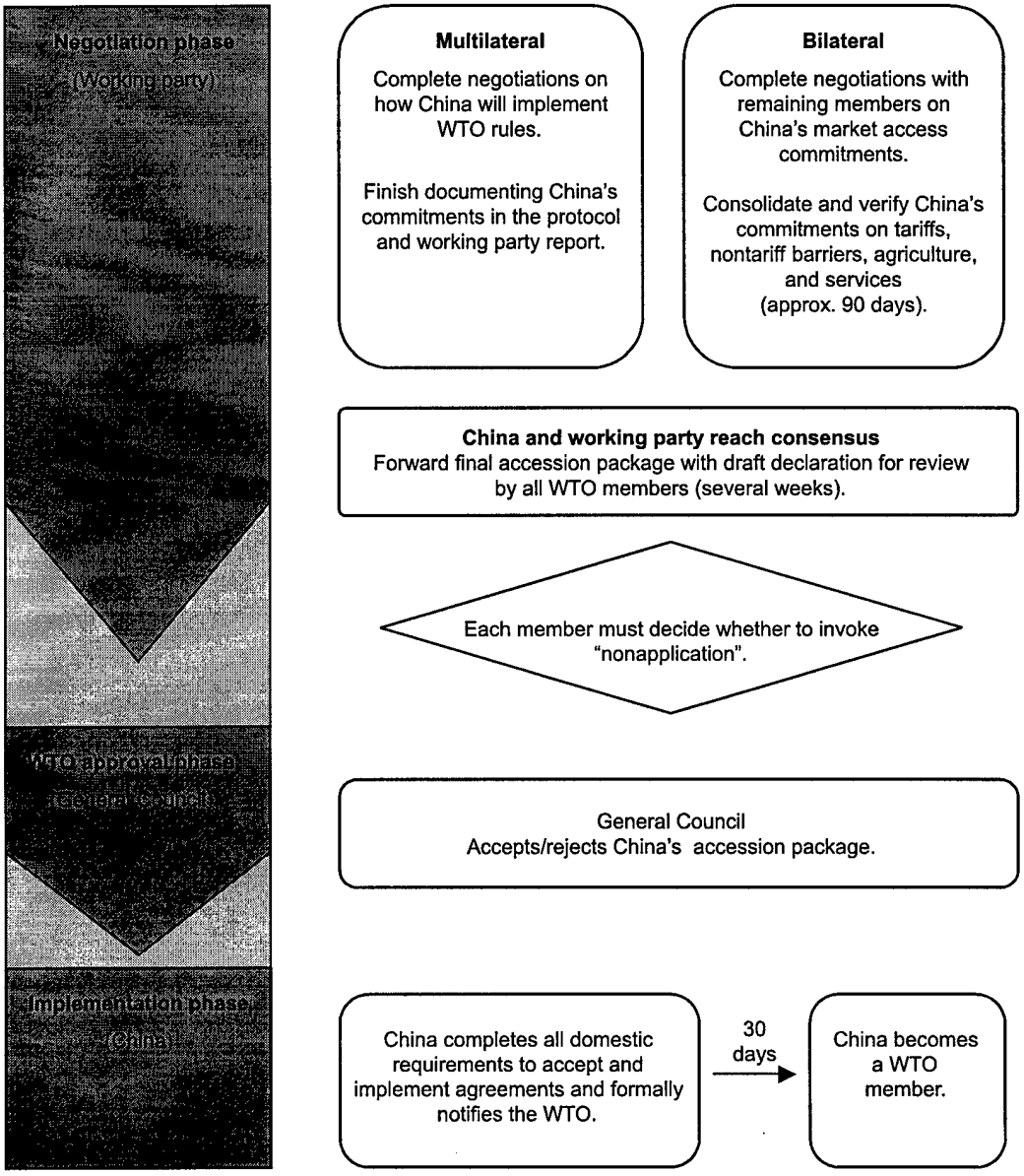
China's accession moves to the third decision-making phase after the documents detailing all the commitments made in the negotiations are finalized and the working party reaches consensus to forward China's complete application package, which includes a draft decision. The WTO General Council (comprised of all WTO members) will then approve (or reject) the terms and conditions of China's package.[10] Traditionally, the General Council reaches decisions by consensus; however, if consensus cannot be reached, a two-thirds majority can approve membership. As we

[10]The General Council has the authority to carry out the responsibilities of the Ministerial Conference–the highest body in the WTO–including approving membership. The General Council meets several times a year and is tentatively scheduled to meet in February, May, July, October, and December in the year 2000.

discuss later, any country that decides not to provide (or cannot provide) WTO benefits to China must notify the Council before the Council approves China's membership.

Finally, in the last phase, China begins the process of implementing its commitments and becomes a WTO member. China's WTO obligations enter into force, and it becomes a member after the General Council's approval and 30 days after China subsequently files its acceptance. China may also have to take some action domestically to ratify its accession package before submitting its notice of acceptance. China must also make the necessary changes to its trade practices as required by the accession package and the WTO agreements upon accepting membership. For example, China is expected to eliminate or begin to phase out most trade practices incompatible with WTO rules immediately upon accession. Figure 1 shows the remaining procedural steps in China's accession.

Figure 1: Steps Remaining in China's WTO Accession Process



Source: GAO.

U.S. Negotiating Objectives Generally Achieved in Eight Broad Areas, but Others Remain Under Negotiation

We found that China has tentatively committed to take most of the specific actions originally considered necessary to achieve U.S. objectives in eight broad areas, based on our review of the negotiating record, which covered both bilateral and multilateral tracks. U.S. and other WTO negotiators proposed specific actions that China should commit to take, including how and when it would implement particular WTO obligations and make related reforms. U.S. negotiators also requested reductions in or elimination of specific Chinese trade barriers that restricted U.S. exports. Of these eight areas, tentative agreement has been reached on five, and minor differences remain on three. Nevertheless, there are major differences to resolve in the other areas still under negotiation.

Tentative Agreement in Five Areas

The United States and China have tentatively agreed on the extent to which China will

- reduce or bind tariffs on its approximately 6,500 industrial and agricultural products to reach a final average of 10.2 percent (from 16.9 percent) by 2008;
- eliminate nontariff restrictions, which will end quotas, licensing, and similar requirements on 361 products (which represent about 10 percent of 1997 U.S. exports to China) by 2005; and
- provide varying degrees of access to 9 of its 12 services sectors, including all those that were identified as U.S. priorities, with certain limitations liberalized or phased out from 1 to 6 years after accession.

WTO working party members, including the United States, and China have agreed on the extent to which China will

- change its trade framework to (1) ensure uniform and transparent administration of its trade regime subject to judicial review, (2) guarantee foreign enterprises the right to trade (import and export) after a 3-year phase-in period,[11] and (3) change some of the practices of its special economic areas, which are geographic zones within China

[11]Negotiations will continue over China's granting trading rights for fertilizer, according to USTR officials. China has indicated that it would preclude foreigners from importing fertilizer themselves and require any foreigners who distribute or sell foreign fertilizer in China to purchase it from a state trading company. Fertilizer was the fourth largest U.S. export to China in 1998, accounting for $1 billion, or 8 percent of U.S. exports to China.

created partly to attract foreign capital and foster economic development and
- expand intellectual property rights, which include patents, trademarks, and copyrights.

Minor Differences Remain in Three Areas

U.S. and Chinese negotiators have reached agreement on most issues involving standards and regulatory practices, agriculture, and compliance and monitoring mechanisms. China's commitments generally fulfill those originally sought by U.S. negotiators to achieve U.S. objectives in these three areas. However, there are still some outstanding differences in each of the three areas as to how China will implement particular WTO commitments. U.S. negotiators generally anticipate being able to reach agreement on these issues.

With respect to standards and regulatory practices, the Chinese have made offers, which the United States has accepted, about how the Chinese will apply health and safety measures, license imports and exports, generally value imports (for customs purposes) under WTO rules, and how they will make these practices transparent (open). In April 1999, the United States and China concluded a separate but related bilateral Agreement on U.S.-China Agricultural Cooperation, which addressed some health and food safety issues.[12] Nevertheless, differences need to be negotiated concerning how China will apply standards to imports and concerning Chinese restrictions on imports of plums, some varieties of apples, and tobacco.

With regard to agricultural issues, U.S. and Chinese negotiators have also reached tentative agreement on many commitments. China agreed to reduce tariffs on agricultural products to 16.8 percent, from 21.4 percent, by 2004. It also agreed to improve access for some bulk commodities like wheat, corn, rice, and cotton with a new, state-administered system that applies different tariffs based on quotas of these commodities. In addition, China agreed to prohibit export subsidies. Negotiators must still reach agreement on some other agricultural issues before U.S. objectives are fulfilled.

[12]The agricultural cooperation agreement eliminated Chinese bans on importing certain U.S. agricultural commodities, including wheat and other grains, meat, and citrus, which the Chinese contended were a health risk. U.S. negotiators told the Chinese this agreement was important to demonstrate their willingness to abide by WTO requirements for sanitary and phytosanitary measures.

U.S. and Chinese negotiators also have agreed on most monitoring and compliance provisions. Importantly, China agreed to a 12-year, product-specific safeguard that would allow WTO members to take action against import surges of Chinese products that are causing "market disruption." Similarly, China agreed to provide WTO members safeguard protection against surges in Chinese textile imports until December 31, 2008, 4 years beyond what is permitted under WTO rules. On the other hand, China did not agree to a recent U.S. objective to allow U.S. quotas for Chinese textiles to extend to 2010, which would have been 5 years beyond when quotas will be eliminated for all other WTO members. The United States and China reached agreement about provisions for mitigating the unfair trade practices of dumping (selling below market value) and subsidizing exports. China agreed to allow WTO members to use alternatives to China's domestic prices and costs for calculating antidumping margins for 15 years from China's accession. They also agreed to a similar provision for identifying Chinese subsidies and calculating a countervailing duty, but this provision does not expire.

In the bilateral negotiations ending in November 1999, the United States and China did not discuss another proposed monitoring and compliance provision that would allow WTO members to review China's implementation of its WTO commitments and assess its overall progress in making economic and trade reforms. This transitional review mechanism issue remains open and will be dealt with further in the working party. Also, in return for other commitments, notably the strong, product-specific safeguard, the United States dropped its objective to have China agree to a "general safeguard" that would have allowed WTO members broader discretion to suspend some or all WTO benefits to China. This objective had little support among other WTO members, and China was strongly opposed to such a safeguard.

Major Differences Remain in Some Areas

U.S. and Chinese negotiators still have major differences to resolve in other areas under multilateral negotiation. These areas include significant issues, and addressing them is important for meeting the original U.S. negotiating objectives and responding to important concerns about China's practices. While negotiators have made progress, fundamental differences remain over a number of issues in these areas. Many of these issues have not been discussed with the Chinese in recent years, according to U.S. negotiators. The details of remaining U.S. objectives and what issues are still to be negotiated are deemed national security information and have been classified by the Office of the U.S. Trade Representative. Nonetheless, the

U.S. Trade Representative has publicly stated that the participants must still negotiate "commitments on a range of WTO rules including subsidies, technical standards, a mechanism to review implementation, and many other issues."

Trade and Legal Considerations for Granting China Permanent Normal Trade Relations Status

China's prospective WTO membership raises a critical issue about how the United States will handle China's normal trade relations status under U.S. law. Resolution of this issue requires considering (1) options regarding the timing for granting China permanent normal trade relations status; (2) different approaches for granting this status, (3) the potential use of a WTO provision allowing the United States and China to not apply WTO benefits and obligations to each other if China joins the WTO, and (4) the implications for the United States if this provision is invoked.

Options for When to Grant China Permanent Normal Trade Relations

A key decision that Congress will consider before China becomes a WTO member is whether to enact legislation that provides China permanent normal trade relations by removing China from coverage under title IV of the Trade Act of 1974. For both legal and policy reasons, the administration plans to ask Congress to enact such legislation. The administration believes that continuing to review China's normal trade relations status annually would conflict with U.S. obligations as a WTO member to provide unconditional most-favored-nation status to other WTO members.[13] To resolve the conflict in the past, Congress passed legislation that provided for removing countries from title IV's coverage and granting them permanent normal trade relations because of their joining the WTO (or its predecessor, the GATT). The administration also believes that providing China with permanent normal trade relations will help ensure that the United States receives full WTO trade benefits from China.

[13]At least one commentator believes that the current annual process is not inconsistent with the WTO requirement to provide most-favored-nation status to other WTO members so long as the United States continues to provide the grant every year and eliminates the condition that the President make annual emigration findings with regard to China. Although it is true that there have been no WTO rulings on this issue, one problem with this position is that even with the emigration condition eliminated, China would still be treated differently from other WTO members.

Congress has at least three options for deciding when to grant China permanent normal trade relations:

- now, but the negotiations are not completed and terms and conditions are not finalized;
- after the negotiations are completed and all the terms and conditions are known, but before China becomes a WTO member; or
- some time after China is a WTO member.

Two Approaches for Providing Permanent Normal Trade Relations

If and when Congress decides to enact permanent normal trade relations legislation for China, it could do so in one of two ways, based on previous congressional action. First, Congress could pass legislation directly granting permanent normal trade relations to China. Congress provided permanent normal trade relations directly to Estonia, Latvia, and Lithuania in 1991, though this was before any of them became WTO (GATT) members. Several congressional bills have set forth a slightly different variation of this approach for China. These bills provide that on the date China becomes a WTO member, title IV of the Trade Act of 1974 shall no longer apply, and China's products would receive normal trade relations status.[14]

Under the second approach, Congress could authorize the President to make the permanent normal trade relations determination. Congress has used this approach more often. For example, the President was authorized to make this determination in 1996 for Bulgaria, which was not yet a WTO member, and, most recently, for Mongolia in 1999, which was. In addition, Congress could impose conditions on the President as part of granting this authority–for example, Congress could require that the President make a positive finding that certain concerns about particular Chinese trade practices have been addressed before he grants permanent normal trade relations.

Use of the WTO Nonapplication Clause

If the United States has not given China permanent normal trade relations prior to China's becoming a WTO member, the administration plans to invoke the "nonapplication clause" of article XIII of the agreement establishing the WTO. This clause permits either a WTO member or an

[14]S. 1303 and H.R. 1712 in the 105th Congress and H.R. 577 in the current 106th Congress.

incoming member to refuse to apply WTO commitments to one another and does not require any reason for this action. Nonapplication covers all WTO provisions and cannot be selective. In the past, the United States has always invoked nonapplication when it had not given countries permanent normal trade relations prior to these countries joining the WTO (or the GATT). There are a number of important characteristics of the WTO nonapplication clause that also apply to China. The United States, or other WTO members,

- must notify the WTO of its intent to invoke nonapplication before the terms and conditions for China's membership are approved by the General Council;
- may invoke nonapplication and still vote to have China admitted to the WTO; the United States did this for Mongolia's accession in 1997;
- can have nonapplication invoked against it by China, which China may do for the United States if it does not receive permanent normal trade relations; and
- may later rescind nonapplication, resulting in both parties applying all WTO rights and obligations to each other; the United States did this for Romania and Hungary and most recently for Mongolia.

Implications of Nonapplication for the United States

If China joins the WTO and either China or the United States invokes the nonapplication clause, China would still be obligated to provide some trade benefits to the United States. Under nonapplication, trade relations between the two countries would continue under the 1979 U.S.-China bilateral trade agreement and other bilateral agreements. For example, under the 1979 agreement, China is obligated to provide the United States most-favored-nation treatment, that is, the best treatment given any other country, for products, including agricultural products, with regard to tariffs, customs duties, rights to have goods distributed and sold in China, and some aspects of issuing import and export licenses. Therefore, as a result of its bilateral most-favored-nation commitment, in the areas mentioned, China would be obligated to give any benefits given other WTO members to the United States as well. The 1979 agreement also calls for some participation of both countries' financial institutions in banking services related to international trade and financial relations. Furthermore, under the 1992 U.S.-China Market Access Agreement, China made a number of commitments regarding transparency, uniform application of laws, judicial review, import restrictions, and sanitary and phytosanitary standards. Under other bilateral agreements, China has made important intellectual property and some agricultural commitments.

Nevertheless, the commitments provided by these bilateral agreements would be substantially less than those anticipated to be provided by China in the accession agreement and in the underlying WTO agreements once China becomes a WTO member. For example, the 1979 agreement does not cover services, with limited exceptions. The agreement also does not provide the United States the general right to engage in importing and exporting within China and does not provide explicit "national treatment" for U.S. goods.[15] Moreover, according to USTR, WTO obligations regarding intellectual property rights are stronger than those provided by the U.S.-China agreements covering patents, trademarks, and copyrights. Furthermore, none of the bilateral agreements provide for binding multilateral dispute settlement, as do the WTO agreements. Thus, in the event of nonapplication, the United States would continue to enforce trade violations under U.S. law.

Thus, an important consequence of either side's invoking the WTO nonapplication clause is that China, if it becomes a WTO member, will not have to grant the United States all the trade benefits it will give to other WTO members. Because U.S. businesses compete with business from other WTO members for China's markets, this situation could potentially put U.S. business interests at a considerable competitive disadvantage. While the United States would continue to benefit from some Chinese commitments through existing bilateral agreements, as pointed out, those benefits are substantially less than all those expected from China's WTO membership.

Agency Comments and Our Evaluation

We obtained oral comments on a draft of this report from the Associate General Counsel at the Office of the U.S. Trade Representative. The Office generally agreed with the contents of our report. U.S. Trade Representative officials noted that some of the statistics that appear in our report, such as average tariff rates, differ from the statistics issued by the executive branch. Although we used the same underlying data as the executive branch, our statistics are slightly different in some cases because we categorized the data differently or because of other methodological differences. U.S. Trade Representative officials made several other technical comments on the report, which we incorporated as appropriate.

[15]A fundamental principle in the WTO agreements is "national treatment." National treatment requires that WTO members treat other members' products and service providers no less favorably than they treat their own, once foreign goods have crossed their borders.

Scope and Methodology

This report is based on our past and ongoing work on China;[16] our review of WTO and executive branch documents; U.S. law; related literature; economic literature; and our discussions with U.S. government, WTO, and foreign government officials. More specifically, to assist Congress in its oversight and upcoming debate on U.S.-China trade policy, we updated our past work on (1) the status of the WTO accession negotiations, (2) the results of the negotiations when compared to U.S. objectives, and (3) the kind of considerations that may affect whether and when to grant China permanent normal trade relations status because of WTO membership. To report the current status of the negotiations, we elaborated on work we did in 1998 that described the WTO accession process in general by describing what particular tasks and steps need to be completed in approving China's accession. To report on the results of the negotiations when compared to U.S. objectives, we extracted those sections of our September 30, 1999, report that were subsequently declassified by USTR and updated them to reflect new developments in the negotiations based on the November 1999 agreement, other executive branch documents, and meetings with U.S. government officials. Our methods of analysis are described in more detail in our 1999 report. To report on issues related to granting China permanent normal trade relations, we updated work we did in 1998 by reviewing subsequent legislation granting this status to other countries, reviewing the terms of the 1979 U.S.-China trade agreement and other bilateral agreements, and conducting discussions with U.S. government and academic experts.

We conducted our work from November 1999 through February 2000 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Honorable Charlene Barshefsky, the U.S. Trade Representative; the Honorable William M. Daley, Secretary of Commerce; the Honorable Dan Glickman, Secretary of Agriculture; the Honorable Lawrence F. Summers, Secretary of the Treasury; and interested congressional Committees. Copies will be made available to others on request.

[16]See the attached list of some related GAO products.

For future contacts regarding this report, please call me at (202) 512-4128. Individuals making key contributions to this report were Adam Cowles, Richard Seldin, Elizabeth Sirois, and Timothy Wedding.

Susan S. Westin

Susan S. Westin, Associate Director
International Relations and Trade Issues

Related GAO Products

World Trade Organization: Status of China's Membership Negotiations (GAO/C-NSIAD-99-9, Sept. 30, 1999).[1]

China Trade: WTO Membership and Most-Favored-Nation Status (GAO/T-NSIAD-98-209, June 17, 1998).

Agricultural Exports: U.S. Needs a More Integrated Approach to Address Sanitary/Phytosanitary Issues (GAO/NSIAD-98-32, Dec. 11, 1997).

International Trade: Challenges and Opportunities for U.S. Businesses in China (GAO/T-NSIAD-96-214, July 29, 1996).

U.S.-China Trade: Implementation of the 1992 Prison Labor Memorandum of Understanding (GAO/GGD-95-106, Apr. 3, 1995).

U.S.-China Trade: Implementation of Agreements on Market Access and Intellectual Property (GAO/GGD-95-61, Jan. 25, 1995).

International Trade: U.S. Government Policy Issues Affecting U.S. Business Activities in China (GAO/GGD-94-94, May 4, 1994).

[1]This report has a national security classification of CONFIDENTIAL and is not available to the general public but is available to Members of Congress and some U.S. government officials.

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