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U.S.-CHINA TRADE

Observations on Ensuring China's Compliance with World Trade Organization Commitments

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Mr. Chairman and Members of the Commission:

I am pleased to be here today to discuss issues related to China's compliance with its World Trade Organization (WTO) commitments. This hearing takes place not only at a time of increasing trade between the United States and China, but also amidst a period of ongoing concern about the U.S. trade deficit with China and about China's adherence to its WTO commitments. As we have noted in our previous work, U.S. government efforts to ensure China's compliance with these complex and far-reaching commitments require a sustained and multifaceted approach. To that end, we have recently put forth a number of recommendations to the key executive branch agencies regarding ways to improve the U.S. government's monitoring and enforcement activities.

To provide you with an update on these issues, I will (1) discuss the key findings, conclusions, and recommendations from our recently issued work on China-WTO issues¹ and (2) update the Commission on a number of ongoing GAO reviews on China trade and economic issues. My observations are based on a series of reports initiated at the bipartisan request of various congressional committees. That work has included an analysis of China's commitments, surveys and interviews with private sector representatives, and the results of two annual assessments of the U.S. government's compliance efforts.² Additionally, our work on China-WTO issues included fieldwork in Washington, D.C., China, and at the WTO headquarters in Geneva, Switzerland. Before I turn to the specifics on these issues, I will provide a brief summary.

Summary

The complexity, breadth, and ongoing nature of many of the problems with China's WTO compliance demonstrate the need for a cohesive and sustained effort from the key U.S. agencies to effectively monitor and enforce China's implementation of its commitments. The U.S. Trade Representative (USTR), and the Departments of Commerce, State, and Agriculture (USDA) have coordinated on policy issues and increased staff resources to enhance their capacity to carry out these efforts. However, there are three areas in which we noted that these key agencies should

¹See GAO, *U.S.-China Trade: Opportunities to Improve U.S. government Efforts to Ensure China's Compliance with World Trade Organization Commitments*, [GAO-05-53](#) (Washington, D.C.: Oct. 6, 2004).

²See Related GAO Products.

take steps to improve their efforts and maximize the effectiveness of the resources allocated to the task of securing the benefits of China's membership in the WTO. First, although U.S. government efforts to ensure China's compliance emphasize high-level bilateral engagement, we recommended that USTR take steps to maximize the potential benefits of the WTO's annual multilateral review of China's compliance, referred to as the Transitional Review Mechanism (TRM). Second, to more effectively plan and measure results, we recommended that each of the key agencies improve performance management of their China-WTO compliance efforts. Third, we recommended that, in an environment of high and regular staff turnover, the key agencies should direct additional management attention to ensuring that staff have an opportunity to acquire training relevant to their China-WTO compliance responsibilities.

Given the strong congressional interest in China's role in the world economy, we have both issued and ongoing work related to various aspects of the U.S.-China economic and trade relationship. For example, GAO recently completed reports on U.S. efforts to protect intellectual property overseas, offshoring, and textile transshipment. Additionally, our ongoing work on the U.S. application of trade remedies against China and our review and analysis of how the Department of the Treasury makes its currency manipulation determinations may be of specific interest to the commission as it carries out its mandate.

Background

China became the 143rd member of the WTO on December 11, 2001, after almost 15 years of negotiations. These negotiations resulted in China's commitments to open and liberalize its economy and offer a more predictable environment for trade and foreign investment in accordance with WTO rules. The United States and other WTO members have stated that China's membership in the WTO provides increased opportunities for foreign companies seeking access to China's vast market. The United States is one of the largest sources of foreign investment in China, and total merchandise trade between China and the United States was projected to exceed \$234 billion in 2004, according to U.S. trade data. However, the United States still maintains a \$158 billion trade deficit with China: imports from China were estimated to total more than \$196 billion, while exports were estimated to be about \$38 billion in 2004.

The U.S. government's efforts to ensure China's compliance with its WTO commitments are part of an overall U.S. structure to monitor and enforce foreign governments' compliance with existing trade agreements.³ At least 17 federal agencies, led by USTR, are involved in these overall monitoring and enforcement activities. USTR, USDA, and the Departments of Commerce and State have relatively broad roles and primary responsibilities regarding trade agreement monitoring and enforcement. Other agencies, such as the Departments of the Treasury and Labor, play more specialized roles. Federal monitoring and enforcement efforts are coordinated through an interagency mechanism comprising several management- and staff-level committees and subcommittees. The congressional structure for funding and overseeing federal monitoring and enforcement activities is similarly complex, because it involves multiple committees of jurisdiction. Congressional agencies, including GAO, and independent commissions such as the U.S.-China Economic and Security Review Commission also support Congress's oversight on China-WTO trade issues. In addition to the executive branch and congressional structures, multiple private sector advisory committees exist to provide federal agencies with policy and technical advice on trade matters, including trade agreement monitoring and enforcement.

Recommendations to Improve the U.S. Government's Efforts to Ensure China's Compliance with its WTO Commitments

Ensuring China's compliance with its WTO commitments is a continuing priority for the U.S. government. The complexity, breadth, and ongoing nature of many of China's problems complying with its obligations demonstrates the need for the U.S. government to have a well-coordinated, sustained effort to ensure China's compliance. To that end, we have recommended that the key agencies involved in this effort take steps to maximize the potential of the WTO's annual review of China's compliance, improve performance management, and ensure that staff have adequate opportunity to acquire the training necessary to carry out their responsibilities.

³For more information on the overall roles and responsibilities of U.S. government agencies in monitoring and enforcing trade agreements, see U.S. General Accounting Office, *International Trade: Strategy Needed to Better Monitor and Enforce Trade Agreements*, [GAO/NSIAD-00-76](#) (Washington, D.C.: Mar. 14, 2000).

Problems with China's WTO Compliance Are Broad in Scope, Complex, and Ongoing

China's WTO obligations span eight broad areas and include hundreds of individual commitments on how China's trade regime is to adhere to the WTO's agreements, principles, and rules and allow greater market access for foreign goods and services. Some of these commitments are relatively simple and require specific actions from China, such as reporting information to the WTO or lowering tariffs. Other commitments, however, are significantly more complex and relate to systemic changes in China's trade regime. For example, some commitments require China to adhere to WTO principles of nondiscrimination in the treatment of foreign and domestic enterprises. China has successfully implemented many of its WTO commitments, but a significant number of problems arose in the first years of China's membership. Problems implementing these obligations spanned all areas in which China had made commitments. Importantly, many of these compliance problems have persisted from year to year, and many concerns relate to China's inability thus far to make some of the systemic changes that its WTO commitments require. For example, USTR's most recent report on China's WTO compliance cites continuing problems with lack of transparency and protection of intellectual property.

U.S. Government Should Take Steps to Maximize the Potential of WTO Annual Review of China's Compliance

We also found that, while the U.S. monitoring and enforcement activities reflected increased high-level bilateral engagement by executive branch officials, some multilateral efforts did not achieve their full potential. Specifically, the WTO's annual TRM was intended to be a thorough review of China's implementation, but many U.S., WTO, and foreign officials agree that the mechanism has limitations and that participation has declined. Nevertheless, the TRM and the benefits it provides could be enhanced by increased member participation and more timely U.S. preparation, which would improve the chances for full and informed responses from Chinese officials and maximize the potential exchange of information. Thus, the TRM can continue to provide an important avenue to pursue U.S. trade interests, even with a continued U.S. emphasis on bilateral and other multilateral engagement outside of the TRM.

To improve multilateral engagement with China on WTO compliance issues, we recommended that USTR take steps to maximize the potential benefits of the TRM. These steps could include establishing and meeting internal deadlines to submit written questions to the Chinese delegation 4 to 6 weeks or more before each TRM and coordinating with other WTO members to increase participation in the review.

Key Agencies Need to Improve Performance Management of China Compliance Efforts

We found weaknesses in the key agencies' ability to assess the effectiveness of their China-WTO compliance efforts and determined that agencies would benefit from increased emphasis on planning and performance management. The Government Performance and Results Act and our substantial body of work on planning emphasize the importance and usefulness of developing unit- and program-level plans and measures that are connected to an agency's overall mission. We acknowledge the challenges of developing measurable goals, given the extent to which external factors can influence agencies' trade compliance efforts; however, we believe that it is possible to better quantify and measure results annually.

We recommended that USTR and the Secretaries of Commerce, State, and USDA take steps to improve performance management pertinent to the agencies' China-WTO compliance efforts. Specifically, USTR should set annual measurable predetermined targets related to its China compliance performance measures and assess the results in its annual performance reports. The Secretary of Commerce should take further steps to improve the accuracy of the data used to measure results for the agency's trade compliance-related goals. The Secretary of State should require its China mission to assess results in meeting their goals and report this information as part of the annual Mission Performance Plan. The Secretary of USDA should further examine the external factors that may affect the agency's progress toward achieving its trade-related goals and present the agency's strategies for mitigating those potential effects. Furthermore, the head of each agency should direct their main China compliance units to set forth unit plans that are clearly linked to agency performance goals and measures, establish unit priorities for their activities, and annually assess unit results to better manage their resources.

Key Agencies Should Take Steps to Improve Training Opportunities

We found that the key agencies have opportunities to better manage their human capital involved in China-compliance activities. Specifically, in an environment of high and regular staff turnover, new staff are called upon to take up monitoring and enforcement activities that involve complex, long-term issues. New staffs' effectiveness and efficiency is reduced when formal training is not available to help them with their day-to-day activities, and when staffing gaps prevent them from learning from their more-experienced predecessors. Increased management attention to providing an adequate mix of on-the-job training and formal training can help ensure that new employees have the necessary tools for doing their jobs well.

We recommended that USTR and the Secretaries of Commerce, State, and USDA undertake actions to mitigate the effects of both anticipated and unplanned staff turnover within the agencies' main China-WTO compliance units by identifying China compliance-related training needs and taking steps to ensure that staff have adequate opportunity to acquire the necessary training. These actions could include determining which of the agencies' existing courses would be appropriate for staff, determining what types of external training are available, developing training courses on relevant issues, and establishing a plan and time lines for existing and new staff to receive training.

Other GAO Work on China-Related Trade and Economic Issues

Given China's increasingly important role in the global economy, we have both issued⁴ and ongoing⁵ work relating to several aspects of the U.S.-China trade and economic relationship. The following list provides a brief description of selected studies relevant to the U.S.-China Economic and Security Review Commission's focus:

- Intellectual property rights (issued): We recently issued a report examining U.S. efforts to protect intellectual property overseas. The report included a country case study on China, which described the state of intellectual property protection in China and the U.S. government's actions to address problems there.
- Textile transshipment (issued): We reviewed the U.S. Customs and Border Protection's system for identifying and preventing illegal textile transshipments. We made several recommendations on ways to improve the U.S. government's monitoring and enforcement efforts.
- Offshoring (issued; ongoing): In this report, we found that current government data provide limited insight into the offshoring of services. We are continuing work on this complex issue to examine various aspects of U.S. trade policy and experience in the offshoring of manufacturing and services.
- Import relief mechanisms (ongoing): We expect that this ongoing work will result in a series of reports on relief mechanisms available to U.S.

⁴Please see Related GAO Products for additional information on previously issued GAO products.

⁵Our agreement with congressional requesters requires that we limit discussion of ongoing work to descriptions of key questions, methodology, and reporting timelines.

producers who are adversely affected by unfair or surging imports and the manner in which these remedies have been applied to China. These reports will cover the China-specific textile safeguard, methodologies for applying countervailing and antidumping duties, and product-specific safeguard measures authorized under section 421 of the Trade Act of 1974, as amended.

- Currency exchange rates (ongoing): As part of an ongoing review, we expect to issue a report examining how the Department of the Treasury makes its currency manipulation determinations (particularly for China and Japan) and the extent to which Treasury met its Trade Act of 1988 reporting requirements.
- Continued Dumping and Subsidy Offset Act (ongoing): As part of an ongoing review, we expect to issue a report on how U.S. agencies have implemented the act (also referred to as the Byrd Amendment) and the effects of the act on U.S. companies.

Mr. Chairman and Members of this Commission, this concludes my prepared statement. I would be happy to answer any questions that you may have on my testimony.

Contacts and Acknowledgments

For further information regarding this testimony, please contact Adam Cowles at (202) 512-9637. Matthew Helm and Richard Seldin also made key contributions to this testimony.

Related GAO Products

U.S.-China Trade: Summary of 2003 World Trade Organization Transitional Review Mechanism for China. [GAO-05-209R](#). Washington, D.C.: January 25, 2005.

U.S.-China Trade: Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments. [GAO-05-53](#). Washington, D.C.: October 6, 2004.

International Trade: Current Government Data Provide Limited Insight into Offshoring of Services. [GAO-04-932](#). Washington, D.C.: September 22, 2004.

Intellectual Property: U.S. Efforts Have Contributed to Strengthened Laws Overseas, but Challenges Remain. [GAO-04-912](#). Washington, D.C.: September 8, 2004.

World Trade Organization: U.S. Companies' Views on China's Implementation of Its Commitments. [GAO-04-508](#). Washington, D.C.: March 24, 2004.

International Trade: U.S. Customs and Border Protection Faces Challenges in Addressing Illegal Textile Transshipment. [GAO-04-345](#). Washington, D.C.: January 23, 2004.

World Trade Organization: Ensuring China's Compliance Requires a Sustained and Multifaceted Approach. [GAO-04-172T](#). Washington, D.C.: October 30, 2003.

GAO's Electronic Database of China's World Trade Organization Commitments. [GAO-03-797R](#). Washington, D.C.: June 13, 2003.

World Trade Organization: First-Year U.S. Efforts to Monitor China's Compliance. [GAO-03-461](#). Washington, D.C.: March 31, 2003.

World Trade Organization: Analysis of China's Commitments to Other Members. [GAO-03-4](#). Washington, D.C.: October 3, 2002.

World Trade Organization: Selected U.S. Company Views about China's Membership. [GAO-02-1056](#). Washington, D.C.: September 23, 2002.

World Trade Organization: Observations on China's Rule of Law Reforms. [GAO-02-812T](#). Washington, D.C.: June 6, 2002.

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