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Highlights

Highlights of GAO-05-1056, a report to congressional committees

September 2005

U.S.-CHINA TRADE

The United States Has Not Restricted Imports under the China Safeguard

Why GAO Did This Study

In joining the World Trade Organization (WTO) in December 2001, China agreed to a number of mechanisms to allow other WTO members to address disruptive import surges from that country. Among these was a transitional product-specific safeguard. In general, safeguards are temporary import restrictions of limited duration that provide an opportunity for domestic industries to adjust to increasing imports. U.S. law includes a number of other safeguards including a communist country safeguard, known as "section 406," and a global safeguard, known as "section 201," which have both applied to China.

In light of increased concern about Chinese trade practices and the U.S. government response to them, the conference report on fiscal year 2004 appropriations requested that GAO review the efforts of U.S. government agencies responsible for ensuring free and fair trade with that country. In this report, which is one of a series, GAO (1) describes the China safeguard, (2) describes how it has been used thus far, and (3) examines issues related to the President's discretion to apply the safeguard. Other safeguards provide context to understand this mechanism.

We provided ITC and USTR a draft of this report for their review and comment. Both agencies chose to provide technical comments from their staff. We incorporated their suggestions as appropriate.

www.gao.gov/cgi-bin/getrpt?GAO-05-1056.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Loren Yager at (202) 512-4347 or yagerl@gao.gov.

What GAO Found

The China safeguard permits WTO members, including the United States, to address disruptive import surges from China. In the United States, the China safeguard is implemented under section 421 of the Trade Act of 1974, which allows U.S. firms to petition for relief and establishes a three-step process. This process involves the International Trade Commission (ITC), Office of the U.S. Trade Representative (USTR), and the President and determines whether Chinese imports are causing market disruption to domestic producers and whether a remedy is in the national economic interest. The entire process takes about 150 days. Under the terms of China's WTO accession agreement, WTO members may use the China safeguard until 2013.

To date, the United States has not applied the China safeguard in five cases brought by domestic producers. In a sixth case, ITC has not yet reached a decision. In two cases, ITC found no market disruption. In three cases, ITC found market disruption and USTR evaluated the pros and cons of various options and made a recommendation to the President. In all three cases, the President declined to provide relief to the domestic industry after he found it would not be in the national economic interest because the costs would outweigh the benefits. The success rate for China safeguard petitions is similar to communist country safeguard petitions, but differs from that of global safeguard petitions.

The President's decisions not to provide import relief after ITC found market disruption generated controversy, including a lawsuit claiming that he exceeded his authority. The relevant House committee intended that the law create a presumption in favor of relief upon an ITC injury finding. Nonetheless, the U.S. Court of International Trade found the President has broad discretion not to apply a China safeguard. Moreover, the President considers the question of whether to provide relief from a broader perspective than ITC. The President weighs the benefits of relief against the costs and considers factors such as the effect on consumers and downstream users, which ITC does not. The President cited third-country imports in all his decisions denying relief under both the Chinese and communist country safeguards. Under the global safeguard, third-country imports generally cannot diminish the potential benefits of import relief to the domestic industry and the President has often provided relief, especially since 1988 when U.S. trade laws were revised.

Outcomes of Completed China Safeguard Petitions (as of September 2005)

Product name	ITC vote on market disruption	Presidential determination
Pedestal actuators	3-2 in favor	Rejected 3-year quota
Wire hangers	5-0 in favor	Rejected 3-year additional duty
Brake drums and rotors	4-0 against	N/A
Waterworks fittings	6-0 in favor	Rejected 3-year tariff rate quota
Mattress innersprings	6-0 against	N/A

Sources: GAO, ITC, and presidential documents.