



THE US-CHINA BUSINESS COUNCIL

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China's Implementation of Its World Trade Organization Commitments

Oral Testimony by the US-China Business Council September 28, 2006

Submitted in response to the Office of the US Trade Representative's Request for Comments and Notice of Public Hearing Concerning China's Compliance with WTO Commitments (Federal Register, Pages 42886-42887, July 28, 2006)

Over the more than twenty years that I have been involved in doing business with China, China's entry into the World Trade Organization (WTO) stands out as the single-most important event in our commercial relationship. China's entry-agreement-mandated market openings and other reforms have significantly opened the Chinese economy to US exports and investment. The results have been clear: US exports to China in 2005 were close to \$42 billion—a figure more than twice as large as the roughly \$19 billion of US exports to China in 2001, the year China joined the WTO. Moreover, the annual growth in US exports to China in the years since it joined the WTO has averaged more than 21 percent—more than twice as fast as growth to any other major US export market during this time.

The importance of China's WTO entry for US companies is demonstrated in the recent annual survey of executives from US-China Business Council (USCBC) member companies. Eighty-two percent of USCBC survey respondents said that China's WTO entry has been meaningful to the development of their business with China.

US companies continue to give China guardedly positive marks on its implementation of WTO commitments. Eighty-three percent of respondents said China has done a "fair" or "good" job in implementing its WTO obligations. Four percent of respondents found China's WTO implementation efforts to be "excellent," while five percent rated China's efforts as "poor." These figures, in large part, match the findings of last year's USCBC survey.

Survey respondents identified trading and distribution rights—the ability of a company to import and sell products in China directly without working through local intermediaries—as the most important of China's implemented WTO commitments. Respondents cited China's various market sector openings, tariff reductions, and the easing of restrictions on foreign ownership and investment as the next-most important WTO commitments that China has successfully implemented. I should note that something like 75 percent of foreign direct investment going into China today establishes businesses 100 percent owned by the foreign investor, as opposed to joint ventures.

Survey respondents said the continuing inadequacy of intellectual property rights enforcement is China's most serious shortfall in meeting its WTO obligations. USCBC members also said that China

has failed to meet fully its commitments to open certain parts of its financial service sector to international competition, improve transparency, and fully apply national treatment to foreign firms.

In fact, as China approaches the end of the schedule established in its WTO entry agreement to implement market opening obligations, many of the market access concerns that are increasingly the focus of US companies are less on the specific terms of the entry agreement, but more with broader WTO tenets, such as national treatment, transparent legal and regulatory processes, and non-discriminatory development of technical and product standards.

In this regard, we are concerned about a number of developments that suggest China may be stepping back in some areas from the successful openings of the past five years. Examples include recent regulations governing mergers and acquisitions that allow officials to block the acquisition of “well known” Chinese brands and to reject deals based on “economic security”; a draft postal law that may prohibit foreign companies from engaging in many types of delivery services; and an industrial policy that restricts investment in a broad array of supposedly strategic manufacturing sectors.

Companies are also now confronting the fact that China’s WTO entry agreement does not require it to lift certain market access restrictions. For example, foreign firms in China’s securities and telecom sectors will continue to face broad barriers to involvement in China’s markets even with the full implementation of China’s WTO commitments. By opening these and other sectors that China may keep closed under the terms of its WTO entry agreement, China’s economy would benefit from the expertise and competition that would come with greater market access for foreign companies.

In short, we are running out of the WTO roadmap that has helped guide the process of integrating China into the world economy and that has opened the Chinese market to competition. USCBC urges China to view its WTO commitments as a starting point for further market reform and not as the finish line ending its market openings.

Allow me to finish on a more personal note. I just returned from two weeks in China, joined for part of that time by members of our board of directors. We focused on two main points in a meeting with Vice Premier Wu Yi. First, we pressed for the elimination of the value thresholds used to determine criminality in IPR violations and urged the adoption of the TRIPS-consistent “commercial scale” yardstick to strengthen the application of criminal penalties. We also expressed the concerns of USCBC members regarding the signs of protectionism that I noted a few moments ago. In fact, protectionism was clearly the subject that resonated most throughout my trip in meetings with officials at the National Development and Reform Commission, the Ministry of Commerce, and the Ministry of Foreign Affairs; in discussions with American companies; in speeches I gave in Shanghai and on a World Economic Forum panel in Beijing; and in meetings with foreign and Chinese journalists. To be sure, USCBC recognizes there are protectionist voices in the United States, too. China needs to join us in ensuring that protectionist voices do not result in measures that would harm our two economies. Secretary Paulson’s remarks on protectionism in his speech here in Washington two weeks ago were right on target. This is a subject I hope the US government will aggressively engage the PRC government on in the weeks and months ahead.