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China-U.S. Trade Issues

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SUMMARY

U.S.-China economic ties have expanded substantially over the past several years; total U.S.-China trade rose from $5 billion in 1980 to $122 billion in 2001; China is now the fourth-largest U.S. trading partner. Yet, U.S.-China commercial relations have been strained by a number of issues, including a surging U.S. trade deficit with China (which totaled $83 billion in 2001), China's restrictive trade and investment practices, and its failure to provide adequate protection for U.S. intellectual property rights (IPR).

During the 1990s, the United States actively pressed China to liberalize its trade regime and improve protection of U.S. IPR. Under the threat of U.S. trade sanctions, China signed bilateral trade agreements with the United States on market access (1992) and IPR protection (1992 and 1995). These agreements produced mixed results: market access and IPR protection have significantly improved in China, but U.S. firms continue to face numerous trade barriers, and IPR piracy remains a serious problem in China.

In recent years, the United States has sought to use China's application to join the World Trade Organization (WTO) as a means to gain greater market access in China. The United States insisted that China could join the WTO only if it substantially cut trade and investment barriers. After many years of tough negotiations, a consensus in the WTO on the terms of China's membership was reached in September 2001. China's accession was formally approved by the WTO on November 10, 2001, and on December 11, 2001, it formally became a WTO member.

China's entry into the WTO will require it to significantly reform its trade regime by eliminating or reducing an extensive array of tariff and non-tariff barriers on goods, services, and foreign investment. The removal of these barriers could result in significant new opportunities for U.S. exporters.

In order to ensure that the WTO agreements would fully apply between the United States and China (once China joined the WTO), the 106th Congress passed legislation (H.R. 4444, P.L. 106-286) authorizing the President to grant China permanent normal trade relations (PNTR) status after it joined the WTO (the President extended PNTR status to China on December 27, 2001). The Act also requires the U.S. Trade Representative (USTR) to annually issue a report assessing China's compliance with its WTO trade obligations. Finally, the Act and established a special Congressional-Executive Commission to examine China's human rights policies.

The 107th Congress will likely press the Bush Administration to closely monitor China's compliance with its WTO commitments. A number of issues regarding China's compliance have already arisen. The required annual report by the USTR on China's WTO implementation will likely become the focal point of potential congressional concerns over China's compliance.

MOST RECENT DEVELOPMENTS

On May 27, 2002, China formally requested the WTO to establish a dispute resolution panel to examine U.S. safeguard measures implemented in March 2002 that raised tariffs on certain steel imports.

On March 7, 2002, the United States and China reached an interim agreement on China's implementation of regulations on imports of genetically modified organisms.

On December 27, 2001, shortly after China formally joined the WTO (December 11, 2001), President Bush issued a proclamation extending PNTR status to China.

BACKGROUND AND ANALYSIS

U.S. Trade with China

U.S.-China trade rose rapidly after the two nations established diplomatic relations (January 1979), signed a bilateral trade agreement (July 1979), and provided mutual MFN treatment beginning in 1980. Total trade (exports plus imports) between the two nations rose from $4.8 billion in 1980 to an estimated $121.5 billion in 2001 — making China the 4th largest U.S. trading partner (see **Table 1**). The U.S. trade deficit with China has grown significantly in recent years, due largely to a surge in U.S. imports of Chinese goods relative to U.S. exports to China. That deficit has rose from $3.5 billion in 1988 to $83.8 billion in 2000 (although it dropped slightly to $83.0 billion in 2001). China is now the largest deficit trading partner of the United States.

Table 1. U.S. Merchandise Trade with China: 1988-2001
($ in billions)

Year	U.S. Exports	U.S. Imports	U.S. Trade Balance
1988	5.0	8.5	-3.5
1989	5.8	12.0	-6.2
1990	4.8	15.2	-10.4
1991	6.3	19.0	-12.7
1992	7.5	25.7	-18.2
1993	8.8	31.5	-22.8
1994	9.3	38.8	-29.5
1995	11.7	45.6	-33.8
1996	12.0	51.5	-39.5
1997	12.8	62.6	-49.7
1998	14.3	71.2	-56.9
1999	13.1	81.8	-68.7

Year	U.S. Exports	U.S. Imports	U.S. Trade Balance
2000	16.3	100.1	-83.8
2001	19.2	102.3	-83.0

Source: U.S. Department of Commerce.

Major U.S. Exports to China

U.S. exports to China in 2000 totaled $19.2 billion, accounting for 2.8% of total U.S. exports to the world, and making China the ninth largest market for U.S. exports (see **Table 2**). The top five U.S. exports to China in 2001 were transport equipment (mainly aircraft and parts), electrical machinery, office machines (e.g., computers), telecommunications equipment, and general industrial machinery and equipment. Together, these five commodities accounted for about 44% of total U.S. exports to China in 2001. U.S. exports to China in 2001 were nearly 18.3% higher than 2000 levels. Much of that increase was accounted for by a surge in U.S. exports of transport equipment.

Table 2. Top 5 U.S. Exports to China: 1998-2001

($ in millions)

SITC Commodity Groupings	1998	1999	2000	2001	2000/2001 % Change
Total All Commodities	14,258	13,118	16,253	19,235	18.3
Transport equipment (mainly aircraft and parts)	3,605	2,326	1,698	2,471	45.5
Electrical machinery, apparatus and appliances, and parts	1,014	1,381	1,747	2,110	20.8
Office machines and automatic data processing machines	879	843	1,498	1,602	7.0
Telecommunications Equipment	655	573	817	1,205	47.4
General industrial machinery & equipment and parts	674	685	839	1,081	28.8
Total Top 5		4,400	6,460	5,589	21.7

Commodities sorted by top 5 exports in 2001.
Source: U.S. Department of Commerce.

Many trade analysts argue that China could prove to be a significant market for U.S. exports in the future. China is one of the world's fastest growing economies, and rapid economic growth is likely to continue in the near future, provided that economic reforms are continued. China's goal of modernizing its infrastructure and upgrading its industries is predicted to generate substantial demand for foreign goods and services. Chinese officials predict that such needs will generate $1.5 trillion in increased imports from 1999-2005. According to a U.S. Department of Commerce report: "China's unmet infrastructural needs are staggering. Foreign capital, expertise, and equipment will have to be brought in if China is to build all the ports, roads, bridges, airports, power plants, telecommunications networks and rail lines that it needs." Finally, economic growth has substantially improved the purchasing power of Chinese citizens, especially those living in urban areas along the east coast of China. It is projected that by the year 2005, China will have more than 230 million middle-income consumers (i.e., those earning $1,000 or more annually), whose combined retail spending will exceed $900 billion. If achieved, this would likely make China the world's largest market for consumer goods and services and a major market for luxury goods.

Major U.S. Imports from China

China is a relatively large source of many U.S. imports, especially labor-intensive products. In 2001, imports from China totaled $102.3 billion, accounting for 10.0% of total U.S. imports, and making China the 4th largest supplier of U.S. imports. U.S. imports from China in 2001 rose by only 2.2% over 2000 levels, due largely to the slowdown in the U.S. economy. The top five U.S. imports from China in 2001 were miscellaneous manufactured articles (such as toys, games, etc.); office machines; telecommunications equipment, sound recording, and reproducing equipment (such as telephone answering machines, radios, tape recorders and players, televisions, VCRs, etc.); footwear; and electrical machinery (see **Table 3**). Together, imports of these five commodities accounted for nearly 58.2% of total U.S. imports from China in 2001.

Table 3. Top 5 U.S. Imports from China: 1998-2001

($ in millions)

SITC Commodity	1998	1999	2000	2001	2000/2001 % Change
Total All Commodities	71,156	81,786	100,063	102,280	2.2
Miscellaneous manufactured articles (e.g., toys, games, etc.)	15,543	17,273	19,441	19,764	1.7
Office machines and automatic data processing machines	6,360	8,259	11,000	10,764	-2.1
Telecommunication & sound record & reproduce app. & equip.	6,546	7,502	9,935	10,118	1.8
Footwear	8,008	8,434	9,195	9,758	6.1
Electrical machinery, apparatus and appliances, and parts	5,776	7,062	9,119	9,111	-0.1
Total Top 5	42,534	48,529	58,690	59,515	1.4

Commodities sorted by top 5 imports in 2001.
Source: U.S. Department of Commerce.

China's Economy

China's economic reforms and open investment policies (which were begun in 1978) have contributed to a surge in economic growth. From 1979 to 2001, China's real GDP grew at an average annual rate of 9.4%, making it one of the world's fastest growing economies; real GDP grew by 7.2% in 2001. Many economists predict that, if China continues to implement economic reforms, its annual real GDP growth will likely average at least 7% over the next two decades, enabling China to double the size of its economy every 10 years (see CRS Issue Brief IB98014, *China's Economic Conditions*).

China has quickly become a major recipient of foreign direct investment (FDI), a key factor in its rapid economic growth. Much of that investment has gone into export-oriented production facilities. Annual utilized FDI in China grew from $636 million in 1983 to about $47 billion 2001. There are now over 390,000 foreign-invested firms in China; the cumulative level of FDI in China at the end of 2001 totaled $395.5 billion. A significant share of FDI in China has come from overseas Chinese, especially Hong Kong and Taiwan. The United States is the second largest investor in China. Major U.S. corporate investors in China include Motorola, Atlantic Richfield, Coca Cola, Amoco, United Technologies, Pepsi Cola, Lucent Technologies, General Electric, General Motors, and Ford Motor Company.

China has quickly become a major world trading power. Total Chinese trade (exports plus imports) rose from $21 billion in 1978 to $509 billion in 2001. Chinese exports in 2001 were $266 billion, imports were $244 billion, producing a $22 billion trade surplus. Large foreign investment and the surging exports have enabled China to accumulate a significant level of foreign exchange reserves, which reached $203billion in October 2001.

Major U.S.-China Trade Issues

While China's economic reforms and rapid economic growth have expanded U.S.-China commercial relations in recent years, disputes have arisen over a wide variety of issues, including, China's failure to provide adequate protection of U.S. intellectual property rights (IPR), the widespread and pervasive use by China of trade and investment barriers, China's alleged use of prison labor for various exported products to the United States, and the conditions for China's accession to the World Trade Organization (WTO).

Violations of U.S. Intellectual Property Rights

Section 182 of the Trade Act of 1974 as amended (also known as "Special 301"), requires the USTR to identify "priority foreign countries" that fail to provide adequate and effective protection of U.S. intellectual property rights (IPR), such as patents, copyrights, trademarks, and trade secrets, or deny fair and equitable market access to U.S. firms that rely on IPR protection. The USTR is directed to seek negotiations with the priority foreign countries to end such violations and, if necessary, to impose trade sanctions if such negotiations fail to produce an agreement.

In April 1991, China (along with India and Thailand) was named as a "priority foreign country" under Special 301. The USTR began a Section 301 investigation in May 1991, claiming China's laws failed to provide adequate protection of patents, copyrights, and trade secrets. In November 1991, the USTR threatened to impose $1.5 billion in trade sanctions if an IPR agreement was not reached by January 1992. Last-minute negotiations yielded an agreement on January 16, 1992. China promised to strengthen its patent, copyright, and trade secret laws, and to improve protection of U.S. intellectual property, especially computer software, sound recordings, chemicals, and pharmaceuticals.

In June 1994, the USTR again designated China as a Special 301 "priority foreign country," because it had failed to enforce recently enacted IPR laws. In particular, the USTR cited the establishment of several factories in China producing pirated compact and laser disks, as an example of China's "egregious" violation of U.S. IPR. In addition, the USTR stated that trade barriers had restricted access to China's market for U.S. movies, videos, and sound recordings, and that such restrictions encouraged piracy of such products in China. On February 4, 1995, the USTR announced that insufficient progress had been made in talks with Chinese officials and issued a list of Chinese products, with an estimated value of $1.1 billion, which would be subject to 100% import tariffs. However, a preliminary agreement was reached on February 26, 1995, and a formal agreement was signed on March 11, 1995. The new agreement pledged China to substantially beef up its IPR enforcement regime and to remove various import and investment barriers to IPR-related products. Specifically, China agreed to:

Take immediate steps to stem IPR piracy in China over the course of the next 3 months by taking action against large-scale producers and distributors of pirated materials, and prohibiting the export of pirated products.

Establish mechanisms to ensure long-term enforcement of IPR laws, such as banning the use of pirated materials by the Chinese government, establishing a coordinated IPR enforcement policy among each level of government, beefing up IPR enforcement agencies, creating an effective customs enforcement system, establishing a title verification system in China to ensure that U.S. audio visual works are protected against unauthorized use, reforming China's judicial system to ensure that U.S. firms can obtain access to effective judicial relief, establishing a system of maintaining statistics concerning China's enforcement efforts and meeting with U.S. officials on a regular basis to discuss those efforts, improving transparency in Chinese laws concerning IPR, and strictly enforcing IPR laws.

Provide greater market access to U.S. products by removing import quotas on U.S. audio visual products, allowing U.S. record companies to market their entire works in China (subject to Chinese censorship concerns), and allowing U.S. intellectual property-related industries to enter into joint production arrangements with Chinese firms in certain cities.

Several U.S. firms charged that IPR piracy in China worsened in 1995, despite the 1995 IPR agreement, and pressed the USTR to take tougher action against China. The International Intellectual Property Alliance (IIPA), an association of major U.S. copyright-based industries, estimated that IPR piracy by Chinese firms cost U.S. firms $2.3 billion in lost trade during 1995.

On April 30, 1996, the USTR again designated China as a Special 301 "priority foreign country" for not fully complying with the February 1995 IPR agreement. According to the USTR, while China had cracked down on piracy at the retail level (launching raids and destroying millions of pirated CDs and hundreds of thousands of pirated books, sound recordings, and computer software), it had failed to take effective action against an estimated 30 or so factories in China that were mass-producing and exporting pirated products. U.S. officials called on the Chinese government to close such factories, prosecute violators, and destroy equipment used in the production of pirated products. Further, the USTR stated that China failed to establish an effective border enforcement mechanism within its customs service to prevent the export of pirated products. Finally, The USTR indicated that China failed to provide sufficient market access to U.S. firms, due to high tariffs, quotas, and regulatory restrictions. Shortly after, the USTR indicated it would impose U.S. sanctions on $2 billion worth of Chinese products by June 17, 1996, unless China took more effective action to fully implement the IPR agreement. On June 17, 1996, USTR Charlene Barshefsky announced that the United States was satisfied that China was taking steps to fulfill the 1995 IPR agreement. Barshefsky cited the Chinese government's recent closing of 15 plants producing illegal CDs and China's pledge to extend a period of focused enforcement of anti-piracy regulations against regions of particularly rampant piracy, such as Guangdong Province. The Chinese government also promised to improve border enforcement to halt exports of pirated products as well as illegal imports of presses used to manufacture CDs. Further, the Chinese government reaffirmed its pledge to open up its market to imports of IPR-related products. Finally, Chinese officials promised to improve monitoring and verification efforts to ensure that products made by Chinese CD plants and publishing houses are properly licensed.

The USTR has stated that China has made great strides in improving its IPR protection regime, noting that it has passed several new IPR-related laws, closed or fined several assembly operations for illegal production lines, seized millions of illegal audio-visual products, curtailed exports of pirated products, expanded training of judges and law enforcement officials on IPR protection, and has expanded legitimate licensing of film and music production in China. In April 1999, the USTR announced that the Chinese government had issued a new high-level directive to all Chinese government entities directing that they use only legitimate computer software, a move described by the USTR as a "milestone in China's efforts to increase intellectual property protection."

U.S. business groups continue to experience significant IPR problems in China, especially in terms of illegal reproduction of software, retail piracy, and trademark counterfeiting. Chinese enforcement agencies and judicial system often lack the resources needed to vigorously enforce IPR laws; convicted IPR offenders generally face minor penalties. In addition, while market access for IPR-related products has improved, high tariffs, quotas, and other barriers continue to hamper U.S. exports; such trade barriers are believed to be partly responsible for illegal IPR-related smuggling and counterfeiting in China. The IIPA estimated that IPR piracy in China cost U.S. firms $1.5 billion in lost sales in 2001. Under the terms of China's WTO accession (see below), China agreed to immediately bring its IPR laws in compliance with the WTO agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). However, the USTR stated in April 2002, that China is still in the process of implementing new IPR regulations.

Major Chinese Trade Barriers

For many U.S. firms, China remains a difficult market to penetrate, due largely to Chinese government policies, which attempt to protect and promote domestic industries. Chinese trade policies generally attempt to encourage imports of products which are deemed beneficial to China's economic development and growth (and which are generally are not produced in China), such as high technology, as well as machinery and raw materials used in the manufacture of products for export. In many cases, preferential trade policies are used to encourage these priority imports. Goods and services not considered to be high priority, or which compete directly with domestic Chinese firms, often face an extensive array of tariff and non-tariff barriers. Such policies make it difficult to export products directly to China. As a result, many U.S. firms have established production facilities in China to gain access to the China market. However, foreign-invested firms in China face a wide variety of barriers as well. U.S. government officials maintain that China's restrictive trade and investment policies are a leading cause of the surging U.S.-China trade imbalance. Major Chinese barriers of concern include:

- *High tariffs.* The simple average Chinese tariff rate is currently 12% (down from an average rate of 42% in 1992), but tariffs on selected items, such as autos and various agricultural products, can rise to 100% or more.

- *Pervasive non-tariff barriers* are arbitrarily used to control the level of certain imports into China, including quotas, import licenses, registration and certification requirements, and restrictive technical and sanitary standards (especially in respect to agricultural products).

- *Non-transparent trade rules and regulations.* China's trade laws and regulations are often secretly formulated, unpublished, unevenly enforced, and may vary across provinces, making it difficult for exporters to determine what rules and regulations apply to their products. In addition, foreign firms find it difficult to gain access to government trade rule-making agencies to appeal new trade rules and regulations.

- *Trading rights.* China restricts the number and types of entities in China that are allowed to import products into China, which limits the ability of both Chinese and foreign firms in China to obtain imported products. Foreign companies are not permitted to directly engage in trad in China. In addition, trading rights for many agricultural products are given exclusively to Chinese state trading companies, which are directed to import only if there is a domestic shortfall of certain products.

- *Distribution rights.* Most foreign companies are prohibited from selling their products directly to Chinese consumers.

- *Investment restrictions.* Chinese officials pressure foreign investors to agree to contract provisions which stipulate technology transfers, exporting a certain share of production, and commitments on local content. Other problems faced by foreign firms in China include the denial of national treatment (i.e., foreign firms are treated less favorably than domestic firms), foreign exchange controls, distribution and marketing restrictions, and the lack of rule of law.

In October 1991, the Bush Administration initiated a Section 301 case against four significant unfair trading practices affecting U.S. exports to China: tariff and non-tariff barriers to certain products, restrictive import license requirements, technical barriers to trade (such as discriminatory standards for agricultural products), and non-transparency in Chinese trade laws. The Section 301 case was the most sweeping market access investigation in the USTR's history; it was essentially aimed at reforming China's entire trade regime.

On August 21, 1992, the USTR determined that negotiations had failed to resolve the trade dispute and threatened to impose $3.9 billion in U.S. trade sanctions unless an agreement was reached by October 10, 1992. The proposed sanctions were (at that time) the highest level ever issued by the USTR under a Section 301 case. On October 10, 1992, the United States and China reached an agreement settling the Section 301 case. China pledged to reduce or eliminate a wide variety of trade barriers over the next five years (according to specific timetables), including tariffs, quotas, import controls, import licenses, and import substitution laws. In addition, China agreed to make its trade regime more transparent by publishing trade laws and regulations. Finally, China agreed to eliminate scientific standards and testing barriers to agricultural imports.

The market access agreement was supposed to have been fully implemented by the end of 1997. USTR officials noted that China made significant reforms to its trade regime as specified under the trade agreement. However, in some cases, China eliminated certain trade barriers, only to impose new barriers (such as certification requirements for certain products). In addition, China failed to fully eliminate discriminatory sanitary regulations on several imported food products. Finally, while China began to more regularly publish its trade laws and regulations, lack of transparency remained a problem for many foreign firms. For example, China has not published many of its quota levels.

Prison Labor Exports

Some analysts charge that the use of forced labor is widespread and a long-standing practice in China, and that such labor is used to produce exports, a large portion of which may be targeted to the United States. The importation from any country of commodities produced through the use of forced labor is prohibited by U.S. law, although obtaining proof of actual violations for specific imported products is often extremely difficult.

On August 7, 1992, the United States and China signed a Memorandum of Understanding (MOU) to ensure that prison labor products were not exported to the United States. However, U.S. disputes with China over its implementation of the MOU led to the signing of a "statement of cooperation" (SOC) on March 14, 1994, which included provisions which clarify procedures for U.S. officials to gain access to Chinese production facilities suspected of exporting prison labor products. President Clinton's May 1994 report to Congress on renewing China's MFN status stated that China had generally abided by the agreements on prison labor. However, the U.S. Department of State's *China Country Report on Human Rights Practices for 1998* states that: "Although the signing of the SOC initially helped foster a more productive relationship between the U.S. Customs and Chinese authorities, cooperation overall has been inadequate." According to the 2001 State Department Human Rights report, between 1997 and 2001, the Chinese government allowed U.S. officials to conduct only one visit to a prison labor facility, and that eight other prison visit requests (some dating back to 1992), were still pending. The Chinese government contends that these facilities are reeducation-through-labor camps, not prisons and has denied access to them under the prison labor. On February 28, 2001, the U.S. Customs Service announced that it had seized and destroyed 24 million binder clips (valued at $2 million) that were documented as having been made in China using prison labor. In May 2002, the U.S.-

China Security Review Commission recommended that Congress enact legislation requiring firms to certify that goods imported into the U.S. do not utilize prison labor.

China and the World Trade Organization

Negotiations for China's accession to the General Agreement on Tariffs and Trade (GATT) and its successor organization, the World Trade Organization (WTO), took over 15 years to complete. During the WTO negotiations, Chinese officials insisted that China was a developing country and should be allowed to enter under fairly lenient terms. The United States insisted that China could enter the WTO only if it substantially liberalized its trade regime. In the end, a compromise agreement was reached that requires China to make immediate and extensive reductions in various trade and investment barriers, but allowing it to maintain some level of protection (or a transitionary period of protection) for certain sensitive sectors.

Background on U.S.-China WTO Negotiations. China and the United States reportedly made significant progress towards resolving major differences in their bilateral WTO negotiations during Chinese Premier Zhu Rongji's meeting with President Clinton on April 8, 1999. According to U.S. officials, China offered to cut tariffs significantly and remove non-tariff barriers on U.S. trade in agriculture, industrial goods, and services, and to eliminate various restrictions on foreign investment, trading rights, and distribution for U.S. firms in China. Separately, China agreed to eliminate unjustified sanitary and phytosanitary (SPS) bans on wheat, citrus, and beef immediately.

Although the Clinton Administration stated that China's market access offer would bring China into the WTO at above existing WTO standards on issues and sectors of major concern to the U.S., it concluded that an agreement could not be finalized until certain outstanding issues could be resolved, namely market access in China for banking, securities, and audio visual services, and safeguard provisions on potential import surges. However, the United States and China did reach an agreement (the Bilateral Agricultural Cooperation Agreement) under which China agreed to remove technical barriers to trade (such SPS restrictions) on U.S. meat, citrus, and wheat exports to China.

On April 13, 1999, the two sides agreed to intensify negotiations towards reaching a final agreement. However, following the accidental NATO bombing of the Chinese embassy in Belgrade on May 7, 1999, China suspended the WTO talks (as well as its implementation of the bilateral agreements on wheat, citrus, and beef). These talks were officially resumed on September 11, 1999, during a meeting between President Clinton and Chinese President Jiang Zemin in New Zealand.

The U.S.-China WTO Agreement. On November 15, 1999, U.S. and Chinese officials announced that a bilateral agreement relating to China's WTO bid was reached. The Clinton Administration released the full text of the agreement on March 14, 2000. Under the agreement, China promised that after gaining WTO membership it would take the following steps (some on accession and others over specified phase-in periods):

- Provide full trading and distribution rights (including the ability to provide services auxiliary to distribution) for U.S. firms in China.

- Cut average tariffs for U.S. priority agriculture products (beef, grapes, wine, cheese, poultry, and pork) from 31.5% to 14.5% by 2004. Overall industrial tariffs would fall from an average of 24.6% to 9.4% by 2005 (tariffs on U.S. "priority products," such as wood, paper, chemicals, and capital and medical equipment, would fall even further). Tariffs on information technology products, such as computers, semiconductors, and telecommunications equipment, would be cut from an average level of 13.3% to zero by 2005.

- Establish a tariff-rate quota system for imports of agricultural bulk commodities (such as wheat, corn, cotton, barley, and rice), i.e., imports up to a specified quota level would be assessed a low tariff (1-3%), while imports above a certain level would be assessed a much higher tariff rate. Private trade in agricultural products would be permitted for the first time.

- Phase out quotas and other quantitative restrictions (some upon accession, many within two years, and most within five years). Quota levels for many products would expand by 15% each year until the elimination of the quota.

- Eliminate unscientifically based SPS restrictions on agricultural products and end export subsidies.

- Open service sectors (many of which are currently closed to foreign firms), including distribution, value-added telecommunications, insurance, banking, securities, and professional services (including legal, accountancy, taxation, management consultancy, architecture, engineering, urban planning, medical and dental, and computer-related services). China would expand (over various transitional periods) the scope of allowed services and gradually remove geographical restrictions on foreign service providers. The amount of permitted foreign ownership in service industries would vary (and in some cases expand over time) from sector to sector.

- Reduce restrictions on auto trade. Tariffs on autos would fall from 80-100% to 25% (tariffs on auto parts reduced to an average rate of 10%) by 2006. Auto quotas would be eliminated by 2005. U.S. financial firms would be allowed to provide financing for the purchase of cars in China.

- Provide fair treatment for foreign firms operating in China by removing government rules requiring technology transfer, local content, and export performance conditions.

- Provide that Chinese state-owned firms make purchases and sales based on commercial considerations and give U.S. firms the opportunity to compete for sales on a non-discriminatory basis.

- Accept the use by the United States of certain safeguard, countervailing, and antidumping provisions (over transitionary periods) to respond to possible surges in U.S. imports from China of various products, such as textiles, that might cause or threaten to cause market disruption to a U.S. industry.

China Joins the WTO. On September 13, 2001, China concluded a WTO bilateral trade agreement with Mexico, the last of the original 37 WTO members that had requested such an accord. On September 17, 2001, the WTO Working Party handling China's WTO application announced that it had resolved all outstanding issues regarding China's WTO accession. On November 10, 2001, China's WTO membership was formally approved at the WTO Ministerial Conference in Doha, Qatar on November 10, 2001 (Taiwan's WTO membership was approved the next day). On November 11, 2001, China notified the WTO that it had formally ratified the WTO agreements, which enabled China to enter the WTO on December 11, 2001.

Major aspects of China's WTO accession agreement include the following:

- China will bind all tariffs. The average tariff for industrial goods will fall to 8.9% (and range from 0 to 47%) and to 15% for agriculture (and range from 0 to 65%). Most tariff cuts will be made by 2004; all cuts will occur by 2010.

- China will limit subsidies for agricultural production to 8.5% and will not maintain export subsidies on agricultural exports.

- Withing three years of accession, China will grant full trade and distribution rights to foreign enterprises (with some exceptions, such as for certain agricultural products, minerals, and fuels).

- China will provide non-discriminatory treatment to all WTO members. Foreign firms will be treated no less favorably than Chinese firms for trade purposes. Duel pricing practices will be eliminated as well as differences in the treatment of goods produced in China for the domestic market as oppose to those goods produced for export. Price controls will not be used to provide protection to Chinese firms.

- China will fully implement the Trade-Related Aspects of Intellectual Property Rights (TRIPs) Agreement upon accession.

- A 12-year safeguard mechanism will be available to other WTO members in cases where a surge in Chinese exports cause or threaten to cause market disruption to domestic producers.

- China's banking system will be fully open to foreign financial institutions withing five years. Joint ventures in insurance and telecommunication will be permitted (with various degrees of foreign ownership allowed).

Implementation Issues. Many analysts have raised concern over the ability of the Chinese government to fully implement its WTO commitments once it obtains membership. Corruption and local protectionism are rampant in China, and gaining the cooperation of local officials and government bureaucrats that oversee various affected industries could prove difficult in the short run. In addition, economic reforms required under WTO commitments could lead to significant employment disruptions, especially among farmers and employees of inefficient state-owned enterprises. Some analysts warn that such disruptions might erode the government's determination to fully implement its WTO commitments, especially if it fears social stability is threatened. A number of disputes have already arisen. For example, in June 2001, China announced it would soon implement new rules on bio-engineered foods. China did not provide details of these rules and reportedly tightened inspection and quarantine procedures, which led to a disruption in U.S. soybean exports to China. President Bush raised the issue with Chinese President Jiang Zemin in October 2001 and in March 2002, which led China to agree to the interim use of U.S. and foreign certificates until China implements its new biotechnology regulations. Some analysts charge that China may be attempting to use such regulations to limit soybean imports in order to protect its domestic producers. Another dispute arose in November 2001, when the Chinese government reportedly developed new rules on tariff rate quotas on certain agricultural products that the U.S. charged were discriminatory and violated WTO rules because they created two categories of import quota licenses. Additionally, U.S. officials have charged that China has failed to fully comply with its commitment to eliminate tariffs for all products covered under the WTO's Information Technology Agreement. Finally, some U.S. businesses claim that China has failed to fully implement its commitments on autos (such as on quota allocations, trading rights for foreign firms, local content requirements, and auto financing).

China's NTR Status and WTO Accession

Prior to January 2002, U.S. law required China's normal trade relations (NTR) status (formally referred to in U.S. law as most-favored-nation, or MFN, status) to be renewed on an annual basis, based on the freedom-of-emigration requirements under the so-called Jackson-Vanik amendment, and was subject to possible congressional disapproval through passage and enactment of a joint resolution. From 1980 (when NTR status was restored to China after being suspended in 1951) to 1989, the renewal of China's NTR status was relatively noncontroversial and was relatively unopposed by Congress. However, congressional concern over the Tiananmen Square incident in 1989 and subsequent crackdown on human rights led many Members to support legislation terminating the extension of China's NTR status or to condition that status on additional requirements, mainly dealing with human rights. Although none of these measures were enacted, many Members sought to use the annual renewal of China's NTR status as a focal point to express concerns, as well as to pressure the executive branch, over a wide range of Chinese trade (e.g., trade barriers and failure to protect IPR) and non-trade (e.g., human rights, prison labor, Taiwan security, and weapons proliferation) issues. Several members opposed such linkage, arguing that it had little effect on Chinese policies and that the often rancourous congressional debate over China's trade status undermined long-term U.S.-Chinese relations and added uncertainty to the trade relationship.

During its negotiations with China over the terms of its WTO accession, the Clinton Administration pledged that, in return for significant market opening commitments on the part of China, it would press the Congress to enact PNTR legislation. Once a satisfactory bilateral agreement was reached with China in November 1999, the Clinton Administration began to push for PNTR legislation.

The Clinton Administration and its supporters argued that China would get into the WTO with or without congressional approval of PNTR status for China, and that failure to pass such legislation would prevent the United States and China from having an official trade relationship in the WTO. As a result, it was contended, U.S. firms would be excluded from the trade concessions made by China to gain entry into the WTO, while U.S. competitors in the WTO would be able to take full advantage of new business opportunities in China, and the United States would be unable to use the WTO dispute resolution process to resolve trade disputes with China. The Clinton Administration further maintained that China's accession to the WTO would promote U.S. economic and strategic interests, namely by inducing China to deepen market reforms, promote the rule of law, reduce the government's role in the economy, and further integrate China into the world economy, making it a more reliable and stable partner. Finally, the Administration contended that congressional rejection of PNTR would be viewed by the Chinese as an attempt to isolate China economically; such a move would seriously damage U.S.-China commercial relations and undermine the political position of economic reformers in China.

Despite these arguments and strong lobbying by various U.S. business interests, passage of China PNTR was highly uncertain when Congress began consideration of legislation in May 2000. Many Members raised concerns over the effects China's WTO membership would have on U.S. import sensitive industries, while others expressed reservations over giving up what they perceived as leverage over China's human rights policies. The Clinton Administration and congressional supporters of PNTR legislation sought to craft a compromise that would gain support of undecided members without alienating members who wanted a "clean" PNTR bill.

H.R. 4444, as originally introduced by Representative Bill Archer, would have granted PNTR status to China upon its accession to the WTO as long as the President certified that the terms of its accession were at least equivalent to the November 1999 U.S.-China trade agreement. Several provisions were added by the House to H.R. 4444 in response to various congressional concerns. In addition to the provisions contained in the original version of H.R. 4444, the final bill (which passed in the House on May 24, 2000, in the Senate on September 19, 2000, and signed into law on October 10, 2000):

- established a special Congressional-Executive commission to monitor, and report on, various aspects of China's policies on human rights, including labor practices and religious freedom;

- requires the USTR to issue a report annually assessing China's compliance with its WTO trade obligations;

- codified the anti-surge mechanism established under the November 1999 U.S.-China trade agreement and establishes procedures for obtaining relief from import surges;

- authorized additional funding for various U.S. government agencies to monitor and seek enforcement of China's compliance with its WTO trade commitments;

- set up a special government task force to halt U.S. imports from China of products suspected of using prison labor; and

- authorized funding for programs to promote the development of the rule of law in China.

On November 10, 2001, President Bush certified that the terms of China's WTO accession agreement were at least equivalent to the November 1999 U.S.-China trade agreement, and on December 27, 2001, he issued a proclamation extending PNTR status to China, effective January 1, 2002.

Outlook for U.S.-China Trade Relations

China's entry into the WTO and the U.S. extension of PNTR to China are likely to have important ramifications for U.S.-China economic relations. First, Congress will no longer vote annually on China's trade status, which could help bring greater stability and predictability to the relationship than has been the case over the past several years. Second, the United States (as well as China) will be able to use the WTO dispute resolution process to resolve trade disputes. Many analysts believe China would more likely comply with a ruling from a multilateral institution than from a threat of unilateral U.S. sanctions. Third, subjecting China's trade regime to multilateral rules and agreements will mean that the United States would no longer have to "go it alone" in trying to get China to open its markets; other WTO members would have an equally strong stake in ensuring China's compliance with its WTO commitments. Finally, China's accession to the WTO will likely improve the business climate in China, leading to greater trade and investment opportunities for U.S. firms. A sizable increase in U.S. exports to China would help reduce tensions over trade issues. On the other hand, China can use the WTO to deal with its trade disputes with the United States. For example, on May 27, 2002, China formally requested the WTO to establish a dispute resolution panel to examine U.S. safeguard measures implemented in March 2002 that raised tariffs on certain steel imports.

Congress will likely continue to play an active role in U.S.-China commercial relations. For example, it will likely press the Bush Administration to ensure China's trade compliance with its WTO commitments after its accession. The required annual report by the USTR on China's WTO implementation will likely become the focal point of potential Congressional concerns over China's compliance. If U.S. exports fail to increase significantly, and the USTR's report finds serious problems with China's compliance, Congress may press the Administration to file dispute resolution cases against China in the WTO.

Congressional Members concerned with China's human rights conditions will likely focus their attention on the Congressional-Executive commission on China, which will monitor China's human rights policies and maintain a "victim's list" of citizens suffering from various abuses. The commission will issue annual reports to Congress, including findings and recommendations. The House International Relations Committee will be required to hold hearings on the content of the report. Members may seek to use this process to focus attention on China's human rights abuses, and possibly to develop legislative responses to such abuses. The Chinese government would likely respond negatively to the findings of the commission (and any subsequent action by Congress); it has tended to condemn foreign pressure over its human rights policies as interference into its internal affairs.