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## HOW TO BRING CHINA AND TAIWAN INTO THE WORLD TRADE ORGANIZATION

### INTRODUCTION

Both the People's Republic of China (PRC) and the Republic of China on Taiwan (ROC) have applied to join the World Trade Organization (WTO), the multilateral organization that sets the rules for international trade. Taiwan has made substantial progress in its accession negotiations. Although several important economic issues remain, the most significant obstacle to Taiwan's membership in the WTO is not economic, but political. China insists that Taiwan should not join the WTO before China.

The U.S. prefers that China and Taiwan become members of the WTO simultaneously. Simultaneous accession is, of course, the best possible outcome, but China is not as far along as Taiwan in meeting the criteria for membership. The U.S. should not let China's political sensitivities over Taiwan's membership slow U.S. negotiations with Taiwan. Once Taiwan meets the requisite economic criteria for WTO accession, the U.S. should be prepared to exercise international leadership to support Taiwan's membership, even in the face of China's determined opposition. Indeed, a clear signal to Taipei that the U.S. is willing to exercise such leadership could encourage Taiwan to meet the economic criteria for membership.

The U.S. also needs to clarify its position toward the PRC's prospective membership in the WTO. China wants to join for economic and political reasons. It wants not only the benefits of trade, but also the political recognition of its status as a world economic power and its primacy over Taiwan. In contrast, the European Union (EU), Japan, and the United States insist that WTO membership is a commercial contract, not an act of political recognition.<sup>1</sup> Along with the Europe-

<sup>1</sup> Technically, only sovereign states and autonomous customs territories may join the WTO. However, in the Treaty of Rome, member states ceded their authority over international commercial relations to the European Union. The EU represents all of

ans and the Japanese, the Clinton Administration correctly insists that China can join the WTO only on “commercially viable terms.”

Substantial disagreements remain over the terms of China’s accession. In particular, China disagrees with the EU, Japan, and the U.S. on the size and scope of tariff reductions; when China’s export-import licensing scheme, known as trading rights, should be abolished; how China’s investment and industrial policies should be brought in line with international agreements; whether China should accede to the WTO as a developed or developing country; and what safeguards should be available to limit import surges while the WTO accession agreement is being implemented.

China’s desire to join the WTO is an opportunity for the U.S. In addition to ensuring that China meets certain economic standards before acceding to the WTO, the U.S. could offer Beijing permanent, unconditional most-favored-nation (MFN) trading status in exchange not only for economic concessions, but also for dropping its political demands on Taiwan with regard to the WTO. It is in America’s interest that membership in the WTO, both for China and for Taiwan, be treated as an economic question.

To further American economic interests, President Bill Clinton should:

- ✓ **Support Taiwan’s accession to the WTO after it meets U.S. demands on outstanding issues.** Taiwan’s accession should not be held hostage to demands by the PRC.
- ✓ **Work closely with the European Union and Japan to ensure that China becomes a WTO member on commercially viable terms.** In the face of a unified position on the part of the world’s major trading nations, Beijing will be more likely to make economic concessions.
- ✓ **Offer to exempt China from the Jackson-Vanik Amendment in exchange for concessions.** The President should ask Congress for discretionary authority to exempt China from the Jackson-Vanik Amendment. Allowing the President to trade unconditional, permanent MFN status, which Beijing would value highly, for concessions on Taiwan’s membership in the WTO and on economic issues benefitting the U.S. would increase America’s negotiating leverage with China.

## FROM GATT TO THE WTO

Both China and Taiwan want to join the World Trade Organization because membership facilitates trade and enhances economic growth. Superseding the General Agreement Tariffs and Trade (GATT), the WTO establishes the legal framework for international trade. It also is the international organization which administers such multilateral agreements as GATT, the General Agreement on Trade in Services, and the Agreement on Trade-Related Aspects of Intellectual Property Rights.

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its member states at the WTO and acts on their behalf in trade negotiations. For the sake of simplicity, this *Backgrounder* will treat the EU as if it were a WTO member.

The WTO requires that member states and territories adhere to certain trade rules. Each member must apply the same tariffs and trade regulations to goods and services from all other members. This is known as the most-favored-nation (MFN) principle.<sup>2</sup> Moreover, members may not discriminate against imported goods in favor of “like” domestically made products. This is known as the national treatment principle. All WTO-related trade agreements are based on these two fundamental principles.

The World Trade Organization is a direct descendent of the International Trade Organization (ITO), which allied leaders attempted to create at the end of World War II. The ITO was intended to prevent a recurrence of protectionism and to set the rules for international trade in the post-war era. In 1946-1947, President Harry Truman negotiated an “interim” agreement, the GATT, with other countries to reduce tariffs and establish a legal framework for international trade.<sup>3</sup> The GATT was not intended to be a permanent organization, but a temporary instrument of the ITO. However, because the U.S. Senate failed to ratify the ITO charter, the ITO died stillborn in 1950, leaving the GATT forced to function as the world’s multilateral trade organization until the WTO was established on January 1, 1995.<sup>4</sup>

Since 1947, there have been eight successful rounds of trade liberalization negotiations under the GATT. The eighth was launched in Punta del Este, Uruguay, in September 1986 and concluded in Marrakesh, Morocco, on April 15, 1994. U.S. legislation implementing the Uruguay Round was signed into law on December 8, 1994.

As in previous rounds, the Uruguay Round achieved substantial tariff reductions in developed countries. It cut tariffs by 38 percent, dropped the average tariff to 3.9 percent, and eliminated some tariffs altogether.<sup>5</sup> The Uruguay Round also broke new ground in a number of areas:

**Agriculture.** For the first time, trade in agricultural products was placed under the GATT. The Uruguay Round mandates the conversion of non-tariff barriers on agricultural products into tariffs. This means that import quotas on foodstuffs must be lifted and replaced by tariffs whose rates are set to allow at least the same volume of imports as under the quota. The Uruguay Round also reduces government financial support for agriculture by 20 percent and cuts the value of export subsidies by 36 percent and the volume of subsidized exports by 21 percent over six years.<sup>6</sup>

**Apparel and Textiles.** Import quotas on apparel and textiles manufactured in developing economies such as China or India are being phased out over 10 years.<sup>7</sup>

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- 2 There are several important exceptions to the most-favored-nation principle. Customs unions such as the European Union and free-trade agreements such as the North American Free Trade Agreement (NAFTA) are permissible exceptions to the MFN principle. Likewise, developed WTO members may abolish or reduce tariffs on certain industrial goods imported from least developed members. This is known as the generalized system of preferences (GSP).
  - 3 The GATT was negotiated under authority granted to the President in the Reciprocal Trade Agreements Act of 1934 and thus did not require congressional approval.
  - 4 Anne O. Krueger, *American Trade Policy: A Tragedy in the Making* (Washington, D.C.: The AEI Press, 1995), pp. 21-22.
  - 5 Tariffs on pharmaceuticals are eliminated immediately. Tariffs on construction equipment, steel, distilled spirits, certain furniture, medical equipment, and farm machinery are phased out over 5 years; on beer, over 8 years; and on toys and paper, over 10 years.
  - 6 This schedule is for developed members. See Jeffrey J. Schott, *The Uruguay Round: An Assessment* (Washington, D.C.: Institute for International Economics, November 1994), pp. 43-54.
  - 7 *Ibid.*, pp. 55-59.

**Services.** Trade in such services as advertising and tourism is governed by a new General Agreement on Trade in Services, which establishes an MFN principle for all services. However, this agreement applies the national treatment principle only to those services listed by a WTO member in its trade liberalization commitments. This agreement also mandates additional negotiations on opening markets in such service sectors as financial services, telecommunications, and maritime transport.

**Trade-Related Investment Measures.** Modest progress was made toward liberalizing foreign investment. Regulations which require that a minimum percentage of a product's "added value" (i.e., that portion of its value normally subject to a value-added tax) be produced within a country are banned. Such regulations are known as local content requirements. Also banned are regulations which require that a minimum percentage of finished goods be exported in exchange for allowing imports.<sup>8</sup>

**Intellectual Property Rights.** Finally, the Uruguay Round establishes global rules for the protection of copyrights, trademarks, industrial designs, trade secrets, semiconductor layouts, and geographical indications.<sup>9</sup>

During the Uruguay Round, GATT members recognized the need for a permanent multilateral organization similar to the stillborn ITO to supervise global trade. As a result, the World Trade Organization, headquartered in Geneva, Switzerland, was established to supersede the GATT. The WTO oversees the implementation of trade agreements negotiated under auspices of the GATT or WTO, periodically evaluates the trade practices of its members, organizes future multilateral trade negotiations, and adjudicates trade disputes arising from WTO-related trade agreements.

## HOW TO JOIN THE WTO

A knowledge of the WTO's structure and procedure helps explain the difficulties facing Taiwan. The WTO is governed by a Ministerial Conference, which is composed of the trade ministers of all WTO members and must meet at least once every two years. Between meetings, the Ministerial Conference delegates the power to run the WTO to a General Council composed of representatives of all WTO members and a Director-General appointed by the Ministerial Conference.

Article IX of the Agreement Establishing the World Trade Organization states, "The WTO shall continue the practice of decision-making by consensus followed under GATT....[W]here a decision cannot be arrived at by consensus, the matter shall be decided by voting." The preference for consensus is very strong. Fewer than a handful of votes have been taken in almost 50 years. When a vote does occur, each WTO member has one vote.<sup>10</sup> Accession of new members requires a two-thirds vote of the membership.

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8 *Ibid.*, pp. 112-114.

9 *Ibid.*, pp. 115-123.

10 The European Union casts all votes for its member states as a bloc.

Article XII of the Agreement Establishing the World Trade Organization provides that a member may be either "a [sovereign] state or a separate customs territory possessing full autonomy in the conduct of its external commercial relations." A state or territory applying for membership must submit a memorandum detailing all of its laws, regulations, and policies affecting trade and investment. Once this memorandum is submitted, negotiations for entry start on two tracks. In Geneva, the General Council appoints a Working Party composed of trade negotiators from WTO members, including the U.S., to bargain with the applicant on bringing its domestic laws into line with WTO rules.

Simultaneously, the applicant begins bilateral discussions with individual WTO members on tariff reductions and other market-opening issues. Only after the applicant concludes all bilateral negotiations may the Working Party submit a Protocol of Accession to the Ministerial Conference for approval. The Protocol of Accession is a statement which details all of an applicant's trade liberalization commitments. Consequently, the bilateral negotiations are a choke point in the membership process; any member can veto an applicant simply by failing to conclude the bilateral talks.

## TAIWAN'S BID TO JOIN THE WTO

Because GATT and its successor, the WTO, allow either sovereign states or autonomous customs territories to apply, Taiwan applied on January 1, 1990, to become a contracting party to the GATT as "The Customs Territory of Taiwan, Penghu, Kinmen, and Matsu," or "Chinese Taipei." This lengthy designation was chosen to soothe Beijing's sensitivities about Taiwan, over which it claims sovereignty.<sup>11</sup> Taiwan was following the example of Hong Kong, which became a contracting party on April 23, 1986. On September 29, 1992, the GATT accepted Taiwan's application and appointed a Working Party to begin membership negotiations.<sup>12</sup> Since then, Taiwan has participated in eight Working Party sessions and has conducted bilateral negotiations over tariff reductions and market access with 25 WTO members.<sup>13</sup>

China does not object to "Chinese Taipei's" accession to the WTO, provided it does not join before China. In fact, China has offered to sponsor Taiwan's membership as its first act as a WTO member; at the same time, however, because China considers accession to be a political act, it has warned WTO members that it will firmly oppose admitting Taiwan first.

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- 11 The United States, along with most other countries, recognizes that China, including Taiwan, is one nation and that the People's Republic of China is the sole legitimate government of China. The U.S. and other countries also acknowledge the Republic of China is the government in power on Taiwan. Washington maintains informal relations with this government and opposes any non-peaceful change in Taiwan's status. The U.S. does not recognize Beijing's sovereignty over Taiwan and is committed to the ROC's self-defense.
  - 12 Nicholas R. Lardy, *China and the World Economy* (Washington, D.C.: Institute for International Economics, April 1994), pp. 44-47, 141-143.
  - 13 Taipei Economic and Cultural Representative Office. Taiwan has ongoing bilateral talks with Argentina, Australia, Canada, Colombia, Chile, El Salvador, the European Union, Hong Kong, Japan, Korea, Malaysia, Mexico, New Zealand, the Nordic Group (Finland and Iceland), the Philippines, Singapore, Switzerland, Thailand, the U.S., and Uruguay. Bilateral negotiations have been completed with the Czech Republic, Hungary, the Slovak Republic, South Africa, and Turkey.

Both bilateral and Working Party negotiations with Taiwan have progressed farther than they have with the PRC. Taiwan has agreed to enter the WTO as a developed economy, meaning it would comply with the same standards as the European Union, Japan, and the U.S.

Taiwan has promised to implement all WTO commitments immediately and fully with only a few exceptions, related principally to agricultural products. Taiwan has offered not only to lift all import bans, but also to cut average industrial tariffs from 5.2 percent to 3.8 percent and average agricultural tariffs from 13.3 percent to 11.4 percent. It also has agreed not to raise tariff rates in the future without compensating other WTO members; such compensation may include lowering other tariff rates, removing non-tariff barriers, or liberalizing trade in service sectors.<sup>14</sup>

However, five important economic issues remain unresolved in the bilateral negotiations with Taiwan.

- ① **Market Access for Alcohol and Tobacco.** The Taiwan Tobacco and Wine Monopoly Bureau currently maintains a legal monopoly on the manufacture and distribution of alcoholic beverages and tobacco in Taiwan. The European Union and the U.S. are seeking to end the monopoly's discriminatory practices and expand export opportunities.
- ② **Market Access for Agricultural Products.** Australia, the European Union, New Zealand, and the U.S. are not satisfied with Taiwan's offer to reduce tariffs and liberalize quotas for agricultural products, especially beef, milk, rice, and various fruits and vegetables.
- ③ **Market Access for Motor Vehicles.** Japan, South Korea, and the U.S. have yet to reach agreement with Taiwan on cutting tariffs and removing strict quotas on automobile imports.
- ④ **Intellectual Property Rights Protection.** The European Union and the U.S. find that Taiwan does not sufficiently protect intellectual property rights. Taiwan still requests a two-year phase-in period for implementing the Uruguay Round Agreement on Intellectual Property Rights, while American and European negotiators insist on full implementation immediately upon accession. Taiwan also has failed to meet the American and European demand for full protection of copyrighted materials produced in the last 50 years.
- ⑤ **Market Access for Services.** Taiwan's proposal on such services as telecommunications and legal services is also inadequate for the U.S. For example, American negotiators want to remove Taiwan's suffocating restrictions on foreign investment in the telecommunications industry.<sup>15</sup>

During the December 1995 meeting of the Taiwan Working Party, U.S. negotiators handed their Taiwanese counterparts a discussion paper on these unresolved issues. Taiwan is expected to reply before the Working Party's next meeting, tentatively scheduled for late spring 1996.

The optimum outcome would be the simultaneous accession of China and Taiwan to the WTO. However, the slower pace of the negotiations with China may be affecting the pace of talks with Taiwan. Assistant Secretary for East Asian and Pacific Affairs Winston Lord told a

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14 Taipei Economic and Cultural Representative Office.

15 "Taiwan WTO Accession Talks Dominated by Bilateral Negotiations," *Inside U.S. Trade*, Vol. 14, No. 3 (January 19, 1996), pp. 6-7.

where we have to worry about sequence,”<sup>16</sup> but a more accurate (and perhaps more candid) statement of where things actually stand came from another American official. This official, who requested anonymity, commented after Taiwan’s Working Party meeting on December 14, 1995, that “no one in the Working Party has the stomach” to propose delinking the accessions of the PRC and ROC.<sup>17</sup>

When the question of who should go first does come up, the Clinton Administration merely follows the crowd. As Lord noted, “[the sequence of accession] will be a collective decision of the WTO, not just the United States.” Lord went on to say that “we believe each case should be decided on its own merits” without “any political consideration.”<sup>18</sup> As a European official observed anonymously after the conclusion of the Working Group meeting on December 14, however, “Bilateral concerns with Taiwan should be easy to conclude, [but] the EU is not keen to conclude them because there is a clear sentiment among WTO members that Taiwan’s accession cannot take place before China’s.”<sup>19</sup> Thus, without determined American leadership, it is doubtful that Taiwan will be permitted to enter the WTO before the PRC. The WTO’s consensus-based approach to decision-making gives China a tacit veto over Taiwan’s accession.

## THE PEOPLE’S REPUBLIC OF CHINA AND THE WTO

It will be more difficult for China to join the WTO than it is for Taiwan, if only because Beijing will have to make more fundamental changes in the structure of its economy.

China is now the world’s third-largest economy behind the U.S. and Japan. Since 1978, the People’s Republic of China has transformed its once-stagnant command economy into a growing mixed economy. Markets have been liberalized, and prices are set largely by the market. While currency inconvertibility and poor statistical data make a precise determination of China’s gross domestic product impossible, estimates of its 1994 GDP range from \$474 billion to \$3.0 trillion.<sup>20</sup> China’s annual real GDP growth rate has averaged more than 9 percent in the last decade.<sup>21</sup> Furthermore, China’s high savings rate, high degree of literacy, and low population growth rate suggest the ability to sustain high productivity and per capita income growth rates in the future.<sup>22</sup>

Economic reform also has stimulated international trade. China’s global two-way trade was \$20.7 billion in 1978, making the PRC the world’s 27th-largest trading economy. In 1994, with two-way trade of \$236.4 billion, China became the world’s tenth-largest trading economy. Two-way trade between China and the U.S. also has grown, rising from \$4.8 billion in 1980 to \$48.1 billion in 1994, making the PRC America’s sixth-largest trading partner.<sup>23</sup>

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16 Assistant Secretary of State for East Asian and Pacific Affairs Winston Lord, “Briefing at the Foreign Press Center,” November 9, 1995.

17 “Taiwan WTO Accession Talks” p. 7.

18 Lord briefing, November 9, 1995.

19 “Taiwan WTO Accession Talks,” p. 7.

20 Lardy, *China and the World Economy*, pp. 14-18.

21 Marcus Noland, *China and the International Economic System*, Institute for International Economics APEC Working Papers 95-6, 1995, p. 1.

22 Lardy, *China and the World Economy*, pp. 18-22.

23 Lardy, *China and the World Economy*, pp. 73-79, and Richard D. Fisher and John T. Dori, eds., *U.S. and Asia Statistical Handbook* (Washington, D.C.: The Heritage Foundation, 1995), pp. 37-38.

**Coming to Geneva.** China has been seeking to join the GATT and now the WTO for almost a decade. Although the Republic of China was an original contracting party to the GATT in 1948, Taiwan's government withdrew in 1950, following the Communist victory on the mainland and the Nationalist retreat to Taiwan; later, once economic reforms were underway on the mainland, the PRC sought to resume the seat itself. China won observer status in the GATT in November 1982 and formally requested accession to the GATT on July 11, 1986. On February 13, 1987, China submitted the required memorandum describing its trading system, and on March 4, 1987, the GATT Council established a Working Party to negotiate China's accession.<sup>24</sup>

Following the conclusion of the Uruguay Round, China launched a major campaign to join the GATT before the end of 1994. Beijing wanted to become a founding member of the WTO because it saw this as political recognition of China's status as a world economic power. The European Union, Japan, and the U.S. insisted that China's accession must be accomplished on "commercially viable terms." Because negotiators were unable to bridge the wide gap between these two positions, the talks failed to produce an agreement on China's accession.<sup>25</sup>

Almost one year later, on November 10, 1995, Deputy United States Trade Representative Charlene Barshefsky laid out a secret 13-page "road map" on Chinese accession to Beijing negotiators. This document outlined the full range of WTO commitments and identified the basic issues that China must resolve before it can enter the WTO on a commercially viable basis.<sup>26</sup> These issues include:

**Reducing tariffs and opening markets.** A wide gap remains between China's current offers on reducing tariffs and the minimum demands of the major trading powers. During the Asia-Pacific Economic Cooperation (APEC) forum Leaders' Meeting in Osaka, Japan, on November 19, 1995, Chinese President Jiang Zemin announced that China would cut its average tariff rate from 36 percent to 24 percent as a "downpayment" on APEC trade liberalization.<sup>27</sup> China also has indicated a willingness to cut its average tariff rate to 17 percent within three years for industrial products and six years for agricultural products.<sup>28</sup>

China has not released detailed information on what the new tariffs would be. Therefore, it is difficult to know the exact value of this offer. However, China's average tariff rate, even after this second reduction, would remain high compared to other developing countries such as Brazil (14.3 percent) or Malaysia (9 percent). Moreover, China indicated not only a desire to maintain an industrial policy to protect "infant" industries, but also an unwillingness to liberalize foreign investment rules and import restrictions in the automotive and telecommunications sectors of its economy.<sup>29</sup>

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24 Lardy, *China and the World Economy*, pp. 44-47, 141-143.

25 Wayne Morrison, *CRS Issue Brief: China-U.S. Trade Issues*, Congressional Research Service, October 11, 1995, p. 13.

26 "U.S. Softens Demands on China Accession into World Trade Body," *Inside U.S. Trade*, Vol. 13, No. 48 (December 1, 1995), pp. 1, 20-21.

27 "Trade in the Pacific: No Action, No Agenda," *Economist*, Vol. 337, No. 7942 (November 25, 1995), pp. 75-76.

28 "Chinese Negotiators Fail to Offer Response to U.S. Road Map," *Inside U.S. Trade*, Vol. 13, No. 5 (December 15, 1995), p. 26.

29 *Ibid.*, pp. 26-27.



**Trading Rights.** China controls imports and exports through a licensing system known as trading rights, which requires companies to receive Beijing's approval for each of their imports or exports. Under the WTO, firms may import or export any product they wish unless that product falls under certain narrowly defined government exceptions. Eliminating trading rights is important because they allow China to negate the value of any tariff concession by refusing to grant import licenses.<sup>30</sup> In December 1995, China offered to phase out trading rights within five years instead of the eight years it had offered in July 1995.<sup>31</sup> The U.S. has pushed for a shorter phase-out, possibly two or three years, provided China does not favor domestic firms over their foreign rivals in granting trading rights during the phase-out period.<sup>32</sup>

**Investment and Industrial Policies.** China's investment and industrial policies violate GATT's national treatment principle. For example, China forbids foreign investment in some industries (such as motor vehicle assembly), requires local partners in others, and discriminates against foreign firms in granting trading rights. China also violates the Uruguay Round Agreement on Investment by requiring that foreign investors in China use domestic components in manufacturing of their products and also by requiring that foreign-owned firms export a large percentage of the products made at their Chinese factories. Finally, China violates the Uruguay Round Agreement on Intellectual Property Rights by requiring the transfer of patented technology as a precondition for approving foreign investment. The European Union, Japan, and the U.S. insist that China terminate these practices upon accession, but the Chinese want a much longer phase-out period.

**Developed versus Developing Country.** China seeks to enter the WTO as a so-called developing country. The WTO tries to help developing members adjust to global competition by allowing them to adhere to less demanding standards and to take a longer time to implement trade liberalization than is required of developed members. For example, in agriculture, while developed members must cut the value of their export subsidies by 36 percent and the volume of their subsidized exports by 21 percent over six years, developing members are allowed to reduce the value of their export subsidies by only 24 percent and the volume of their subsidized exports by 14 percent over ten years. Similarly, developed members must implement the Agreement on Intellectual Property Rights within one year, while developing members may take up to four years to implement the provisions.

China argues that it qualifies for admission as a developing country because of its low per capita income. The U.S. and other developed countries counter that China's economy is not small and weak like those of other developing countries; China is already a major exporter. Therefore, the PRC should enter the WTO under the more demanding standards of a developed country.

**Protection Against Import Surges from China.** The only significant disagreement among the European Union, Japan, and the U.S. concerning China's entry to the WTO is over safeguards against import surges from China during the phase-in period. WTO members may raise tariffs temporarily or impose quotas for up to four years (1) when an import surge threatens a domestic in-

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30 *China's Accession to the WTO/GATT: Trading Rights* (Washington, D.C.: The United States Business Council, September 15, 1995), pp. 1-4.

31 "China Offers to Speed Up Tariff Cuts, Change Trading Rights Proposal," *Inside U.S. Trade*, Vol. 13, No. 49 (December 8, 1995), pp. 1, 18-19.

32 "U.S. Softens Demands," p. 1.

dustry and (2) when relief from the import surge may “prevent or remedy serious injury and facilitate adjustment.” This practice is known as a “safeguard.” Generally, safeguards may not be targeted at a specific country; they must be applied equally to all exporting countries.

Europeans insist that during China’s transition period, WTO members must be permitted to impose “safeguard” tariffs or quotas on Chinese exports without having to apply them at the same time to exports from all other WTO members. Furthermore, they want to be able to apply these safeguards against either specific Chinese products or all Chinese exports. The Japanese, on the other hand, have shown little interest in safeguards.

The American position is more ambivalent. The United States wants a strong accession agreement and would like to have China move rapidly to liberalize its market and adopt strict rules on investment and intellectual property rights. At the same time, the U.S. “road map” suggests a willingness to consider safeguards if necessary.

China objects to safeguards as a violation of the MFN principle but does not rule them out entirely. It would allow WTO members to invoke safeguards only when the volume of imports of a specific Chinese product grew substantially faster than the volume of imports of similar products from other countries.<sup>33</sup>

**Import Quotas.** Referring to Poland’s accession to the GATT in 1968 as a precedent, the U.S. “road map” suggests that China should consider adopting import quotas while implementing its WTO commitments.<sup>34</sup> During Poland’s accession negotiations, GATT members struggled over how to create trading opportunities between Poland’s non-market economy and their market economies. To solve this problem, Poland agreed to increase its imports from GATT members by seven percent each year and to subject its exports to GATT members to special safeguards. These import quotas encouraged Polish central planners to permit more imports and to abandon some protectionist policies.<sup>35</sup>

China feels that import quotas are inappropriate during the implementation period. A Chinese negotiator recently stated that “China is in transit from a planned economy to a market economy. Today’s China is totally different than Poland thirty years ago.”<sup>36</sup>

**Jackson-Vanik.** The Jackson-Vanik Amendment to the Trade Act complicates the U.S. discussions with China over WTO accession. Passed in 1975, this law requires the President to certify annually that countries with non-market economies are allowing free emigration. Congress may overturn the President’s certification by passing a joint resolution. Jackson-Vanik was intended to increase the flow of Jewish emigrants from the former Soviet Union and its Eastern European satellites to Israel and the U.S. However, following the Tiananmen Square massacre in 1989, Congress began to apply it to China by attempting to revoke China’s MFN status.

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33 “Chinese Official Says Roadmap Too Demanding for WTO Accession,” *Inside U.S. Trade*, Vol. 14, No. 7 (February 16, 1996), p. 20.

34 “Kantor Says U.S. WTO Paper Does Not Demand Import Targets of China,” *Inside U.S. Trade*, Vol. 14, No. 4 (January 26, 1996), pp. 1-2.

35 Greg Mastel, *Trading with the Middle Kingdom* (Washington, D.C.: Economic Strategy Institute, September 1995), pp. 39-45.

36 “Kantor Says U.S. WTO Paper Does Not Demand Import Targets,” p. 2.

The WTO requires that the U.S. grant China unconditional, permanent MFN trade status once it joins the WTO. By preventing this, Jackson-Vanik will force the U.S. to conduct separate negotiations with China to try to duplicate the terms of its WTO accession in a separate bilateral trade agreement. This reduces America's negotiating leverage, allowing China to offer less generous economic concessions to the U.S. in a parallel bilateral trade agreement than other countries would receive under the usual WTO accession agreement.<sup>37</sup>

**Chinese Reactions to the U.S. Position.** Chinese negotiators greeted the U.S. "road map" as a "positive initiative," but they also warned that substantial differences remain unresolved. An informal meeting of the Working Party convened in Geneva on December 7-8, 1995, and China-U.S. bilateral talks were held the following day. Chinese negotiators agreed to reply to the "road map" by the next meeting of the Working Party on March 18, 1996.<sup>38</sup>

During a February 12, 1996, meeting with Deputy USTR Charlene Barshefsky, Vice Minister Sun Zhenyun delivered China's reaction. Sun reaffirmed that the "road map" was a positive step, but criticized parts of it for making what he claimed were demands that exceed what is required of other WTO members. Sun rejected a U.S. proposal for safeguards against surges of Chinese imports. He also opposed a U.S. suggestion for import targets. China is expected to respond to the other issues raised in the "road map" at the next Working Group meeting.<sup>39</sup>

So far, American, European, and Japanese negotiators have remained remarkably united in their talks with China. The three major trading powers have insisted that China may not join the WTO as a matter of political recognition; accession must occur on a "commercially viable basis."

## BRINGING CHINA AND TAIWAN INTO THE WTO

It will take China longer to join the WTO than it will Taiwan. The PRC has to make fundamental structural changes in its economy to meet WTO standards. The economic concessions Taiwan must make, while significant, are more limited, affecting only certain sectors of its economy. Nevertheless, even if the Taiwanese government decides to make concessions, Beijing's determined opposition to Taiwan's accession before China's and the apparent U.S. willingness to accede to Beijing's desires will hold Taiwan's application hostage to China's wishes.

WTO-related trade agreements are commercial contracts, and WTO accession is an economic, not a political, act. Any state or territory willing and able to meet the WTO's economic criteria should be free to join. As the world's largest exporter, the U.S. has an interest in seeing that arbitrary political criteria are not applied to WTO applicants. Therefore, to further American economic interests, President Clinton should:

- ✓ **Support the accession of Taiwan to the WTO after Taiwan meets U.S. demands on outstanding issues.** If China is making enough progress in the WTO negotiations, the Clinton Administration should help China and Taiwan join at the same time. This would

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37 Lardy, *China and the World Economy*, pp. 99-101; Mastel, *Trading with the Middle Kingdom*, pp. 34-36; and 19 U.S.C. 2431 *et seq.*

38 "Chinese Negotiators Fail to Offer Response to U.S. WTO Road Map," *Inside U.S. Trade*, Vol. 13, No. 50 (December 15, 1995), pp. 1, 26-27.

39 "Chinese Official Says Roadmap too Demanding for WTO Accession," p. 2.

be the best outcome for all parties. However, if the talks with China fail and accession appears unlikely in the near future, the Clinton Administration should support the accession of Taiwan on its own merits, even though this would face China's determined opposition.

- ✓ **Cooperate with the European Union and Japan to ensure that China becomes a WTO member on commercially viable terms.** Close cooperation among the European Union, Japan, and the United States will prevent China from playing one against the others in the accession negotiations. Therefore, cooperation will increase American leverage in negotiating with China. At a minimum, President Clinton must insist that China agree to:
  - ① **Implement** the principal WTO commitments, publish all trade regulations, and provide an open and fair legal process for adjudicating trade disputes immediately upon accession.
  - ② **Accept** strong safeguard provisions in exchange for a longer time to phase out trading rights and implement other WTO commitments.
  - ③ **End** the PRC's practice of forcing foreign firms to transfer technology as a condition of doing business in China. China's market is so huge that Beijing has the leverage to force large industrial firms to surrender to this form of government-sponsored theft.
  - ④ **Enforce** fully all existing bilateral trade agreements, especially the 1995 Intellectual Property Rights Memorandum of Understanding.
- ✓ **Offer to exempt China from the Jackson-Vanik Amendment in exchange for concessions.** The President should ask Congress for discretionary authority to exempt China from the Jackson-Vanik Amendment. Beijing highly values gaining unconditional, permanent MFN trade status in the U.S. However, keeping China on conditional MFN status subject to annual renewal, as mandated by Jackson-Vanik, provides the U.S. with few benefits. By granting the President the discretionary authority to exempt China from Jackson-Vanik, Congress would strengthen substantially America's leverage in WTO accession talks with Beijing. The President then could offer Beijing unconditional, permanent MFN trade status in exchange not only for relaxing its political demands on Taiwan's membership in the WTO, but for economic concessions that benefit American exporters and investors.

The Jackson-Vanik Amendment harms American interests in a number of ways. First, applying Jackson-Vanik to China is based on a faulty premise. The PRC is no longer a stagnant non-market economy. Rather, it is a growing mixed economy. Proponents of applying Jackson-Vanik ignore the economic reforms that have occurred in China since 1978.

Second, applying Jackson-Vanik to China is inappropriate. Jackson-Vanik was designed to encourage the Soviet Union and its Eastern European satellites to lift restrictions on Jewish emigration to Israel and the U.S. However, it is American immigration law, not Chinese emigration policy, that restricts the flow of Chinese emigrants. While millions of Chinese would willingly emigrate to the U.S., American immigration law limits the flow to approximately 25,000 annually.

Third, Jackson-Vanik's threat to withdraw MFN is at best ineffective and at worst counter-productive. MFN tariffs are not a special privilege granted to specific countries; they are the standard rates that the U.S. extends to all but a handful of small countries. Withdrawing MFN would compel the U.S. to apply Smoot-Hawley tariffs on Chinese exports. After the inevitable Chinese retaliation against American exports, there would be a virtual cessation of China-U.S. trade.

Finally, Jackson-Vanik weakens the U.S. bargaining position in the WTO accession talks with China. By preventing the U.S. from granting China unconditional, permanent MFN, it would force the U.S. to conclude a separate bilateral trade pact with Beijing, paralleling China's WTO accession agreement and allowing the PRC to offer the U.S. smaller tariff cuts and fewer market-opening measures than it would grant to other WTO members in its accession agreement.

## CONCLUSION

Both the People's Republic of China and the Republic of China are seeking to join the WTO, the former as a sovereign state and the latter as an autonomous customs territory. Although Taiwan is closer to the goal, both have yet to meet the economic criteria for membership. Taiwan sees WTO membership as a commercial contract, while the PRC regards it as an act of political recognition. Beijing therefore opposes Taiwan's accession before its own.

Because China's accession is more complicated, negotiations with China may take longer to complete than those with Taiwan. Taiwan's accession to the WTO could be held hostage to the process of internal change in China. Given the commercial nature of the WTO, this would be manifestly unfair. When Taiwan meets the economic criteria, the U.S. should be prepared to exercise leadership in building international consensus for its accession, even in the face of China's determined opposition. Taiwan should join the WTO when it is ready, not when Beijing says it can.

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