Case Number: 2010-1024-F

FOIA MARKER

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Folder Title: China PNTR (2000): China WTO and Trade Agreement Organic Documents [3]	
Staff Office-Individual: National Economic Council-Lee, Malcolm	
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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. report	China's Protocol and Working Party Report. (6 pages)	03/01/1999	P1/b(1)
002a. draft	Draft of Protocol on China. (7 pages)	05/28/1997	P1/b(1)
002b. paper	U.S. Proposal Draft Protocol on China dated May 28, 1997 (1 page)	03/08/1999	P1/b(1)
002c. paper	Key Outstanding Protocol Issues. (2 pages)	04/1999	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Economic Council
Malcolm Lee
OA/Box Number: CF 1177

FOLDER TITLE:

China PNTR (2000): China WTO and Trade Agreement Organic Documents [3]

2010-1024-F
vz1862

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

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Personal notes on China WTO Agreement
Dec 16 99

Grandfathering Provision for Trade in Services

- The United States sought assurances that the existing market access enjoyed by foreign-invested companies would be preserved when China accedes to the WTO. Accordingly, China agreed to include the following language as a general "horizontal" commitment in its services schedule:

  -- "The conditions of ownership, operation and scope of activities, as set out in the respective contractual or shareholder agreement or in a license establishing or authorizing the operation or supply of services by an existing foreign services supplier, will not be made more restrictive than they exist as of the date of China's accession to the WTO."

- This commitment applies both to contractual and shareholder agreements approved at the local or provincial level as well as those approved by central-government authorities in Beijing.

As discussed in my e-mail

Banking and Securities

China currently limits foreign banks to foreign currency business in selected cities. While China is conducting an experiment in permitting foreign banks to conduct local currency business, the experiment is limited to two cities and business is limited to foreign customers. Foreign securities firms now may only trade "B shares," which are the limited number of company stocks designated for foreign investors, via shared commissions and may underwrite international offerings of equity and debt.

Scope of Commitments

Banking

-- Local currency banking will be allowed starting with foreign clients on accession, followed by Chinese enterprises two years after accession and Chinese individuals five years after accession.

-- Foreign currency business will be allowed without geographic restrictions on accession.

- Banks may choose their legal form of establishment 5 years after accession.

-- Financial leasing will be allowed for foreign-owned banks when allowed for domestic banks.

Auto Finance

-- Upon accession, non-bank financial institutions will be permitted to provide auto-financing without limitation.

Securities/Asset Management

-- Deal directly in B shares (without Chinese intermediary) upon accession.

-- Eligible for special membership in all exchanges upon accession.

-- Manage assets through a joint venture with foreign minority equity share (one-third equity share cap upon accession, 49 percent by 3 years after accession).

-- Establish securities operation as a joint venture with a minority (up to or equal to 33.33%) equity share for foreign investors to underwrite A, B, and H shares and corporate and government debt and trade all these securities except A shares by 3 years after accession (including new products).

-- (Cross border) Trading in B shares (without Chinese intermediary) upon accession

Other Financial Services

-- (Both cross border and via commercial presence) Provision of financial information, data processing and advisory services (such as portfolio research and corporate restructuring) upon accession.

Licenses

China has agreed to condition issuance of licenses only on prudential grounds. China will allow internal branching and to provide national treatment for all newly permitted activities. Foreign investors in banks, depending on the type of institution being established, may be required to exceed certain asset thresholds.

Equity Restrictions

-- Foreign investors may choose the legal form of establishment without equity restrictions for banking, auto finance, information and advisory services.

-- Asset management and securities operations are subject to equity limitations as listed above.

Geographic Restrictions

-- None for auto finance, securities, asset management, information and advisory services.

-- Geographic restrictions for local currency banking will be lifted for four cities upon accession, for four additional cities each year thereafter, and totally removed five years after accession.

Insurance

China currently allows selected foreign companies to operate in China on a limited basis in two cities. Two U.S. firms have licenses to operate, and two additional licenses for U.S. firms are pending approval by China's regulatory authorities.

Licenses

- China has agreed to grant licenses on a prudential basis, without numerical restrictions or discretionary "economic needs" tests. Companies can obtain a license if they have more than 30 years of experience in a WTO member country; a representative office established in China for two consecutive years; and global assets of more than $5 billion.

Scope of Commitments

Non-life insurance:

- Upon accession, foreign-invested firms can provide master policy and/or large scale commercial risk insurance (i.e., an insurance company headquartered in city X can provide nationwide coverage for a corporation headquartered in city Y or with multiple operations throughout China); insurance for enterprises located abroad, property insurance, related liability insurance and credit insurance for foreign invested companies.

- Within four years from the date of accession, foreign-invested firms can provide the full range of non-life insurance services to both Chinese and foreign clients.

Life Insurance:

- Upon accession, foreign-invested firms can provide individual policies to both foreign and Chinese clients.

- Within four years from the date of accession, foreign-invested firms can provide health insurance to foreign and Chinese clients.

- Within five years, foreign-invested firms can provide group policies, pension, and annuities to both foreign and Chinese clients.

Reinsurance:

- China will permit upon accession the cross-border provision of reinsurance, as well as investment as a branch, joint-venture or wholly-owned subsidiary, without geographic or quantitative limitations.

Brokerage, agency, and third-party liability (auto) insurance: Excluded.

International marine, aviation, transport: Cross-border provision of these services permitted upon accession.

Equity Restrictions

Non-Life Insurance:

- Upon accession, branch and joint-ventures at 51 percent equity share permitted. Wholly-owned subsidiary within two years from date of accession.

Life Insurance:

- Upon accession, joint ventures at 50 percent equity share permitted, which represents current practice.

Geographic Restrictions

Life and Non-life Insurance:

- Shanghai and Guangzhou is opened upon accession. Within two years from the date of accession, companies can establish in Beijing, Chengdu, Dalian, Chongqing, Shenzhen, Fuzhou, Suzhou, Xiamen, Ningbo, Shenyang, Wuhan, and Tianjin. All geographic restrictions will be phased-out within three years of accession, instead of five years as originally negotiated in the spring of 1999.

- Internal branching is permitted consistent with the phase-out of geographic restrictions.

Exceptions:

- Reinsurance, master policy insurance and large-scale commercial risk insurance can be provided nationwide upon accession.

Distribution

China now generally prohibits companies from distributing imported products or providing related distribution services such as repair and maintenance services. In addition to securing the right to trade, obtaining the right to distribute industrial and agricultural products was a top priority of the market access negotiations for the majority of U.S. companies.

Scope of Commitments

- China's distribution offer covers commission agents services, wholesaling, retailing, franchising, sales away from a fixed location, as well as related subordinated activities, such as inventory management or repair and maintenance services. [1]

- In addition, China makes separate commitments related to distribution, such as rental and leasing services, air courier services, freight forwarding, and packing services. These commitments are found elsewhere in China's schedule under the relevant services categories. (For further information, see paper on Services Related to Distribution.)

Equity and Geographic Restrictions

- Unless excepted as noted below, restrictions for all products are phased-out within three years from the date of China's accession to the WTO.

- Specific "benchmark" commitments for wholesaling and commission agents services are as follows:

  – Within one year of accession, foreign service suppliers will be permitted to establish joint ventures.[2]

  -- Within two years from the date of accession, foreign majority equity share is allowed and all geographic and quantitative restrictions are eliminated.

  – Within three years from the date of accession, foreign service suppliers may establish wholly-owned subsidiaries.

- Specific "benchmark" commitments for retailing services are as follows:

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[1] See attachment for complete definition.

[2] This means companies can establish as either an equity joint venture of no more than fifty percent, or as a contractual joint venture, in which the terms of the agreement are decided upon by the parties to the agreement, in accordance with Chinese law.

– Upon accession, foreign service suppliers will be permitted to establish as a joint venture in Zhengzhou and Wuhan.

– Within one year of accession, foreign service suppliers will be permitted to establish no more than two joint ventures in the five Special Economic Zones (Shenzhen, Zhuhai, Shantou, Xiamen, and Hainan) and four cities (Tianjin, Guangzhou, Dalian and Qingdao). Four joint ventures are permitted in Beijing and Shanghai. Two among the four joint ventures established in Beijing may set up branches in Beijing.

-- Within two years from the date of accession, foreign majority equity share is allowed in these joint ventures and geographic restrictions will be further liberalized to include all provincial capitals and Chongqing and Ningbo.

– Within three years from the date of accession, there will be no restrictions on equity, geographic areas or on the number of service suppliers

- Franchising, sales away from a fixed location (both wholesale and retail) and related subordinated activities are permitted without restrictions in three years.

Exceptions

- For retail department stores over 20,000 square meters and chain stores with more than 30 stores, China will only permit minority equity participation in joint ventures.
- China has not agreed to permit foreigners to engage in wholesaling of salt, and wholesaling and retailing of tobacco. Liberalization is delayed for chemical fertilizers, crude and processed petroleum until five years from date of accession.
- For books, magazines and newspapers, China will allow foreigners to engage in wholesale distribution within three years from the date of accession, without restrictions on equity, form of establishment, geographic area or number of enterprises. China will allow foreigners to engage in retailing of these products within five years from the date of accession.

Other Commitments

- Upon accession, foreign companies may distribute their products manufactured in China, including those excepted products noted above. They may also provide the related subordinate services, as defined in Annex 1 of China's services schedule.
- Within one year from the date of accession, foreign-invested companies may distribute all products made in China, other than excepted products, \ as well as imported products.

ANNEX 1

DISTRIBUTION SERVICES

Distribution trade services are comprised of four main sub-sectors:

1) commission agents services,
2) wholesaling,
3) retailing,
4) franchising.

The principal services rendered in each subsector can be characterized as reselling merchandise, accompanied by a variety of related subordinated services, including inventory management; assembly, sorting and grading of bulk lots; breaking bulk lots and redistributing into smaller lots; delivery services; refrigeration, storage, warehousing and garage services; sales promotion, marketing and advertising, installation and after sales services including maintenance and repair and training services. Distribution services are generally covered by CPC 61, 62, 63 and 8929.

COMMISSION AGENTS' SERVICES consist of sales on a fee or contract basis by an agent, broker or auctioneer or other wholesalers of goods/merchandise and related subordinated services;

WHOLESALING consist of the sale of goods/merchandise to retailers to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services;

RETAILING SERVICES consist of the sale of goods/merchandise for personal or household consumption either from a fixed location (e.g., store, kiosk, etc.) or away from a fixed location and related subordinated services;

FRANCHISING SERVICES consist of the sale of the use of a product, trade name or particular business format system in exchange for fees or royalties. Product and trade name franchising involves the use of a trade name in exchange for fees or royalties and may include an obligation for exclusive sale of trade name products. Business format franchising involves the use of an entire business concept in exchange for fees and royalties, and may include the use of a trade name, business plan, and training materials and related subordinated services.

Services Related to Distribution

Maintenance and Repair Services

- China permits foreign service suppliers to provide repair and maintenance services for household consumers goods, motorcycle, auto, office machinery, including computers. (Note: For repair services affiliated with a manufacturer, see China's commitments under Distribution Services.)

- Upon accession, foreigners may establish as joint ventures, and within one year, they may hold a majority equity share. All restrictions will be eliminated within three years from the date of accession.

Rental and Leasing Services

- China covers rental and leasing services for machinery and equipment without operators, personal and household goods, except video tapes.

- Foreigners must hold global assets of $5 million in order to operate in China.

- Upon accession, foreigners may establish as joint ventures, and within one year, they may hold a majority equity share. All restrictions are eliminated within three years from the date of accession.

Advertising Services

- Foreign service suppliers may establish in China as a joint venture. Within two years, foreigners may hold a majority equity share, and within four years, as a wholly-owned subsidiary.

- In order to provide cross-border services, however, foreigners must go through authorized advertising agents in China.

Technical Testing and Analysis, Freight Inspection Services

- Foreign service suppliers which have been engaged in inspection services in their home countries for more than three years and hold $500,000 in registered capital are permitted to establish joint ventures upon accession. Foreign majority ownership is permitted within two years after accession. All restrictions are eliminated within four years.

- "Statutory inspection" services are excluded from freight inspection services commitments.

Packaging Services

- Foreign service suppliers may establish as joint ventures. Within one year of accession, they may hold a majority equity share. All restrictions will be eliminated within three years of accession.

Courier Services

- China covers land-based international courier services and all services related to an international shipment handled by an express carrier.

- Upon accession, foreign service suppliers are permitted to establish as a joint venture. Within one year of accession, they may hold a majority equity share. All restrictions will be eliminated within four years of accession.

Storage and Warehousing Services

- Upon accession, foreign service suppliers are permitted to establish as joint ventures, but cannot hold more than a 49 percent equity share. Within one year of accession, majority equity share is permitted. All restrictions will be eliminated within three years of accession.

Freight Transportation by Rail, and by Road in Trucks or Cars

- Road transport: Upon accession, foreign service suppliers will be able to establish as joint ventures, but cannot hold more than 49 percent equity share. They may hold a majority share within one year of accession. All restrictions will be eliminated within three years of accession.

- Rail transport: Upon accession, foreign service suppliers will be able to establish as joint ventures, but cannot hold more than 49 percent equity share. They may hold a majority share within three years of accession. All restrictions will be eliminated within six years of accession.

Freight Forwarding Agency Services

- In order to establish in China, foreign service providers must have at least three consecutive years experience. The minimum registered capital of a joint venture shall be no less than $1 million and the length of operation shall not exceed 20 years.

- Foreign service suppliers are permitted to establish a joint venture upon accession, with an equity share not to exceed 50 percent. Within one year of accession, they may hold a majority share.

- After one year of operation in China, a joint venture may set up a branch if it adds $120,000 to the original registered capital for each branch established.

- All restrictions will be eliminated within four years after accession.

Telecommunications

Foreigners are currently prohibited from providing telecommunications services in China.

Basic Telecom Agreement

China has agreed to undertake all the obligations contained in the WTO Reference Paper on pro-competitive regulatory principles. China also made commitments in accordance with the Notes for Scheduling Basic Telecom Services (S/GBT/W/REV.1) and Market Access Limitations on Spectrum Availability (S/GBT/W/3).

Value-added and Paging Services [1]

- The subsectors covered are electronic mail, voice mail, on-line information and data base retrieval, electronic data interchange, enhanced/value added facsimile services (including store and forward, store and retrieve), code and protocol conversion, on-line information and data processing (including transaction processing), and paging services.
- 30 percent foreign equity share permitted upon accession in Beijing, Shanghai, Guangzhou.
- 49 percent foreign equity share permitted one year after accession. Locations expanded to Chengdu, Chongqing, Dalian, Fuzhou, Hangzhou, Nanjing, Ningbo, Qingdao, Shenyang, Shenzen, Xiamen, Xian, Taiyuan and Wuhan.
- 50 percent foreign equity share permitted in two years. All geographic restrictions eliminated.

Mobile Voice and Data Services

- The subsectors covered are analogue/digital cellular services and personal communications services.
- 25 percent foreign equity share permitted one year after accession in Shanghai, Guangzhou and Beijing.
- 35 percent foreign equity share permitted three years after accession. Locations expanded to Chengdu, Chongqing, Dalian, Fuzhou, Hangzhou, Nanjing, Ningbo, Qingdao, Shenyang, Shenzen, Xiamen, Xian, Taiyuan and Wuhan.

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[1] Last April China considered permitting foreign equity share of 30 percent upon accession; 49 percent two years after accession, and 51 percent four years after accession. Geographic restrictions were phased-out four years after accession.

- 49 percent foreign equity share permitted five years after accession. All geographic restrictions are eliminated.

Domestic and International Services

- The subsectors covered are domestic and international voice, packet-switched data transmission services, circuit-switched data transmission services, and facsimile services. International closed user groups voice and data services are also included.

- 25 percent foreign equity share permitted three years after accession in Shanghai, Guangzhou and Beijing.

- 35 percent foreign equity share permitted five years after accession. Locations expanded to Chengdu, Chongqing, Dalian, Fuzhou, Hangzhou, Nanjing, Ningbo, Qingdao, Shenyang, Shenzen, Xiamen, Xian, Taiyuan and Wuhan.

- 49 percent foreign equity share permitted six years after accession. All geographic restrictions are eliminated.

Internet and Satellite Services

Internet and satellite services are included, but not explicitly scheduled, following the scheduling convention of most WTO members. Chinese negotiators indicated orally, however, that market access and national treatment for Internet Content Providers will be phased-in under the same timetable and conditions as for value-added and paging services, while Internet Access Providers will be phased-in under the same timetable and conditions as for international and domestic services.

Access to Gateways

A footnote to China's offer explains that all international telecommunications services shall go through gateways established with the approval of China's telecommunications authorities, which will act as an independent regulatory authority in accordance with the principles of paragraph 5 of the Reference Paper.

Other Commitments

- China agrees that further liberalization of telecommunications, including with respect to the level of equity participation permitted, will be discussed in the services negotiations during the trade round initiated in Seattle.

- Periodic, bilateral consultations will be held at the expert level on interconnection and fees, at the request of either the United States or China.

Audiovisual

- For videos, entertainment software, and sound recordings:

  -- No restrictions, except that distribution, rental and leasing services should be provided through joint ventures[1], "without prejudice to China's right to examine the content of audio and video products."

  – This is the same commitment discussed in April.

- For cinema theater services:

  – No restrictions for construction or operation of cinemas, except that foreigners cannot hold more than a 49% equity share.

  – China withdrew its April commitment to allow for "foreign control of the management and operation," and the ability to hold a majority share in three years.

- For motion pictures:

  – China will allow the importation of 20 motion pictures annually for theatrical release on a revenue-sharing basis.

  – China will apply a specific rate of duty for films.

  – This is an improvement from China's April offer.

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[1] China permits two types of joint ventures: equity and contractual joint ventures. For those instances where China specifies joint ventures without an equity limit, we understand this to mean that the terms of the joint venture are decided between the two parties. China agreed to the following explanation of a contractual joint venture:

> "The terms of the contract, concluded in accordance with China's laws, regulations and other measures, establishing a "contractual joint venture" govern matters such as the manner of operation and management of the joint venture as well as the investment or other contributions of the joint venture parties. Equity participation by all parties to the contractual joint venture is not required, but is determined pursuant to the joint venture contract."

Professional Services

Accounting Services

- China has agreed to market access and national treatment for accounting, auditing and bookkeeping services. Foreign accounting firms are permitted to affiliate with Chinese firms and enter into contractual agreements with their affiliated firms in other WTO member countries.

- These firms must be represented by Certified Public Accountants (CPA) licensed by Chinese authorities; however, existing accounting firms are exempted from this requirement.

- CPA licenses will be issued on a national treatment basis. Applicants will be informed of results in writing no later than thirty days after submission of their application.

Management Consulting and Taxation Services

- When China accedes to the WTO, Foreign firms can establish as a profit-making representative office, or joint venture with a majority equity share.

- Five years after accession, foreign firms can establish as a wholly-owned subsidiary.

Legal Services

- Foreign law firms can provide legal services in the form of a profit-making representative office. All geographic and quantitative restrictions will be phased-out within one year of China's accession, which means that foreign firms can open more than one office anywhere in China.

- Foreign firms can give advice on international conventions and practices, and the law of other WTO members in which the lawyer is licensed to practice. While the foreign firm cannot employ Chinese nationals as lawyers for the practice of Chinese law, it can enter into long-term "entrustment" contracts providing for close working relationships with firms practicing Chinese law.

- The chief representative of a foreign law firm must be a partner or equivalent in a law firm from a WTO-member country. All representatives must be a member of the bar in a WTO member country, possess three years experience outside of China, and reside in China no less than six months each year.

Architectural, Engineering, Urban Planning Services

- Foreign firms can establish through majority owned joint ventures, or provide services cross-border in cooperation with Chinese professional organizations.

Computer and Related Services

- China permits foreigners who are certified engineers or who hold a bachelor's degree and have had three years experience in computer services.
- For consultancy services related to hardware installation, data processing and tabulation services, and time-sharing services, foreign service suppliers can operate in China without limitations upon accession. These services can also be provided through cross-border delivery.
- For software implementation services, systems and software consulting services, systems analysis services, systems design services, programming services, systems maintenance services, data processing services, input preparation services, foreign service suppliers can operate in China upon accession through joint ventures. These services can also be provided through cross-border delivery.

Environmental Services

- China's environmental services commitments cover sewage services, solid waste disposal services, cleaning services for exhaust gases, noise abatement services, nature and landscape protection services, and other environmental protection services. However, environmental monitoring and pollution source inspection are excluded.

- Foreign service suppliers may provide environmental consultation services through cross-border delivery, without having to establish in China. All other foreign service suppliers may operate in China through a joint venture.

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P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

1979 BILAT: US-CHINA

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA

The Government of the United States of America and the Government of the People's Republic of China;

Acting in the spirit of the Joint Communique on the Establishment of Diplomatic Relations between the United States of America and the People's Republic of China;

Desiring to enhance friendship between both peoples;

Wishing to develop further economic and trade relations between both countries on the basis of the principles of equality and mutual benefit as well as nondiscriminatory treatement;

Have agreed as follows:

ARTICLE I

1. The Contracting Parties undertake to adopt all appropriate measures to create the most favorable conditions for strengthening, in all aspects, economic and trade relations between the two countries so as to promote the continuous, long-term development of trade between the two countries.

2. In order to strive for a balance in their economic interests, the Contracting Parties shall make every effort to foster the mutual expansion of their reciprocal trade and to contribute, each by its own means, to attaining the harmonious development of such trade.

3. Commercial transactions will be effected on the basis of contracts between firms, companies and corporations, and trading organizations of the two countries. They will be concluded on the basis of customary international trade practice and commercial considerations such as price, quality, delivery and terms of payment.

ARTICLE II

1. With a view to establishing their trade relations on a nondiscriminatory basis, the Contracting Parties shall accord each other most-favored-nation treatment with respect to products originating in or destined for the other Contracting Party, i.e., any advantage, favor, privilege, or immunity they grant t like products originating in or destined for any oth country or region, in all matters regarding:

(A) Customs duties and charges of all kinds a plied to the import, export, re-export or trans of products, including the rules, formaliti and procedures for collection of such duties a charges;

(B) Rules, formalities and procedures concer ing customs clearance, transit, warehousi and transshipment of imported and export products;

(C) Taxes and other internal charges levied d rectly or indirectly on imported or exported produc or services;

(D) All laws, regulations and requirements a fecting all aspects of internal sale, purchase, tran portation, distribution or use of imported product and

(E) Administrative formalities for the issuan of import and export licenses.

2. In the event either Contracting Party appli quantitative restrictions to certain products origin ting in or exported to any third country or region, shall afford to all like products originating in or e ported to the other country treatment which is equ table to that afforded to such third country or regio

3. The Contracting Parties note, and shall take in consideration in the handling of their bilateral trad relations, that, at its current state of economic deve opment, China is a developing country.

4. The principles of Paragraph 1 of this Article wi be applied by the Contracting Parties in the same wa as they are applied under similar circumstances unde any multilateral trade agreement to which either Co tracting Party is a party on the date of entry into forc of this Agreement.

5. The Contracting Parties agree to reciprocate sa isfactorily concessions with regard to trade and se vices, particularly tariff and non-tariff barriers t trade, during the term of this Agreement.

ARTICLE III

For the purpose of promoting economic and trade relations between their two countries, the Contracting Parties agree to:

A. Accord firms, companies and corporations, and trading organizations of the other Party treatment no less favorable than is afforded to any third country or region;

B. Promote visits by personnel, groups and delegations from economic, trade, and industrial circles; encourage commercial exchanges and contacts; and support the holding of fairs, exhibitions and technical seminars in each other's country;

C. Permit and facilitate, subject to their respective laws and regulations and in accordance with physical possibilities, the stationing of representatives, or the establishment of business offices, by firms, companies and corporations, and trading organizations of the other Party in its own territory; and

D. Subject to their respective laws and regulations and physical possibilities, further support trade promotions and improve all conveniences, facilities and related services for the favorable conduct of business activities by firms, companies and corporations, and trading organizations of the two countries, including various facilities in respect of office space and residential housing, telecommunications, visa issuance, internal business travel, customs formalities for entry and re-export of personal effects, office articles and commercial samples, and observance of contracts.

ARTICLE IV

The Contracting Parties affirm that government trade offices contribute importantly to the development of their trade and economic relations. They agree to encourage and support the trade promotion activities of these offices. Each Party undertakes to provide facilities as favorable as possible for the operation of these offices in accordance with their respective physical possibilities.

ARTICLE V

1. Payments for transactions between the United States of America and the People's Republic of China shall either be effected in freely convertible currencies mutually accepted by firms, companies and corporations, and trading organizations of the two countries, or made otherwise in accordance with agreements signed by and between the two parties to the transaction. Neither Contracting Party may impose restrictions on such payments except in time of declared national emergency.

2. The Contracting Parties agree, in accordance with their respective laws, regulations and procedures, to facilitate the availability of official export credits on the most favorable terms appropriate under the circumstances for transactions in support of economic and technological projects and products between firms, companies and corporations, and trading organizations of the two countries. Such credits will be the subject of separate arrangements by the concerned authorities of the two Contracting Parties.

3. Each Contracting Party shall provide, on the basis of most-favored-nation treatment, and subject to its respective laws and regulations, all necessary facilities for financial, currency and banking transactions by nationals, firms, companies and corporations, and trading organizations of the other Contracting Party on terms as favorable as possible. Such facilities shall include all required authorizations for international payments, remittances and transfers, and uniform application of rates of exchange.

4. Each Contracting Party will look with favor towards participation by financial institutions of the other country in appropriate aspects of banking services related to international trade and financial relations. Each Contracting Party will permit those financial institutions of the other country established in its territory to provide such services on a basis no less favorable than that accorded to financial institutions of other countries.

ARTICLE VI

1. Both Contracting Parties in their trade relations recognize the importance of effective protection o patents, trademarks and copyrights.

2. Both Contracting Parties agree that on the basi of reciprocity, legal or natural persons of either Part may apply for registration of trademarks and acquir exclusive rights thereto in the territory of the o Party in accordance with its laws and regulations

3. Both Contracting Parties agree that each Pa shall seek, under its laws and with due regard to i ternational practice, to ensure to legal or natur persons of the other Party protection of patents a trademarks equivalent to the patent and tradem protection correspondingly accorded by the oth Party.

4. Both Contracting Parties shall permit and fac tate enforcement of provisions concerning protect of industrial property in contracts between fir companies and corporations, and trading org izations of their respective countries, and shall vide means, in accordance with their respective la to restrict unfair competition involving unau rized use of such rights.

5. Both Contracting Parties agree that each P shall take appropriate measures, under its laws regulations and with due regard to international p tice, to ensure to legal or natural persons of the o Party protection of copyrights equivalent to the c right protection correspondingly accorded by the o Party.

CARREAU - 1.24.00 10:30 PM

INTERNAL PNTR PAPER

WTO Accession Process

The WTO accession process has two main parts: a bilateral agreement process, and a multilateral negotiation process. The two parts have different purposes, and both must be completed for China to accede. WTO Members negotiate *bilateral* agreements with China covering market access concessions, including concessions on industrial tariffs, agricultural tariffs, agricultural subsidies and services. Once all bilaterals are completed, the best market access provision negotiated by any member concerning a particular product or service will be included in China's accession package. This means that the U.S.-China bilateral deal negotiated last November, as well as all other bilateral deals that China negotiates with other trading partners, will be incorporated into one final accession package. The bilateral deals themselves have no independent legal force, but the best terms from each bilateral deal will be incorporated into China's Schedule of Concessions. The Schedule of Concessions will become part of China's final accession package, and it will be binding on China toward all WTO members.

Members resolve all other issues concerning China's accession on a multilateral basis in the WTO, such as the extent to which China must comply with existing WTO Agreements immediately or after a transition period, as well as any special, additional WTO rules that Members want to apply to China. Examples of such special rules are the treatment of China's state-owned enterprises, a China-specific safeguard against import surges, and language covering a special dumping methodology. The agreement that comes out of the multilateral negotiation process will be set forth in China's Protocol of Accession and an accompanying Working Party Report. The Protocol of Accession is a binding agreement between China and WTO Members, like any of the existing WTO agreements. The Working Party Report provides a more detailed explanation of the terms in the Protocol.

Timing

While the United States, Japan, Korea, Canada, and many other countries have completed their bilateral deals with China, about 20 Working Party members, including the EC, Brazil, and Mexico, have not yet completed their negotiations. The EC is meeting with China in Brussels during the week of January 24. Once the EC deal is done, the remaining bilaterals are expected to be completed quickly, and work can begin in earnest on the multilateral process in Geneva. Optimistically, the Protocol and the Working Party Report could be completed by the end of February, although early spring is more realistic.

Completion of Accession

Step One -- Working Party Consensus. The first step in the multilateral process is for the Working Party on China's Accession to reach a consensus on China's accession package -- the Protocol of Accession, the Working Party Report, and the Schedule of Concessions. The Working Party currently consists of representatives from about 50 WTO members, including the United States. Any WTO member is entitled to become part of the Working Party.