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[DISCUSSION DRAFT]

106TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. LEVIN introduced the following bill; which was referred to the Committee
on _____

A BILL

To establish a framework for relations between the United
States and the People's Republic of China.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “U.S.-China Relations Act of 2000”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

2

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Policy.
- Sec. 4. Definitions.

TITLE I—CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE'S REPUBLIC OF CHINA

- Sec. 101. Establishment of Congressional-Executive Commission on the People's Republic of China.
- Sec. 102. Functions of the Commission.
- Sec. 103. Membership of the Commission.
- Sec. 104. Votes of the Commission.
- Sec. 105. Expenditure of appropriations.
- Sec. 106. Testimony of witnesses, production of evidence; issuance of subpoenas; administration of oaths.
- Sec. 107. Appropriations for the Commission.
- Sec. 108. Staff of the Commission.
- Sec. 109. Printing and binding costs.

TITLE II—MONITORING AND ENFORCEMENT OF THE PEOPLE'S REPUBLIC OF CHINA'S WTO COMMITMENTS

Subtitle A—Review of China's Membership in WTO

- Sec. 201. Review within the WTO.

Subtitle B—Authorization To Promote Compliance With Trade Agreements

- Sec. 211. Findings.
- Sec. 212. Purpose.
- Sec. 213. Authorization of appropriations.

Subtitle C—Relief From Market Disruption to Industries and Diversion of Trade to the United States Market

- Sec. 221. Action to address market disruption.
- Sec. 222. Action in response to trade diversion.
- Sec. 223. Regulations; termination or provision.
- Sec. 224. Amendment to section 123 of the Trade Act of 1974—Compensation Authority.

Subtitle D—Report on Compliance by the People's Republic of China With WTO Obligations

- Sec. 231. Report on compliance.

TITLE III—TRADE AND RULE OF LAW ISSUES

Subtitle A—Task Force on Prohibition of Importation of Products of Forced or Prison Labor

- Sec. 301. Establishment of Task Force.
- Sec. 302. Functions of Task Force.
- Sec. 303. Composition of Task Force.
- Sec. 304. Authorization of appropriations.
- Sec. 305. Reports to Congress.

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Subtitle B—Assistance To Develop Commercial and Labor Rule of Law

- Sec. 311. Establishment of technical assistance and rule of law programs.
- Sec. 312. Administrative authorities.
- Sec. 313. Prohibition relating to human rights abuses.
- Sec. 314. Authorization of appropriations.

TITLE IV—ACCESSION OF TAIWAN TO THE WTO

- Sec. 401. Accession of Taiwan to the WTO.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) In 1980, the United States opened trade re-
4 lations with the People's Republic of China by enter-
5 ing into a bilateral trade agreement, which was ap-
6 proved by joint resolution enacted pursuant to sec-
7 tion 405(c) of the Trade Act of 1974.

8 (2) Since 1980, the President has consistently
9 extended nondiscriminatory treatment to products of
10 the People's Republic of China, pursuant to his au-
11 thority under section 404 of the Trade Act of 1974.

12 (3) Since 1980, the United States has entered
13 into several additional trade-related agreements with
14 the People's Republic of China, including a memo-
15 randum of understanding on market access in 1992,
16 2 agreements on intellectual property rights protec-
17 tion in 1992 and 1995, and an agreement on agri-
18 cultural cooperation in 1999.

19 (4) Trade in goods between the People's Repub-
20 lic of China and the United States totaled almost

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1 \$95,000,000,000 in 1999, compared with approxi-
2 mately \$18,000,000,000 in 1989, representing
3 growth of approximately 428 percent over 10 years.

4 (5) The United States merchandise trade deficit
5 with the People's Republic of China has grown from
6 approximately \$6,000,000,000 in 1989 to over
7 \$68,000,000,000 in 1999, a growth of over 1,000
8 percent.

9 (6) The People's Republic of China currently
10 restricts imports through relatively high tariffs and
11 nontariff barriers, including import licensing, tech-
12 nology transfer, and local content requirements.

13 (7) United States businesses attempting to sell
14 goods to markets in the People's Republic of China
15 have complained of uneven application of tariffs,
16 customs procedures, and other laws, rules, and ad-
17 ministrative measures affecting their ability to sell
18 their products in the Chinese market.

19 (8) On November 15, 1999, the United States
20 and the People's Republic of China concluded a bi-
21 lateral agreement concerning terms of the People's
22 Republic of China's eventual accession to the World
23 Trade Organization.

24 (9) The commitments that the People's Repub-
25 lic of China made in its November 15, 1999, agree-

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1 ment with the United States promise to eliminate or
2 greatly reduce the principal barriers to trade with
3 and investment in the People's Republic of China, if
4 those commitments are effectively enforced.

5 (10) The record of the People's Republic of
6 China in implementing trade-related commitments
7 has been mixed. While the People's Republic of
8 China has generally met the requirements of the
9 1992 market access memorandum of understanding
10 and the 1992 and 1995 agreements on intellectual
11 property rights protection, other measures remain in
12 place or have been put into place which tend to di-
13 minish the benefit to United States businesses,
14 farmers, and workers from the People's Republic of
15 China's implementation of those earlier commit-
16 ments. Notably, administration of tariff-rate quotas
17 and other trade-related laws remains opaque, new
18 local content requirements have proliferated, restric-
19 tions on importation of animal and plant products
20 are not always supported by sound science, and li-
21 censing requirements for importation and distribu-
22 tion of goods remain common.

23 (11) The human rights record of the People's
24 Republic of China is a matter of very serious con-
25 cern to the Congress. The Congress notes that the

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1 Department of State's 1999 Country Reports on
2 Human Rights Practices for the People's Republic
3 of China finds that "[t]he Government's poor human
4 rights record deteriorated markedly throughout the
5 year, as the Government intensified efforts to sup-
6 press dissent, particularly organized dissent."

7 (12) The Congress deplores violations by the
8 Government of the People's Republic of China of
9 basic human and worker rights that are referred to
10 in the Department of State's 1999 Country Reports
11 on Human Rights Practices for the People's Repub-
12 lic of China, including the banning of the Falun
13 Gong spiritual movement, denial in many cases, par-
14 ticularly politically sensitive ones, of effective rep-
15 resentation by counsel and public trials, extrajudicial
16 killings and torture, forced abortion and steriliza-
17 tion, restriction of access to the special autonomous
18 regions of Tibet and Xinjiang, perpetuation of "re-
19 education through labor", and denial of the right of
20 workers to organize labor unions or bargain collec-
21 tively with their employers.

22 **SEC. 3. POLICY.**

23 It is the policy of the United States—

24 (1) to develop trade relations that broaden the
25 benefits of trade, and lead to a leveling up, rather

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1 than a leveling down, of labor, environmental, and
2 other standards across national borders;

3 (2) to pursue effective enforcement of trade-re-
4 lated and other international commitments by for-
5 eign governments through enforcement mechanisms
6 of international organizations and through the appli-
7 cation of United States law as appropriate;

8 (3) to encourage foreign governments to con-
9 duct both commercial and noncommercial affairs ac-
10 cording to the rule of law developed through demo-
11 cratic processes;

12 (4) to encourage the Government of the Peo-
13 ple's Republic of China to afford its workers inter-
14 nationally recognized worker rights;

15 (5) to encourage the Government of the Peo-
16 ple's Republic of China to protect the human rights
17 of people within the territory of the People's Repub-
18 lic of China, and to take steps toward protecting
19 such rights, including, but not limited to—

20 (A) ratifying the International Covenant
21 on Civil and Political Rights;

22 (B) protecting the right to liberty of move-
23 ment and freedom to choose a residence within
24 the People's Republic of China (including the
25 special autonomous regions of Tibet and

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1 Xinjiang) and the right to leave from and re-
2 turn to the People's Republic of China; and "

3 (C) affording a criminal defendant—

4 (i) the right to be tried in his or her
5 presence, and to defend himself or herself
6 in person or through legal assistance of his
7 or her own choosing;

8 (ii) the right to be informed, if he or
9 she does not have legal assistance, of the
10 right set forth in clause (i);

11 (iii) the right to have legal assistance
12 assigned to him or her in any case in
13 which the interests of justice so require
14 and without payment by him or her in any
15 such case if he or she does not have suffi-
16 cient means to pay for it;

17 (iv) the right to a fair and public
18 hearing by a competent, independent, and
19 impartial tribunal established by the law;

20 (v) the right to be presumed innocent
21 until proved guilty according to law; and

22 (vi) the right to be tried without
23 undue delay; and

24 (6) to highlight in the United Nations Human
25 Rights Commission and in other appropriate fora

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1 violations of human rights by foreign governments
2 and to seek the support of other governments in
3 urging improvements in human rights and labor
4 rights practices.

5 **SEC. 4. DEFINITIONS.**

6 In this Act:

7 (1) DISPUTE SETTLEMENT UNDERSTANDING.—

8 The term “Dispute Settlement Understanding”
9 means the Understanding on Rules and Procedures
10 Governing the Settlement of Disputes referred to in
11 section 101(d)(16) of the Uruguay Round Agree-
12 ments Act (19 U.S.C. 3511(16)).

13 (2) GOVERNMENT OF THE PEOPLE’S REPUBLIC
14 OF CHINA.—The term “Government of the People’s
15 Republic of China” means the central Government
16 of the People’s Republic of China and any other gov-
17 ernmental entity, including any provincial, prefec-
18 tural, or local entity and any enterprise that is con-
19 trolled by the central Government or any such gov-
20 ernmental entity or as to which the central Govern-
21 ment or any such governmental entity is entitled to
22 receive a majority of the profits.

23 (3) INTERNATIONALLY RECOGNIZED WORKER
24 RIGHTS.—The term “internationally recognized
25 worker rights” has the meaning given that term in

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1 section 507(4) of the Trade Act of 1974 (19 U.S.C.
2 2467(4)) and includes the right to the elimination of
3 the “worst forms of child labor”, as defined in Arti-
4 cle 2 of International Labor Organization Rec-
5 ommendation 190, which accompanies International
6 Labor Organization Convention Number 182.

7 (4) TRADE REPRESENTATIVE.—The term
8 “Trade Representative” means the United States
9 Trade Representative.

10 (5) WTO; WORLD TRADE ORGANIZATION.—The
11 terms “WTO” and “World Trade Organization”
12 mean the organization established pursuant to the
13 WTO Agreement.

14 (6) WTO AGREEMENT.—The term “WTO
15 Agreement” means the Agreement Establishing the
16 World Trade Organization entered into on April 15,
17 1994.

18 (7) WTO MEMBER.—The term “WTO mem-
19 ber” has the meaning given that term in section
20 2(10) of the Uruguay Round Agreements Act (19
21 U.S.C. 3501(10)).

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1 **TITLE I—CONGRESSIONAL-EXEC-**
2 **UTIVE COMMISSION ON THE**
3 **PEOPLE’S REPUBLIC OF**
4 **CHINA**

5 **SEC. 101. ESTABLISHMENT OF CONGRESSIONAL-EXECU-**
6 **TIVE COMMISSION ON THE PEOPLE’S REPUB-**
7 **LIC OF CHINA.**

8 There is established a Congressional-Executive Com-
9 mission on the People’s Republic of China (in this title
10 referred to as the “Commission”).

11 **SEC. 102. FUNCTIONS OF THE COMMISSION.**

12 (a) **MONITORING COMPLIANCE WITH HUMAN**
13 **RIGHTS.**—The Commission shall monitor the acts of the
14 People’s Republic of China which reflect compliance with
15 or violation of human rights, in particular, those contained
16 in the International Covenant on Civil and Political
17 Rights, including, but not limited to, effectively
18 affording—

19 (1) the right to engage in free expression (in-
20 cluding free religious expression) without fear of any
21 prior restraints;

22 (2) the right to peaceful assembly without re-
23 strictions, in accordance with international law;

24 (3) the right to liberty of movement and free-
25 dom to choose a residence, within the People’s Re-

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1 public of China (including the special autonomous
2 regions of Tibet and Xinjiang) and the right to leave
3 from and return to the People's Republic of China;

4 (4) the right of a criminal defendant—

5 (A) to be tried in his or her presence, and
6 to defend himself or herself in person or
7 through legal assistance of his or her own
8 choosing;

9 (B) to be informed, if he or she does not
10 have legal assistance, of the right set forth in
11 subparagraph (A);

12 (C) to have legal assistance assigned to
13 him or her in any case in which the interests
14 of justice so require and without payment by
15 him or her in any such case if he or she does
16 not have sufficient means to pay for it;

17 (D) to a fair and public hearing by a com-
18 petent, independent, and impartial tribunal es-
19 tablished by the law;

20 (E) to be presumed innocent until proved
21 guilty according to law; and

22 (F) to be tried without undue delay; and

23 (5) the right to be free from compulsory labor;

24 (6) the right to be free from the worst forms
25 of child labor;

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1 (7) the right to be free from torture and other
2 forms of cruel or unusual punishment; and

3 (8) the right to a physical environment that
4 does not harm or threaten to harm the health or
5 safety of human, animal, or plant life.

enforced

6 (b) MONITORING STATUS OF INTERNATIONALLY
7 RECOGNIZED WORKER RIGHTS.—The Commission shall
8 monitor the status of internationally recognized worker
9 rights in the People's Republic of China.

10 (c) VICTIMS LISTS.—The Commission shall compile
11 and maintain lists of persons believed to be imprisoned,
12 detained, or placed under house arrest, tortured, or other-
13 wise persecuted by the Government of the People's Repub-
14 lic of China due to their pursuit of the rights described
15 in subsection (a) or (b). In compiling such lists, the Com-
16 mission shall exercise appropriate discretion, including
17 concerns regarding the safety and security of, and benefit
18 to, the persons who may be included on the lists.

19 (d) MONITORING DEVELOPMENT OF RULE OF
20 LAW.—The Commission shall monitor the development of
21 the rule of law in the People's Republic of China, includ-
22 ing, but not limited to—

23 (1) progress toward the development of institu-
24 tions of democratic governance;

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1 (2) processes by which statutes, regulations,
2 rules, and other legal acts of the Government of the
3 People's Republic of China are developed and be-
4 come binding within the People's Republic of China;

5 (3) the extent to which statutes, regulations,
6 rules, administrative and judicial decisions, and
7 other legal acts of the Government of the People's
8 Republic of China are published and are made acces-
9 sible to the public;

10 (4) the extent to which administrative and judi-
11 cial decisions are supported by statements of reasons
12 that are based upon written statutes, regulations,
13 rules and other legal acts of the Government of the
14 People's Republic of China;

15 (5) the extent to which laws of the of the Peo-
16 ple's Republic of China are applied to non-citizens in
17 a manner different from or the same as the manner
18 in which they are applied to citizens; and

indiv + treated
equal
regard to their
citizenship

19 (6) the extent to which administrative and judi-
20 cial decisions are independent of ^{political} Party or govern-
21 mental interference and are reviewed by entities of
22 appellate jurisdiction.

23 (e) BILATERAL COOPERATION.—The Commission
24 shall monitor and encourage the development of programs
25 and activities of the United States Government and pri-

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1 vate organizations with a view toward increasing the inter-
2 change of people and ideas between the United States and
3 the People's Republic of China and expanding cooperation
4 in areas that include, but are not limited to—

5 (1) developing the rule of law in the People's
6 Republic of China;

7 (2) increasing enforcement of internationally
8 recognized worker rights; and

9 (3) increasing enforcement of human rights de-
10 scribed in subsection (a).

11 (f) CONTACTS WITH NONGOVERNMENTAL ORGANI-
12 ZATIONS.—In performing the functions described in sub-
13 sections (a) through (e), the Commission shall, as appro-
14 priate, seek out and maintain contacts with nongovern-
15 mental organizations, including receiving reports and up-
16 dates from such organizations and evaluating such re-
17 ports.

18 (g) ANNUAL REPORTS.—The Commission shall issue
19 a report to the President and the Congress not later than
20 12 months after the date of the enactment of this Act,
21 and not later than the end of each 12-month period there-
22 after, setting forth the findings of the Commission during
23 the preceding 12-month period, in carrying out sub-
24 sections (a) through (d). The Commission's report may

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1 contain recommendations for legislative or executive ac-
2 tion.

3 (h) SUPPLEMENTAL REPORTS.—The Commission
4 may submit to the President and the Congress reports
5 that supplement the reports described in subsection (g),
6 as appropriate, in carrying out subsections (a) through
7 (d).

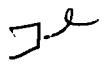
8 (i) INFORMATION TO CONGRESS.—The Commission
9 shall, upon request, provide information to Members of the
10 House of Representatives and Senate.

11 **SEC. 103. MEMBERSHIP OF THE COMMISSION.**

12 (a) SELECTION AND APPOINTMENT OF MEMBERS.—
13 The Commission shall be composed of 23 members as fol-
14 lows:

15 (1) Nine Members of the House of Representa-
16 tives appointed by the Speaker of the House of Rep-
17 resentatives. Five members shall be selected from
18 the majority party and four members shall be se-
19 lected, after consultation with the minority leader of
20 the House, from the minority party.

21 (2) Nine Members of the Senate appointed by
22 the President of the Senate. Five members shall be
23 selected, after consultation with the majority leader
24 of the Senate, from the majority party, and four
25 members shall be selected, after consultation with



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1 the minority leader of the Senate, from the minority
2 party.

3 (3) One representative of the Department of
4 State, appointed by the President of the United
5 States from among officers and employees of that
6 Department.

7 (4) One representative of the Department of
8 Commerce, appointed by the President of the United
9 States from among officers and employees of that
10 Department.

11 (5) One representative of the Department of
12 Labor, appointed by the President of the United
13 States from among officers and employees of that
14 Department.

15 (6) Two at-large representatives, appointed by
16 the President of the United States from among the
17 officers and employees of the executive branch.

18 (b) CHAIRMAN AND COCHAIRMAN.—

19 (1) DESIGNATION OF CHAIRMAN.—At the be-
20 ginning of each odd-numbered Congress, the Presi-
21 dent of the Senate, on the recommendation of the
22 majority leader, shall designate one of the members
23 of the Commission from the Senate as Chairman of
24 the Commission. At the beginning of each even-num-
25 bered Congress, the Speaker of the House of Rep-

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1 representatives shall designate one of the members of
2 the Commission from the House as Chairman of the
3 Commission.

4 (2) DESIGNATION OF COCHAIRMAN.—At the be-
5 ginning of each odd-numbered Congress, the Speak-
6 er of the House of Representatives shall designate
7 one of the members of the Commission from the
8 House as Cochairman of the Commission. At the be-
9 ginning of each even-numbered Congress, the Presi-
10 dent of the Senate, on the recommendation of the
11 majority leader, shall designate one of the members
12 of the Commission from the Senate as Cochairman
13 of the Commission.

14 **SEC. 104. VOTES OF THE COMMISSION.**

15 Decisions of the Commission, including adoption of
16 reports and recommendations to the executive branch or
17 to the Congress, shall be made by a majority vote of the
18 members of the Commission present and voting. Two-
19 thirds of the Members of the Commission shall constitute
20 a quorum for purposes of conducting business.

21 **SEC. 105. EXPENDITURE OF APPROPRIATIONS.**

22 For each fiscal year for which an appropriation is
23 made to the Commission, the Commission shall issue a
24 report to the Congress on its expenditures under that ap-
25 propriation.

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1 **SEC. 106. TESTIMONY OF WITNESSES, PRODUCTION OF EVI-**
2 **DENCE; ISSUANCE OF SUBPOENAS; ADMINIS-**
3 **TRATION OF OATHS.**

4 In carrying out this title, the Commission may re-
5 quire, by subpoena or otherwise, the attendance and testi-
6 mony of such witnesses and the production of such books,
7 records, correspondence, memoranda, papers, documents,
8 and electronically recorded data as it considers necessary.
9 Subpoenas may be issued over the signature of the Chair-
10 man of the Commission or any member designated by the
11 Chairman, and may be served by any person designated
12 by the Chairman or such member. The Chairman of the
13 Commission, or any member designated by the Chairman,
14 may administer oaths to any witness.

15 **SEC. 107. APPROPRIATIONS FOR THE COMMISSION.**

16 (a) AUTHORIZATION; DISBURSEMENTS.—

17 (1) AUTHORIZATION.—There are authorized to
18 be appropriated to the Commission for fiscal year
19 2001, and each fiscal year thereafter, such sums as
20 may be necessary to enable it to carry out its func-
21 tions. Appropriations to the Commission are author-
22 ized to remain available until expended.

23 (2) DISBURSEMENTS.—Appropriations to the
24 Commission shall be disbursed on vouchers
25 approved—

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1 (A) jointly by the Chairman and the Co-
2 chairman; or

3 (B) by a majority of the members of the
4 personnel and administration committee estab-
5 lished pursuant to section 108.

6 (b) FOREIGN TRAVEL FOR OFFICIAL PURPOSES.—
7 Foreign travel for official purposes by members and staff
8 of the Commission may be authorized by either the Chair-
9 man or the Cochairman.

10 **SEC. 108. STAFF OF THE COMMISSION.**

11 (a) PERSONNEL AND ADMINISTRATION COM-
12 MITTEE.—The Commission shall have a personnel and ad-
13 ministration committee composed of the Chairman, the
14 Cochairman, the senior member of the Commission from
15 the minority party of the House of Representatives, and
16 the senior member of the Commission from the minority
17 party of the Senate.

18 (b) COMMITTEE FUNCTIONS.—All decisions per-
19 taining to the hiring, firing, and fixing of pay of personnel
20 of the Commission shall be by a majority vote of the per-
21 sonnel and administration committee, except that—

22 (1) the Chairman shall be entitled to appoint
23 and fix the pay of the staff director, and the Co-
24 chairman shall be entitled to appoint and fix the pay
25 of the Cochairman's senior staff member; and

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1 (2) the Chairman and Cochairman shall each
2 have the authority to appoint, with the approval of
3 the personnel and administration committee, at least
4 4 professional staff members who shall be respon-
5 sible to the Chairman or the Cochairman (as the
6 case may be) who appointed them.

7 Subject to subsection (d), the personnel and administra-
8 tion committee may appoint and fix the pay of such other
9 personnel as it considers desirable.

10 (c) STAFF APPOINTMENTS.—All staff appointments
11 shall be made without regard to the provisions of title 5,
12 United States Code, governing appointments in the com-
13 petitive service, and without regard to the provisions of
14 chapter 51 and subchapter III of chapter 53 of such title
15 relating to classification and general schedule pay rates.

16 (d) QUALIFICATIONS OF PROFESSIONAL STAFF.—
17 The personnel and administration committee shall ensure
18 that the professional staff of the Commission consists of
19 persons with expertise in areas including human rights,
20 internationally recognized worker rights, international eco-
21 nomics, law (including international law), Chinese politics,
22 economy and culture, and Chinese language.

23 (e) COMMISSION EMPLOYEES AS CONGRESSIONAL
24 EMPLOYEES.—

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1 (1) IN GENERAL.—For purposes of pay and
2 other employment benefits, rights, and privileges,
3 and for all other purposes, any employee of the
4 Commission shall be considered to be a congressional
5 employee as defined in section 2107 of title 5,
6 United States Code.

7 (2) COMPETITIVE STATUS.—For purposes of
8 section 3304(c)(1) of title 5, United States Code,
9 employees of the Commission shall be considered as
10 if they are in positions in which they are paid by the
11 Secretary of the Senate or the Clerk of the House
12 of Representatives.

13 **SEC. 109. PRINTING AND BINDING COSTS.**

14 For purposes of costs relating to printing and bind-
15 ing, including the costs of personnel detailed from the
16 Government Printing Office, the Commission shall be
17 deemed to be a committee of the Congress.

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1 **TITLE II—MONITORING AND EN-**
2 **FORCEMENT OF THE PEO-**
3 **PLE'S REPUBLIC OF CHINA'S**
4 **WTO COMMITMENTS**

5 **Subtitle A—Review of China's**
6 **Membership in WTO**

7 **SEC. 201. REVIEW WITHIN THE WTO.**

8 The United States Trade Representative shall seek
9 within the World Trade Organization an annual review of
10 the compliance by the People's Republic of China's with
11 its terms of accession to the WTO.

*[should] be by US -
to implement
draft of MC
to WTO to inform
WTO review*

12 **Subtitle B—Authorization To Pro-**
13 **mote Compliance With Trade**
14 **Agreements**

15 **SEC. 211. FINDINGS.**

16 The Congress finds as follows:

17 (1) The opening of world markets through the
18 elimination of tariff and nontariff barriers has con-
19 tributed to a 56-percent increase in exports of
20 United States goods and services since 1992.

21 (2) Such export expansion has helped fuel the
22 longest economic expansion in United States history.

23 (3) The United States Government must con-
24 tinue to be vigilant in monitoring and enforcing the
25 compliance by our trading partners with trade agree-

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1 ments in order for United States businesses, work-
2 ers, and farmers to continue to benefit from the op-
3 portunities created by market-opening trade agree-
4 ments.

5 (4) The People's Republic of China, as part of
6 its accession to the World Trade Organization, has
7 committed to eliminating significant trade barriers
8 in the agricultural, services, and manufacturing sec-
9 tors that, if realized, would provide considerable op-
10 portunities for United States farmers, businesses,
11 and workers.

12 (5) For these opportunities to be fully realized,
13 the United States Government must effectively mon-
14 itor and enforce its rights under the agreements on
15 the accession of the People's Republic of China to
16 the WTO.

17 **SEC. 212. PURPOSE.**

18 The purpose of this subtitle is to authorize additional
19 resources for the agencies and departments engaged in
20 monitoring and enforcement of United States trade agree-
21 ments and trade laws.

22 **SEC. 213. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) DEPARTMENT OF COMMERCE.—There is author-
24 ized to be appropriated to the Department of Commerce,
25 in addition to amounts otherwise available for such pur-

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1 poses, such sums as may be necessary for fiscal year 2001,
2 and each fiscal year thereafter, for additional staff for—

3 (1) activities involving the WTO, including
4 monitoring compliance by the People's Republic of
5 China with its commitments under the WTO, assist-
6 ing United States negotiators with ongoing negotia-
7 tions in the WTO, and defending United States anti-
8 dumping and countervailing duty measures;

9 (2) enforcement of United States trade laws, in-
10 cluding conducting monitoring for potential import
11 surges, subsidy monitoring, and prompt antidumping
12 and countervailing duty investigations under title
13 VII of the Tariff Act of 1930 with respect to prod-
14 ucts of the People's Republic of China; and

15 (3) a Trade Law Technical Assistance Center
16 to assist small- and medium-sized businesses, work-
17 ers, and unions in evaluating potential remedies
18 available under the trade laws of the United States.

19 (b) OVERSEAS COMPLIANCE PROGRAM.—

20 (1) AUTHORIZATION OF APPROPRIATION.—

21 There are authorized to be appropriated to the De-
22 partment of Commerce and the Department of
23 State, in addition to amounts otherwise available,
24 such sums as may be necessary for fiscal year 2001,
25 and each fiscal year thereafter, to provide staff for

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1 monitoring in the People's Republic of China that
 2 country's compliance with its international trade ob-
 3 ligations and to support the enforcement of the
 4 trade laws of the United States, as part of an Over-
 5 seas Compliance Program. The function of the Over-
 6 seas Compliance Program shall be to monitor^s abroad
 7 compliance by the trading partners of the United
 8 States with international trade obligations and to
 9 support^s the enforcement of United States trade
 10 laws.

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11 (2) REPORTING.—The annual report on compli-
 12 ance by the People's Republic of China submitted to
 13 the Congress under section 231 of this Act shall in-
 14 clude the findings of the Overseas Compliance Pro-
 15 gram with respect to the People's Republic of China.

16 (c) USTR.—There are authorized to be appropriated
 17 to the Office of the United States Trade Representative,
 18 in addition to amounts otherwise available for such pur-
 19 poses, such sums as may be necessary for fiscal year 2001,
 20 and each fiscal year thereafter, for additional staff in—

21 (1) the Office of ~~General~~ Counsel, the Moni-
 22 toring and Enforcement Unit, and the Office of the
 23 Deputy United States Trade Representative in Ge-
 24 neva, Switzerland, to investigate, prosecute, and de-
 25 fend cases before the WTO, and to administer

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1 United States trade laws, including title III of the
2 Trade Act of 1974 (19 U.S.C. 2411, et seq.) and
3 other trade laws relating to intellectual property,
4 government procurement, and telecommunications,
5 with respect to the People's Republic of China;

6 (2) the Office of Economic Affairs, to analyze
7 the impact on the economy of the United States, in-
8 cluding United States exports, of acts of the Govern-
9 ment of the People's Republic of China affecting ac-
10 cess to markets in the People's Republic of China
11 and to support the Office of the General Counsel in
12 presenting cases to the WTO involving the People's
13 Republic of China;

14 (3) the geographic office for the People's Re-
15 public of China; and

16 (4) offices relating to the WTO and to different
17 sectors of the economy, including agriculture, indus-
18 try, services, and intellectual property rights protec-
19 tion, to monitor and enforce the trade agreement ob-
20 ligations of the People's Republic of China in those
21 sectors.

22 (d) DEPARTMENT OF AGRICULTURE.—There are au-
23 thorized to be appropriated to the Department of Agri-
24 culture, in addition to amounts otherwise available for
25 such purposes, such sums as may be necessary for fiscal

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1 year 2001, and each fiscal year thereafter, for additional
2 staff to increase legal and technical expertise in areas cov-
3 ered by trade agreements and United States trade law,
4 including food safety and biotechnology, for purposes of
5 monitoring compliance by the People's Republic of China
6 with its trade agreement obligations.

7 **Subtitle C—Relief From Market**
8 **Disruption to Industries and Di-**
9 **version of Trade to the United**
10 **States Market**

11 **SEC. 221. ACTION TO ADDRESS MARKET DISRUPTION.**

12 (a) **PRESIDENTIAL ACTION.**—If a product of the Peo-
13 ple's Republic of China is being imported into the United
14 States in such increased quantities or under such condi-
15 tions as to cause or threaten to cause market disruption
16 to the domestic producers of a like or directly competitive
17 product, the President shall, in accordance with the provi-
18 sions of this section, proclaim increased duties or other
19 import restrictions with respect to such product, to the
20 extent and for such period as the President considers nec-
21 essary to prevent or remedy the market disruption.

22 (b) **INITIATION OF AN INVESTIGATION.**—(1) Upon
23 the filing of a petition by an entity described in section
24 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)),
25 upon the request of the President or the United States

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1 Trade Representative (in this subtitle referred to as the
2 "Trade Representative"), upon resolution of either the
3 Committee on Ways and Means of the House of Rep-
4 resentatives, or the Committee on Finance of the Senate
5 (in this subtitle referred to as the "Committees") or on
6 its own motion, the United States International Trade
7 Commission (in this subtitle referred to as the "Commis-
8 sion") shall promptly make an investigation to determine
9 whether products of the People's Republic of China are
10 being imported into the United States in such increased
11 quantities or under such conditions as to cause or threaten
12 to cause market disruption to the domestic producers of
13 like or directly competitive products.

14 (2) The limitations on investigations set forth in sec-
15 tion 202(h)(1) of the Trade Act of 1974 (19 U.S.C.
16 2252(h)(1)) shall apply to investigations conducted under
17 this section.

18 (3) The provisions of subsections (a)(8) and (i) of the
19 Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relat-
20 ing to treatment of confidential business information, shall
21 apply to investigations conducted under this section.

22 (4) Whenever a petition is filed, or a request or reso-
23 lution is received, under this subsection, the Commission
24 shall transmit a copy thereof to the President, the Trade
25 Representative, the Committee on Ways and Means of the

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1 House of Representatives, and the Committee of Finance
2 of the Senate, except that in the case of confidential busi-
3 ness information, the copy may include only nonconfiden-
4 tial summaries of such information.

5 (5) The Commission shall publish notice of the com-
6 mencement of any proceeding under this subsection in the
7 Federal Register and shall, within a reasonable time there-
8 after, hold public hearings at which the Commission shall
9 afford interested parties an opportunity to be present, to
10 present evidence, to respond to the presentations of other
11 parties, and otherwise to be heard.

12 (c) MARKET DISRUPTION.—(1) For purposes of this
13 section, market disruption exists whenever imports of an
14 article like or directly competitive with an article produced
15 by a domestic industry are increasing rapidly, either abso-
16 lutely or relatively, so as to be a significant cause of mate-
17 rial injury, or threat of material injury, to the domestic
18 industry.

19 (2) For purposes of paragraph (1), the term “signifi-
20 cant cause” refers to a cause which contributes signifi-
21 cantly to the material injury of the domestic industry, but
22 need not be equal to or greater than any other cause.

23 (d) FACTORS IN DETERMINATION.—In determining
24 whether market disruption exists, the Commission shall
25 consider objective factors, including—

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1 (1) the volume of imports of the product which
2 is the subject of the investigation;

3 (2) the effect of imports of such product on
4 prices in the United States for like or directly com-
5 petitive articles; and

6 (3) the effect of such imports of the product on
7 the domestic industry producing like or directly com-
8 petitive articles.

9 The presence or absence of any factor under paragraph
10 (1), (2), or (3) is not necessarily dispositive of whether
11 market disruption exists.

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12 (e) TIME FOR COMMISSION DETERMINATIONS, RE-
13 PORTING.—The Commission shall make and transmit to
14 the President and the Trade Representative its determina-
15 tion under subsection (b)(1) at the earliest practicable
16 time, but in no case later than 60 days (or 90 days in
17 the case of a petition requesting relief under subsection
18 (i)) after the date on which the petition is filed, the re-
19 quest or resolution is received, or the motion is adopted,
20 under subsection (b).

21 (f) RECOMMENDATIONS OF COMMISSION ON PRO-
22 POSED REMEDIES.—If the Commission makes an affirma-
23 tive determination under subsection (b), the Commission
24 shall propose the amount of increase in, or imposition of,
25 any duty or other import restrictions necessary to prevent

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1 or remedy the market disruption. Only those members of
2 the Commission who agreed to the affirmative determina-
3 tion under subsection (b) are eligible to vote on the pro-
4 posed action to prevent or remedy market disruption.

5 (g) REPORT BY COMMISSION.—(1) Not later than 20
6 days after an affirmative determination under subsection
7 (b) is made, the Commission shall submit a report to the
8 President and the Trade Representative.

9 (2) The Commission shall include in the report re-
10 quired under paragraph (1) the following:

11 (A) The determination made under subsection
12 (b) and an explanation of the basis for the deter-
13 mination.

14 (B) If the determination under subsection (b) is
15 affirmative, the recommendations of the Commission
16 on proposed remedies under subsection (f) and an
17 explanation of the basis for each recommendation.

18 (3) The Commission, after submitting a report to the
19 President under paragraph (1), shall promptly make it
20 available to the public (but shall not include confidential
21 business information) and cause a summary thereof to be
22 published in the Federal Register.

23 (h) OPPORTUNITY TO PRESENT VIEWS AND EVI-
24 DENCE ON PROPOSED MEASURE AND RECOMMENDATION
25 TO THE PRESIDENT.—(1) Within 20 days after receipt of

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1 the Commission's report under subsection (g) (or 15 days
2 in the case of affirmative preliminary determinations
3 under subsection (i)(1) with respect to critical cir-
4 cumstances), the Trade Representative shall publish in the
5 Federal Register notice of any measure proposed by the
6 Trade Representative to be taken pursuant to subsection
7 (a) and of the opportunity, including a public hearing, if
8 requested, for importers, exporters, and other interested
9 parties to submit their views and evidence on the appro-
10 priateness of the proposed measure and whether it would
11 be in the public interest.

12 (2) Within 55 days after receipt of the report under
13 subsection (g) (or 40 days in the case of an affirmative
14 determination under subsection (i)(1) with respect to crit-
15 ical circumstances), the Trade Representative, taking into
16 account the views and evidence received under paragraph
17 (1) on the measure proposed by the Trade Representative,
18 shall make a recommendation to the President concerning
19 what action, if any, to take to prevent or remedy the mar-
20 ket disruption.

21 (i) CRITICAL CIRCUMSTANCES.—(1) When a petition
22 filed under subsection (b) alleges that critical cir-
23 cumstances exist and requests that provisional relief be
24 provided under this section, the Commission shall, not
25 later than 45 days after the petition containing the re-

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1 quest is filed, ~~make preliminary determinations~~ of
2 whether—

3 (A) imports of the product which is the subject
4 of the investigation have caused or threatened to
5 cause market disruption; and

6 (B) delay in taking action under this section
7 would cause damage ^{to us} which it would be difficult to
8 repair *and I shd det. affirm, make prelim detn whether*

9 (2) On the date on which the Commission makes its
10 determinations under paragraph (1), the Commission shall
11 transmit a report on the determinations to the President
12 and the Trade Representative, including the reasons for
13 its determinations. If the determinations under paragraph
14 (1) are affirmative, the Commission shall include in its
15 report its recommendations on proposed provisional meas-
16 ures to be taken to prevent or remedy the market disrup-
17 tion. Only those members of the Commission who agreed
18 to the affirmative determination under subsection (b) are
19 eligible to vote on the proposed action to prevent or rem-
20 edy market disruption.

21 (3) If the determinations under paragraph (1) are af-
22 firmative, the Trade Representative shall, within 10 days
23 after receipt of the Commission's report, determine the
24 amount or extent of provisional relief that is necessary to
25 prevent or remedy the market disruption and shall provide

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1 a recommendation to the President on what provisional
2 action, if any, to take.

3 (4)(A) The President shall determine whether to pro-
4 vide provisional relief and proclaim such relief, if any,
5 within 10 days after receipt of the recommendations from
6 the Trade Representative.

7 (B) Such relief may take the form of—

8 (i) the imposition of or increase in any duty;

9 (ii) any modification, or imposition of any quan-
10 titative restriction on the importation of an article
11 into the United States; or

12 (iii) any combination of actions under clauses

13 (i) and (ii).

14 (C) Any provisional action proclaimed by the Presi-
15 dent pursuant to a determination of critical circumstances
16 shall remain in effect not more than 200 days.

17 (D) Provisional relief shall cease to apply upon the
18 effective date of relief proclaimed under subsection (a) or
19 a decision by the President not to provide such relief.

20 (j) AGREEMENTS WITH THE PEOPLE'S REPUBLIC OF
21 CHINA.—(1) The Trade Representative is authorized to
22 enter into agreements for the People's Republic of China
23 to take such action as necessary to prevent or remedy mar-
24 ket disruption, and should seek to conclude such agree-
25 ments before the expiration of the 60-day consultation pe-

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1 riod provided for under the product-specific safeguard pro-
2 vision of the Protocol of Accession of the People's Republic
3 of China to the WTO, which shall commence not later
4 than 5 days after the Trade Representative receives the
5 report provided for in subsection (g)(1).

6 (2) If no agreement is reached with the People's Re-
7 public of China pursuant to consultations under para-
8 graph (1), or if the President determines that an agree-
9 ment reached pursuant to such consultations is not pre-
10 venting or remedying the market disruption at issue, the
11 President shall provide import relief in accordance with
12 subsection (a).

13 (k) STANDARD FOR PRESIDENTIAL ACTION.—(1)
14 Within 15 days after receipt of a recommendation from
15 the Trade Representative under subsection (h) on the ap-
16 propriate action, if any, to take to prevent or remedy the
17 market disruption, the President shall provide import re-
18 lief for such industry pursuant to subsection (a), unless
19 the President determines that provision of such relief is
20 not in the national economic interest of the United States
21 or, in extraordinary cases, that the taking of action pursu-
22 ant to subsection (a) would cause serious harm to the na-
23 tional security of the United States.

24 (2) The President may determine under paragraph
25 (1) that providing import relief is not in the national eco-

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only if the President
H.L.C. finds that the taking
of such action would
have an adverse
impact on
the U.S.
clearly greater
than the
benefits of such
action.

1 nomic interest of the United States ^{delete} [only] if the President
2 finds that the taking of such action would have an adverse
3 impact on the United States economy substantially out of
4 proportion to the benefits of such action, taking into ac-
5 count the impact of not taking such action on the credi-
6 bility of the provisions of this subtitle.

7 (l) PUBLICATION OF DECISION AND REPORTS.—(1)

8 The President's decision, including the reasons therefor
9 and the scope and duration of any action taken, shall be
10 published in the Federal Register.

11 (2) The Commission shall promptly make public any
12 report transmitted under this section, but shall not make
13 public any information which the Commission determines
14 to be confidential, and shall publish notice of such report
15 in the Federal Register.

16 (m) EFFECTIVE DATE OF RELIEF.—Import relief
17 under this section shall take effect not later than 15 days
18 after the President's determination to provide such relief.

19 (n) MODIFICATIONS OF RELIEF.—(1) At any time
20 after the end of the 6-month period beginning on the date
21 on which is the midpoint of the initial period in which re-
22 lief under subsection (m) first takes effect, the President
23 may request that the Commission provide a report on the
24 probable effect of the modification, reduction, or termi-
25 nation of the relief provided on the relevant industry. The

1 Commission shall transmit such report to the President
2 within 60 days of the request.

3 (2) The President may, after receiving a report from
4 the Commission under paragraph (1), take such action to
5 modify, reduce, or terminate relief that the President de-
6 termines is necessary to continue to prevent or remedy the
7 market disruption at issue.

8 **SEC. 222. ACTION IN RESPONSE TO TRADE DIVERSION.**

9 (a) MONITORING BY CUSTOMS SERVICE.—In any
10 case in which a WTO member other than the United
11 States requests consultations with the People's Republic
12 of China under the product-specific safeguard provision of
13 the Protocol of Accession of the People's Republic of
14 China to the World Trade Organization, the Trade Rep-
15 resentative shall inform the United States Customs Serv-
16 ice, which shall monitor imports into the United States
17 of those products of Chinese origin that are the subject
18 of the consultation request. Data from such monitoring
19 shall promptly be made available to the Commission upon
20 request by the Commission.

21 (b) INITIATION OF INVESTIGATION.—(1) Upon the
22 filing of a petition by an entity described in section 202(a)
23 of the Trade Act of 1974, upon the request of the Presi-
24 dent or the Trade Representative, upon resolution of ei-
25 ther of the Committees, or on its own motion, the Commis-

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1 sion shall promptly make an investigation to determine
2 whether an action described in subsection (c) has caused,
3 or threatens to cause, a significant diversion of trade into
4 the domestic market in the United States.

5 (2) The Commission shall publish notice of the com-
6 mencement of any proceeding under this subsection in the
7 Federal Register and shall, within a reasonable time there-
8 after, hold public hearings at which the Commission shall
9 afford interested parties an opportunity to be present, to
10 present evidence, to respond to the presentations of other
11 parties, and otherwise to be heard.

12 (3) The provisions of subsections (a)(8) and (i) of the
13 Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relat-
14 ing to treatment of confidential business information, shall
15 apply to investigations conducted under this section.

16 (c) ACTIONS DESCRIBED.—An action is described in
17 this subsection if it is an action—

18 (1) by the People's Republic of China to pre-
19 vent or remedy market disruption in a WTO mem-
20 ber other than the United States;

21 (2) by a WTO member other than the United
22 States to withdraw concessions under the WTO
23 Agreement or otherwise to limit imports to prevent
24 or remedy market disruption;

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1 (3) by a WTO member other than the United
2 States to apply a provisional safeguard within the
3 meaning of the product-specific safeguard provision
4 of the Protocol of Accession of the People's Republic
5 of China to the WTO; or

6 (4) any combination of actions described in
7 paragraphs (1) through (3).

8 (d) BASIS FOR DETERMINATION OF SIGNIFICANT DI-
9 VERSION.—(1) In determining whether significant diver-
10 sion or the threat thereof exists for purposes of this sec-
11 tion, the Commission shall take into account, to the extent
12 such evidence is reasonably available—

13 (A) the monitoring conducted under subsection
14 (a);

15 (B) the actual or imminent increase in United
16 States market share held by such imports from the
17 People's Republic of China;

18 (C) the actual or imminent increase in volume
19 of such imports;

20 (D) the nature and extent of the action taken
21 or proposed by the WTO member concerned;

22 (E) the extent of exports from the People's Re-
23 public of China to that WTO member and to the
24 United States;

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1 (F) the actual or imminent changes in exports
2 to that other ~~country~~^{member} due to the action taken or pro-
3 posed;

4 (G) the actual or likely diversion of exports to
5 countries other than the United States; and

6 (H) Cyclical or seasonal trends in import vol-
7 umes; and

8 (I) Conditions of demand and supply in the
9 United States market.

10 The presence or absence of any factor under any of sub-
11 paragraphs (A) through (H) is not necessarily dispositive
12 of whether a significant diversion of trade or the threat
13 thereof exists.

14 (2) For purposes of making its determination, the
15 Commission shall examine changes in imports into the
16 United States from the People's Republic of China since
17 the time that the WTO member implemented the action
18 at issue or announced the commencement of the investiga-
19 tion that led to a request for consultations described in
20 subsection (a).

21 (3) If more than 1 action by a WTO member or WTO
22 members against a particular product is identified in the
23 petition, request, or resolution under subsection (b) or
24 during the investigation, the Commission may cumula-
25 tively assess the actual or likely effects of such actions

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1 jointly in determining whether a significant diversion of
2 trade exists.

3 (e) COMMISSION DETERMINATION; AGREEMENT AU-
4 THORITY.—(1) The Commission shall make its determina-
5 tion under subsection (b) at the earliest practicable time,
6 but in no case later than 45 days after the date on which
7 the petition is filed, the request or resolution is received,
8 or the motion is adopted, under subsection (b).

9 (2) The Trade Representative is authorized to enter
10 into agreements for the People's Republic of China to take
11 such action as necessary to prevent or remedy significant
12 trade diversion into the domestic market in the United
13 States, and should seek to conclude such agreements be-
14 fore the expiration of the 60-day consultation period pro-
15 vided for under the product-specific safeguard provision
16 of China's Protocol of Accession to the WTO, which shall
17 commence not later than 5 days after the Trade Rep-
18 resentative receives the report provided for in paragraph
19 (1).

20 (3) REPORT BY COMMISSION.—

21 (A) Not later than 10 days after an affirmative
22 determination under subsection (b) is made, the
23 Commission shall submit a report to the President
24 and the Trade Representative.

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1 (B) The Commission shall include in the report
2 required under subparagraph (A) the following:

3 (i) The determination made under sub-
4 section (b) and an explanation of the basis for
5 the determination.

6 (ii) If the determination under subsection
7 (b) is affirmative, the recommendations of the
8 Commission on increased tariffs or other import
9 restrictions to be imposed to prevent or remedy
10 the trade diversion or threat thereof, and expla-
11 nations of the bases for such recommendations.
12 Only those members of the Commission who
13 agreed to the affirmative determination under
14 subsection (b) are eligible to vote on the pro-
15 posed action to prevent or remedy market dis-
16 ruption. Members of the Commission who did
17 not agree to the affirmative determination may
18 submit, in the report required under subpara-
19 graph (A), separate views regarding what ac-
20 tion, if any, should be taken.

21 (iii) Any dissenting or separate view by
22 members of the Commission regarding the de-
23 termination and any recommendation referred
24 to in clauses (i) and (ii).

25 (iv) A description of—

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1 (I) the short- and long-term effects
2 that implementation of the action rec-
3 ommended under clause (ii) is likely to
4 have on the petitioning domestic industry,
5 on other domestic industries, and on con-
6 sumers, and

7 (II) the short- and long-term effects
8 of not taking the recommended action on
9 the petitioning domestic industry, its work-
10 ers, and the communities where production
11 facilities of such industry are located, and
12 on other domestic industries.

13 (C) The Commission, after submitting a report
14 to the President under subparagraph (A), shall
15 promptly make it available to the public (with the
16 exception of confidential business information) and
17 cause a summary thereof to be published in the Fed-
18 eral Register.

19 (f) PUBLIC COMMENT.—If consultations fail to lead
20 to an agreement with the People's Republic of China or
21 the WTO member concerned within 60 days, the Trade
22 Representative shall promptly publish notice in the Fed-
23 eral Register of any proposed action to prevent or remedy
24 the trade diversion, and provide an opportunity for inter-

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1 ested persons to present views and evidence on whether
2 the proposed action is in the public interest.

3 (g) RECOMMENDATION TO THE PRESIDENT.—Within
4 20 days after the end of consultations pursuant to sub-
5 section (e), the Trade Representative shall make a rec-
6 ommendation to the President on what action, if any,
7 should be taken to prevent or remedy the trade diversion
8 or threat thereof.

9 (h) PRESIDENTIAL ACTION.—Within 20 days after
10 receipt of the recommendation from the Trade Represent-
11 ative, the President shall determine what action to take
12 to prevent or remedy the trade diversion. In taking such
13 action, the President shall not impose tariffs higher, or
14 quantitative restrictions greater, than those existing dur-
15 ing the 12-month period prior to the WTO member's re-
16 quest for consultations referred to in subsection (a).

17 (i) DURATION OF ACTION.—Action taken under sub-
18 section (h) shall be terminated not later than 30 days after
19 expiration of the action taken by the WTO member or
20 members involved against imports from the People's Re-
21 public of China.

22 (j) REVIEW OF CIRCUMSTANCES.—(1) The Commis-
23 sion shall review the continued need for action taken under
24 subsection (h) if the WTO member or members involved
25 notify the Committee on Safeguards of the WTO of any

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1 modification in the action taken by them against the Peo-
2 ple's Republic of China pursuant to consultation referred
3 to in subsection (a). The Commission shall, not later than
4 60 days after such notification, determine whether a sig-
5 nificant diversion of trade continues to exist and report
6 its determination to the President. The President shall de-
7 termine, within 15 days after receiving the Commission's
8 report, whether to modify, withdraw, or keep in place the
9 action taken under subsection (h).

10 **SEC. 223. REGULATIONS; TERMINATION OF PROVISION.**

11 (a) TO CARRY OUT RESTRICTIONS AND MONI-
12 TORING.—The President shall by regulation provide for
13 the efficient and fair administration of any restriction pro-
14 claimed pursuant to the subtitle and to provide for effec-
15 tive monitoring of imports under section 222(a).

16 (b) TO CARRY OUT AGREEMENTS.—To carry out an
17 agreement concluded pursuant to consultations under sec-
18 tion 221(i) or 222(e)(2), the President is authorized to
19 prescribe regulations governing the entry or withdrawal
20 from warehouse of articles covered by such agreement.

21 (c) TERMINATION DATE.—This subtitle and any reg-
22 ulations issued under this subtitle shall cease to be effec-
23 tive 12 years after the date of entry into force of the Pro-
24 tocol of Accession of the People's Republic of China to
25 the WTO.

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1 **SEC. 224. AMENDMENT TO SECTION 123 OF THE TRADE ACT**
2 **OF 1974—COMPENSATION AUTHORITY.**

3 Section 123(a)(1) of the Trade Act of 1974 (19
4 U.S.C. 2133(a)(1)) is amended by inserting after “title
5 III” the following; “, or under subtitle C of title II of the
6 U.S.-China Relations Act of 2000”.

7 **Subtitle D—Report on Compliance**
8 **by the People’s Republic of**
9 **China With WTO Obligations**

10 **SEC. 231. REPORT ON COMPLIANCE.**

11 (a) **IN GENERAL.**—Not later than 1 year after the
12 entry into force of the Protocol of Accession of the Peo-
13 ple’s Republic of China to the WTO, and annually there-
14 after, the Trade Representative shall submit a report to
15 Congress on compliance by the People’s Republic of China
16 with commitments made in connection with its accession
17 to the World Trade Organization, including both multilat-
18 eral commitments and any bilateral commitments made to
19 the United States.

20 (b) **PUBLIC PARTICIPATION.**—In preparing the re-
21 port described in subsection (a), the Trade Representative
22 shall seek public participation by publishing a notice in
23 the Federal Register and holding a public hearing.

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1 **TITLE III—TRADE AND RULE OF**
2 **LAW ISSUES**
3 **Subtitle A—Task Force on Prohibi-**
4 **tion of Importation of Products**
5 **of Forced or Prison Labor**

6 **SEC. 301. ESTABLISHMENT OF TASK FORCE.**

7 There is hereby established a task force on prohibi-
8 tion of importation of products of forced or prison labor
9 (hereafter in this subtitle referred to as the “Task
10 Force”).

11 **SEC. 302. FUNCTIONS OF TASK FORCE.**

12 The Task Force shall monitor and promote effective
13 enforcement of and compliance with section 307 of the
14 Tariff Act of 1930 by performing the following functions:

15 (1) Coordinate closely with the United States
16 Customs Service to promote maximum effectiveness
17 in the enforcement by the Customs Service of section
18 307 of the Tariff Act of 1930. In order to assure
19 such coordination, the Customs Service shall keep
20 the Task Force informed, on a regular basis, of the
21 progress of its investigations of allegations that
22 goods are being entered into the United States, or
23 that such entry is being attempted, in violation of
24 the prohibition in section 307 of the Tariff Act of
25 1930 (19 U.S.C. 1307) on entry into the United

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1 States of goods mined, produced, or manufactured
2 wholly or in part in any foreign country by convict
3 labor, forced labor, or indentured labor under penal
4 sanctions. Such investigations may include visits to
5 foreign sites where goods allegedly are being mined,
6 produced, or manufactured in a manner that would
7 lead to prohibition of their importation into the
8 United States under section 307 of the Tariff Act of
9 1930.

10 (2) Make recommendations to the Customs
11 Service on seeking agreements with foreign govern-
12 ments to allow Customs officials to visit sites where
13 goods may be mined, produced, or manufactured by
14 convict labor, forced labor, or indentured labor
15 under penal sanctions.

16 (3) Work with the Customs Service to assist
17 foreign governments in monitoring the sale of goods
18 mined, produced, or manufactured by convict labor,
19 forced labor, or indentured labor under penal sanc-
20 tions to ensure that such goods are not exported to
21 the United States.

22 (4) Coordinate closely with the Customs Service
23 to promote maximum effectiveness in the enforce-
24 ment by the Customs Service of section 307 of the
25 Tariff Act of 1930. In order to assure such coordi-

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1 nation, the Customs Service shall keep the Task
2 Force informed, on a regular basis, of the progress
3 of its monitoring of ports of the United States to en-
4 sure that goods mined, produced, or manufactured
5 wholly or in part in any foreign country by convict
6 labor, forced labor, or indentured labor under penal
7 sanctions are not imported into the United States.

8 (5) Advise the Customs Service in performing
9 such other functions, consistent with existing au-
10 thority, to ensure the effective enforcement of sec-
11 tion 307 of the Tariff Act of 1930.

12 **SEC. 303. COMPOSITION OF TASK FORCE.**

13 The Secretary of the Treasury, the Secretary of Com-
14 merce, the Secretary of Labor, the Secretary of State, the
15 Commissioner of Customs, and the heads of other execu-
16 tive branch agencies, as appropriate, acting through their
17 respective designees at or above the level of Deputy Assist-
18 ant Secretary, or in the case of the Customs Service, at
19 or above the level of Assistant Commissioner, shall com-
20 pose the Task Force. The designee of the Secretary of the
21 Treasury shall chair the Task Force.

22 **SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated for fiscal
24 year 2001, and each fiscal year thereafter, such sums as

*(6) provide for same and
all info*

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1 may be necessary for the Task Force to carry out the
2 functions described in section 302.

3 **SEC. 305. REPORTS TO CONGRESS.**

4 (a) FREQUENCY OF REPORTS.—Not later than the
5 date that is one year after the date of the enactment of
6 this Act, and not later than the end of each 1-year period
7 thereafter, the Task Force shall submit to the Congress
8 a report on the work of the Task Force during the pre-
9 ceding 1-year period.

10 (b) CONTENTS OF REPORTS.—Each report under
11 subsection (a) shall set forth, at a minimum—

12 (1) the number of allegations of violations of
13 section 307 of the Tariff Act of 1930 that were in-
14 vestigated during the preceding 1-year period;

15 (2) the number of actual violations of section
16 307 of the Tariff Act of 1930 that were discovered
17 during the preceding 1-year period;

18 (3) in the case of each attempted entry in viola-
19 tion of such section 307 discovered during the pre-
20 ceding 1-year period—

21 (A) the country of origin of the goods in-
22 volved;

23 (B) the identity of the exporter of the
24 goods; and

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1 (C) the identity of the person or persons
2 who attempted to sell the goods for export; and
3 (4) such other information as the Task Force
4 considers useful in monitoring and enforcing compli-
5 ance with section 307 of the Tariff Act of 1930.

6 **Subtitle B—Assistance To Develop**
7 **Commercial and Labor Rule of Law**

8 **SEC. 311. ESTABLISHMENT OF TECHNICAL ASSISTANCE**
9 **AND RULE OF LAW PROGRAMS.**

10 (a) COMMERCE RULE OF LAW PROGRAM.—

11 (1) IN GENERAL.—The Secretary of Commerce,
12 in ^{consultation} consultation with the Secretary of State and the
13 Administrator of the United States Agency for
14 International Development, is authorized to establish
15 a program to conduct rule of law training and tech-
16 nical assistance related to commercial activities in
17 the People's Republic of China.

18 (2) ROLE OF THE SECRETARY OF STATE.—The
19 Secretary of State shall provide foreign policy guid-
20 ance to the Secretary of Commerce to ensure that
21 the program established under paragraph (1) is ef-
22 fectively integrated into the foreign policy of the
23 United States.

24 (b) LABOR RULE OF LAW PROGRAM.—

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1 (1) IN GENERAL.—The Secretary of Labor is
2 authorized to establish, conduct, and support a tech-
3 nical assistance program to assist the People's Re-
4 public of China in implementing and enforcing com-
5 pliance with internationally recognized worker rights.

6 (2) USE OF AMOUNTS.—In carrying out para-
7 graph (1), the Secretary of Labor shall focus on—

8 (A) developing, laws, regulations, and
9 other measures to implement internationally
10 recognized worker rights;

11 (B) establishing national mechanisms for
12 the enforcement of national labor laws and reg-
13 ulations;

14 (C) training government officials concerned
15 with implementation and enforcement of na-
16 tional labor laws and regulations; and

17 (D) developing an educational infrastruc-
18 ture to educate workers about their legal rights
19 and protections under national labor laws and
20 regulations.

21 (3) LIMITATION.—The Secretary of Labor may
22 not provide assistance under the program estab-
23 lished under this subsection to the All-China Federa-
24 tion of Trade Unions.

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1 (4) ROLE OF THE SECRETARY OF STATE.—The
2 Secretary of State shall provide foreign policy guid-
3 ance to the Secretary of Labor to ensure that the
4 program established under this subsection is effec-
5 tively integrated into the foreign policy of the United
6 States.

7 (c) CONDUCT OF PROGRAMS.—The programs author-
8 ized by this section may be used to conduct activities such
9 as seminars and workshops, drafting of commercial and
10 labor codes, legal training, publications, financing the op-
11 erating costs for nongovernmental organizations working
12 in this area, and funding the travel of individuals to the
13 United States and to the People's Republic of China to
14 provide and receive training.

15 **SEC. 312. ADMINISTRATIVE AUTHORITIES.**

16 In carrying out the programs authorized by section
17 311, the Secretary of Commerce and the Secretary of
18 Labor (in consultation with the Secretary of State) may
19 utilize any of the authorities contained in the Foreign As-
20 sistance Act of 1961 and the Foreign Service Act of 1980.

21 **SEC. 313. PROHIBITION RELATING TO HUMAN RIGHTS**
22 **ABUSES.**

23 Amounts made available to carry out this subtitle
24 may not be provided to a component of a ministry or other
25 administrative unit of the national, provincial, or other

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1 local governments of the People's Republic of China, to
2 a nongovernmental organization, or to an official of such
3 governments or organizations, if the President has cred-
4 ible evidence that such component, administrative unit, or-
5 ganization or official has been materially responsible for
6 the commission of human rights violations.

7 **SEC. 314. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) COMMERCIAL LAW PROGRAM.—There are author-
9 ized to be appropriated to the Secretary of Commerce to
10 carry out the program described in section 311(a) such
11 sums as may be necessary for fiscal year 2001, and each
12 fiscal year thereafter.

13 (b) LABOR LAW PROGRAM.—There are authorized to
14 be appropriated to the Secretary of Labor to carry out
15 the program described in section 311(b) such sums as may
16 be necessary for fiscal year 2001, and each fiscal year
17 thereafter.

18 (c) CONSTRUCTION WITH OTHER LAWS.—Except as
19 provided in this Act, funds appropriated pursuant to the
20 authorization of appropriations in this section may be obli-
21 gated or expended notwithstanding any other provision of
22 law.

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1 **TITLE IV—ACCESSION OF**
2 **TAIWAN TO THE WTO**

3 **SEC. 401. ACCESSION OF TAIWAN TO THE WTO.**

4 It is the sense of Congress that—

5 (1) immediately upon approval by the General
6 Council of the WTO of the terms and conditions of
7 the accession of the People's Republic of China to
8 the WTO, the United States representative to the
9 WTO should request that the General Council of the
10 WTO consider Taiwan's accession to the WTO as
11 the next order of business of the Council during the
12 same session; and

13 (2) the United States should be prepared to ag-
14 gressively counter any effort by any WTO member,
15 upon the approval of the General Council of the
16 WTO of the terms and conditions of the accession
17 of the People's Republic of China to the WTO, to
18 block the accession of Taiwan to the WTO.

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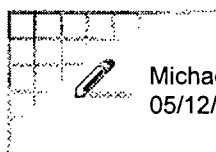


Timothy E. Punke
05/15/2000 08:11:42 AM

Record Type: Record

To: Malcolm R. Lee/OPD/EOP@EOP
cc:
Subject: On use of "There is authorized to be appropriated"

----- Forwarded by Timothy E. Punke/OPD/EOP on 05/15/2000 08:11 AM -----



Michael M. Daum
05/12/2000 07:09:57 PM

Record Type: Record

To: Daniel H. Rosen/OPD/EOP@EOP, Timothy E. Punke/OPD/EOP@EOP
cc:
Subject: On use of "There is authorized to be appropriated"

Dan,

Here is where I am. I contacted a number of people at different agencies and at different offices at OMB. I am not positive I spoke with all of right people. Be carefull in using this infomation. White House leg counsel really needs to jump in.

I get the sense that because the bill cuts across multiple House (and Senate) jurisdictions due to the subject matter, there may be multiple referrals. Multiple referrals would slow things down tremendously except if the plan calls for all Committees to immediately discharge the bills (or whatever the term of art is for not exercising their prerogatives).

"There is authorized to be appropriated" is standard language used to avoid a point of order. I was told by a senior staff person DOC GC leg. counsel that use of the phrase "funds should be appropriated" is not standard and would be vulnerable to a Member calling a point of order. He said we could use "funds should be appropriated" as part of "It is a sense of Congress that..." -- but a sense of Congress is not binding (and not nearly as strong a statement as an authorization).

Places in the Levin draft where the phrase appears and the House Committee I think has jurisdiction over that activity + notes:

Title I

Sec. 107 Establishment of Congressional-Executive Commission on the PRC (Ways & Means?)

Title II

Sec. 213 (a) DOC (1), (2), (3) **(Ways & Means)**

(b) Overseas Compliance Program - DOC **(Ways & Means)** + State **(International Affairs)**

(c) USTR (My understanding is that USTR receives appropriations but has not been authorized in a long time. Its biggest concern is that the language would trigger a referral to the **Ways & Means** committee. You both have the series of e-mail exchanges with Ron Silberman. If you recall, they prefer wording that avoids "authorization".)

(d) USDA **(Agriculture)**

Title III

Subsection A

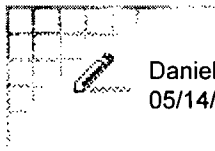
Sec. 304 Task Force on Prohibition of Importation of Products of Forced or Prison Labor - Treasury/Customs? **(Ways & Means)**

Subsection B

Sec. 314 Assistance to Develop Commercial and Labor Rule of Law

(a) Commercial law - DOC **(Commerce? and/or Ways & Means)**

(b) Labor Law- DOL **(Education and the Workforce)**



Daniel L. Cruise
05/14/2000 09:21:41 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: ap on undecided dems

Sunday May 14 11:55 AM ET

Clinton Seeks China Trade Support

By DAVID ESPO, Associated Press Writer

WASHINGTON (AP) - Aboard Air Force One after Cardinal John O'Connor's funeral, President Clinton sat down with Rep. Charles Rangel and other lawmakers and pressed his case for legislation giving permanent normal trade relations to China.

Rangel also received a phone call on the subject last week from Vice President Al Gore (news - web sites) and recalls, "I was doing the listening, too." He met the next day with AFL-CIO President John Sweeney, who is leading organized labor's effort against the measure.

Even so, the 15-term veteran of Congress from New York, a liberal with close ties to labor, says, "I'm undecided what I'm going to do."

The senior Democrat on the tax-writing House Ways and Means Committee and an elder in the Congressional Black Caucus, Rangel is among the most influential of several dozen Democrats who remain uncommitted on the trade bill scheduled for a vote later this month.

As such, he is in the eye of an intense lobbying campaign.

While the White House works with the Republican leadership about GOP votes, it labors on a parallel track with California Reps. Robert Matsui and Cal Dooley to court Democrats.

That effort is complicated by the opposition of the party's top House leaders, although Rep. Richard Gephardt, D-Mo., seems more focused on preventing a fracture within his caucus. "I've seen and heard of no evidence" of Gephardt attempting to sway the rank and file, Dooley said.

Many lawmakers say their vote will be influenced by the fate of companion legislation, drafted by Reps. Sander Levin, D-Mich., and Doug Bereuter, R-Neb., to establish a commission to monitor human rights in China and protect against a surge of imports.

But much of the effort to round up Democrats is more retail than wholesale. Clinton's trip to Ohio on Friday, for example, was strategic: the local Democratic congressman, Rep. Tom

Sawyer, is uncommitted.

Some considerations range afield of China and concern over jobs and human rights.

-Democratic Rep. Bud Cramer of Alabama, sought and got a meeting with Commerce Secretary William Daley to discuss a federal weather station in the tornado-prone area around Huntsville. The facility has been at risk for closing, and Cramer wanted to talk to the man whose department oversees the Weather Service.

-Rep. Mike Thompson, D-Calif., talked with Postmaster General William Henderson and won creation of a new Zip Code - something he has sought for nearly a decade in the state legislature and Congress. In an interview, Thompson said the change is needed to address bureaucratic inefficiencies affecting immigration enforcement and other issues.

"I would like to think that's a completely different issue" than China, he said, although other Democrats say he injected it into trade bill discussions.

-Some undecided Democrats have ambitions that extend beyond the House, in races where labor's clout could matter. These include Rep. Xavier Becerra of California (Los Angeles mayoral hopeful) and Rep. Martin Meehan (a potential candidate for Massachusetts governor.)

-Meehan and two other Massachusetts lawmakers, Ed Markey and Richard Neal, are at the center of a separate drama. The state's most prominent Democrat, Sen. Edward M. Kennedy, is expected to support the bill. Sweeney has asked him to remain silent until after the House votes to avoid making it easier politically for the three House members to vote in favor.

The bill would end a system annual reviews of trade rules with China. Clinton told an audience in Akron, Ohio, on Friday its passage would ease China's entry into the World Trade Organization, tear down barriers to trade and investment with America and "reduce the likelihood of conflict, even war" in Asia for the next 10 years.

The measure is also strongly backed by business, particularly the high tech industry, which sees a vast potential new market.

Opponents argue the Chinese cannot be trusted to abide by the agreements it signs, worry about the loss of jobs overseas, and cite human rights abuses by the Communist government in Beijing.

Vote counters envision a coalition of 150 Republican votes or so and 70 or more Democrats to pass the bill.

The effort to court Rangel includes expediting passage of a separate bill to open U.S. markets to developing countries in the sub-Saharan Africa and the Caribbean. Clinton is to sign the measure on Tuesday, and supporters of the China bill are guardedly hopeful that Rangel will side with them.

For his part, Rangel says Clinton is "as involved emotionally and politically as in anything I've ever seen....It's a legacy thing with him," he added.

As a senior member of the black caucus and possible chairman of a powerful committee, Rangel could well pull other lawmakers off the fence with him.

In addition, other Democrats say his vote will send a message to the business community of

the type of reception they would receive with him at the helm of the Ways and Means Committee.

Rangel has aggressively raised campaign money from business for Democrats this year, part of the effort to gain control of the House.

But enigmatic as ever, he says, "I've raised a lot of labor money, too."

Message Sent To: _____