Case Number: 2010-1024-F

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Folder Title: China PNTR - Levin-Bereuter Discussions [11]				
Staff Office-Individual: National Economic Council-Lee, Malcolm				
Original OA/ID Number: CF 1177				
Row: 23	Section: 5	Shelf: 6	Position: 1	Stack: V

TALKING POINTS FOR MONDAY 8, 2000
CHINA TRADE WORKING GROUP

On Tuesday's Distinguished Americans event:

- The President will host a China PNTR event on Tuesday morning at the White House. This event will include former Presidents, former executive branch officials, current cabinet officials, current and former legislators, governors and mayors, Nobel laureates and academics, business leaders and religious leaders.

- Senior officials from every administration since President Kennedy will be present on Tuesday.

- This event is an opportunity to elevate the debate over PNTR just two weeks before the vote. This vote is historically significant and could fundamentally change not only our relationship with China, but China itself.

- The passage of PNTR represents the most significant step in our relationship with China since President Nixon first went to China nearly three decades ago.

- This is one of a handful of Congressional votes that may change the course of history.

- Today (Monday) we are also releasing a letter endorsing PNTR signed by former Presidents Bush, Carter and Ford.

On Levin's proposal:

- The Administration believes that the proposals being developed by Congressman Levin with others are constructive and address important issues. We welcome further dialogue on these proposals among Members on both sides of the aisle.

- We agree that finding alternatives to the annual NTR renewal process, such as a Commission to keep a spotlight on these issues, makes sense. It has always been a priority for the United States to press for improvement of China's human rights, religious freedoms, labor rights and rule of law.

- We also agree that it is important to have a vigorous program, both within the USG and within the WTO, to monitor China's implementation of its WTO commitments and to ensure that China lives up to them. And we must have adequate resources to accomplish this.

- Finally, we agree that we must make clear the rules and procedures this and future Administrations will employ to implement the strong import safeguard protections we negotiated.

- We are committed to working with Congress to address these concerns, and are receptive to ideas that make good substantive sense and can garner broad bipartisan support. We could not, of course, accept anything that would in any way condition PNTR.

On counting votes:

- New members who came out in favor last week: Dems: Hoyer (MD), Capps (CA), Bernice Johnson (TX), Price (NC), Hooley (OR), Gonzalez (TX), Ralph Hall (TX), Baird (WA). Republicans: Ed Royce (CA), Thune (SD), Bono (CA), Blunt (MO).

- This is good news and we are encouraged by last week's announcements.

- But we have always expected this to be a tough fight and we are not there yet. We still have a lot of work to do. The important number is 218. We will continue to do our part to get enough members to pass this bill.

- We remain confident nonetheless that our case will prevail.

On Africa-CBI:

- Last Thursday a strong bipartisan vote marked a key milestone toward enactment of legislation that will launch a new era of cooperation between the United States and our partners in Africa and the Caribbean Basin.

- This important measure will strengthen our economic partnership with these nations, lower trade barriers, help developing nations to lift their people out of poverty, and create a more secure world.

- Few pieces of legislation so clearly affirm our conviction about the benefits of international trade.

On delaying the vote until next year:

- We must give China permanent NTR this year. First, if we don't, we will lose the full market access benefits of the agreement. The GATT requires all WTO members to provide immediate and unconditional NTR/MFN. Annual renewal is not unconditional. China will most likely enter the WTO this year -- but without PNTR, our companies will not have full access to China's market right from the start. Our global competitors will be gaining a foothold in China while we stand on the sidelines.

- Second, exports contributed to one third of economic growth in the 1990s. Our failure to pass PNTR would hurt our companies and potentially slow our exports and impact our country's economic growth. PNTR is important to continue a policy that has contributed significantly to the longest period of economic expansion in this country's history.

- Third, failure to pass PNTR will weaken the reformers who are trying to expand the role of free market in China. China's reformist leaders have staked their credibility -- not just on China's accession to the WTO -- but on normalizing trade relations with the U.S. If Congress votes against PNTR, we will miss a critical opportunity to influence China's development in the right direction.

- If Congress passes PNTR it will reinforce the forces of change in China and influence the way China deals with the rest of the world.

On national security:

- Our provision of PNTR and China's WTO accession will increasingly enmesh China in the global economy; accelerate openness, reform, and accountability in the PRC; and help strengthen the rule of law in China.

- As a consequence of PNTR and China's WTO accession we'll have better conditions for cooperation on issues such as Taiwan and nonproliferation. It will steadily increase China's stake in good relations with the West and increase the cost of ignoring international standards.

- Congress' rejection of PNTR would have the opposite effect. It would constrain our ability to work with China toward regional stability in areas such as the Korean peninsula and in South Asia. It would undermine our ability to work toward diminished tension in the Taiwan Strait.

- And the impact would be global. Our cooperation with China in global arms control and nonproliferation fora would be restricted and we would find it harder to cooperate in the UN Security Council, on global environmental issues, and in other areas of importance to the American people.

On Cuba: "Why don't our arguments about China-WTO apply to Cuba?"

- Both situations are very different.

- Congress passed a law in 1992 called the Cuban Democracy Act. It was passed by Democrats and Republicans and signed by President Bush. It said essentially that we would proceed in a reciprocal way with Cuba. If Cuba moved toward political or economic reform, we would move too.

- We were on that course until 1996 when Cuba shot down two American planes in international air space. That led to the passage of the Helms-Burton Act and for the first time put in place an embargo.

  - Don't think we'll have a consensus for change in that approach until Castro's Cuba moves in the direction of economic or political reform.

  - Chinese leaders have made their tough decision on economic reform. That's what their decision to join the WTO represents – a fundamental decision for economic reform. We should reinforce and accelerate movement in that direction by passing PNTR.

On the fertilizer deal:

- We have reached an agreement with China that will effectively provide market access for U.S. fertilizer. This agreement is an addendum to our November 1999 bilateral agreement on China's accession.

- Because we do not want to interfere with China's negotiations with other WTO Members, -- particularly the EU, who will resume negotiations the week of May 15 -- we will wait to release details to the public until May 19.

- However, we have already begun to fully brief Members of Congress, and will make the agreement available to them.

Recent quotes:

- Levin, the ranking Democrat on the House Ways and Means Trade Subcommittee, said he planned to introduce the bill next week, and that it will be co-sponsored by a Republican, probably Nebraska Rep. Doug Bereuter. ``I would hope we can do that next week," Levin told reporters. ``We're expanding our discussions on both sides of the aisle and the administration. There's increasing interest and increasing support." Levin's proposal is also making inroads in the Senate, where Sen. Max Baucus, a Montana Democrat, said he was likely to sponsor the bill. (Reuters 5/5/00)

- "We have come to support [PNTR] principally for the reason of human rights and the rule of law for China. I see hope in China's accession to the WTO because that would mean, I hope, the beginning of the rule of law in China." Hong Kong Democratic Party leader Martin Lee.

- Trade Representative Barshefsky told reporters the House passage Thursday of a bill to expand trade with African and Caribbean countries "clearly does provide some momentum" for the China vote. "I think it is an encouraging development with respect to trade votes in general in successful bipartisan fashion," she said, noting that it has been six years since such legislation reached the president's desk.

- "This confluence of our national economic and security interests when coupled with the ineffectiveness of our annual votes has convinced me that PNTR is in the best interests of our nation, global stability, and the nascent democracy, labor and human rights movements in China" Rep. Steny Hoyer

- "Granting China PNTR status will enable American businesses, farmers and workers to sell more American-made products in China and will help institute the rule of law, promote democratic values and build a Chinese middle class." Rep. Lois Capps.

Sean R. Dobson
05/05/2000 06:43:51 PM

Record Type: Record

To: Timothy E. Punke/OPD/EOP@EOP, Malcolm R. Lee/OPD/EOP@EOP, Patrick M. Dorton/OPD/EOP@EOP

cc:
Subject: download on scheduling conf. call for China May 9th event

The "letter" will probably be released Monday so that it appears in the press the day of the event.

Speaking Program:

- VP welcomes and summarizes pro-PNTR argument in compressed form; intros Kissinger
- Kissinger sets issue in its historical context and then intros Ford
- Ford [topic tbd]
- Carter discusses human rights and democracy in China, then intros POTUS
- POTUS summarizes argument for PNTR, noting that the all-star lineup today symbolizes the historical continuity of this policy

Consensus among discussants that only Berger has the weight to coach these former Presidents on what they should say. He will try to reach them by phone.

Partiicpation of Mondale nixed; Dellums will be out of town. Berger working on recruiting Baker (not clear if for speaking program or just for attendance).

Receiving Line:

There will be some sort of pull-aside with "religious leaders".

Press:

Loretta, Jake and Joe need to discuss details of press strategy. Should there be a stake-out? Or should the former Presidents give interviews with specific reporters? Whatever the decision, press partricipation of the former Presidents needs to be timed with the fact that many of them (esp. Carter) are not sticking around DC very long on Tuesday.

Next conference call on Monday at 10:00 a.m.

MEMO

TO: Gene Sperling
FR: Sean Dobson
RE: Meeting of Your PNTR Speechwriting Team
DT: 5/5/00

Melissa suggested I summarize the results of this morning's meeting of your PNTR speechwriting team. The team -- consisting of Rosen, Dorton, Green, Punke, Lee and myself -- has developed a consensus on what your upcoming PNTR speeches should look like. We want to be sure you agree with that consensus.

Here are the proposed speeches:

May 12th Ambassadors Club in Dallas

- audience: 1,200 CEOs, 30 DC-based Ambassadors, pro-PNTR crowd
- Open press

May 15th Institute for International Economics (Bergsten's think-tank)

- Audience: Beltway policy types, trade professionals, mostly but probably not all pro-PNTR crowd (so expect a few tough questions)
- Open press

May 17th Committee for Economic Development (coalition of moderate businesspeople)

- Audience: moderate businesspeople, pro-PNTR crowd
- Open press

May 19th?? SAIS

- Audience: academics, Beltway policy types, trade professionals, students, mostly pro-PNTR crowd (expect a few tough questions)
- Open press

All four speeches will be open to the press, so your broader message should be focused on the concerns of wavering Hill Democrats. The two most powerful arguments we can make to allay the concerns of these lawmakers are: (1) the deal will move reform in China in the right direction (i.e., the argument of the Sperling-Berger op ed); and (2) adequate enforcement mechanisms exist to ensure that China honors its commitments (i.e., $22 million proposed by Daley/Barshefsky as well as something like the Levin proposal). As in all your speeches, we will search out telling anecdotes to make our points.

Of course, the four speeches will not be identical. We should tweak each one to take into account the people in the room. The businesspeople who will form the bulk of the Dallas and CED audiences might want to hear more about the purely trade aspects of the deal whereas the policy intellectuals at IIE and SAIS might want to hear about its foreign policy and macro-economic implications. Moreover, you might want to comment on late-breaking events in each speech. Nevertheless, all four speeches should be very similar so as to maintain message-discipline vis-à-vis the concerns of wavering Hill Democrats.

Melissa suggests a Sunday afternoon meeting to discuss the speeches. In the meantime, we will try to get your feedback to ensure that we are on the right track.

Catherine Field <FIELD_CATHERINE@ustr.gov>
05/05/2000 03:54:21 PM

Record Type: Record

To: James R. Keith/NSC/EOP, r@ustr.gov

cc: Malcolm R. Lee/OPD/EOP
Subject: Re: Levin Proposal

First comment--we are already doing this. Second comment--this entire section will be replaced--but it's standard drafting for legislation dealing with a trade investigation. E.g., the last one requires the president to issue a notification to a WTO committee--we accepted that in the November agreement.

Will be happy to talk through with Caroling what USTR expects to use as the basis for replacing this section of the levin proposal.

>>> <James_R._Keith@nsc.eop.gov> 05/05/00 03:19PM >>>
Caroline Krass in our Legal Office expressed concerns about use of "shall"
rather than precatory "should" on p. 21 line 22 and p. 28 lines 21 and 24.

DRAFT

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Letter to Specialty Steel Industry of North America

ACTION FORCING EVENT: James Will, Chairman of the Specialty Steel Industry of North America (SSINA) trade association, wrote you to complain that a recent loan by the International Finance Corporation (IFC), a member of the World Bank Group, contradicted your Steel Action Program.

RECOMMENDATION: That you sign the attached letter.

_____ Agree _____ Disagree _____ Let's Discuss

BACKGROUND: In his October 1999 letter (attached), Mr. Will asserted that the IFC loan to China "directly contradicts" the President's Steel Action Program. In addition, at a Congressional Steel Caucus hearing in October, 1999, William Pendleton, a representative of SSINA, testified that the IFC loan "is precisely the type of deal President Clinton promised to oppose in his Steel Action Plan." Representatives of the U.S. steel industry have threatened to lobby in Congress against appropriations for International Financial Institutions (IFIs) if they are not satisfied.

Acting in compliance with human rights legislation, the U.S. abstained in the vote of the IFC's Board on the loan, but the loan was approved by the remainder of the Board in April 1998. The loan signing was announced, however, only in September 1999, the month after you announced your Action Program in August 1999.

The letter also discusses the Administration's efforts with the IFIs to address potential causes of excess global steel capacity, such as directed lending and subsidies.

DRAFT

James F. Will
Chairman, Specialty Steel Industry of North America
3050 K Street, NW
Washington, DC 20007

Dear Mr. Will:

Thank you for your letter expressing your concerns about a loan approved in April 1998 by the Board of the International Finance Corporation (IFC) to help build a steel plant in China.

I remain deeply concerned by the continuing hardship being experienced by many American workers, communities, and companies as a result of the crisis in our steel industry, due in part to a sharp rise in steel imports in 1998. As I stated in my August 1999 Steel Action Program, I am determined to continue taking forceful action to address the unfair trade practices that have contributed significantly to this crisis. In particular, the Administration has executed a strategy of vigorous, timely enforcement of U.S. trade laws and direct, high level engagement with major steel exporting nations. We are also addressing factors that pose continuing risks for the health and vitality of the U.S. steel industry, including problems relating to unfair trade and economically unjustifiable global capacity.

As essential parts of this Action Program, the Administration has committed to work within the international financial institutions (IFIs) to help eliminate existing government subsidies to favored industries, and to oppose any lending by the multilateral development banks to increase subsidized steel production. Moreover, the Administration is pressing for more transparent IFI reviews of public spending by foreign governments to uncover potential subsidies. Finally, the Administration is working with IFIs to encourage the privatization and restructuring of government-owned steel enterprises along market principles, particularly in Eastern Europe and the former Soviet Union, in order to get these governments out of the steel business.

In line with the G-7 statement of October 1998, the International Monetary Fund (IMF) has encouraged policies aimed at ending market distorting subsidies and directed lending. Under the IMF programs for Brazil and Korea, those countries have taken steps to cut or eliminate a number of export subsidies. Korea has also committed to the IMF to eliminate directed lending. The IMF has also developed a Code of Good Practice on Fiscal Transparency aimed at enhancing the transparency and accountability of budget systems, thus making it more difficult for borrowing countries to conduct preferential lending and to subsidize favored industries.

DRAFT

Direct lending by multilateral development banks (MDBs) to the steel sector has been extremely limited in recent years and has been confined to the European Bank for Reconstruction and Development (EBRD) and the International Finance Corporation (IFC), a member of the World Bank Group. The U.S. Government has sought and received firm assurances from both institutions that there is no evidence that any recent lending has gone to increase subsidized production of steel overseas. To the extent that there is further MDB lending to the steel sector in the future, and we do not expect it would be substantial, the Administration will continue to review it carefully to ensure that it does not increase subsidized production. Let me assure you that we will actively oppose any lending that does.

Concerning the specific IFC loan to China that you raised, this loan was approved by the IFC's Board in April 1998, more than a year before the announcement of the Action Program. As you may know, the U.S. Director on the Board did not support this loan, although it was approved by the remainder of the Board. In response to inquiries by U.S. Government officials, the IFC reported that they have found no evidence of subsidies in this project.

I will continue to work with steelworkers, the steel industry, and members of Congress to attack unfair trade practices around the world, to give the steel industry a chance to regain its competitiveness, and to put in place measures to prevent any recurrence of this type of crisis in our steel industry. The Administration's work with the IFIs supports these goals. The Administration remains committed to oppose actively any MDB lending to increase subsidized steel production.

Sincerely,

William Jefferson Clinton

Time Lines For Anti-Surge Safeguard

Day	Event
0	Petition filed with the International Trade Commission (ITC) and transmitted to President, USTR, Senate Finance and House Ways and Means Committees.
60	ITC makes determination on Market Disruption
65	Request consultations with China.
80	ITC makes recommendation on proposed remedy
100	USTR publishes proposed action in the *Federal Register* which may differ from ITC recommendation and notice of opportunity to provide view and evidence on proposed action; hearing provided if requested.
115	TPSC hearing on proposed action
125	Consultations with China End
135	USTR/interagency recommendation on relief transmitted to the President
150	Presidential Decision: Any relief proclaimed becomes effective in 15 days

Time Line If Petition Alleges Critical Circumstances

Day	Event
0	Petition filed with the International Trade Commission (ITC) and transmitted to President, USTR, Senate Finance and House Ways and Means Committees.
30	ITC makes preliminary determination on existence of critical circumstances based on statutory standard and transmits a report to President/USTR/Committees.
40	USTR/interagency recommendation on provisional relief transmitted to the President
50	Presidential Decision: Any relief proclaimed becomes effective in 15 days

Day	Event
65	USTR requests consultations with China
90	ITC final determination on market disruption is transmitted to the President/USTR/Committees
105	ITC makes recommendation on proposed final remedy
115	USTR publishes proposed action in the *Federal Register* and notice of opportunity to provide view and evidence on proposed action; hearing provided if requested.
130	TPSC hearing on proposed action/Consultations with China End
140	USTR/interagency recommendation on relief transmitted to the President
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Trade Diversion Action

Day	Event
0	Another WTO Member requests consultations with China under the product-specific safeguard–USTR notifies Customs which begins monitoring imports of the relevant product.
–	Based on Customs monitoring, petition, or other credible basis that another Member's safeguard action has caused trade diversion, USTR requests consultations with China and/or the other WTO member.
60 days after request	Consultations End–If no agreement, USTR promptly publishes notice of proposed action and provides interested parties an opportunity to provide views on whether it is in the public interest.
80	USTR/Interagency group makes recommendation to the President on action.
100	President decides what action to take to prevent or remedy trade diversion.

DRAFT OUTLINE OF GS PNTR SPEECH

I. Intro

Thank hosts

II. Quick Recitation of Benefits of Deal

Economic benefits for U.S.

One-way market opening

We merely make permanent what we have done each year for twenty years: grant NTR

Foreign policy benefits

Promoting rule of law within china means it is more likely to respect rule of law internationally

WTO membership draws China into the rules-based community of nations and thus promotes stability in Asia-Pacific region

Sends strong signal that U.S. is not wearying of its global leadership position and its commitment to open trade

All these continue a generation of U.S. policy toward China – a policy resting on solid bipartisan consensus -- beginning with President Nixon's decision to cancel the trade embargo in 1972. All Administrations since then have worked to open China in the interest of promoting reform there and providing export markets for American farmers, workers and firms.

III. How deal moves reform in China in the right direction

Plug in Sperling-Berger op ed

Anecdote of U.S. firm currently in China and positive effect it has on its Chinese employees

Firm provides email/internet for employees

Firm pays its employees well above the Chinese average

Firm provides pension

firm promotes its Chinese employees to executive level and thus trains native entrepreneurs

opportunities for employee input in managerial decisions makes these the firm a schoolhouse for democracy

IV. Enforcement Mechanisms

Lead this section by pointing out that Chinese compliance not nearly as bad as opponents of the deal claim

Plug in Barshefsky language on this topic

But to ensure Chinese compliance, there are a number of tools at our disposal

Continued right to use full range of American trade law, including Section 301, Special 301, and our countervailing duty and anti-dumping laws

We gain substantial new leverage by creating the product-specific safeguard, as well as guaranteeing our right to use non-market economy antidumping methodologies. These features of the accession will significantly strengthen our ability to ensure fair trading practices

WTO multilateral enforcement mechanisms stronger than bilateral tools currently at our disposal

New initiative announced in Barshefsky/Daley testimony of 5/4/00

$22 million in new spending to beef up U.S. monitoring and enforcement

whatever else it contained

mention need to assist Chinese in capacity building?

Levin proposal

Compose this on a day-by-day basis based on evolving Administration position on Levin proposal

V. Why we can't wait until next year to pass PNTR

[NOTE: DISCUSS THIS ONLY IF IT IS CAUSING US TROUBLE ON THE HILL. IS IT?]

Some have argued that we should wait until next year -- until after the elections -- before tackling this divisive issue

But waiting a year would have a number of very negative consequences for our exporting firms, many of which can be illustrated with reference to the Internet sector

Internet Anecdote

Specify all the regulations on Internet that the Chinese govt will promulgate in the next 12 months

Our Japanese and European competitors will be at the table as the Chinese set their Internet regulatory framework for the next decade

But if Congress fails to pass PNTR, U.S. firms will be excluded from these discussions

Conclusion:

Failing to pass PNTR this year not only raises the risk that we will never pass it

After all, once a Member of Congress is on the record as voting against PNTR, it will be difficult to change his vote in the future.

Failing to pass PNTR this year not only locks U.S. firms out of the burgeoning Chinese market for the foreseeable future

U.S. firms miss out on profits

Our foreign competitors build valuable business relationships and gain market share while our firms are left behind

Failing to pass PNTR this year <u>also</u> excludes U.S. firms from influencing Chinese policymakers as they

set the rules that will govern trade in China for years – indeed, decades – to come.

VI. Conclusion

Dobson suggests ending with a stark contrast along these lines:

"We face a clear choice. If Congress passes PNTR, we continue a generation of bipartisan U.S. efforts to move China in the right direction by promoting freer and fairer trade between the two countries. Prosperity and economic freedom in China strengthens the hand of reformers and weakens that of communist hard-liners, curbing the reach of the command-and-control economy, promoting the rule of law, and enhancing the ability of the Chinese people to communicate with each other and the outside world. A more open China that respects the rule of law is also more likely to follow international rules of the road and be a constructive partner in the international community. And a China open to our exports means huge economic opportunities for our farmers, workers and firms because they will be able to compete on even terms with our Japanese and European competitors in a market of 1.2 billion consumers. WTO enforcement mechanisms will strengthen our ability to ensure that China honors its commitments. Moreover, the Administration proposes a $22 million initiative to improve our ability to monitor Chinese compliance and the Levin proposal [plug in language]

But if Congress fails to pass PNTR, China will still join the WTO. Our global competitors will receive the market-opening concessions <u>we</u> negotiated in November and the many other benefits of WTO membership vis-à-vis China, but U.S. firms will be left behind. Worse, our entrepreneurs will have no ability to influence the Chinese government as it sets up the basic regulations that will govern its trade for the foreseeable future. Moreover, China's reforming leaders, who have staked their reputation on the November agreement, will suffer a domestic political setback. The hand of the communist hard-liners will be strengthened, helping them to advance their agenda of rule by bureaucratic fiat, suppression of basic freedoms, maintenance of the state-owned economy (the chief prop of their political power), and refusal to cooperate with neighbors in the Asia-Pacific – all with incalculable consequences for that region and the whole world.

The congressional vote next week – and this is no exaggeration – will help mold the basic structure of international affairs for at least a generation to come. This is no time to sit on the sidelines. Each one of you – as a businessperson, as an American, and as a lover of peace and freedom – should make your views known. After all, we live in a democracy. And I can think of no better way to begin the next chapter of our relationship with China than with a demonstration of the virtues of participatory democracy -- American style."

Time Lines For Anti-Surge Safeguard

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Time Line If Petition Alleges Critical Circumstances

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Trade Diversion Action

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- Timeline:

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Technical Edits to Levin – Bereuter

Technical edits to Discussion Draft of Levin-Bereuter marked May 19, 2000 (1:50 PM).

1. Section 2 (12): Page 6, line 17: Strike the word "special" and replace "regions" with "areas", so the revised sentence reads: "...access to the autonomous areas of Tibet and Xinjiang". The rationale is accuracy, as *special* is inaccurate and *region* applies only to the Tibetan Autonomous Region (TAR); "areas" captures ethnic Tibetans in other areas of China outside the TAR.

   Similarly, Sec. 3 (5)(B), page 7, lines 24-25, and Title I - Sec. 102 (a) (3), page 12, lines 1-2, the parenthetical "(including the special autonomous regions of Tibet and Xinjiang)" should be struck. The rationale is that both could be misread by the NGO community as in some way endorsing ethnic Han Chinese movement into the Tibetan Autonomous Region, a politically sensitive issue. Best to make no reference to it.

2. Title I - Section 102 (6): Page 14, line 12: Strike word "party" after "political" so as to read "independent of political pressure" versus "independent of political party pressure" . May want to include political pressures other than those exerted by the formal Communist Party.

3. Title II – Subtitle C: We will likely have technical corrections to this portion of the bill. Current May 19 draft does not reflect H.R. 444, and we have not seen version reflecting H.R.. 444.

4. Title III – Subtitle B, Sec. 311 (a) and (b): Page 57, lines 9 and 15: On line 9, the Secretary of Commerce should act "in consultation with the Secretary of State," not "in concurrence"; on line 15 the Secretary of Labor should act "in consultation with the Secretary of State," not "in concurrence". We miscommunicated the interagency position on this in our earlier redline.

Other Edits: Levin – Bereuter

Clarifying edits to the Discussion Draft of Levin-Bereuter marked May 19, 2000 (1:50 PM). Unclear whether these suggestions have been seen or considered.

Subpoena Power.

Title I - Section 106. Page 19, line 23: Relating to scope of subpoena power: "In carrying out this title, the Commission may require, by subpoena or otherwise, ...**as are necessary for the performance of its functions under this title.**" [delete "as it considers necessary"] We believe this clarifying correction is consistent with the intent to use the subpoena power only as necessary in carrying out this title, making "as are necessary" an objective standard.

Authorization Language

"Authorized to appropriate" language appears throughout the document, beginning with Section 212 on page 25, line 7. The only Title in the bill where Administration believes new authorization is required is in Title I, establishing and funding the Commission. Our preference is that in place of "authorize to appropriate" in all places other than Title I, "there are authorized to be appropriated if authorization is necessary..." is substituted.

Technical Assistance to All China Federation of Trade Unions

Title III – Subtitle B, Sec. 311 (b) (3): Page 58, lines 11-14. The Secretary of Labor is precluded from providing assistance to the All-China Federation of Trade Unions, presumably because it is government controlled. Since many of the programs under this Title would need to be negotiated with the Government of China, including a blanket prohibition on assistance to the ACFTU might make it very difficult to reach agreement on developing such programs. Consequently, we propose changing the blanket limitation to "The Secretary of Labor may not provide assistance under the program *to finance the operating costs of* the All-China Federation of Trade Unions". This would permit their participation in purely informational/educational activities from which the China Federation of Trade Unions would enjoy no significant financial benefit.

Fourth APEC Ministerial Meeting on the
Telecommunications and Information Industry
(TLEMIN 4)
May 24-26, 2000
Cancun , Mexico
US Delegation

Rohde, Gregory L.	Assistant Secretary for Communications and Information, Administrator National Telecommunications and Information Administration, US Department of Commerce, Head of Delegation
Beaird, Richard C.	U.S. Coordinator, Acting, International Communications and Information Policy, US Department of State, Head of Delegation
Lee, Malcolm R.	Special Assistant to the President and Senior Director, International Trade & Economic Policy, The White House

DELEGATES:

Richardson, Joseph	Director for APEC and OECD Communications and Information Policy, US Department of State, Senior Official
Steinour, Diane	Asia Pacific Regional Coordinator, DOC/NTIA
Wu, Irene	Regional Specialist for Asia, FCC
Schagrin, Kenneth	Deputy Associate Administrator, DOC/NTIA
Ferguson, Mitchell	Telecommunications Officer Coordinator, Communications and Information Policy, US Department of State, US Embassy, Mexico City

PRIVATE SECTOR ADVISORS

Arcos, Cresencio	AT&T, Regional Vice President
Evslin, Tom	ITXC Corp., Chairman and CEO
Kellogg, Shannon	Global Internet Project, Executive Director
Lavelle, Michael	Cysco Systems, Technical Marketing Engineer
Lundberg, Daniel	AT&T, International Public Affairs Director
Martinkovics, Leslie	GTE Service Corp. Director, Int. Regulatory Affairs
McIntosh, Joanna	AT&T, Vice President, International Affairs
Murray, Kerry E.	MCI WorldCom, Senior Counsel
Nelson, Michael R.	IBM Corp., Director, Internet Technology & Strategy
Sheffield, Virginia	Genuity, Inc. Assistant Vice President of Regulatory
De Schweinitz, Emily	Cisco Systems, Service Provider Development Manager
Simpson, Robert	AT&T, International Public Affairs
Mehlman,Bruce	Cisco Systems, Telecommunications Policy Counsel
Ipsen, Laura	Cisco Systems, Director of Government Affairs

MEMORANDUM

May 22, 2000

TO: **GENE SPERLING/LAEL BRAINARD**

FROM: **Malcolm Lee**
Dan Rosen
Timothy Punke

Re: **China Principals Meeting**

Agenda

Principals are likely to focus on individual Members, Levin-Bereuter, and the EU-China negotiations. As of this afternoon, 60 Democrats were a solid Yes; 15 were LY, U, or LN.

Levin-Bereuter

The House Rules Committee is scheduled to mark up the PNTR and Levin-Bereuter package tomorrow at 11:00. WH Leg indicated that they were only likely to accept technical edits from us at this point. We sent to WH Leg the attached document.

Issues to be aware of include:

- Lee left the "authorization" issue with Ted Posner late last week, and they were looking for formulations other than "sense of Congress". They wanted something strong, and did not have an answer how to avoid referrals to numerous committees in the Senate.

- On scope of subpoena, Levin feels strongly about the issue, but we do not know whether they have considered the marginal change suggested in our document. The change would assure an objective ruling for determining what is "necessary" for the Commission to carry out its functions.

- On Government of China definition, we did not include because we have clearly lost this one.

Wednesday Vote

The vote is currently scheduled for Wednesday. Current thinking is that they will want to finish prior to the evening news cycle.

Other Issues:

- **EU-China and other Bilateral Agreements.** For your press conference today, we have prepared some additional background materials and Q&As on the EU-China accession deal. Attached. Outstanding bilateral agreements are: Mexico, Switzerland, Costa Rica, Ecuador and Guatemala.

- **Annual NTR.** We are drafting a memo to the President from you, Berger and Brain on the annual NTR vote. The package will not come over from State until after the House vote. We will want to send this to the President either next week or -- given your absence next week -- late this week.

- **Senate Vote.** Once the House vote is over, WH Leg wants to begin focussing immediately on the Senate. There is concern that they will feel ignored by this process. Additionally, you should be aware that Lott has stated publicly that he will not support the Levin-Bereuter Commission. In the Finance Committee, there has also been some talk of including national security issues among the issues that the Commission would monitor.

Attachments

- Levin-Bereuter Technical Edits Document
- Background Materials on EU-China Deal

Technical Edits to Levin – Bereuter

Technical edits to Discussion Draft of Levin-Bereuter marked May 19, 2000 (1:50 PM).

1. Section 2 (12): Page 6, line 17: Strike the word "special" and replace "regions" with "areas", so the revised sentence reads: "...access to the autonomous areas of Tibet and Xinjiang". The rationale is accuracy, as *special* is inaccurate and *region* applies only to the Tibetan Autonomous Region (TAR); "areas" captures ethnic Tibetans in other areas of China outside the TAR.

   Similarly, Sec. 3 (5)(B), page 7, lines 24-25, and Title I - Sec. 102 (a) (3), page 12, lines 1-2, the parenthetical "(including the special autonomous regions of Tibet and Xinjiang)" should be struck. The rationale is that both could be misread by the NGO community as in some way endorsing ethnic Han Chinese movement into the Tibetan Autonomous Region, a politically sensitive issue. Best to make no reference to it.

2. Title I - Section 102 (6): Page 14, line 12: Strike word "party" after "political" so as to read "independent of political pressure" versus "independent of political party pressure" . May want to include political pressures other than those exerted by the formal Communist Party.

3. Title II – Subtitle C: We will likely have technical corrections to this portion of the bill. Current May 19 draft does not reflect H.R. 444, and we have not seen version reflecting H.R.. 444.

4. Title III – Subtitle B, Sec. 311 (a) and (b): Page 57, lines 9 and 15: On line 9, the Secretary of Commerce should act "in consultation with the Secretary of State," not "in concurrence"; on line 15 the Secretary of Labor should act "in consultation with the Secretary of State," not "in concurrence". We miscommunicated the interagency position on this in our earlier redline.

Other Edits: Levin – Bereuter

Clarifying edits to the Discussion Draft of Levin-Bereuter marked May 19, 2000 (1:50 PM). Unclear whether these suggestions have been seen or considered.

Subpoena Power.

Title I - Section 106. Page 19, line 23: Relating to scope of subpoena power: "In carrying out this title, the Commission may require, by subpoena or otherwise, ...**as are necessary for the performance of its functions under this title.**" [delete "as it considers necessary"] We believe this clarifying correction is consistent with the intent to use the subpoena power only as necessary in carrying out this title, making "as are necessary" an objective standard.

Authorization Language

"Authorized to appropriate" language appears throughout the document, beginning with Section 212 on page 25, line 7. The only Title in the bill where Administration believes new authorization is required is in Title I, establishing and funding the Commission. Our preference is that in place of "authorize to appropriate" in all places other than Title I, "there are authorized to be appropriated if authorization is necessary..." is substituted.

Technical Assistance to All China Federation of Trade Unions

Title III – Subtitle B, Sec. 311 (b) (3): Page 58, lines 11-14. The Secretary of Labor is precluded from providing assistance to the All-China Federation of Trade Unions, presumably because it is government controlled. Since many of the programs under this Title would need to be negotiated with the Government of China, including a blanket prohibition on assistance to the ACFTU might make it very difficult to reach agreement on developing such programs. Consequently, we propose changing the blanket limitation to "The Secretary of Labor may not provide assistance under the program *to finance the operating costs of* the All-China Federation of Trade Unions". This would permit their participation in purely informational/educational activities from which the China Federation of Trade Unions would enjoy no significant financial benefit.

THE WHITE HOUSE

China Trade Relations Working Group

THE WHITE HOUSE
Office of the Press Secretary
The East Room

For Immediate Release March 8, 2000

Normal Trade Relations Treatment for the People's Republic of China

Section 1: Termination of application of Title IV of the Trade Act of 1974 to The People's Republic of China (China).

(a) PRESIDENTIAL DETERMINATIONS AND EXTENSION OF NON-DISCRIMINATORY TREATMENT -Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may, --

(1) determine that such title should no longer apply to China, and

(2) after making a determination under paragraph (1) with respect to China, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(b) CHINA'S ACCESSION TO THE WORLD TRADE ORGANIZATION ("WTO") Prior to making the determination provided for in subsection (a)(1) and pursuant to the provisions of section 122 of the Uruguay Round Agreements Act (19 U.S.C. 3532), the President shall transmit a report to Congress certifying that the terms and conditions for China?s accession to the WTO are at least equivalent to those agreed between the United States and China on November 15, 1999.

Section 2. Effective Dates B

(a) The extension of nondiscriminatory treatment pursuant to section 1 (a) (1) shall be effective no earlier than the effective date of China's accession to the WTO.

(b) On and after the effective date under subsection (a) of the extension of non-discriminatory treatment to the products of China, title IV of the Trade Act of 1974 shall cease to apply to that country.

Back to Top

THE WHITE HOUSE

China Trade Relations Working Group

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release March 8, 2000

TO THE CONGRESS OF THE UNITED STATES:

Last November, after years of negotiation, we completed a bilateral agreement on accession to the World Trade Organization (WTO) with the People's Republic of China (Agreement). The Agreement will dramatically cut import barriers currently imposed on American products and services. It is enforceable and will lock in and expand access to virtually all sectors of China's economy. The Agreement meets the high standards we set in all areas, from creating export opportunities for our businesses, farmers, and working people, to strengthening our guarantees of fair trade. It is clearly in our economic interest. China is concluding agreements with other countries to accede to the WTO. The issue is whether Americans get the full benefit of the strong agreement we negotiated. To do that, we need to enact permanent Normal Trade Relations (NTR) for China.

We give up nothing with this Agreement. As China enters the WTO, the United States makes no changes in our current market access policies. We preserve our right to withdraw market access for China in the event of a national security emergency. We make no changes in laws controlling the export of sensitive technology. We amend none of our trade laws. In fact, our protections against unfair trade practices and potential import surges are stronger with the Agreement than without it.

Our choice is clear. We must enact permanent NTR for China or risk losing the full benefits of the Agreement we negotiated, including broad market access, special import protections, and rights to enforce China's commitments through WTO dispute settlement. All WTO members, including the United States, pledge to grant one another permanent NTR to enjoy the full benefits in one another's markets. If the Congress were to fail to pass permanent NTR for China, our Asian, Latin American, Canadian, and European competitors would reap these benefits, but American farmers and other workers and our businesses might well be left behind.

We are firmly committed to vigorous monitoring and enforcement of China's commitments, and will work closely with the Congress on this. We will maximize use of the WTO's review mechanisms, strengthen U.S. monitoring and enforcement capabilities, ensure regular reporting to the Congress on China's compliance, and enforce the strong China-specific import surge protections we negotiated. I have requested significant new funding for China trade compliance.

We must also continue our efforts to make the WTO itself more open, transparent, and participatory, and to elevate consideration of labor and the environment in trade. We must recognize the value that the WTO serves today in fostering a global, rules-based system of international trade -- one that has fostered global growth and prosperity over the past half century. Bringing China into that rules-based system advances the right kind of reform in China.

The Agreement is in the fundamental interest of American security and reform in China. By integrating China more fully into the Pacific and global economies, it will strengthen China's stake in peace and stability. Within China, it will help to develop the rule of law; strengthen the role of market forces; and increase the contacts China's citizens have with each other and the outside world. While we will continue to have strong disagreements with China over issues ranging from human rights to religious tolerance to foreign policy, we believe that bringing China into the WTO pushes China in the right direction in all of these areas.

I, therefore, with this letter transmit to the Congress legislation authorizing the President to terminate application of Title IV of the Trade Act of 1974 to the People's Republic of China and extend permanent Normal Trade Relations treatment to products from China. The legislation specifies that the President's determination becomes effective only when China becomes a member of the WTO, and only after a certification that the terms and conditions of China's accession to the WTO are at least equivalent to those agreed to between the United States and China in our November 15, 1999, Agreement. I urge that the Congress consider this legislation as soon as possible.

WILLIAM J. CLINTON

THE WHITE HOUSE,
March 8, 2000.

Back to Top

Home | Working Group Contacts | Privacy Statement

DESCRIPTION OF LEVIN-BEREUTER BILL

I. Congressional-Executive Commission on China

Proposal: As part of the framework for bringing China into the WTO, the proposal will establish a Congressional-Executive Commission on China.

The model for this Commission is the Commission on Security and Cooperation in Europe, a Congressional-Executive entity established in 1976 to monitor compliance by other countries with the provisions of the Helsinki Final Act.

The Commission will consist of nine Members of each House, plus five Presidential appointees (one each from the Departments of State, Labor, and Commerce and two at-large appointees from among the officers and employees of the executive branch).

The Commission will focus throughout the year on monitoring human rights in China, including internationally recognized core labor standards and religious freedoms, and the development of rule-of-law and democracy-building in China.

The Commission will submit to Congress and to the President an annual report of its findings including, as appropriate, WTO-consistent recommendations for legislative and/or executive action. The House International Relations Committee will be required to hold a hearing on that report within 30 days of its receipt by the Congress, with a view to reporting to the House any appropriate legislation in furtherance of the Commission's recommendations.

The Commission also will maintain lists of victims of human rights abuses in China.

The CSCE experience indicates that a China Commission will be an effective mechanism for maintaining pressure on China with respect to human rights and rule of law issues.

From its creation in 1976 to the end of the Cold War, the CSCE was one of several important instruments for championing human rights, democracy and rule of law in the countries of the former Soviet bloc. Since the Cold War, the CSCE has monitored elections in former Soviet bloc countries.

The strengths that the CSCE has exhibited include the following:

- It has pulled together large amounts of information related to human rights, regional security, and other issues, analyzed that information, and communicated it to the Administration, Congress, and the public in a manner that generally is considered impartial and authoritative. Its credibility with the Administration and Congress has given the CSCE a good deal of influence in shaping policy on issues within its areas of expertise.
- The CSCE has become a reliable liaison between the U.S. Government and dissidents, human rights leaders, intellectuals and other citizens of the countries that it monitors.
- The CSCE has drawn attention to particular cases of human rights violations. During the worst days of Soviet bloc repression, the Commission brought cases to the attention of governments in the Soviet bloc and worked to resolve them.

Based on the CSCE experience, there are several reasons to expect that a China Commission will be an effective means of maintaining scrutiny and pressure on China in the areas of human rights (including religious freedom), core labor standards, and rule of law:

- First, a bipartisan standing Commission will institutionalize Congressional examination of measures by the Government of China that affect U.S. interests. Commitment to this task will be permanent and concentrated, as opposed to sporadic and diffuse, as has been the case under current law (i.e., annual reviews).

- Second, the Commission will become an effective base from which to mobilize support for particular improvements in China's policies and practices. For instance, if the Commission spotlights particularly egregious conduct by the Government of China, it will be able to rally a bipartisan consensus for pressing China to change its conduct more easily than an individual Member of Congress would otherwise be able to do.

- Third, as Chinese citizens gain greater access to the outside world through the Internet and other modes of communication, the Commission will become an important conduit between Chinese citizens, on the one hand, and the U.S. Government and public, on the other. For instance, victims of human rights abuses in China and their advocates in the NGO community will be able to communicate directly with the Commission.

- Fourth, the Commission will be a strong, effective, and unique point of contact on China issues between Congress and the Administration. Thus, as in the case of the CSCE, the Commission will be used to highlight for the Administration issues of particular concern to Congress. This will assist the Administration in deploying its diplomatic and other foreign policy tools most effectively.

II. Legislating the China Product-Specific, Anti-Surge Safeguard

Background: The November 1999 Agreement between the United States and China contains a product-specific safeguard, which will be included in China's protocol of accession to the WTO. The safeguard permits the United States and other WTO Members to provide relief to domestic industries and workers, "where products of Chinese origin are being imported into the territory of any WTO Member in such increased quantities or under such conditions as to **cause or threaten to cause market disruption** to the domestic producers of like or directly competitive products." This special anti-surge safeguard will apply to China for a period of 12 years following China's accession to the WTO.

The China safeguard contains lower causation and injury standards than ordinarily would apply between WTO Members. According to the U.S.-China Agreement, market disruption occurs when subject imports "are increasing rapidly, either absolutely or relatively, so as to be a **significant cause of material injury**, or threat of material injury to the domestic industry." By contrast, under the U.S. law that applies to other WTO Members (section 201 of the Trade Act of 1974), the relevant inquiry is whether goods are being imported into the United States "in such increased quantities as to be a **substantial cause of serious injury**."

<u>Issue:</u> In the U.S.-China Agreement of last November, the United States negotiated a special safeguard provision against a surge of imports from China that is a significant cause of material injury to U.S. producers and workers. This proposal would legislatively implement the special safeguard provision, as was done with earlier trade agreements provisions, (most recently, the Uruguay Round Agreements). The legislation spells out procedures for effectively invoking the safeguard.

This provision follows the standard under current law (section 406 of the Trade Act of 1974), which subjects import surges from non-market economies to a lower standard (the "market disruption" standard) than applies to import surges from market economies. In granting PNTR to China, the United States will be removing China from application of Title IV of the Trade Act, which includes section 406. The present provision spells out clearly in U.S. law the safeguard provision that will apply to China going forward.

<u>Proposal</u>: Under the proposed legislation, U.S. industries or workers claiming injury due to import surges from China would file a petition with the U.S. International Trade Commission ("ITC"), or the ITC would initiate an investigation at the request of the President or the Trade Representative, or on motion of the House Ways & Means Committee or Senate Finance Committee, or on the ITC's own motion. Within 60 days after receipt of the petition or request/motion, the ITC would make a determination as to whether the subject imports are causing or threatening market disruption. If the ITC determination is affirmative, the President would be required to request consultations with the Government of China. This would start a 60-day consultation period, as required by the U.S.-China Agreement.

Twenty days after the ITC made an affirmative determination with respect to market disruption (<u>i.e.</u>, 80 days after receipt of the petition or request/motion), the ITC would issue a report to the President and Trade Representative setting forth the reasons for its determination and recommendation(s) of actions necessary to prevent or remedy the market disruption. Twenty days later, the U.S. Trade Representative would publish a notice of proposed action, seeking views and evidence on the appropriateness of the proposed action and whether it would be in the public interest. An opportunity for hearing on that action also would be provided.

If the United States and China are unable to reach agreement within the consultation period, then the President will be required to decide what action, if any, to take within 25 days after the end of consultations. Any relief proclaimed would become effective in 15 days.

The entire period from petition (or request/motion) to proclamation of relief would be 150 days, which is identical to the duration under section 406 of the Trade Act.

The proposal will make clear the standards for application of Presidential discretion in providing relief to injured industries and workers. If the ITC makes an affirmative determination on market disruption, there will be a presumption in favor of providing relief. That presumption can be overcome only if the President finds that providing relief would have an adverse impact on the United States economy clearly greater than the benefits of such action, or that such action would cause serious harm to the national security of the United States.

The proposal also will authorize the President to provide a provisional safeguard in cases where "delay would cause damage which it would be difficult to repair," as permitted under the U.S.-China Agreement. If such circumstances are alleged, the ITC would be required to make a determination on critical circumstances and a preliminary determination on market disruption within 45 days of receipt of the petition (or request/motion). If those determinations are affirmative, the President would be required to determine whether to provide provisional relief within 20 days.

Finally, the proposal will implement a provision in the U.S.-China Agreement concerning trade diversion. That provision addresses circumstances in which a safeguard applied by a third country with respect to Chinese goods "causes or threatens to cause significant diversions of trade" into the United States.

Under the proposal, if another WTO Member requests consultations with China under the product-specific safeguard, the U.S. Customs Service would begin monitoring imports of subject products into the United States. If, on the basis of this monitoring or other credible evidence, the ITC determines (within 45 days of receipt of a petition, request, or motion) that an action by another WTO Member threatens or causes significant trade diversion, the USTR will request consultations with China and/or the Member imposing the safeguard. If, as provided in the Agreement, consultations fail to lead to an agreement to address the trade diversion within 60 days, the USTR will promptly publish a notice of proposed action and provide an opportunity for the public to provide evidence and views on the proposed action. After receiving such views (within 20 days after the end of consultations with China), the Trade Representative shall recommend action to the President. Within 20 days of that recommendation, the President shall determine what action, if any, to take to prevent or remedy the trade diversion.

III. Continuing Oversight of China's Compliance With WTO Obligations

A. Annual Report on China's Compliance With WTO Obligations

Proposal: This provision will require the U.S. Trade Representative to issue an annual report on China's compliance with WTO obligations. The report will cover compliance by the People's Republic of China with commitments made in connection with its accession to the WTO, including both multilateral commitments and any bilateral commitments made to the United States.

The report's contents will be more comprehensive than the China section in USTR's National Trade Estimate Report on Foreign Trade Barriers. The report will be a complete analysis of Chinese compliance with the implementation of obligations. By highlighting where China is meeting obligations and where it is falling short, the report will be a guide to where and how to commit enforcement resources.

B. Annual WTO Review of China's Compliance With WTO Obligations

Proposal: In negotiating China's Protocol of Accession, it will be the objective of the United States to obtain a mechanism for reviewing China's compliance with WTO obligations on an annual basis.

Given the early stages of development of a free market and rule of law in China, it is necessary that China be given special scrutiny within the WTO. Paired with the annual report by the USTR (described in the immediately preceding section), there will be two mechanisms to ensure strong oversight of China's trade record.

IV. Task Force on Prohibition of Importation of Products of Forced or Prison Labor

Proposal: The import of goods made by forced or prison labor into the United States is prohibited by U.S. law (section 307 of the Tariff Act of 1930), consistent with the GATT 1994. Article XX of the GATT allows countries to take action without retaliation to prohibit import of goods made by prison labor. The proposed provision will establish an interagency task force, chaired by the Secretary of the Treasury or his designee, to monitor and promote effective enforcement of this prohibition, including compliance by Chinese and other foreign exporters, with respect to products of Chinese origin. The task force will include the Secretaries of Treasury, Commerce, Labor, and State, the Commissioner of Customs, and the heads of other executive branch agencies, as appropriate, acting through their designees at the Deputy Assistant Secretary level (Assistant Commissioner level in the case of Customs) or higher. The task force will coordinate closely with the U.S. Customs Service to promote maximum effectiveness of Customs enforcement of Section 307 of the Tariff Act of 1930 in the following specific areas:

1) investigations of allegations of forced or prison labor imports from China;
2) working with the Chinese government and other foreign governments to arrange visits to suspected prison labor facilities;
3) providing technical assistance to China and other foreign governments to ensure that forced or prison labor goods from China are not imported into the U.S.;
4) monitoring U.S. ports for forced or prison labor goods from China; and
5) engaging in any other activities necessary to stringently enforce section 307 of the Tariff Act of 1930 with respect to goods from China.

The task force will strengthen the ability of the U.S. Government to stop imports of goods from China made by forced or prison labor. The members of the task force will work with the Chinese Government and other foreign governments to ensure that this prohibition is strictly enforced.

V. Monitoring and Enforcement of China's Compliance With Trade Agreements

Proposal: This provision calls for additional resources to be allocated to the Departments of Commerce, Agriculture, and State, and to the Office of the U.S. Trade Representative to strengthen the ability of the United States to monitor and enforce Chinese compliance with trade agreements. The provision will include resources to promote the following activities, among others:

1) staffing to monitor China's compliance with the WTO Agreements;
2) defend U.S. antidumping, and countervailing duty measures and U.S. policy to maintain strong trade remedies;
3) enforce U.S. trade laws, including import monitoring, subsidy enforcement, and prompt antidumping and countervailing duty investigations under Title VII of the Tariff Act of 1930 with respect to products from China;
4) create a Trade Law Technical Assistance Center to assist small and medium sized businesses, workers, and unions in evaluating potential remedies available under trade laws of the United States with respect to trade involving China;

5) an Overseas Compliance Program, that will monitor abroad compliance with international trade obligations;
6) commit additional funds to investigate, prosecute and defend cases involving China before the WTO; and
7) increase legal and technical expertise in areas covered by trade agreements and U.S. trade law, including food safety and biotechnology, for purposes of monitoring China's compliance with trade agreement obligations.

The wide-ranging provisions will substantially increase the ability of the U.S. Government to monitor and enforce Chinese obligations in international trade agreements.

VI. Technical Assistance to Develop Rule of Law in Commercial and Labor Markets and Democracy-Building in China

Proposal: This proposal calls for the allocation of resources to the Departments of Commerce, State, and Labor to provide training and technical assistance in China for purposes of developing the rule of law with respect to commercial and labor market standards and with respect to democracy-building. The Departments will establish programs to assist China in bringing its laws into compliance with international requirements, including WTO rules and ILO conventions, and in developing processes to enforce the rule of law.

Program staff will attempt to develop programs with legislators, administrators, judges, lawyers, businesses, and workers in China to: help to draft laws and regulations; conduct seminars and workshops on effective administration and enforcement; support the establishment of law journals and other publications to promote discussion of legal issues; and facilitate educational and worker exchanges between the United States and China. Program staff will coordinate their efforts with international organizations, such as the ILO, WTO, and international financial institutions, and non-governmental organizations pursuing similar objectives.

VII. Accession of Taiwan to WTO

Proposal: This provision will express the sense of the Congress that the WTO General Council should approve both the PRC's accession and Taiwan's accession at the same General Council session.

May 18, 2000

~~Summary of~~ Outstanding Technical Issues: Levin – Bereuter Package

Suggested technical edits based on ~~This memo is based~~ on the Discussion Draft of Levin-Bereuter marked May 19, 2000 (1:50 PM).

1. This draft does not incorporate the President's formal PNTR language. We understand this technical detail will be accomplished by the Rules Committee Tuesday.

2. Section 2 (12): Page 6, line 17: Strike the word "special" and replace "regions" with "areas", so the revised sentence reads: "…access to the autonomous areas of Tibet and Xinjiang". The rationale is accuracy, as *special* is inaccurate and *region* applies only to the Tibetan Autonomous Region (TAR); "areas" captures ethnic Tibetans in other areas of China outside the TAR. NGOs support this change.

   Similarly, Sec. 3 (5)(B), page 7, lines 24-25, and Title I - Sec. 102 (a) (3), page 12, lines 1-2, the parenthetical "(including the special autonomous regions of Tibet and Xinjiang)" should be struck. The rationale is that both could be misread by the NGO community as in some way endorsing ethnic Han Chinese movement into the Tibetan Autonomous Region, a politically sensitive issue. Best to make no reference to it. NGOs will support the deletion.

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5. Throughout Document: "Authorized to appropriate" language appears throughout the document, beginning with Section 212 on page 25, line 7. The only Title in the bill where Administration believes new authorization is required is in Title I, establishing and funding the Commission. Our preference is that the following language replace "authorize to appropriate" in all places other than Title I.

   Preference: "It is the sense of Congress that funds should appropriated to...for …".

   Alternative: "There are authorized to be appropriated if authorization is necessary…".

6. Title II – Subtitle C: Safeguard implementation bill ~~Surge~~ language in this draft does not track exactly the mark-up language (HR 4444), and we presume that mark-up language will be substituted. ~~reinstated.~~

7. In addition, we have identified 2 significant technical issues related to the Title II, Subtitle C:

a) Sec. 221 (j) (2): Page 39, lines 6-8: The language "…or if the President determines that~~n~~ [sic] an agreement reached pursuant to such consultations is not preventing or remedying the market disruption at issue,…" should be deleted. The reason is that it is unnecessary (WHY?), and that additional language on the modification of relief was added in communications between USTR and Levin Staff that makes this language inappropriate and confusing.

b) Sec. 222 (d) (2): Page 45, lines 22-24: Lines 22-24 should be replaced with: "…the time that the WTO member notified the Safeguards Committee of a request for consultations described in subsection (a) or announced initiation of an investigation under the product-specific safeguard, whichever is earlier." The rational is that not all WTO members may conduct investigations, therefore the event identified in the draft may not occur. This has been discussed between USTR and Levin Staff.

8. Title III – Subtitle B, Sec. 311 (a) and (b): Page 57, lines 9 and 15: On line 9, the Secretary of Commerce should act "in consultation with the Secretary of State," not "in concurrence"; on line 15 the Secretary of Labor should act "in consultation with the Secretary of State," not "in concurrence". We mis-communicated the interagency position on this in our earlier redlines.

9. Title III – Subtitle B, Sec. 311 (b) (3): Page 58, lines 11-14: The Secretary of Labor is precluded from providing assistance to the All-China Federation of Trade Unions, presumably because it is government controlled. The Administration acknowledges its ties to the Chinese goernment, but believes there is value in engaging this entity, as we do the PRC government, without financing its operations. For instance, it is useful to presa the ~~However this pervasive~~ the ACFTU ~~entity should usefully be at the table for~~ in meetings and seminars in order to promote reform in labor law due to its influence and centrality. We propose changing the blanket limitation to "The Secretary of Labor may not provide assistance under the program *to finance the operating costs of* the All-China Federation of Trade Unions". This would permit their participation in purely informational/educational activities from which they enjoy no material benefit. [Check language with Labor samet]

10. Title III – Subtitle B, Sec. 313: Page 59, lines 17-18: The draft restricts rule of law spending if the President "has credible evidence" of responsibility for human rights violations on the part of a recipient entity. ~~We propose changing that construction to "determines responsibility".~~ We propose deleting "credible" and inserting "sufficient", so it is revised to read ~~Alternatively,~~ "has *sufficient* evidence". Alternatively, it could read "has sufficient credible evidence" ~~would be more appropriate in order to preclude spurious objections~~.