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106TH CONGRESS
2D SESSION

H. R. ____

IN THE HOUSE OF REPRESENTATIVES

Mr. LEVIN (for himself and Mr. BEREUTER) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

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

Subtitle A—Review of Membership of the People's Republic of China in the WTO

Subtitle B—Authorization To Promote Compliance With Trade Agreements

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

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

TITLE III—TRADE AND RULE OF LAW ISSUES IN THE PEOPLE'S REPUBLIC OF CHINA

Subtitle A—Task Force on Prohibition of Importation of Products of Forced or Prison Labor From the People's Republic of China

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

SEC. 2. FINDINGS.

The Congress finds the following:

(1) In 1980, the United States opened trade relations with the People's Republic of China by entering into a bilateral trade agreement, which was approved by joint resolution enacted pursuant to section 405(c) of the Trade Act of 1974.

(2) Since 1980, the President has consistently extended nondiscriminatory treatment to products of the People's Republic of China, pursuant to his authority under section 404 of the Trade Act of 1974.

(3) Since 1980, the United States has entered into several additional trade-related agreements with the People's Republic of China, including a memorandum of understanding on market access in 1992, 2 agreements on intellectual property rights protection in 1992 and 1995, and an agreement on agricultural cooperation in 1999.

(4) Trade in goods between the People's Republic of China and the United States totaled almost $95,000,000,000 in 1999, compared with approxi-

mately $18,000,000,000 in 1989, representing growth of approximately 428 percent over 10 years.

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

(6) The People's Republic of China currently restricts imports through relatively high tariffs and nontariff barriers, including import licensing, technology transfer, and local content requirements.

(7) United States businesses attempting to sell goods to markets in the People's Republic of China have complained of uneven application of tariffs, customs procedures, and other laws, rules, and administrative measures affecting their ability to sell their products in the Chinese market.

(8) On November 15, 1999, the United States and the People's Republic of China concluded a bilateral agreement concerning terms of the People's Republic of China's eventual accession to the World Trade Organization.

(9) The commitments that the People's Republic of China made in its November 15, 1999, agreement with the United States promise to eliminate or

greatly reduce the principal barriers to trade with and investment in the People's Republic of China, if those commitments are effectively enforced.

(10) The record of the People's Republic of China in implementing trade-related commitments has been mixed. While the People's Republic of China has generally met the requirements of the 1992 market access memorandum of understanding and the 1992 and 1995 agreements on intellectual property rights protection, other measures remain in place or have been put into place which tend to diminish the benefit to United States businesses, farmers, and workers from the People's Republic of China's implementation of those earlier commitments. Notably, administration of tariff-rate quotas and other trade-related laws remains opaque, new local content requirements have proliferated, restrictions on importation of animal and plant products are not always supported by sound science, and licensing requirements for importation and distribution of goods remain common.

(11) The human rights record of the People's Republic of China is a matter of very serious concern to the Congress. The Congress notes that the Department of State's 1999 Country Reports on

Human Rights Practices for the People's Republic of China finds that "[t]he Government's poor human rights record deteriorated markedly throughout the year, as the Government intensified efforts to suppress dissent, particularly organized dissent.".

(12) The Congress deplores violations by the Government of the People's Republic of China of human rights, religious freedoms, and worker rights that are referred to in the Department of State's 1999 Country Reports on Human Rights Practices for the People's Republic of China, including the banning of the Falun Gong spiritual movement, denial in many cases, particularly politically sensitive ones, of effective representation by counsel and public trials, extrajudicial killings and torture, forced abortion and sterilization, restriction of access to the ~~special~~ autonomous ~~regions~~ areas of Tibet and Xinjiang, perpetuation of "reeducation through labor", and denial of the right of workers to organize labor unions or bargain collectively with their employers.

SEC. 3. POLICY.

It is the policy of the United States—

(1) to develop trade relations that broaden the benefits of trade, and lead to a leveling up, rather than a leveling down, of labor, environmental, com-

mercial rule of law, market access, anticorruption, and other standards across national borders;

(2) to pursue effective enforcement of trade-related and other international commitments by foreign governments through enforcement mechanisms of international organizations and through the application of United States law as appropriate;

(3) to encourage foreign governments to conduct both commercial and noncommercial affairs according to the rule of law developed through democratic processes;

(4) to encourage the Government of the People's Republic of China to afford its workers internationally recognized worker rights;

(5) to encourage the Government of the People's Republic of China to protect the human rights of people within the territory of the People's Republic of China, and to take steps toward protecting such rights, including, but not limited to—

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

(B) protecting the right to liberty of movement and freedom to choose a residence within the People's Republic of China ~~(including the special autonomous regions of Tibet and~~

~~Xinjiang)~~ and the right to leave from and return to the People's Republic of China; and

(C) affording a criminal defendant—

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

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

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

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

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

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

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

violations of human rights by foreign governments and to seek the support of other governments in urging improvements in human rights practices.

SEC. 4. DEFINITIONS.

In this Act:

(1) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(16)).

(2) GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA.—The term "Government of the People's Republic of China" means the central Government of the People's Republic of China and any other governmental entity, including any provincial, prefectural, or local entity and any enterprise that is controlled by the central Government or any such governmental entity or as to which the central Government or any such governmental entity is entitled to receive a majority of the profits.

(3) INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—The term "internationally recognized worker rights" has the meaning given that term in section 507(4) of the Trade Act of 1974 (19 U.S.C.

2467(4)) and includes the right to the elimination of the "worst forms of child labor", as defined in section 507(6) of the Trade Act of 1974 (19 U.S.C. 2467(6)).

(4) TRADE REPRESENTATIVE.—The term "Trade Representative" means the United States Trade Representative.

(5) WTO; WORLD TRADE ORGANIZATION.—The terms "WTO" and "World Trade Organization" mean the organization established pursuant to the WTO Agreement.

(6) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(7) WTO MEMBER.—The term "WTO member" has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

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.

There is established a Congressional-Executive Commission on the People's Republic of China (in this title referred to as the "Commission").

SEC. 102. FUNCTIONS OF THE COMMISSION.

(a) MONITORING COMPLIANCE WITH HUMAN RIGHTS.—The Commission shall monitor the acts of the People's Republic of China which reflect compliance with or violation of human rights, in particular, those contained in the International Covenant on Civil and Political Rights and in the Universal Declaration of Human Rights, including, but not limited to, effectively affording—

(1) the right to engage in free expression (including free religious expression) without fear of any prior restraints;

(2) the right to peaceful assembly without restrictions, in accordance with international law;

(3) the right to liberty of movement and freedom to choose a residence within the People's Re-

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

(4) the right of a criminal defendant—

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

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

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

(D) to a fair and public hearing by a competent, independent, and impartial tribunal established by the law;

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

(F) to be tried without undue delay;

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

(6) protection of internationally recognized worker rights.

(b) VICTIMS LISTS.—The Commission shall compile and maintain lists of persons believed to be imprisoned, detained, or placed under house arrest, tortured, or otherwise persecuted by the Government of the People's Republic of China due to their pursuit of the rights described in subsection (a). In compiling such lists, the Commission shall exercise appropriate discretion, including concerns regarding the safety and security of, and benefit to, the persons who may be included on the lists and their families.

(c) MONITORING DEVELOPMENT OF RULE OF LAW.—The Commission shall monitor the development of the rule of law in the People's Republic of China, including, but not limited to—

(1) progress toward the development of institutions of democratic governance;

(2) processes by which statutes, regulations, rules, and other legal acts of the Government of the People's Republic of China are developed and become binding within the People's Republic of China;

(3) the extent to which statutes, regulations, rules, administrative and judicial decisions, and other legal acts of the Government of the People's

Republic of China are published and are made accessible to the public;

(4) the extent to which administrative and judicial decisions are supported by statements of reasons that are based upon written statutes, regulations, rules and other legal acts of the Government of the People's Republic of China;

(5) the extent to which individuals are treated equally under the laws of the of the People's Republic of China without regard to citizenship; and

(6) the extent to which administrative and judicial decisions are independent of political ~~party~~ or governmental interference and are reviewed by entities of appellate jurisdiction.

(d) BILATERAL COOPERATION.—The Commission shall monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward increasing the interchange of people and ideas between the United States and the People's Republic of China and expanding cooperation in areas that include, but are not limited to—

(1) increasing enforcement of human rights described in subsection (a); and

(2) developing the rule of law in the People's Republic of China.

(e) CONTACTS WITH NONGOVERNMENTAL ORGANIZATIONS.—In performing the functions described in subsections (a) through (d), the Commission shall, as appropriate, seek out and maintain contacts with nongovernmental organizations, including receiving reports and updates from such organizations and evaluating such reports.

(f) ANNUAL REPORTS.—The Commission shall issue a report to the President and the Congress not later than 12 months after the date of the enactment of this Act, and not later than the end of each 12-month period thereafter, setting forth the findings of the Commission during the preceding 12-month period, in carrying out subsections (a) through (c). The Commission's report may contain recommendations for legislative or executive action.

(g) CONGRESSIONAL HEARINGS ON ANNUAL REPORTS.—(1) The Committee on International Relations of the House of Representatives shall, not later than 30 days after the receipt by the Congress of the report referred to in subsection (f), hold hearings on the contents of the report, including any recommendations contained therein, for the purpose of receiving testimony from Members of Congress, and such appropriate representatives of Federal departments and agencies, and interested persons and groups, as the committee deems advisable, with a view to reporting to the House of Represenatives any appropriate legislation in furtherance of such recommendations. If any such legislation is considered by the Committee on International Relations within 45 days after receipt by the Congress of the report referred to in subsection (f), it shall be reported by the committee not later than 60 days after receipt by the Congress of such report.

(2) The provisions of paragraph (1) are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such are deemed a part of the rules of the House, and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(h) SUPPLEMENTAL REPORTS.—The Commission may submit to the President and the Congress reports that supplement the reports described in subsection (f), as appropriate, in carrying out subsections (a) through (c).

SEC. 103. MEMBERSHIP OF THE COMMISSION.

(a) SELECTION AND APPOINTMENT OF MEMBERS.—The Commission shall be composed of 23 members as follows:

(1) Nine Members of the House of Representatives appointed by the Speaker of the House of Representatives. Five members shall be selected from the majority party and four members shall be selected, after consultation with the minority leader of the House, from the minority party.

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

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

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

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

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

(b) CHAIRMAN AND COCHAIRMAN.—

(1) DESIGNATION OF CHAIRMAN.—At the beginning of each odd-numbered Congress, the President of the Senate, on the recommendation of the majority leader, shall designate one of the members of the Commission from the Senate as Chairman of the Commission. At the beginning of each even-numbered Congress, the Speaker of the House of Representatives shall designate one of the members of the Commission from the House as Chairman of the Commission.

(2) DESIGNATION OF COCHAIRMAN.—At the beginning of each odd-numbered Congress, the Speaker of the House of Representatives shall designate one of the members of the Commission from the House as Cochairman of the Commission. At the beginning of each even-numbered Congress, the President of the Senate, on the recommendation of the

majority leader, shall designate one of the members of the Commission from the Senate as Cochairman of the Commission.

SEC. 104. VOTES OF THE COMMISSION.

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

SEC. 105. EXPENDITURE OF APPROPRIATIONS.

For each fiscal year for which an appropriation is made to the Commission, the Commission shall issue a report to the Congress on its expenditures under that appropriation.

SEC. 106. TESTIMONY OF WITNESSES, PRODUCTION OF EVIDENCE; ISSUANCE OF SUBPOENAS; ADMINISTRATION OF OATHS.

In carrying out this title, the Commission may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and electronically recorded data [as are necessary for the performance of its functions under this title] ~~as it considers necessary.~~ Subpoenas may be issued only pursuant to a two-thirds vote of members of the Commission present and voting.

Subpoenas may be issued over the signature of the Chairman of the Commission or any member designated by the Chairman, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by the Chairman, may administer oaths to any witness.

SEC. 107. APPROPRIATIONS FOR THE COMMISSION.

(a) AUTHORIZATION; DISBURSEMENTS.—

(1) AUTHORIZATION.—There are authorized to be appropriated to the Commission for fiscal year 2001, and each fiscal year thereafter, such sums as may be necessary to enable it to carry out its functions. Appropriations to the Commission are authorized to remain available until expended.

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

(A) jointly by the Chairman and the Cochairman; or

(B) by a majority of the members of the personnel and administration committee established pursuant to section 108.

(b) FOREIGN TRAVEL FOR OFFICIAL PURPOSES.—Foreign travel for official purposes by members and staff of the Commission may be authorized by either the Chairman or the Cochairman.

SEC. 108. STAFF OF THE COMMISSION.

(a) PERSONNEL AND ADMINISTRATION COMMITTEE.—The Commission shall have a personnel and administration committee composed of the Chairman, the Cochairman, the senior member of the Commission from the minority party of the House of Representatives, and the senior member of the Commission from the minority party of the Senate.

(b) COMMITTEE FUNCTIONS.—All decisions pertaining to the hiring, firing, and fixing of pay of personnel of the Commission shall be by a majority vote of the personnel and administration committee, except that—

(1) the Chairman shall be entitled to appoint and fix the pay of the staff director, and the Cochairman shall be entitled to appoint and fix the pay of the Cochairman's senior staff member; and

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

Subject to subsection (d), the personnel and administration committee may appoint and fix the pay of such other personnel as it considers desirable.

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

(d) QUALIFICATIONS OF PROFESSIONAL STAFF.—The personnel and administration committee shall ensure that the professional staff of the Commission consists of persons with expertise in areas including human rights, internationally recognized worker rights, international economics, law (including international law), rule of law and other foreign assistance programming, Chinese politics, economy and culture, and the Chinese language.

(e) COMMISSION EMPLOYEES AS CONGRESSIONAL EMPLOYEES.—

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

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

SEC. 109. PRINTING AND BINDING COSTS.

For purposes of costs relating to printing and binding, including the costs of personnel detailed from the Government Printing Office, the Commission shall be deemed to be a committee of the Congress.

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

Subtitle A—Review of Membership of the People's Republic of China in the WTO

SEC. 201. REVIEW WITHIN THE WTO.

It shall be the objective of the United States to obtain as part of the Protocol of Accession of the People's Republic of China to the WTO, an annual review within the WTO of the compliance by the People's Republic of China with its terms of accession to the WTO.

Subtitle B—Authorization To Promote Compliance With Trade Agreements

SEC. 211. FINDINGS.

The Congress finds as follows:

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

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

(3) The United States Government must continue to be vigilant in monitoring and enforcing the compliance by our trading partners with trade agreements in order for United States businesses, workers, and farmers to continue to benefit from the opportunities created by market-opening trade agreements.

(4) The People's Republic of China, as part of its accession to the World Trade Organization, has committed to eliminating significant trade barriers in the agricultural, services, and manufacturing sectors that, if realized, would provide considerable opportunities for United States farmers, businesses, and workers.

(5) For these opportunities to be fully realized, the United States Government must effectively monitor and enforce its rights under the agreements on the accession of the People's Republic of China to the WTO.

SEC. 212. PURPOSE.

The purpose of this subtitle is to authorize additional resources for the agencies and departments engaged in monitoring and enforcement of United States trade agreements and trade laws with respect to the People's Republic of China.

SEC. 213. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF COMMERCE.—There is authorized to be appropriated to the Department of Commerce, in addition to amounts otherwise available for such purposes, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, for additional staff for—

(1) monitoring compliance by the People's Republic of China with its commitments under the WTO, assisting United States negotiators with ongoing negotiations in the WTO, and defending United States antidumping and countervailing duty measures with respect to products of the People's Republic of China;

(2) enforcement of United States trade laws with respect to products of the People's Republic of China; and

(3) a Trade Law Technical Assistance Center to assist small- and medium-sized businesses, workers, and unions in evaluating potential remedies available under the trade laws of the United States with respect to trade involving the People's Republic of China.

(b) OVERSEAS COMPLIANCE PROGRAM.—

(1) AUTHORIZATION OF APPROPRIATION.— There are authorized to be appropriated to the Department of Commerce and the Department of State, in addition to amounts otherwise available, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, to provide staff for monitoring in the People's Republic of China that country's compliance with its international trade obligations and to support the enforcement of the trade laws of the United States, as part of an Overseas Compliance Program which monitors abroad compliance with international trade obligations and supports the enforcement of United States trade laws.

(2) REPORTING.—The annual report on compliance by the People's Republic of China submitted to the Congress under section 231 of this Act shall include the findings of the Overseas Compliance Program with respect to the People's Republic of China.

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

(1) the Office of the General Counsel, the Monitoring and Enforcement Unit, and the Office of the Deputy United States Trade Representative in Geneva, Switzerland, to investigate, prosecute, and defend cases before the WTO, and to administer United States trade laws, including title III of the Trade Act of 1974 (19 U.S.C. 2411, et seq.) and other trade laws relating to intellectual property, government procurement, and telecommunications, with respect to the People's Republic of China;

(2) the Office of Economic Affairs, to analyze the impact on the economy of the United States, including United States exports, of acts of the Government of the People's Republic of China affecting access to markets in the People's Republic of China

and to support the Office of the General Counsel in presenting cases to the WTO involving the People's Republic of China;

(3) the geographic office for the People's Republic of China; and

(4) offices relating to the WTO and to different sectors of the economy, including agriculture, industry, services, and intellectual property rights protection, to monitor and enforce the trade agreement obligations of the People's Republic of China in those sectors.

(d) DEPARTMENT OF AGRICULTURE.—There are authorized to be appropriated to the Department of Agriculture, in addition to amounts otherwise available for such purposes, such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter, for additional staff to increase legal and technical expertise in areas covered by trade agreements and United States trade law, including food safety and biotechnology, for purposes of monitoring compliance by the People's Republic of China with its trade agreement obligations.

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

SEC. 221. ACTION TO ADDRESS MARKET DISRUPTION.

(a) PRESIDENTIAL ACTION.—If a product of the People's Republic of China is being imported into the United States in such increased quantities or under such conditions as to cause or threaten to cause market disruption to the domestic producers of a like or directly competitive product, the President shall, in accordance with the provisions of this section, proclaim increased duties or other import restrictions with respect to such product, to the extent and for such period as the President considers necessary to prevent or remedy the market disruption.

(b) INITIATION OF AN INVESTIGATION.—(1) Upon the filing of a petition by an entity described in section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)), upon the request of the President or the United States Trade Representative (in this subtitle referred to as the "Trade Representative"), upon resolution of either the Committee on Ways and Means of the House of Representatives, or the Committee on Finance of the Senate (in this subtitle referred to as the "Committees") or on its own motion, the United States International Trade

Commission (in this subtitle referred to as the "Commission") shall promptly make an investigation to determine whether products of the People's Republic of China are being imported into the United States 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.

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

(3) The provisions of subsections (a)(8) and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relating to treatment of confidential business information, shall apply to investigations conducted under this section.

(4) Whenever a petition is filed, or a request or resolution is received, under this subsection, the Commission shall transmit a copy thereof to the President, the Trade Representative, the Committee on Ways and Means of the House of Representatives, and the Committee of Finance of the Senate, except that in the case of confidential business information, the copy may include only nonconfidential summaries of such information.

(5) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to the presentations of other parties, and otherwise to be heard.

(c) MARKET DISRUPTION.—(1) For purposes of this section, market disruption exists whenever imports of an article like or directly competitive with an article produced by a domestic industry 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.

(2) For purposes of paragraph (1), the term "significant cause" refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

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

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

(2) the effect of imports of such product on prices in the United States for like or directly competitive articles; and

(3) the effect of imports of such product on the domestic industry producing like or directly competitive articles.

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

(e) TIME FOR COMMISSION DETERMINATIONS.—The Commission shall make and transmit to the President and the Trade Representative its determination under subsection (b)(1) at the earliest practicable time, but in no case later than 60 days (or 90 days in the case of a petition requesting relief under subsection (i)) after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, under subsection (b). If the Commissioners voting are equally divided with respect to its determination, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

(f) RECOMMENDATIONS OF COMMISSION ON PROPOSED REMEDIES.—If the Commission makes an affirmative determination under subsection (b), or a determination which the President or the Trade Representative may consider as affirmative under subsection (e), the Commission shall propose the amount of increase in, or imposition of, any duty or other import restrictions necessary to prevent or remedy the market disruption. Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the proposed action to prevent or remedy market disruption. Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (g), separate views regarding what action, if any, should be taken to prevent or remedy market disruption.

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

(2) The Commission shall include in the report required under paragraph (1) the following:

(A) The determination made under subsection (b) and an explanation of the basis for the determination.

(B) If the determination under subsection (b) is affirmative, or may be considered by the President or the Trade Representative as affirmative under subsection (e), the recommendations of the Commission on proposed remedies under subsection (f) and an explanation of the basis for each recommendation.

(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

(D) A description of—

(i) the short- and long-term effects that implementation of the action recommended under subsection (f) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers, and the communities where production facilities of such industry are located, and on other domestic industries.

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

(h) OPPORTUNITY TO PRESENT VIEWS AND EVIDENCE ON PROPOSED MEASURE AND RECOMMENDATION TO THE PRESIDENT.—(1) Within 20 days after receipt of the Commission's report under subsection (g) (or 15 days in the case of an affirmative preliminary determination under subsection (i)(1)(B)), the Trade Representative shall publish in the Federal Register notice of any measure proposed by the Trade Representative to be taken pursuant to subsection (a) and of the opportunity, including a public hearing, if requested, for importers, exporters, and other interested parties to submit their views and evidence on the appropriateness of the proposed measure and whether it would be in the public interest.

(2) Within 55 days after receipt of the report under subsection (g) (or 35 days in the case of an affirmative preliminary determination under subsection (i)(1)(B)), the Trade Representative, taking into account the views and evidence received under paragraph (1) on the measure proposed by the Trade Representative, shall make a recommendation to the President concerning what action, if any, to take to prevent or remedy the market disruption.

(i) CRITICAL CIRCUMSTANCES.—(1) When a petition filed under subsection (b) alleges that critical circumstances exist and requests that provisional relief be provided under this subsection with respect to the product identified in the petition, the Commission shall, not later than 45 days after the petition containing the request is filed—

(A) determine whether delay in taking action under this section would cause damage to the relevant domestic industry which would be difficult to repair; and

(B) if the determination under subparagraph (A) is affirmative, make a preliminary determination of whether imports of the product which is the subject of the investigation have caused or threatened to cause market disruption.

If the Commissioners voting are equally divided with respect to either of its determinations, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

(2) On the date on which the Commission completes its determinations under paragraph (1), the Commission shall transmit a report on the determinations to the President and the Trade Representative, including the reasons for its determinations. If the determinations under paragraph (1) are affirmative, or may be considered by the President or the Trade Representative as affirmative under paragraph (1), the Commission shall include in its

report its recommendations on proposed provisional measures to be taken to prevent or remedy the market disruption. Only those members of the Commission who agreed to the affirmative determinations under paragraph (1) are eligible to vote on the proposed provisional measures to prevent or remedy market disruption. Members of the Commission who did not agree to the affirmative determinations may submit, in the report, dissenting or separate views regarding the determination and any recommendation of provisional measures referred to in this paragraph.

(3) If the determinations under paragraph (1) are affirmative, or may be considered by the President or the Trade Representative as affirmative under paragraph (1), the Trade Representative shall, within 10 days after receipt of the Commission's report, determine the amount or extent of provisional relief that is necessary to prevent or remedy the market disruption and shall provide a recommendation to the President on what provisional measures, if any, to take.

(4)(A) The President shall determine whether to provide provisional relief and proclaim such relief, if any, within 10 days after receipt of the recommendation from the Trade Representative.

(B) Such relief may take the form of—

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

(ii) any modification, or imposition of any quantitative restriction on the importation of an article into the United States; or

(iii) any combination of actions under clauses (i) and (ii).

(C) Any provisional action proclaimed by the President pursuant to a determination of critical circumstances shall remain in effect not more than 200 days.

(D) Provisional relief shall cease to apply upon the effective date of relief proclaimed under subsection (a), upon a decision by the President not to provide such relief, or upon a negative determination by the Commission under subsection (b).

(j) AGREEMENTS WITH THE PEOPLE'S REPUBLIC OF CHINA.—(1) The Trade Representative is authorized to enter into agreements for the People's Republic of China to take such action as necessary to prevent or remedy market disruption, and should seek to conclude such agreements before the expiration of the 60-day consultation period provided for under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the WTO, which shall commence not later than 5 days after the Trade Representative receives an affirmative determination provided for in subsection (e) or a determination which the Trade Representative considers to be an affirmative determination pursuant to subsection (e).

(2) If no agreement is reached with the People's Republic of China pursuant to consultations under paragraph (1), [or if the President determines than an agreement reached pursuant to such consultations is not preventing or remedying the market disruption at issue], the President shall provide import relief in accordance with subsection (a).

(k) STANDARD FOR PRESIDENTIAL ACTION.—(1) Within 15 days after receipt of a recommendation from the Trade Representative under subsection (h) on the appropriate action, if any, to take to prevent or remedy the market disruption, the President shall provide import relief for such industry pursuant to subsection (a), unless the President determines that provision of such relief is not in the national economic interest of the United States or, in extraordinary cases, that the taking of action pursuant to subsection (a) would cause serious harm to the national security of the United States.

(2) The President may determine under paragraph (1) that providing import relief is not in the national economic interest of the United States only if the President finds that the taking of such action would have an adverse

impact on the United States economy clearly greater than the benefits of such action.

(l) PUBLICATION OF DECISION AND REPORTS.—(1) The President's decision, including the reasons therefor and the scope and duration of any action taken, shall be published in the Federal Register.

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

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

(n) MODIFICATIONS OF RELIEF.—(1) At any time after the end of the 6-month period beginning on the date on which relief under subsection (m) first takes effect, the President may request that the Commission provide a report on the probable effect of the modification, reduction, or termination of the relief provided on the relevant industry. The Commission shall transmit such report to the President within 60 days of the request.

(2) The President may, after receiving a report from the Commission under paragraph (1), take such action to modify, reduce, or terminate relief that the President de-

termines is necessary to continue to prevent or remedy the market disruption at issue.

(3) Upon the granting of relief under subsection (k), the Commission shall collect such data as is necessary to allow it to respond rapidly to a request by the President under paragraph (1).

(o) EXTENSION OF ACTION.— (1) Upon request of the President, or upon petition on behalf of the industry concerned filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any relief provided under subsection (k) is to terminate, the Commission shall investigate to determine whether action under this section continues to be necessary to prevent or remedy market disruption.

(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(3) The Commission shall transmit to the President a report on its investigation and determination under this

subsection not later than 60 days before the action under subsection (m) is to terminate.

(4) The President, after receiving an affirmative determination from the Commission under paragraph (3), may extend the effective period of any action under this section if the President determines that the action continues to be necessary to prevent or remedy the market disruption.

SEC. 222. ACTION IN RESPONSE TO TRADE DIVERSION.

(a) MONITORING BY CUSTOMS SERVICE.—In any case in which a WTO member other than the United States requests consultations with the People's Republic of China under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the World Trade Organization, the Trade Representative shall inform the United States Customs Service, which shall monitor imports into the United States of those products of Chinese origin that are the subject of the consultation request. Data from such monitoring shall promptly be made available to the Commission upon request by the Commission.

(b) INITIATION OF INVESTIGATION.—(1) Upon the filing of a petition by an entity described in section 202(a) of the Trade Act of 1974, upon the request of the President or the Trade Representative, upon resolution of either of the Committees, or on its own motion, the Commission shall promptly make an investigation to determine whether an action described in subsection (c) has caused, or threatens to cause, a significant diversion of trade into the domestic market in the United States.

(2) The Commission shall publish notice of the commencement of any proceeding under this subsection in the Federal Register and shall, within a reasonable time thereafter, hold public hearings at which the Commission shall afford interested parties an opportunity to be present, to present evidence, to respond to the presentations of other parties, and otherwise to be heard.

(3) The provisions of subsections (a)(8) and (i) of section 202 of the Trade Act of 1974 (19 U.S.C. 2252(a)(8) and (i)), relating to treatment of confidential business information, shall apply to investigations conducted under this section.

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

(1) by the People's Republic of China to prevent or remedy market disruption in a WTO member other than the United States;

(2) by a WTO member other than the United States to withdraw concessions under the WTO

Agreement or otherwise to limit imports to prevent or remedy market disruption;

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

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

(d) BASIS FOR DETERMINATION OF SIGNIFICANT DIVERSION.—(1) In determining whether significant diversion or the threat thereof exists for purposes of this section, the Commission shall take into account, to the extent such evidence is reasonably available—

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

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

(C) the actual or imminent increase in volume of such imports into the United States;

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

(E) the extent of exports from the People's Republic of China to that WTO member and to the United States;

(F) the actual or imminent changes in exports to that WTO member due to the action taken or proposed;

(G) the actual or imminent diversion of exports from the People's Republic of China to countries other than the United States;

(H) cyclical or seasonal trends in import volumes into the United States of the products at issue; and

(I) conditions of demand and supply in the United States market for the products at issue.

The presence or absence of any factor under any of subparagraphs (A) through (I) is not necessarily dispositive of whether a significant diversion of trade or the threat thereof exists.

(2) For purposes of making its determination, the Commission shall examine changes in imports into the United States from the People's Republic of China since the time that the WTO member announced the commencement of the investigation that led to a request for consultations described in subsection (a).

(3) If more than 1 action by a WTO member or WTO members against a particular product is identified in the petition, request, or resolution under subsection (b) or during the investigation, the Commission may cumulatively assess the actual or likely effects of such actions jointly in determining whether a significant diversion of trade exists.

(e) COMMISSION DETERMINATION; AGREEMENT AUTHORITY.—(1) The Commission shall make and transmit to the President and the Trade Representative its determination under subsection (b) at the earliest practicable time, but in no case later than 45 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, under subsection (b). If the Commissioners voting are equally divided with respect to its determination, then the determination agreed upon by either group of Commissioners may be considered by the President and the Trade Representative as the determination of the Commission.

(2) The Trade Representative is authorized to enter into agreements for the People's Republic of China to take such action as necessary to prevent or remedy significant trade diversion into the domestic market in the United States, and should seek to conclude such agreements before the expiration of the 60-day consultation period pro-

vided for under the product-specific safeguard provision of the Protocol of Accession of the People's Republic of China to the WTO, which shall commence not later than 5 days after the Trade Representative receives an affirmative determination provided for in paragraph (1) or a determination which the trade Representative considers to be an affirmative determination pursuant to paragraph (1).

(3) REPORT BY COMMISSION.—

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

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

(i) The determination made under subsection (b) and an explanation of the basis for the determination.

(ii) If the determination under subsection (b) is affirmative, or may be considered by the President or the Trade Representative as affirmative under subsection (e)(1), the recommendations of the Commission on increased tariffs or other import restrictions to be imposed to prevent or remedy the trade diversion or threat thereof, and explanations of the bases for such recommendations. Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the proposed action to prevent or remedy the trade diversion or threat thereof.

(iii) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in clauses (i) and (ii).

(iv) A description of—

(I) the short- and long-term effects that implementation of the action recommended under clause (ii) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers; and

(II) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry are located, and on other domestic industries.

(C) The Commission, after submitting a report to the President under subparagraph (A), shall promptly make it available to the public (with the exception of confidential business information) and cause a summary thereof to be published in the Federal Register.

(f) PUBLIC COMMENT.—If consultations fail to lead to an agreement with the People's Republic of China or the WTO member concerned within 60 days, the Trade Representative shall promptly publish notice in the Federal Register of any proposed action to prevent or remedy the trade diversion, and provide an opportunity for interested persons to present views and evidence on whether the proposed action is in the public interest.

(g) RECOMMENDATION TO THE PRESIDENT.—Within 20 days after the end of consultations pursuant to subsection (e), the Trade Representative shall make a recommendation to the President on what action, if any, should be taken to prevent or remedy the trade diversion or threat thereof.

(h) PRESIDENTIAL ACTION.—Within 20 days after receipt of the recommendation from the Trade Representative, the President shall determine what action to take to prevent or remedy the trade diversion or threat thereof.

(i) DURATION OF ACTION.—Action taken under subsection (h) shall be terminated not later than 30 days after expiration of the action taken by the WTO member or members involved against imports from the People's Republic of China.

(j) REVIEW OF CIRCUMSTANCES.—(1) The Commission shall review the continued need for action taken under subsection (h) if the WTO member or members involved notify the Committee on Safeguards of the WTO of any modification in the action taken by them against the People's Republic of China pursuant to consultation referred to in subsection (a). The Commission shall, not later than 60 days after such notification, determine whether a significant diversion of trade continues to exist and report its determination to the President. The President shall determine, within 15 days after receiving the Commission's report, whether to modify, withdraw, or keep in place the action taken under subsection (h).

SEC. 223. REGULATIONS; TERMINATION OF PROVISION.

(a) TO CARRY OUT RESTRICTIONS AND MONITORING.—The President shall by regulation provide for the efficient and fair administration of any restriction proclaimed pursuant to the subtitle and to provide for effective monitoring of imports under section 222(a).

(b) TO CARRY OUT AGREEMENTS.—To carry out an agreement concluded pursuant to consultations under section 221(j) or 222(e)(2), the President is authorized to prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement.

(c) TERMINATION DATE.—This subtitle and any regulations issued under this subtitle shall cease to be effective 12 years after the date of entry into force of the Protocol of Accession of the People's Republic of China to the WTO.

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

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

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

SEC. 231. REPORT ON COMPLIANCE.

(a) IN GENERAL.—Not later than 1 year after the entry into force of the Protocol of Accession of the People's Republic of China to the WTO, and annually thereafter, the Trade Representative shall submit a report to Congress on compliance by the People's Republic of China with commitments made in connection with its accession to the World Trade Organization, including both multilateral commitments and any bilateral commitments made to the United States.

(b) PUBLIC PARTICIPATION.—In preparing the report described in subsection (a), the Trade Representative shall seek public participation by publishing a notice in the Federal Register and holding a public hearing.

TITLE III—TRADE AND RULE OF LAW ISSUES IN THE PEOPLE'S REPUBLIC OF CHINA

Subtitle A—Task Force on Prohibition of Importation of Products of Forced or Prison Labor From the People's Republic of China

SEC. 301. ESTABLISHMENT OF TASK FORCE.

There is hereby established a task force on prohibition of importation of products of forced or prison labor from the People's Republic of China (hereafter in this subtitle referred to as the "Task Force").

SEC. 302. FUNCTIONS OF TASK FORCE.

The Task Force shall monitor and promote effective enforcement of and compliance with section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) by performing the following functions:

(1) Coordinate closely with the United States Customs Service to promote maximum effectiveness

in the enforcement by the Customs Service of section 307 of the Tariff Act of 1930 with respect to the products of the People's Republic of China. In order to assure such coordination, the Customs Service shall keep the Task Force informed, on a regular basis, of the progress of its investigations of allegations that goods are being entered into the United States, or that such entry is being attempted, in violation of the prohibition in section 307 of the Tariff Act of 1930 on entry into the United States of goods mined, produced, or manufactured wholly or in part in the People's Republic of China by convict labor, forced labor, or indentured labor under penal sanctions. Such investigations may include visits to foreign sites where goods allegedly are being mined, produced, or manufactured in a manner that would lead to prohibition of their importation into the United States under section 307 of the Tariff Act of 1930.

(2) Make recommendations to the Customs Service on seeking new agreements with the People's Republic of China to allow Customs Service officials to visit sites where goods may be mined, produced, or manufactured by convict labor, forced labor, or indentured labor under penal sanctions.

(3) Work with the Customs Service to assist the People's Republic of China and other foreign governments in monitoring the sale of goods mined, produced, or manufactured by convict labor, forced labor, or indentured labor under penal sanctions to ensure that such goods are not exported to the United States.

(4) Coordinate closely with the Customs Service to promote maximum effectiveness in the enforcement by the Customs Service of section 307 of the Tariff Act of 1930 with respect to the products of the People's Republic of China. In order to assure such coordination, the Customs Service shall keep the Task Force informed, on a regular basis, of the progress of its monitoring of ports of the United States to ensure that goods mined, produced, or manufactured wholly or in part in the People's Republic of China by convict labor, forced labor, or indentured labor under penal sanctions are not imported into the United States.

(5) Advise the Customs Service in performing such other functions, consistent with existing authority, to ensure the effective enforcement of section 307 of the Tariff Act of 1930.

(6) Provide to the Customs Service all information obtained by the departments represented on the Task Force relating to the use of convict labor, forced labor, or/and indentured labor under penal sanctions in the mining, production, or manufacture of goods which may be imported into the United States.

SEC. 303. COMPOSITION OF TASK FORCE.

The Secretary of the Treasury, the Secretary of Commerce, the Secretary of Labor, the Secretary of State, the Commissioner of Customs, and the heads of other executive branch agencies, as appropriate, acting through their respective designees at or above the level of Deputy Assistant Secretary, or in the case of the Customs Service, at or above the level of Assistant Commissioner, shall compose the Task Force. The designee of the Secretary of the Treasury shall chair the Task Force.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 2001, and each fiscal year thereafter, such sums as may be necessary for the Task Force to carry out the functions described in section 302.

SEC. 305. REPORTS TO CONGRESS.

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

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

(1) the number of allegations of violations of section 307 of the Tariff Act of 1930 with respect to products of the Peoples' Republic of China that were investigated during the preceding 1-year period;

(2) the number of actual violations of section 307 of the Tariff Act of 1930 with respect to the products of the People's Republic of China that were discovered during the preceding 1-year period;

(3) in the case of each attempted entry of products of the People's Republic of China in violation of such section 307 discovered during the preceding 1-year period—

(A) the identity of the exporter of the goods;

(B) the identity of the person or persons who attempted to sell the goods for export; and

(C) the identity of all parties involved in transshipment of the goods; and

(4) such other information as the Task Force considers useful in monitoring and enforcing compliance with section 307 of the Tariff Act of 1930.

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

SEC. 311. ESTABLISHMENT OF TECHNICAL ASSISTANCE AND RULE OF LAW PROGRAMS.

(a) COMMERCE RULE OF LAW PROGRAM.—The Secretary of Commerce, in consultation with ~~with the concurrence~~ of the Secretary of State, is authorized to establish a program to conduct rule of law training and technical assistance related to commercial activities in the People's Republic of China.

(b) LABOR RULE OF LAW PROGRAM.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with ~~with the concurrence of the~~ Secretary of State, is authorized to establish a program to conduct rule of law training and technical assistance related to the protection of internationally recognized worker rights in the People's Republic of China.

(2) USE OF AMOUNTS.—In carrying out paragraph (1), the Secretary of Labor shall focus on activities including, but not limited to—

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

(B) establishing national mechanisms for the enforcement of national labor laws and regulations;

(C) training government officials concerned with implementation and enforcement of national labor laws and regulations; and

(D) developing an educational infrastructure to educate workers about their legal rights and protections under national labor laws and regulations.

(3) LIMITATION.—The Secretary of Labor may not provide assistance under the program established under this subsection to the All-China Federation of Trade Unions. Dan Rosen

(c) LEGAL SYSTEM AND CIVIL SOCIETY RULE OF LAW PROGRAM.—The Secretary of State is authorized to establish a program to conduct rule of law training and technical assistance related to development of the legal system and civil society generally in the People's Republic of China. State

(d) CONDUCT OF PROGRAMS.—The programs authorized by this section may be used to conduct activities such as seminars and workshops, drafting of commercial and labor codes, legal training, publications, financing the operating costs for nongovernmental organizations working in this area, and funding the travel of individuals to the United States and to the People's Republic of China to provide and receive training.

SEC. 312. ADMINISTRATIVE AUTHORITIES.

In carrying out the programs authorized by section 311, the Secretary of Commerce and the Secretary of Labor (in consultation with the Secretary of State) may utilize any of the authorities contained in the Foreign Assistance Act of 1961 and the Foreign Service Act of 1980.

only

SEC. 313. PROHIBITION RELATING TO HUMAN RIGHTS ABUSES.

Amounts made available to carry out this subtitle may not be provided to a component of a ministry or other administrative unit of the national, provincial, or other local governments of the People's Republic of China, to a nongovernmental organization, or to an official of such governments or organizations, if the President ~~certifies~~ has ~~cred-ible~~ sufficient evidence that such component, administrative unit, organization or official has been materially responsible for the commission of human rights violations.

SEC. 314. AUTHORIZATION OF APPROPRIATIONS.

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

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

(c) LEGAL SYSTEM AND CIVIL SOCIETY RULE OF LAW PROGRAM.—There are authorized to be appropriated to the Secretary of State to carry out the program described in section 311(c) such sums as may be necessary for fiscal year 2001, and each fiscal year thereafter.

(d) CONSTRUCTION WITH OTHER LAWS.—Except as provided in this Act, funds may be made available to carry out the purposes of this subtitle notwithstanding any other provision of law.

TITLE IV—ACCESSION OF TAIWAN TO THE WTO

SEC. 401. ACCESSION OF TAIWAN TO THE WTO.

It is the sense of Congress that—

(1) immediately upon approval by the General Council of the WTO of the terms and conditions of the accession of the People's Republic of China to the WTO, the United States representative to the WTO should request that the General Council of the

WTO consider Taiwan's accession to the WTO as the next order of business of the Council during the same session; and

(2) the United States should be prepared to aggressively counter any effort by any WTO member, upon the approval of the General Council of the WTO of the terms and conditions of the accession of the People's Republic of China to the WTO, to block the accession of Taiwan to the WTO.

TO: Gene Sperling/Lael Brainard
FROM: Daniel Rosen

Summary of Administration Outstanding Levin Issues, Large and Small
As of 5/19, 7 PM

This list reflects preliminary consultations with State, NSC, and USTR conducted by Malcolm Lee and Daniel Rosen. We intend to study the draft further over the weekend for technical issues in preparation for a conference call 10 AM Monday to verify this list prior to the Rules Committee taking up the draft Tuesday morning.

1. The definition of the Government of China remains objectionable.

2. Subpoena power in general remains objectionable, particularly to NSC

3. The draft does not place a limit on subpoena power thus: "as necessary for the performance of its functions under this title," instead of the current "as [the commission] considers necessary." [USTR notes that this item, Section 106, begins with "In carrying out this title," which might have the same effect.]

4. "Authorized to appropriate" language remains unchanged throughout the document.

5. In section 311 (b) (3) there remains a complete prohibition on the use of rule of law funds in activities involving the All China Federation of Trade Unions, whereas Labor had expressed the hope that activities not providing any material benefit to the group might be permissible. [However, it is noted that this may not preclude use of other funds.]

6. Surge language in this draft does not track exactly yesterday's mark-up language (HR 4444), and we presume that mark-up language will be reinstated.

7. This draft does not incorporate the President's formal PNTR language.

8. Section 313 (p. 59, lines 17-18) restricts rule of law spending if the President "has credible evidence" of responsibility for human rights violations on the part of the recipient organ of the GOC. State prefers the President must actively "determine" responsibility for those violations in order to be prevented from funding activities.

9. 102(g) now requires that congressional hearings be held automatically within 30 days of receipt of the Commission's annual report, whereas this would have been elective in earlier versions of Levin.

NSC
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UNITED STATES MISSION
TO THE
EUROPEAN UNION

FAX COVER SHEET

TO: Jason Buntin
Christina Lund
USTR - GENEVA
Greg Burton
Bob Boehme

FROM: Tara Feret Erath, Second Secretary - Trade

Telephone: 508.2756 Fax: 511.2092

DATE:

PAGES: 7

SUBJECT: EU - China WTO deal summary

MESSAGE: overview of deal concluded today

☆ please distribute
as appropriate ☆

FROM: JF BESELER

Att.: Valery Secretary to Ambassador of USA Bruxelles

THE SINO-EU AGREEMENT ON CHINA'S ACCESSION TO THE WTO: RESULTS OF THE BILATERAL NEGOTIATIONS.

The following is an overview of the results achieved by the EU since the signature of the Sino-US accord. Some of the issues covered are unique to the EU, while others had already been the subject of negotiations between China and other partners. In both cases, the list below is confined to commitments which were secured explicitly by the European Union.

INDUSTRIAL GOODS

Import tariffs

As for specific EU priorities not covered by China's previous bilateral Agreements, these were concentrated on 150 specific products varying from gin to building materials. On these EU-specific priorities, an additional reduction of 40% on top of earlier offers was obtained (the tariff average falling from 18.6% to 10.9%).

Tariffs on all spirits will be aligned to a level of 10%. There will be no difference in the treatment of whisk(e)y, Cognac, Gin etc The presently applied tariff level is still at 65%.

Tariffs on key **cosmetics** products will come down to a level of 10% (currently up to 30%). This implies good prospects for a sector which already exports up to EUR 7 billion worldwide.

On **leather and leather articles** negotiations focused on 13 specific products which account for 60% of total EU exports in this sector. China agreed a reduction on these products from 20-25% to 10%.

On **textiles** China made some further improvements to the previous offer. China's textiles tariffs are very close to the levels of the EU and far lower than almost all other textile exporting countries.

Tariffs on 5 particular **footwear** products which account for more than 70% of EU footwear exports will be reduced from 25% to 10%.

Marble/building stones are popular articles in China's enormous construction market. On the 5 most important products tariffs will also be reduced from 25% to 10%.

On **ceramics** China agreed to reduce tariffs on 11 key ceramics products from 24.5-35% to 10-15%. And tariffs on 6 particular glass products will be reduced from 24.5% to 5%.

On 52 particular products in the important **machinery and appliances** sector, which accounts for 26% of total EU exports, tariffs will be cut to 5-10% from levels up to 35%.

- **Quotas:** China's quota on Europe's fertilizer exports (NPK) will be liberalised upon accession, and restrictions in place this year will be immediately relaxed.

- **State Trading:**

  Liberalisation of import monopolies on oil and fertiliser - China has agreed to open the crude and processed oil sectors, as well as NPK fertiliser, to private traders through a process of gradual liberalisation. This means that firms will no longer be obliged to go exclusively through China's state importers when shipping oil and fertiliser to China. The oil (petroleum) and fertiliser sectors are the most significant domains where a state import monopoly has been in place.

  Liberalisation of export monopoly on silk – EU firms will be able to buy raw silk directly from Chinese producers (who make 70% of the world total). Until now all purchases had to go through state export channels. This will bring substantial benefits to the EU's numerous manufacturers of ties, scarves and other high value silk garments and accessories.

- **Motor vehicles:** the EU and China agreed on a range of improvements for EU firms which produce cars, vans and trucks in China. For those who have invested in joint-venture manufacturing operations (or will do so in the future), there are 3 key points:

  - all restrictions regarding the category, type and models of vehicle produced will be lifted within 2 years, leaving the car-maker free to make such decisions on a purely commercial basis;
  - provincial authorities alone will be able to approve investments in the sector up to $150 million (ceiling raised from $30m), substantially reducing red-tape for car manufacturers;
  - for the manufacture of engines, China's joint-venture requirement will be removed, allowing wholly foreign owned production.

AGRICULTURE

- **Market access (tariffs and tariff quotas):** Improvements have been made on the tariff quota for rape oil, as well as on tariffs on products such as: rape oil (down from 85% to 9%), pasta (down from 25% to 15%), butter (down from 30% to 10%), milk powder (down from 25% to 10%), mandarins (down from 40% to 12%), wine (down from 65% to 14%), olives (down from 25% to 10%) and wheat gluten (down from 30% to 18%).

- **Sanitary and Phytosanitary measures:** The EU and China signed an SPS Agreement that will provide for compliance by China with the WTO's SPS Agreement, as well as resolving a number of bilateral SPS trade frictions. This agreement will be supplemented by subsequent agreements with individual EU Member States, to be concluded before China's formal entry into the WTO.

SERVICES

- **Telecommunications:** The telecommunications offer has been considerably enhanced. China will open its mobile telephony market 2 years ahead of schedule. Upon accession, foreign operators will be permitted a 25% share, rising to 49% 3 years after accession. China has agreed to allow operations between Chinese cities (where the biggest business is located, covering more than 75% of current traffic) and not to restrict them to activity within each city. The liberalisation of domestic leased circuit services has also been obtained, which is a key commitment for foreign telecom companies to allow them to sell their spare capacity. Furthermore, the access of user firms (usually large foreign corporations) to international corporate telecommunications has also been improved. Finally, China and the EU have agreed to a satisfactory settlement concerning the mobile investments of EU telecommunication companies (France Telecom, Siemens/Deutsche Telekom and Telecom Italia) in the 2nd Chinese carrier, China Unicom.

- **Insurance :** Effective management control has been negotiated for foreign participants in life insurance joint ventures, through choice of partner, and a legal guarantee of freedom from any regulatory interference in privately negotiated contracts on a 50-50 equity basis. Foreign insurers will see their scope of business advanced by 2 years in life and non-life activities, selling the same products their Chinese competitors. This includes health, pension and group insurance in life, and all non-life activities except for mandatory 3rd party liability auto insurance. Geographic expansion of cities open to foreign insurers has also been accelerated. Brokers (insurance intermediaries) will have access to the Chinese market through local establishment for the first time. A number of new licences, for both life and non-life business, will be immediately provided to EU companies.

- **Banking:** The banking offer has been improved. Non-financial institutions will be able to give credit facilities for the purchase of all motor vehicles, including trucks, buses, tractors, motorcycles etc. rather than just cars. China has also agreed to allow foreign banks in the city of Zhuhai to advance their operations in local currency. Zhuhai, which is just off Macao, holds several EU banks.

- **Distribution:** China has agreed to lift the specific joint venture restriction applicable to large department stores, as well as for virtually all chain stores, as well as lifting the 20,000m^2 size limit for foreign-owned stores.

- **Securities:** China and the EU have agreed to establish a regulatory dialogue on the development of the securities market in China. The EU welcomes the opportunity to contribute its expertise to the expansion of the Chinese securities market.

- **Dredging:** Dredging activities, related to infrastructure construction, are now open to foreign firms.

- Tourism : The tourism offer has been extended from holiday services to also cover corporate travel business. The establishment requirements for travel agencies and tour operators have been eased to the benefit, in particular, of SMEs specialised in the Chinese market. The capital requirement will be gradually reduced to the same level as that applied to Chinese firms. The minimum turnover requirement has also now been further reduced, upon accession, by 20% (down to 40 million USD).

- Legal services ; foreign law firms will, for the first time, be able to also offer services on Chinese law. In particular they will be able to provide information to their clients on the Chinese legal environment. Concerning other activities in Chinese law (representations before the Courts etc.), the arrangements with local law firms have been improved by allowing foreign firms directly to instruct individual Chinese lawyers in these firms. Improvements have also been obtained on the prior experience requirements for lawyers – prior experience will no longer have to be consecutive, and the requirement for all lawyers, other than the Chief representative, has been reduced from 3 to 2 years. Finally, it has been recognised for the first time that solicitors (although not members of a bar) will also be covered by the agreement.

- Accountancy : Accountants will be able to provide taxation and management consultancy services under the same conditions as accounting services, and will no longer be required to partner.

- Architects : Architects will now have an extended access on a cross-border basis, by allowing them to provide scheme design services.

- Market research : The Chinese Decree imposing extremely burdensome requirements that might affect the confidentiality of market research reports will be substantially amended. Reports will no longer be pre-examined by Chinese authorities before being given to the client, but firms will merely have send copies of questionnaires to the authorities (not of the replies and results).

HORIZONTAL ISSUES

- **Government Procurement:** China has agreed to full transparency and non-discrimination (MFN) in government purchases.

- **Trade-distorting investment-related measures:** The EU and China have agreed on commitments similar to those included in the Sino-US agreement, but also incorporating an obligation to eliminate industrial export subsidies, and offset requirements in the civil aircraft sector.

- **National treatment:** This is a basic GATT obligation. China has now given specific commitments to phase out legislation that gives unfair advantages to domestic producers in the field of pharmaceutical pricing, after-sales services of imported goods, chemical import registration requirements, control of imported boilers, and retail of imported cigarettes and spirits. In some cases China will have one or two years to make her legislation WTO compliant.

HIGHLIGHTS OF THE EU-CHINA AGREEMENT ON WTO

Telecommunications

- The timetable for market opening in mobile telephony has been accelerated by 2 years. Foreign investment will be allowed at 25% on accession, 35% after [1] year and to 49% after 3 years.
- China will open up its leasing market in 3 years, allowing foreign firms to rent capacity from Chinese operators and resell it, for both domestic and international traffic.

Insurance

- Effective management control has been negotiated for foreign participants in life insurance joint ventures, through choice of partner, and a legal guarantee of freedom from any regulatory interference in private contracts on a 50-50 equity basis.
- China will immediately give [7] new licences to European insurers, in both the life and non-life sectors.
- Insurance business will be opened to foreign companies two years sooner than foreseen in the Sino-US Agreement.
- Foreign brokers will be able to operate in China, free of any joint-venture requirement, 5 years after accession.

Monopoly state import/export restrictions

- China's state monopoly on importing crude and processed oil, and NPK fertiliser, will be gradually opened to private traders, starting on accession.
- The state monopoly on exporting silk – where China accounts for 70% of world production – will be completely removed by 2005.

Tariffs

- China has reduced import tariffs on over 150 leading European exports – such as machinery, ceramics and glass, textiles, clothing, footwear and leather goods, cosmetics and spirits. Agreed levels are generally around 8-10%.

Motor vehicles

- European carmakers are well established in China, and will have greater flexibility to choose which types of vehicles they build. Approval thresholds of provincial authorities will be raised from $30m to $150m.
- China has agreed to eliminate the joint-venture restriction for engine production, upon accession.

Distribution

- China has agreed to lift the specific joint venture restriction on large department stores and for virtually all chain stores, as well as lifting the 20,000m^2 size limit for foreign owned stores.

Agriculture

- Market access will improve for key EU products, such as rape-seed oil, dairy products, pasta, wine and olives.
- An EU-China sanitary and phytosanitary agreement will ensure China's application of the WTO SPS Agreement, and resolve a number of bilateral issues.

Horizontal measures

- China will cease to apply a number of measures that distort trade and have macroeconomic effects, including export performance and local content requirements, and industrial export subsidies.

- China's government procurement system will be transparent, and will not discriminate between foreign bidders.
- China will abolish preferences to domestic producers in the fields of pharmaceuticals, chemicals, after-sales services, cigarettes and spirits.

Other

- Improved market access in the fields of banking, legal services, accountancy & architecture, tourism, construction & dredging, and market research.

The European Commission

EU-CHINA WTO ACCESSION NEGOTIATIONS

TRADE

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MAIL-BOX

SEARCH

INFORMATION

Highlights of the EU-China Agreement on WTO

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