

**PREPARED TESTIMONY OF
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BEFORE THE
CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA**

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Introduction

Chairman Smith, Chairman Brown and members of the Commission, I appreciate the opportunity to testify today on issues surrounding the U.S.-China trade relationship and, in particular, China's efforts to fulfill the commitments that it made upon joining the World Trade Organization (WTO) ten years ago. This is a subject of considerable importance and a matter of great priority for the Administration and the U.S. Trade Representative (USTR) Ron Kirk.

I would like to begin my testimony with USTR's assessment of China's first ten years of WTO membership, followed by a discussion of some specific areas of ongoing concern. I will then address the impact of China's WTO membership on the rule of law in China, with an emphasis on the issue of transparency. Finally, I will share my observations about what China's future participation in the WTO might look like.

Overall Assessment of China's WTO Compliance

When China acceded to the World Trade Organization on December 11, 2001, the terms of its accession called for China to implement numerous specific commitments over time, with almost all of its commitments to be phased in completely within five years. Following China's accession, Chinese leaders took many impressive steps to implement a set of sweeping reforms in order to meet these commitments. China reduced tariffs, eliminated many non-tariff barriers that denied national treatment and market access for goods and services imported from other WTO members, and made legal improvements in intellectual property protections and in transparency. These steps unquestionably deepened China's integration into the international trading system, strengthening both China's rule of law and the economic reforms that China had begun in 1978. Trade and investment also expanded dramatically between China and its many trading partners, including the United States. Indeed, this expansion in trade and investment has provided numerous and substantial opportunities for U.S. businesses, workers, farmers and service suppliers, and a wealth of affordable goods for U.S. consumers.

Despite this progress, the overall picture of China's actions to implement its WTO policy commitments remains complex, given a troubling trend in China toward intensified state intervention in the Chinese economy over the last five years. Increasingly, trade frictions with China can be traced to China's pursuit of industrial policies that rely on trade-distorting government actions to promote or protect China's state-owned enterprises and domestic industries. In fact, in recent years, China seems to be embracing state capitalism more strongly,

rather than continuing to move toward the economic reform goals that originally drove its pursuit of WTO membership.

Specific Areas of Concern

In short, even with the tremendous progress China has made in the complex task of implementing its WTO commitments, critical work remains. Today, I will highlight four areas that continue to cause particular concern for the United States and U.S. stakeholders in terms of China's approach to the obligations of WTO membership. For more details about these matters, I would refer the Commission to the 2011 USTR Report to Congress on China's WTO Compliance, which we issued yesterday. I will submit a copy for the record.

The first area is effective enforcement of intellectual property rights in China. This remains a massive challenge. Counterfeiting and piracy in particular remain at unacceptably high levels in China and continue to cause serious harm to U.S. businesses across many sectors of the economy. Trade secret theft is also becoming very worrisome.

Second, China's pursuit of an array of industrial policies raises serious concerns. Examples of these policies include excessive subsidies, discriminatory policies aimed at promoting "indigenous innovation," export restraints on raw materials, the pursuit of unique national standards, and restrictions on foreign investment. These policies benefit state-owned enterprises, as well as other favored companies attempting to move up the economic value chain.

Third, even though China is now the United States' largest agricultural export market, this massive and beneficial trade does not flow as smoothly as it could or should. China remains among the least transparent and predictable of the world's major markets for agricultural products, largely because of unpredictable and problematic interventions in the market by China's regulatory authorities.

Finally, even though the United States continues to enjoy a substantial surplus in trade in services with China, and the market for U.S. service suppliers remains promising, China's discriminatory regulatory processes, informal bans on entry, overly burdensome and capricious licensing and operating requirements, and other similar problems frustrate efforts of foreign suppliers to achieve their full market potential in China.

Going forward, Ambassador Kirk will continue to vigorously pursue increased benefits for U.S. stakeholders in all of these areas, using both bilateral and multilateral engagement, including dispute settlement at the WTO, where appropriate. We are committed to ensuring that the United States fully benefits from China's commitments to trade liberalization under the terms of its accession to the WTO.

Transparency and Rule of Law

Let me turn to the important area of transparency. This is one of the core principles of the WTO Agreement, and is reflected throughout China's WTO accession commitments. Transparency permits markets to function effectively and reduces opportunities for officials to engage in trade-

distorting practices behind closed doors. China's WTO transparency commitments required a profound historical shift in Chinese policies, and China did make important strides to improve transparency across a wide range of national and provincial authorities following its accession to the WTO. Nevertheless, it appears that China still has more work to do.

Three areas of remaining work stand out. First, China committed to publish all of its trade-related laws, regulations and other measures. While China has complied with this commitment in many respects, it still does not appear that China publishes all its measures. For example, China does not publish measures providing what China calls "internal guidance" to its agencies. These measures can bind agencies just as fully as officially public measures do, and the public should be able to see them. Second, China committed to publish trade-related measures for public comment before implementing them. China has made important improvements in this area over the years, but some agencies continue to promulgate final measures with little or no opportunity for public comment. Third, China committed to all of its trade-related measures available in one or more WTO languages, but it appears that China has made only limited progress in implementing this commitment.

The Administration will continue to monitor China's progress closely in this area and will push China to undertake further necessary steps to improve transparency.

China's Future WTO Participation

China's WTO membership offers an important tool for managing the increasingly complex U.S.-China trade relationship. A common WTO "rule book" and an impartial body in Geneva have helped the two sides resolve differences when dialogue fails. The United States has not hesitated to pursue its rights with China through WTO dispute settlement. In the last 3 years alone, the United States has brought five cases to the WTO to address harmful subsidies in wind power, concerns about misuse of trade remedy law, discriminatory barriers in the electronic payments sector, and trade-distortive export restraints on crucial raw materials. These disputes – combined with the enforcement work we pursue in the Joint Commission on Commerce and Trade, the Strategic and Economic Dialogue, and through other trade tools like Special 301 – help ensure that U.S. businesses, workers, farmers, ranchers, service suppliers, and consumers derive the full promise of China's WTO membership.

The importance of the WTO to the U.S.-China trade relationship highlights the fact that China itself has a critical stake in participating in, and strengthening, the WTO system. That means, for example, that, at the upcoming WTO ministerial in Geneva, China should join in to help "turn the page" so that WTO Members can solve the Doha Round impasse and implement meaningful trade liberalization and credible trade rules to govern the WTO system in the future.

Conclusion

Mr. Chairman, Mr. Co-Chairman and members of the Commission, thank you for providing me with the opportunity to testify. I look forward to your questions.