

**Senator Max Baucus**  
**"WTO: Will China Keep its Promises? Can it?"**  
**June 6, 2002**

Last December, we ushered in a new era with China's formal entry into the World Trade Organization. Our task now is two-fold. First, to ensure that the Chinese government complies with the terms of accession and with the global standards of action embedded in the WTO. Second, to encourage continued progress in the development of commercial rule of law in China, both as a means to ensure WTO disciplines are being met, and as a means to a broader development of the rule of law in that country.

As China's economy grew through the 1990s, and its role as a major trading nation became more significant, the need for China to be subject to WTO disciplines became increasingly urgent. Bilateral and multilateral negotiations took over a decade. We spent a year in the Congress on passage of PNTR. Now we turn to Chinese implementation of the commitments they undertook. The monitoring of China's performance is a major task - for the United States, for China's other trading partners, for the WTO, and for the Chinese themselves.

Chinese compliance is critical -- to the United States, to the global economy, and to China's own economic development. Compliance is one of America's top trade priorities. We are talking about changes that will impact us now, not at some indefinite time in the future. It must be on the top of our agenda.

Why is this so important to the United States? First, total trade between the U.S. and China increased from \$5 billion in 1980 to \$122 billion in 2001, and China is now our fourth largest trading partner. Likewise, U.S. investment in China has grown astronomically. The United States is China's largest source of foreign investment outside of Hong Kong, with \$34.4 billion invested in China between 1979 and 2001, and \$4.4 billion in 2001 alone. China is also the country with which the U.S. has the largest trade deficit. In 2001, our merchandise trade deficit with China was almost \$83 billion. We must have clear and understandable rules governing these relationships, along with far greater access to China's markets.

China's accession to the WTO should provide greater opportunities and predictability for American businesses operating there. Some of the changes China must make were to be implemented immediately upon accession; others are to be phased in over time under special transition rules. These were the terms of China's accession, and they were the terms under which we granted China PNTR status.

The second reason WTO accession is so important to the United States involves the potential broader impact of the reforms China must undergo. Development of commercial rule of law will likely accelerate change in governance inside China. For example, one WTO requirement is the prompt publication of all laws, regulations, judicial decisions and administrative rulings relating to trade. WTO members must agree not to enforce those measures before they are officially published. And once those measures are published, they must be applied in a uniform, impartial and reasonable manner. This is a process far different than exists at present.

Another example is that WTO members must establish and maintain judicial, arbitral, or administrative mechanisms to review trade-related actions by government agencies. These must be able to operate independently of the agencies that carried out the actions in question. If implemented, this should contribute to the development of a more open, market-oriented society in which not only are the people bound by the laws and regulations, but so will be the government. China's membership in the WTO can be an important force driving the development of the rule of law. That is a priority goal of this Commission, and of the United States.

We are at an early stage in China's process of WTO adherence and commercial law transformation. Clearly, senior Chinese leaders are committed. National bodies have begun to reform and adjust thousands of laws, regulations, and judicial decisions that are not WTO-compliant. The Chinese government has welcomed assistance from foreign governments, as well as non-governmental and private organizations in conducting extensive training sessions on WTO requirements, administrative law, judicial reform, and a myriad of other topics. Chinese government officials, at all levels, have been eager to learn about the steps needed to ensure that it is complying with its commitments.

Yet, there have been mixed signals as to whether the Chinese government is willing, or able, to adhere to all of the commitments it has made. For example, while tariffs have been reduced and quotas have been eliminated in some industries, there are reports that equally protective non-tariff barriers have been erected in their place. Sanitary and phyto-sanitary standards have still been used in some areas with no scientific basis. Regulations that were supposed to be in effect at accession have not been promulgated.

There are also questions about the capacity of the Chinese government to implement the vast changes needed in so many areas. We need to explore this closely and see if there are ways that our government can assist more in capacity-building. Finally, although I have confidence in the commitment and determination of the senior leadership in Beijing to effect the required changes, questions exist about Beijing's ability to force provincial and local levels of government to change policies and practices. This will require continuing and close scrutiny.

We have embarked on a long and ongoing process. That is why the Senate Finance Committee tasked the General Accounting Office with a long-term investigation into China's WTO compliance. This study includes an examination of the legal and regulatory changes China is making, the actual effects in the marketplace on American business, and the activities of Executive Branch agencies in monitoring Chinese actions. We will hear more about this from our first panel of witnesses. Let me just note now that this GAO study can only proceed with full cooperation from the Executive Branch, and I expect all agencies to be cooperative and forthcoming with information, documents, and other assistance.

The task of the Congressional-Executive Commission on China will be to monitor the process, to watch how China implements its commitments, to gain an understand of how developments in the commercial rule of law are unfolding, and to assess the implications for broader rule of law developments, public participation, transparency in rule-making, and administrative and legal accountability in China.

As we scrutinize China's WTO implementation closely, we must also remind ourselves that this is one step, albeit a major one, in a process of economic reform that began over two decades ago. We must evaluate the WTO process by looking both at a snapshot of the current reality and at the full video that incorporates trends over a twenty year period.

Today's hearing is the third held this year by the Congressional-Executive Commission on China. We have two distinguished panels to help us examine China's accession to the WTO, the commercial impact on American firms, and implications for legal reform and the rule of law in China. I look forward to their remarks.