

Is China Playing By the Rules? Free Trade, Fair Trade, and WTO Compliance
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Statement for the Record
Senator Max Baucus

Thank you, Chairman Leach and Co-Chairman Hagel, for holding this hearing. It comes at an important time.

While the United States has lost millions of manufacturing jobs in the last few years, China's exports of manufactured products to the United States have soared. We're on track for the U.S. trade deficit with China to exceed \$100 million for the second year in a row. In these circumstances, it is not surprising that a rising chorus of voices is demanding that something be done about China.

One thing that we can do is to look carefully to make sure that China is properly implementing its WTO obligations. We are now approaching the end of the second year of China's WTO membership. This provides a good opportunity for us to take stock of how China is performing as a full member of the world trading system.

It is my own sense that China has come a long way toward implementing the commitments it made in its WTO accession agreement, but it still has a long way to go. Problems that could have been chalked up to glitches or "start-up" difficulties in the first year of China's WTO membership are now, in some cases, being seen as evidence of a lack of resolve on the part of the Chinese government to meet its obligations.

Transparency in Regulations

Perhaps chief among these is a widespread lack of transparency in licensing and permitting regulations, both in their drafting and their application. This makes it very difficult for U.S. companies to operate in China.

Although China has passed many of the laws required under its WTO commitments, it has in many cases not issued any implementing regulations. This is true for various sectors of the economy, including the financial services, distribution, and automotive sectors.

When regulations are issued, they are frequently issued without allowing sufficient time for industry participants to comment. And they often impose barriers, such as excess capitalization requirements, that appear designed to discourage foreign businesses from entering the market at all.

Tariff Rate Quotas

Another problem of great concern to me deals with China's failure to allocate its tariff rate quotas ("TRQs") for agricultural products in accordance with its accession agreement. China has allocated uneconomic amounts to some quota recipients. It also does not disclose the identity of those receiving allotments as it had agreed to do. This makes it difficult for U.S. companies to identify potential customers. Further, import permits are effectively being used to maintain import controls on U.S. agriculture commodities and meat exports, important products for my home state of Montana.

This is a longstanding problem. In July, I urged USTR to begin preparing a WTO case on Chinese TRQs. Since then, I have been told that there may have been some movement toward a resolution on this issue. I hope the witnesses can inform us about any progress on China's TRQs.

Intellectual Property

China's attitude toward intellectual property is also great cause for concern. Counterfeiting of U.S. trademarks is rampant. Copyright piracy is a thriving industry in China. The piracy rate for movies, video games, and music approaches ninety percent. This is clearly unacceptable. China needs to do more to protect intellectual property.

I am also concerned about regulations China is currently developing for a government procurement law China enacted earlier this year. Those regulations would require the government to purchase only domestic goods and services, including software.

Value-Added Tax

Another issue deals with China's value-added tax ("VAT"). In some cases, China applies its VAT to discriminate against imports. Officials may exempt locally-produced goods while assessing the full VAT on imported goods, or they may rebate the VAT on goods made and sold in China.

Currency

The final issue I want to raise deals with China's currency. China pegs its currency at a fixed exchange rate that economists estimate is undervalued by anywhere between 15 to 40 percent against the U.S. dollar. This artificially depresses the prices of Chinese exports and hurts the competitiveness of U.S. manufacturers.

When I was in Cancun a few weeks ago for the WTO ministerial, I had the opportunity to discuss this issue with Chinese Commerce Minister Lu Fuyuan. Minister Lu made clear that China appreciates the need to revalue its currency for its own internal reasons, but he added that this won't happen for several years.

We should continue to impress upon the Chinese the many reasons why it should allow the value of its currency to be determined according to market principles. As an interim step, China should immediately revalue its currency significantly or begin to set its exchange rate values in reference to a basket of foreign currencies – rather than simply pegging it to the dollar. This is an issue that I will continue to follow very closely.

Conclusion

I've chosen to highlight just a few of the problems in China's WTO compliance and trade with the United States. There are others.

I hope the witnesses will discuss these issues in their testimony. In particular, I hope they will address what steps the United States has taken or plans to take to respond to these concerns.

I worked hard to ensure China's accession to the WTO, and I will work hard to ensure that China abides by its WTO commitments. I look forward to working with my colleagues and the Administration to make sure that China plays by the rules. Thank you.