

SUMMARY OF U.S. – CHINA BILATERAL WTO AGREEMENT

AGRICULTURE

The Agreement provides increased access for U.S. exports across a broad range of commodities and elimination of barriers. Commitments include:

- Significant cuts in tariffs that will be completed by January 2004. Overall average for agricultural products will be 17 percent and for U.S. priority products 14.5 percent.
- Establishment of a tariff-rate quota system for imports of bulk commodities, e.g., wheat, corn, cotton, barley, and rice, that provides a share of the TRQ for private traders. Specific rules on how the TRQ will operate and increased transparency in the process will help ensure that imports occur. Significant and growing quota quantities subject to tariffs that average between 1-3 percent.
- The right to import and distribute products without going through state-trading enterprise or middle-man.
- China has also agreed to the elimination of SPS barriers that are not based on scientific evidence and no export subsidies on agricultural products.

INDUSTRIAL PRODUCTS

China's commitments will eliminate broad systemic barriers to U.S. exports, such as limits on who can import goods and distribute them in China as well as barriers such as quotas and licenses that restrict imports of U.S. products.

TARIFFS

- Tariffs cut to an average of 9.4 percent overall and 7.1 percent on U.S. priority products.
- China will participate in the Information Technology Agreement (ITA) eliminating all tariffs on products such as computers, telecommunications equipment, semiconductors, computer equipment and other high technology products.
- In the auto sector, China will cut tariffs from the current 100% or 80% level to 25% by 2006, with the largest cuts in the first years after accession.
- Auto parts tariffs will be cut to an average of 10% by 2006.
- Significant cuts will also be made in the wood and paper sectors, going from present levels of 12-18% on wood and 15-25% on paper down to levels generally between 5 and 7.5%.
- China will also be implementing the vast majority of the chemical harmonization initiative. Under that initiative, tariffs will be at 0, 5.5 and 6.5 percent for products in each category.

ELIMINATION OF QUOTAS AND LICENSES

WTO rules bar quotas and other quantitative restrictions. China has agreed to eliminate these restrictions with phase-ins limited to five years.

- Quotas: China will eliminate existing quotas upon accession for the top U.S. priorities (e.g. optic fiber cable). It will phase-out remaining quotas, generally by 2002, but no later than 2005.
- Quotas will grow from current trade level at a 15% annual rate in order to ensure that market access increases progressively, and reduces the effect of quantitative restrictions.
- Auto quotas will be phased out by 2005. In the interim, the base level quota will be \$6 billion (the level prior to China's industrial auto policy) and this will grow by 15% annually until elimination.

RIGHT TO IMPORT AND DISTRIBUTE

Trading rights and distribution are the major priority of the manufacturing sector. At present, China severely restricts trading rights (the right to import and export) and distribution (wholesaling, retailing, maintenance and repair, transportation, etc.). Under the Agreement, China will provide, for the first time, trading rights and distribution rights to U.S. firms. Trading rights will be progressively phased in over three years. Distribution rights will be provided even for China's most restricted distribution sectors such as wholesale, transportation, maintenance and repair. China will provide for trading rights and distribution.

SERVICES

China has made commitments in all major service categories with reasonable transitions to eliminate most foreign equity restrictions (especially in sectors where the U.S. has a strong commercial interest), agreeing to accede to the Basic Telecommunications and Financial Services Agreements, and "grandfathering" of current market access for U.S. service providers.

GRANDFATHERING

China will grandfather all existing current market access and activities in all services sectors. This will protect existing American distribution services, financial services, professional and other service providers in China, including those operating under contractual or shareholder agreements or a license, from restrictions as Chinese commitments phase in.

DISTRIBUTION

In China today, foreign firms have no right to distribute products other than those they make in China, or to own or manage distribution networks, wholesaling outlets or warehouses. China also now frequently issues businesses licenses which limit the ability of American firms to conduct marketing, after-sales service, maintenance and repair and customer support. As the section on industrial goods noted, this is a severe barrier to goods exports as well as to service exports.

China's commitments address all these issues. They reflect a comprehensive commitment on distribution - including wholesaling, sales away from a fixed location, retailing, maintenance and repair, and transportation. Thus, Americans will be able to distribute imported products as well as those made in China, offering significant opportunity to expand U.S. exports of goods. As noted above, China will phase out all restrictions on distribution services for most products within three years.

SERVICES AUXILIARY TO DISTRIBUTION

Chinese commitments in services auxiliary to distribution include rental and leasing, air courier, freight forwarding, storage and warehousing, advertising, technical testing and analysis, and packaging services. All restrictions will be phased-out in 3 to 4 years, at which time U.S. service suppliers will be able to establish 100% wholly-owned subsidiaries.

TELECOMMUNICATIONS

China now severely restricts sales of telecommunications services and bars foreign investment. China's commitments mark its first agreement to open its telecommunications sector, both to the scope of services and to direct investment in telecommunications businesses. Through these commitments, China will become a member of the Basic Telecommunications Agreement. Specific commitments include:

- Regulatory Principles – China has agreed to implement the pro-competitive regulatory principles embodied in the Basic Telecommunications Agreement (including cost-based pricing, interconnection rights and independent regulatory authority), and agreed to technology-neutral scheduling, which means foreign suppliers can use any technology they choose to provide telecommunications services.
- Scope of services – China will phase out all geographic restrictions for paging and value-added services in 2 years, mobile/cellular in 5 years and domestic wireline services in 6 years. China's key telecommunications services corridor in Beijing, Shanghai, and Guangzhou, which represents approximately 75% of all domestic traffic, will open immediately on accession in all telecommunications services.

- Investment – Under present circumstances, China allows no foreign investment in telecommunications services. With this agreement, China will allow 49% foreign investment in all services, and will allow 50% foreign ownership for value added in two years and paging services in 3 years.

INSURANCE

For insurance, China now restricts foreign companies to operating in Shanghai and Guangzhou. Under the agreement:

- Geographic Limitations – China will permit foreign property and casualty firms to insure large-scale risks nationwide immediately upon accession, and will eliminate all geographic limitation for future licenses over 5 years, allowing access to the key cities of priority U.S. interest in two to three years.
- Scope – China will expand the scope of activities for foreign insurers to include group, health and pension lines of insurance, which represent about 85% of total premiums, phased in over 5 years.
- Prudential Criteria – China agrees to award licenses solely on the basis of prudential criteria, with no economic needs test or quantitative limits on the number of licenses issued.
- Investment – China agreed to allow 50 percent ownership, remove onerous joint venture requirements on foreign life insurers, and phase out internal branching restrictions. Life insurers may now choose their own joint venture partners. For non-life, China will allow branching or 51% ownership on accession and form wholly owned subsidiaries in 2 years. Reinsurance is completely open upon accession (100 percent, no restrictions).

BANKING

Currently foreign banks are not permitted to do local currency business with Chinese clients (a few can engage in local currency business with their foreign clients). China imposes severe geographic restrictions on the establishment of foreign banks.

- China has committed to full market access in five years for U.S. banks.
- Foreign banks will be able to conduct local currency business with Chinese enterprises starting 2 years after accession.
- Foreign banks will be able to conduct local currency business with Chinese individuals from 5 years after accession.
- Foreign banks will have the same rights (national treatment) as Chinese banks within designated geographic areas.
- Both geographic and customer restrictions will be removed in five years
- Non-bank financial companies can offer auto financing upon accession.

SECURITIES

China will permit minority foreign owned joint ventures to engage in fund management on the same terms as Chinese firms. As the scope of business expands for Chinese firms, foreign joint venture securities companies will enjoy the same expansion in scope of business. Minority joint ventures will be allowed to underwrite domestic securities issues and underwrite and trade in foreign currency denominated securities (debt and equity).

PROFESSIONAL SERVICES

In the professional services, China currently tightly restricts operation of foreign law firms and accounting firms. In the Agreement, China has provided a broad range of commitments, including on legal, accountancy, taxation, management consultancy, architecture, engineering, urban planning, medical and dental, computer-related services. China will permit foreign majority control except for practicing Chinese law (an exception common to many WTO members.) For accountancy, China has agreed to eliminate a mandatory localization requirement and will now allow unrestricted access to its market to professionals licensed and follow transparent procedures.

AUDIOVISUAL

China's commitments cover the right to distribute video and sound recordings and cinema ownership and operation. For video and sound recordings, China will allow 49% foreign participation in joint ventures engaged in the distribution of these products. China has also agreed to import 40 films after accession growing to 50 films in three years, of which 20 films will be revenue sharing.

TRAVEL AND TOURISM

Hotels – China will allow unrestricted access to the Chinese market for hotel operators with the ability to set up 100% foreign owned hotels in 3 years, with majority ownership allowed upon accession.

PROTOCOL PROVISIONS

Commitments in China's WTO Protocol and Working Party Report establish rights and obligations enforceable through WTO dispute settlement procedures. We have agreed on key provisions relating to antidumping and subsidies, protection against import surges, technology transfer requirements and offsets as well as practices of state-owned and state-invested enterprises. These rules are of special importance to U.S. workers and business.

China has agreed to implement the TRIMs Agreement upon accession, eliminate and cease enforcing trade and foreign exchange balancing requirements, eliminate and cease enforcing local content requirements, refuse to enforce contracts imposing these requirements; and only impose or enforce laws or other provisions relating to the transfer of technology or other know-how, if they are in accordance with the WTO agreements on protection of intellectual property rights and trade-related investment measures.

These provisions will also help protect American firms against forced technology transfers, as China has also agreed that, upon accession, it will not condition investment approvals, import licenses, or any other import approval process on performance requirements of any kind, including: local content requirements, offsets, transfer of technology, or requirements to conduct research and development in China.

ANTIDUMPING AND SUBSIDIES METHODOLOGY

The agreed protocol provisions ensure that American firms and workers will have strong protection against unfair trade practices including dumping and subsidies. The U.S. and China have agreed that we will be able to maintain our current antidumping methodology (treating China as a non-market economy) in future anti-dumping cases without risk of legal challenge. This provision will remain in force for 15 years after China's accession to the WTO. Moreover, when we apply our countervailing duty law to China we will be able to take the special characteristics of China's economy into account when we identify and measure any subsidy benefit that may exist.

PRODUCT SPECIFIC SAFEGUARD

The agreed provisions for the protocol package also ensure that American domestic firms and workers will have strong protection against rapid increases of imports.

To do this, the Product-Specific Safeguard provision sets up a special mechanism to address increased imports that cause or threaten to cause market disruption to a U.S. industry. China is a major exporting country that enjoys open access to U.S. markets. This mechanism, which is in addition to other WTO Safeguards provisions, differs from traditional safeguard measures. It permits United States to address imports solely from China, rather than from the whole world, that are a significant cause of material injury through measures such as import restrictions. Moreover, the United States will be able to apply restraints unilaterally based on legal standards that are lower than those in the WTO Safeguards Agreement. This provision will remain in force for 12 years after China accedes to the WTO.

STATE-OWNED AND STATE-INVESTED ENTERPRISES

The Protocol addresses important issues related to the Chinese government's involvement in the economy. China has agreed that it will ensure that state-owned and state-invested enterprises will make purchases and sales based solely on commercial considerations, such as price, quality, availability and marketability, provide U.S. firms with the opportunity to compete for sales and purchases on non-discriminatory terms and conditions.

China has also agreed that it will not influence these commercial decisions (either directly or indirectly) except in a WTO consistent manner. With respect to applying WTO rules to state-owned and state-invested enterprises, we have clarified in several ways that these firms are subject to WTO disciplines.

-Purchases of goods or services by these state-owned and state-invested enterprises do not constitute "government procurement" and thus are subject to WTO rules.

-We have clarified the status of state-owned and state-invested enterprises under the WTO Agreement on Subsidies and Countervailing Measures. This will help ensure that we can effectively apply our trade law to these enterprises when it is appropriate to do so.

TEXTILES

China's protocol package will include a provision drawn from our 1997 bilateral textiles agreement, which permits U.S. companies and workers to respond to increased imports of textile and apparel products. This textile safeguard will remain in the effect until December 31, 2008 which is after the WTO agreement on Textile and Clothing expires.