

CHINA'S MEMBERSHIP IN
THE WORLD TRADE ORGANIZATION

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT CERTIFYING THAT THE TERMS AND CONDITIONS FOR THE ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD TRADE ORGANIZATION ARE AT LEAST EQUIVALENT TO THOSE AGREED BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA ON NOVEMBER 15, 1999



NOVEMBER 13, 2001.—Message and accompanying papers referred to the Committee on Ways and Means and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

To the Congress of the United States:

In accordance with the requirements of Public Law 106-286, I hereby transmit the attached report certifying that the terms and conditions for the accession of the People's Republic of China to the World Trade Organization are at least equivalent to those agreed between the United States and the People's Republic of China on November 15, 1999.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 9, 2001.*

REPORT ON CERTIFICATION OF THE TERMS AND CONDITIONS FOR THE
ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA TO THE WORLD
TRADE ORGANIZATION

The People's Republic of China (China) is the world's largest economy that is not yet a member and full participant in the World Trade Organization (WTO), the international organization responsible for overseeing the negotiation and implementation of global trade rules. China is also the eleventh largest export market for U.S. goods and services. After nearly fifteen years of negotiation, China is now in a position to become a WTO member. Based on the outcome of China's WTO accession negotiations, I am pleased to certify that the terms and conditions for China's accession to the WTO are at least equivalent to those agreed between the United States and China on November 15, 1999.

The United States welcomes China's membership in the WTO based on the terms and conditions that we and other WTO members endorsed in September. WTO members will meet in November and are expected to approve those terms and conditions for China's accession. At this same meeting, WTO members will also approve the terms and conditions for Taiwan's accession to the WTO.

Beginning the negotiations on joining the international trade community was an important step for China as it embarked on a road toward economic reform, moving from a centrally-planned economy to one with a vibrant and growing private sector based on entrepreneurship and competition. The conclusion of those negotiations, and the implementation of the commitments agreed to, will accelerate and reinforce China's reform process and create new opportunities for China's people and for American exporters and workers.

China is reforming in many ways its laws and practices and WTO membership will require China to provide greater access to its economy and more openness in its society. Subjecting broad aspects of its economy to internationally agreed trade rules that are enforceable in the WTO will help build reliance on the rule of law in China and have a positive effect on broader aspects of China's society.

China's membership in the WTO will benefit the United States through increased trade opportunities, more certainty and predictability in our trade relationship, and China's greater exposure to the principles of fairness and competition that guide our economy. For Americans to realize these benefits, however, we need to change the basis of our trade relationship with China.

In 1980, the United States and China established normal trade relations (NTR—then called “most favored nation” status) status with each other based on a bilateral trade agreement negotiated and approved under provisions of U.S. trade law known as the

“Jackson-Vanik Amendment.” Each year since then, the United States has renewed NTR status through an annual waiver process.

On November 15, 1999, the United States and China agreed bilaterally on terms for China’s accession to the WTO. These terms included commitments from China on market access for U.S. exports of industrial and agricultural goods and services, conditions under which companies could provide services in China, and rules that eliminate trade barriers in China and permit the United States to address imports from China that injure U.S. industry and workers.

A strong bipartisan coalition in Congress recognized the merits of the 1999 agreement, and enacted legislation authorizing the President to terminate application of the Jackson-Vanik Amendment to China and to grant products from China permanent NTR status after he certifies that the terms and conditions for China’s WTO accession are at least equivalent to those agreed between the United States and China on November 15, 1999.

China has concluded bilateral agreements on its accession to the WTO with the more than 40 Members requesting negotiations. Multilateral negotiations on the terms and conditions for China’s accession to the WTO, involving all interested WTO members, including the United States, concluded in September 2001. The consolidation of the results of these bilateral and multilateral negotiations has produced the final China accession package that WTO members will formally consider and approve.

All of the commitments agreed between the United States and China in November 15, 1999 are in the terms and conditions for China’s accession to the WTO. In several respects, China’s negotiations with other WTO members and the results of the multilateral negotiations clarify and improve the enforceability of commitments made to the United States in 1999, provide more or faster market access than China agreed with the United States and address important matters not included in the U.S.-China November 1999 bilateral agreement. China has also agreed that its central and local governments all will honor WTO obligations and that it will invite public comments on its trade-related laws and regulations before they are enforced. These additional commitments lay a strong foundation for effective implementation of the terms for China’s accession to the WTO.¹

In the multilateral negotiations involving the United States and other WTO members, China has agreed to detailed rules on how it will implement provisions agreed to in November 1999, such as phasing-out its quotas and providing access for agricultural products and fertilizers under tariff-rate quotas. When other WTO members reached agreement with China on more favorable terms for market access, the overall package improved. Under China’s WTO accession terms, Americans will benefit from more favorable tariff cuts on products such as orange juice and auto parts, improved access under tariff-rate quotas, and fewer restrictions on

¹A more extensive summary of the terms and conditions of China’s accession to the WTO accompanies this certification report. In addition, pursuant to Section 122 of the Uruguay Round Agreements Act, the U.S. Trade Representative will transmit to Congress copies of China’s WTO accession package.

providing legal, educational, and other services than those agreed to in November 1999.

As a main participant in the multilateral negotiations from their beginning in 1987, the United States recognized the need for China to undertake systemic reforms and joined with other WTO members in achieving this objective. China has agreed to provide foreign governments and individuals access to its regulatory and decision making process. Other systemic reforms, including enhanced access to judicial review of regulatory decisions and uniform, non-discriminatory administration of its laws, regulations, and other measures will help make China's commitments on market access for U.S. products and services more meaningful. WTO members also recognized the need to monitor China's implementation of its commitments. China has agreed in its accession package to a process of annual review of the implementation of commitments. The annual review process will supplement the dispute settlement process that will apply to China when it becomes a WTO member.

China has undertaken important commitments requiring major changes that some in China will resist. We will look to China to implement all its commitments fully and are prepared to work with China in the WTO and bilaterally to assist China's officials in meeting those commitments. An interagency team, including representatives of the Office of the U.S. Trade Representative and the Departments of State, Commerce, and Agriculture, is already directing staff and other resources to the effort of monitoring China's implementation of its commitments. We will be working closely with Congress and the private sector as we use all bilateral and multilateral fora to raise and resolve issues. Moreover, we will enforce our rights under the WTO Agreement, including China's negotiated terms of accession, through our trade laws and through the WTO dispute settlement process, as necessary.

China's accession to the WTO will bring the trade relationship between our two countries to a new level. China will now be a full participant in the international trading system with all the rights and responsibilities that membership entails.

PRESIDENTIAL CERTIFICATION REPORT

Issue Area	US-China Bilateral Agreement of November 15, 1999	China's Final Accession Package
<i>Industrial Goods</i>	The bilateral agreement increases market access for U.S. industrial exports through expanded quotas, tariff reductions, and other similar provisions. China will participate in Information Technology Agreement, and support for and participation in other the sectoral initiatives is required.	These provisions have been <i>incorporated</i> into the final accession package without substantive change, except where another Member has negotiated a more favorable provision, including accelerated rates and caps on additional products.
<i>Subsidies</i>	When the U.S. applies its countervailing duty law to China and/or it pursues investigations at the WTO, it will be able to make the special arrangements of China available to the country which did not receive any subsidy benefits that may exist. The status of state-owned enterprises under the WTO Subsidies Agreement was also clarified.	These provisions have been <i>incorporated</i> into the final accession package without substantive change. <i>Additional commitments and concessions</i> included in the final accession package are more lenient regarding the immediate termination of payments under current programs and the denial of access to certain more lenient developing country treatment.
<i>Agriculture</i>	The bilateral agreement increases market access for U.S. agricultural exports through significant cuts in tariffs as well as through the elimination of quotas and tariff rate quotas (TRQ) provisions. China also made detailed commitments on tariff rate quotas (TRQ) administration.	These provisions have been <i>incorporated</i> into the final accession package without substantive change, except where another Member has negotiated a more favorable provision (e.g., tariffs on orange juice and patty in treatment of vegetable oils). <i>Additional commitments and concessions</i> included in the final accession package are more lenient regarding the expansion, restriction of China's access to more lenient developing country treatment for domestic subsidies and improvements in TRQ administration.
<i>State-Owned and State-Invested Enterprises</i>	China agreed to various provisions addressing state-owned and state-invested enterprises, including that they will make purchases and sales based solely on commercial considerations.	These provisions have been <i>incorporated</i> into the final accession package without substantive change, except to clarify the coverage of services provided for commercial sale.
<i>State Trading Enterprises</i>	See the provisions on State-Owned and State-Invested Enterprises described above.	China made <i>additional commitments</i> to provide full information on the pricing mechanisms for state trading enterprises and to ensure that import purchasing procedures are fully transparent and in compliance with WTO requirements. China also agreed that no price increase on goods imported by state trading enterprises would result in protection beyond that allowed in China's Goods Schedule or otherwise justified under the WTO.
<i>Trading Rights (Import and Export)</i>	This area was not directly addressed in the bilateral agreement. However, bilaterally agreed provisions on TRQ administration require China to provide trading rights with regard to the import share of any TRQ allocated to non-state trading enterprises.	These provisions have been <i>incorporated</i> into the final accession package without substantive change. <i>Additional commitments</i> were obtained regarding access to trading rights, and the elimination of export performance, trade and foreign exchange balancing and prior experience requirements for the grant of trading rights. Trading rights have also be de-linked from a company's scope of business. Access confirmed for companies not invested in China, and designated trading of all covered products, including steel, will be eliminated 3 years after accession.
<i>Trade-Related Investment Measures (TRIMs)</i>	China agreed to implement the TRIMs Agreement upon accession, to eliminate trade and foreign exchange balancing requirements and local content requirements, and not to enforce contracts imposing these requirements. China also agreed that it will not condition import or investment approvals on existence of domestic suppliers or meeting performance requirements, such as local content, offsets, transfer of technology, and that it will impose or enforce laws or other provisions relating to the transfer of technology only if they are in accordance with WTO rules on protection of intellectual property rights and TRIMs.	These provisions have been <i>incorporated</i> into the final accession package without substantive change. <i>Additional commitments</i> obtained in the auto sector, including lifting restrictions on the categories, types or models of vehicles permitted for production and lifting foreign equity cap of 50 percent for joint ventures producing motor vehicle engines.
<i>Non-tariff Measures (Quotas and Licenses)</i>	In the area of non-tariff measures (NTMs), phase-out periods, annual quota amounts and growth rates were agreed.	These provisions have been incorporated into the final accession package without substantive change, except where another Member has negotiated a more favorable provision, including allocations and licenses and on how quotas will be allocated and improved TRQ administration rules and TRQ growth for fertilizer products.

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<i>Services</i>	China made commitments to phase out most restrictions in a broad range of services access, including distribution, banking, insurance, telecommunications and professional services such as legal, accounting and computer-related services.	China confirms access agreed in 1999 and final accession package includes improvements in some sectors (e.g., legal services, insurance brokerage and educational services) negotiated by the final accession package. The final accession package includes greater transparency and procedural safeguards with regard to licensing procedures for many services areas, particularly banking, insurance and telecommunications. In the life insurance area, a new footnote to the Services Schedule provides that if China grants authorizations on more liberal terms than those in its Schedule, it must grant authorizations based on those terms to all foreign firms that so requested. Language has also been added to the WTO Agreement on Trade in Services that is an extension of the parent enterprise and not a separate legal entity and that China will permit a foreign firm to establish a subsidiary on that basis and in compliance with its Services Schedule, including provisions on MFN.
<i>Foreign Exchange and Balance of Payments (BOP)</i>	China's commitments on NTMs and TRIMs require elimination of foreign exchange balancing requirements. BOP issues were not addressed in the bilateral agreement.	China made additional commitments in the final accession package not to resort to any requirements, including requirements with respect to contractual terms and restricting availability of foreign exchange for current international transactions to an amount related to foreign exchange receipts, and to provide information on its exchange measures as WTO Member from now on in the BOP. China also committed to provide information on price based measures taken for BOP reasons to price-based measures as soon as possible. It also agreed that measures taken for BOP reasons would only be applied to control the general level of imports and not to protect specific sectors, industries or products not subject to paragraph 4 of the Understanding on BOP.
<i>Antidumping</i>	The U.S. will be able to maintain its current antidumping methodology (treating China as a non-market economy) in future antidumping cases for 15 years after China's accession.	This provision has been incorporated into the final accession package without substantive change, except to clarify that the choice of safeguard mechanism is up to the WTO Member concerned. It also confirms that measures at all levels of government will conform to WTO requirements.
<i>Product-Specific Safeguard</i>	The U.S. can resort to a special safeguard mechanism against import surges from China that cause market disruption for 12 years after China's accession.	This provision has been incorporated into the final accession package without substantive change, except to clarify that the choice of safeguard mechanism is up to the WTO Member concerned. It also confirms that measures at all levels of government will conform to WTO requirements.
<i>Textiles and Apparel</i>	The U.S. can use a special safeguard mechanism to respond to increased imports of textiles and apparel products from China that disrupt the U.S. market until December 31, 2008.	This provision has been incorporated into the final accession package without substantive change, except to clarify that the choice of safeguard mechanism is up to the WTO Member concerned. It also confirms that measures at all levels of government will conform to WTO requirements.
<i>Transitional Review Mechanism (TRM)</i>	This area was not addressed in the bilateral agreement. The PNTR legislation directed the Administration to seek a TRM providing for annual review of China's implementation.	The final accession package establishes a multilateral mechanism at the WTO requiring detailed annual reviews of China's compliance with its WTO commitments for 8 years, with a final review in year 10. China is required to provide detailed information on implementation.
<i>Uniform Administration of Laws</i>	This area was not addressed in the bilateral agreement.	The final accession package addresses key industry complaint and includes a mechanism for ongoing consultations to the attention of the national authorities and to be informed of any action taken. It also confirms that measures at all levels of government will conform to WTO requirements.
<i>Transparency</i>	This area was not addressed in the bilateral agreement.	The US and its companies will have notice of laws, regulations and other measures before they are enforced, and an opportunity to comment on these provisions before they are implemented. Exceptions, including claims of confidentiality, are very limited. China is required to provide information on WTO matters and to ensure that companies receive responses that they can rely upon.

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<i>Judicial Review</i>	This area was <i>not addressed</i> in the bilateral agreement.	The final accession package clarifies that tribunals reviewing administrative actions must be independent and without substantive interest in outcome of the matter.
<i>Trade-Related Intellectual Property Rights (TRIPS)</i>	This area was <i>not addressed</i> in the bilateral agreement.	The final accession package addresses specific industry concerns, especially on enforcement and protection of test data. China also agreed to implement the TRIPS Agreement on accession.
<i>Export restrictions</i>	This area was <i>not addressed</i> in the bilateral agreement.	Export duties cannot be raised above the rate in the final accession package, and China will eliminate non-automatic licenses unless it can be justified under the WTO rules.
<i>Taxes and Other Duties and Charges</i>	This area was <i>not addressed</i> in the bilateral agreement.	China confirms that national treatment will be provided under its value-added tax, other duties and charges will be bound at zero, and any service charges will be commensurate with the cost of the service provided.
<i>Customs Valuation and Rules of Origin</i>	These areas were <i>not addressed</i> in the bilateral agreement.	China has agreed to apply the Agreement on Customs Valuation (CVA) without recourse to the transition period made available under the CVA. China will adopt World Customs Organization (WCO) valuation methods and the Agreement on Rules of Origin. Changes to the Agreement on Rules of Origin will be established and implemented for the first assessment, upon request, of the origin of an import or export and will apply the Agreement on Rules of Origin from the date of its accession.
<i>Technical Barriers to Trade (TBT)</i>	This area was <i>not addressed</i> in the bilateral agreement.	The final accession package requires major changes in the structure of China's conformity assessment regime, based on providing the same treatment for imported and domestic products on, inter alia, technical regulations and standards applied, fees and time frames.
<i>Sanitary and Phytosanitary Measures (SPS)</i>	This area was <i>not addressed</i> in the bilateral agreement.	China confirms that it will not maintain SPS measures without sufficient scientific evidence and will not use SPS measures as a disguised restriction on trade. China will fully comply with and ensure the conformity of its SPS laws, regulations, measures and procedures to the SPS Agreement from the date of accession.
<i>Pricing Policy</i>	This area was <i>not addressed</i> in the bilateral agreement.	The final accession package includes information on China's price-setting process and permits importation by foreign firms. It also provides that price controls are not to have the effect of impairing market access for goods or services.
<i>Government Procurement</i>	This area was <i>not addressed</i> in the bilateral agreement.	The final accession package requires transparency in procurement at all government levels and MFN/NTR treatment for all foreign suppliers with respect to participation in procurement. China will become an observer to the Agreement on Government Procurement and start negotiations on becoming a member as soon as possible.