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Report to Congressional Committees

October 2002

WORLD TRADE ORGANIZATION

Analysis of China's Commitments to Other Members

G A O

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GAO-03-4

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Highlights

WORLD TRADE ORGANIZATION
Analysis of China's Commitments to Other Members

Highlights of GAO-03-4, a report to the Chairman and Ranking Minority Member, Committee on Finance, U.S. Senate, and Chairman and Ranking Minority Member, Committee on Ways and Means, U.S. House of Representatives

Why GAO Did This Study

China's entry into the World Trade Organization (WTO) on December 11, 2001, represented a major step in the reform efforts of the U.S.'s fourth largest trading partner. When implemented, these reforms will liberalize and modernize China's economy and trading activities, including its industrial, services, and agricultural sectors. However, understanding the implications of China's accession depends on a thorough analysis of the complex terms of China's membership in the WTO. In this initial study, one of several GAO will conduct for the Congress on China-WTO issues, GAO systematically analyzed (1) the scope and types of China's WTO commitments; and (2) the interrelationships among commitments set forth in China's accession agreement.

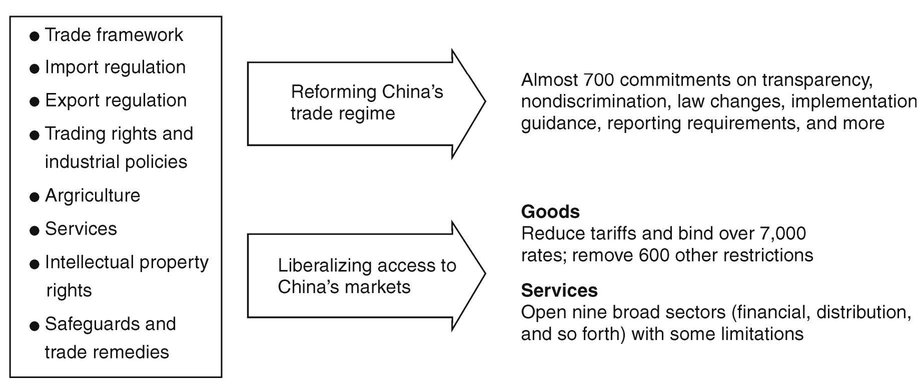
U.S. Trade Representative and other agency officials provided technical and editorial comments on this report, which GAO incorporated as appropriate.

What GAO Found

China's WTO accession commitments are comprehensive and set forth the ways in which China will conform to the WTO's trade liberalizing rules. The commitments span eight broad areas and require both general pledges and specific actions from China, ranging from adherence to nondiscriminatory principles to reforming designated laws and trade practices (see figure below). GAO identified nearly 700 individual commitments on how China is expected to reform its trade regime, as well as commitments that liberalize market access for over 7,000 goods and nine broad services sectors in industries important to the United States, such as automobiles and information technology.

The potential for China's WTO accession agreement to open China's market to foreign goods and services cannot be assessed by only examining individual commitments. GAO found that the interrelationships among some individual commitments could strengthen the general business environment in China by fostering a more transparent, consistent, and market-oriented trade regime for U.S. business. Other interrelated commitments, however, could delay or limit the access given to U.S. businesses, because some commitments are to be phased in over 10 years or will provide only partial access for particular foreign products or services. Overall, the breadth and complexity of China's commitments underscore the challenges for China in fulfilling its obligations and for other WTO members in monitoring and enforcing China's compliance.

China's WTO agreement covers eight broad areas:



The full report, including GAO's objectives, scope, methodology, and analysis is available at www.gao.gov/cgi-bin/getrpt?GAO-03-4. For additional information about the report, contact Susan Westin (202) 512-4128.

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Abbreviations

HS	Harmonized system (of traded products nomenclature)
IMF	International Monetary Fund
IPR	Intellectual property rights
SEZ	Special economic zone
SOE	State-owned enterprise
SPS	Sanitary and phytosanitary
TRIMS	Trade-Related Investment Measures
TRIPS	Trade-Related Aspects of Intellectual Property Rights
TRQ	Tariff-rate quota
WTO	World Trade Organization

G A O

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

October 3, 2002

The Honorable Max Baucus
Chairman
The Honorable Charles E. Grassley
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable William M. Thomas
Chairman
The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

China's accession to the World Trade Organization on December 11, 2001, signified that the world's seventh largest economy[1] and the U.S.'s fourth largest trading partner would be subject to the multilateral organization's trade liberalizing requirements. An understanding of the terms of China's accession is essential to judging whether China is adhering to the principles of a rules-based global trading system and giving foreign goods and services greater access to its market. China's accession agreement is a set of legal documents totaling more than 800 pages that sets forth China's commitments—or legally binding pledges—to other World Trade Organization members and describes how China will adhere to the organization's underlying agreements, principles, rules, and specific procedures. Additionally, the agreement includes schedules for how and when China will grant market access to foreign goods and services, along with several other annexes. China will have to undertake numerous actions over the next 10 years to fulfill its World Trade Organization commitments, ranging from reducing or eliminating tariffs to improving the transparency of trade-related rules and regulations.

You asked us to undertake a long-term body of work relating to China's membership in the World Trade Organization. In this initial phase, we conducted a detailed analysis of China's accession agreement. Specifically, we examined (1) the scope and types of China's World Trade Organization

[1]China's gross domestic product stood at $1.1 trillion in 2000, according to the World Bank.

commitments; and (2) the interrelationships among commitments described in China's accession agreement, which can affect foreign business opportunities.

In order to perform our review, we systematically analyzed individual commitments in the agreement. First, we created a database to analyze the text of the agreement containing China's commitments relating to its trade regime. For purposes of our analysis, we divided China's trade regime into eight general areas—trade framework, import regulation, export regulation, trading rights and industrial policies, agriculture, services, intellectual property rights, and safeguards and other trade remedies (see app. II). Second, we analyzed China's market access schedules, which contain specific commitments on goods and services. We discussed our work with knowledgeable U.S. government, World Trade Organization, and other officials and reviewed other analyses of the agreement (see apps. I–III for a detailed description of our scope and methodology).

Results in Brief

China's World Trade Organization accession agreement is broad in scope and covers eight areas, ranging from agriculture to intellectual property rights. We identified nearly 700 individual commitments on how China's trade regime will adhere to the organization's agreements, principles, and rules. Other commitments grant market access to other members' goods and services. There are seven types of trade regime commitments in the accession agreement, and the types vary widely. Some commitments require a specific action from China, such as reporting information about China's import-licensing requirements to the World Trade Organization. Other commitments are less specific in nature, such as those that confirm China's general obligations to adhere to World Trade Organization principles of nondiscrimination in the treatment of foreign and domestic enterprises. In addition to these trade regime commitments, we analyzed China's market access commitments, which cover specific goods and services. The scope of China's accession agreement provides U.S. businesses the opportunity for significantly greater market access to a broad range of goods and services in sectors that are of key importance to U.S. businesses. First, China has committed to reducing or eliminating tariffs, quotas, price controls, and other barriers on more than 7,000 agricultural and industrial products. However, China's tariffs will remain relatively high—20 percent or higher—on a small percentage of goods, and China will maintain other trade-distorting measures on about 300 products. Second, China has committed to allowing greater market access in nine broad service areas—including insurance, banking, distribution, telecommunications, and professional services. Although some limitations will remain, China's commitments reduce or eliminate many restrictions on services, such as those that limit foreign providers' access to designated cities or restrict the scope and type of service that can be provided. Finally, some of China's trade regime and market access commitments are phased in over several years.

The potential for China's accession agreement to liberalize its markets cannot be assessed by examining only individual commitments. Our analysis suggests that the interrelationships among trade regime and market access commitments in different areas of the accession agreement will affect foreign business opportunities in China's market. Some commitments, such as those that bind China to administer trade laws and regulations in a uniform and transparent manner, apply generally to other areas, which could improve the overall legal and business environment for foreign companies, as well as the rule of law in China.[2] However, other interrelationships created by individual commitments could delay or limit opportunities in China's market. Some commitments overlap and will be phased in over different time periods, and these interrelationships can affect individual companies and the specific products and services they seek to provide. For example, although China is obligated to reduce tariffs on thousands of products, other trade-distorting measures, including tariff-rate quotas[3] and price controls on specific products, will remain in place after tariffs have been reduced.

Background

China's bid to join the World Trade Organization (WTO) began in 1986, when China applied for membership to the WTO's predecessor, the General Agreement on Tariffs and Trade. The WTO took over China's accession negotiations following the formation of the WTO on January 1, 1995, and China became the 143rd member of the organization on December 11, 2001. China's 15 year accession process has been the longest of any WTO member to date. The United States and other WTO members have stated that China's membership in the WTO provides increased

[2]Definitions of the rule of law are numerous and varied. For the purposes of this report, we generally use the term to describe a society in which law is generally stable and transparent; is consistently and independently applied; and imposes meaningful restraints on government officials and entities and other members of a ruling elite.

[3]A tariff-rate quota is a trade barrier that allows imports of specified products to enter at a low tariff rate up to an agreed quota level, with any additional imports to be taxed at a higher tariff rate. Other WTO members, including the United States, have tariff-rate quotas on certain products. China's tariff-rate quotas are further explained later.

opportunities for foreign businesses seeking access to China's vast market. Additionally, more than three-quarters of the businesses responding to a recent GAO survey and structured interviews expected that China's WTO commitments would eventually have a positive impact on their business operations.[4]

Trade between the United States and China is economically important for both countries. In 2001, U.S. exports of goods to China totaled $18 billion, making China the 9th largest market for U.S. exports, according to the U.S. Department of Commerce. Imports of goods from China to the United States in 2001 totaled $102 billion, making China the 4th largest supplier of imports to the U.S. economy. China has become a major supplier to the U.S. market of a variety of low-cost U.S. consumer goods, such as toys and games, shoes, and consumer electronics, as well as computers. China has been a major buyer of U.S. aircraft, computers, and machinery. Since 1983, the United States has had a trade deficit with China, as U.S. imports from China have far exceeded exports. As for the cross-border services trade, the United States supplied China with about $4.6 billion in services in 2000, while China supplied about $2.8 billion to the United States. In addition, the United States is a major supplier of investment in China. By 2000, U.S. foreign direct investment in China had reached nearly $10 billion, second only to Hong Kong.

Like all WTO applicants, China conducted negotiations to join the WTO on two tracks—bilateral and multilateral.[5] China negotiated bilaterally with other interested WTO members regarding market access commitments for goods and services.[6] These market access negotiations resulted in various commitments from China to these members, including tariff reductions on agricultural products and industrial goods, phaseouts of nontariff restrictions such as licensing and quotas, and phaseins of WTO members' access to several service sectors. The most trade-liberalizing of these commitments were consolidated and incorporated into comprehensive market access schedules (tables) for goods and services. China's

[4]See U.S. General Accounting Office, *World Trade Organization: Selected U.S. Business Views about China's Membership*, GAO-02-1056 (Washington, D.C.: Sept. 23, 2002).

[5]For a more detailed explanation of the WTO accession process, see U.S. General Accounting Office, *China Trade: WTO Membership and Most-Favored-Nation Status*, GAO/T-NSIAD-98-209 (Washington, D.C.: June 17, 1998).

[6]China completed its bilateral negotiations with the United States in November 1999 with the signing of the U.S.-China Market Access Agreement.

commitments in these areas apply equally to all WTO members through application of the WTO's fundamental most-favored-nation principle, which extends to all WTO members the best trade privileges granted to any other member. Concurrent with its bilateral negotiations with the United States and other members, China negotiated multilaterally with a WTO working party consisting of the United States, the European Union, and other interested members. These multilateral negotiations focused on the specific rules and terms concerning how China's trade regime would adhere to the obligations and responsibilities of WTO membership.

The results of the negotiations are described and documented in China's final accession agreement, the *Protocol on the Accession of the People's Republic of China*, which includes the accompanying *Report of the Working Party on the Accession of China*, the consolidated market access schedules for goods and services, along with other annexes.[7] The protocol contains the terms of China's accession and describes how China's trade regime will conform to WTO agreements, rules, and principles. Many other commitments are set forth in the working party report, which is incorporated by reference in the protocol. According to the WTO, commitments set forth in the protocol and working party report have the same status and carry the same legal effect under WTO rules.

Last, it is important to note that, in addition to the commitments set forth in the accession agreement, WTO membership confers other rights and obligations on China. For example, membership obligates China to adhere to more than 20 existing multilateral WTO agreements that cover various areas of international trade. China, like all other WTO members, must adhere to the WTO's three main agreements governing key areas of international trade: (1) the General Agreement on Tariffs and Trade, (2) the General Agreement on Trade in Services, and (3) the Agreement on Trade-Related Aspects of Intellectual Property Rights. Other specialized multilateral WTO agreements that apply to China include the Agreement on Trade-Related Investment Measures, the Agreement on Agriculture, the Agreement on Technical Barriers to Trade, and the Agreement on Subsidies and Countervailing Measures. Numerous sections of China's protocol and working party report refer to or reiterate specific provisions of a number of these underlying WTO agreements. Membership also gives

[7] In addition to the annexes containing the market access schedules, seven other annexes are included in China's accession agreement. See table 5 for a description of the topics covered in the annexes.

China various rights under WTO rules. For example, the Understanding on the Rules and Procedures Governing the Settlement of Disputes gives access to a formal mechanism for resolving disputes over WTO trade-related issues.[8]

Various Types of Commitments Cover Administration of Trade Regime and Market Access

China's WTO commitments span eight areas and are broad in scope. They range from China's pledges for how it will reform its trade regime in accordance with the WTO's principles and rules to specific market access commitments for goods and services. A number of these trade regime and market access commitments are phased in over several years. We identified 685 commitments in China's protocol and working party report that cover China's trade regime. Additionally, we found that these trade regime commitments were of seven types, ranging from specific to general in terms of what China must do. The accession agreement also includes market access commitments for goods, including commitments to eliminate or reduce tariffs on more than 7,000 agricultural and industrial products, as well as to eliminate other trade barriers on about 600 of these products. Further, China made commitments to allow greater market access in 9 of 12 general services sectors, including sectors that are important to U.S. businesses such as banking, insurance, and telecommunications. However, some limitations, including those that require joint ventures with Chinese partners in some sectors or restrict the amount of foreign investment, will continue.

Nearly 700 Commitments Exist, Covering China's Trade Regime

The 685 trade regime commitments that we identified in all eight areas of the protocol and working party report address a broad range of issues.[9] Table 1 lists the eight areas and the number of commitments that we identified in each area. See appendix IV for a detailed description and analysis of China's commitments in each of these areas.

[8]For additional information on the WTO's dispute settlement mechanism, see U.S. General Accounting Office, *World Trade Organization: Issues in Dispute Settlement*, GAO/NSIAD-00-210 (Washington D.C.: Aug. 9, 2000).

[9]These 685 trade regime commitments exclude market access commitments discussed later but include commitments identified in other annexes. Additionally, these 685 commitments do not include 20 general commitments that describe, among other things, the relationship between the protocol and the working party report and other multilateral WTO agreements. See appendix I for a description of our methodology for identifying commitments.

Table 1: Eight General Areas and Number of China's Trade Regime Commitments in Each Area

Area	Number of commitments	Description of area
Trade framework	82	Includes uniform application of trade measures, transparency, judicial review, nondiscrimination, and revisions to related laws and regulations.
Import regulation	227	Includes border measures affecting imports, such as customs duties, other taxes, and charges; nontariff measures, such as quantitative restrictions (quotas); regulatory measures, such as standards for determining the value of imports (customs valuation); and technical barriers to trade, such as packaging, marketing, or labeling requirements.
Export regulation	9	Includes border measures affecting exports, including licensing requirements, export duties, and other taxes and charges.
Trading rights and industrial policies	117	Includes China's restrictions on the right to import or export products (trading rights), limitations on trading to certain entities (state trading), and industrial policies such as price controls, subsidies, regulations on state-owned enterprises, investment requirements, and restrictions affecting foreign exchange.
Agriculture	101	Includes border measures and other policies that affect the agricultural sector such as customs duties, tariff-rate quotas, export subsidies, domestic support, and measures restricting imports for health and environmental reasons (sanitary and phytosanitary measures).
Services	45	Includes regulations and restrictions affecting trade in services and operations of foreign services suppliers in China, including commitments on nondiscrimination and market access for particular service sectors.
Intellectual property rights	34	Includes laws and regulations providing for the protection and enforcement of intellectual property rights such as copyrights, trademarks, and patents.
Safeguards and trade remedies	70	Includes additional protection of products faced with market disruption caused by surges in imports from China, the ability to use alternate methodology in antidumping and countervailing duty cases, and review of China's trade practices through a special WTO review mechanism.
Total	**685**	

Note 1: These 685 trade regime commitments exclude market access commitments discussed later but include commitments identified in other annexes. Additionally, these 685 commitments do not include 20 general commitments that describe, among other things, the relationship between the protocol and the working party report and other multilateral WTO agreements. See appendix I for a description of our methodology for analyzing commitments.

Note 2: See appendix IV for a further description of these eight areas.

Source: GAO analysis of China's WTO accession agreement.

Although the number of commitments in any one of the areas listed should not be considered as the measure of an area's overall importance within the accession agreement, the number of commitments can be an indicator of the scope and complexity of an area. For example, about one-third of the commitments we identified were in the area of import regulation—a broad area that includes commitments regarding how China will assess tariffs, taxes, and other charges on foreign goods, and commitments on reducing or eliminating other barriers to China's market.

Types of Commitments Vary Widely and Require Both Specific and General Actions from China

The types of commitments that China made regarding the administration of its trade regime vary widely. Some commitments require a specific action from China, such as reporting particular information to the WTO, while others are more general in nature, such as those affirming China's adherence to WTO principles. We identified seven types of commitments included in the protocol and working party report.[10] (See table 2.)

[10]We also identified commitments that did not fit into any of these seven commitment types, and we classified these commitment types as "other."

Table 2: Commitment Types in China's Protocol and Working Party Report

Commitment type	Commitments of this type require China to:	Example of commitment type
Definitional	Use a certain type of term or meaning in its commitments and regulations. These commitments can also be an elaboration or clarification of an existing practice, law, or process.	Services: In the insurance sector, China committed to defining a "master policy" as a policy that provides blanket coverage for the same legal person's property and liabilities located in different places.
Reporting	Report some type of information to the WTO.	Agriculture: China committed to notifying the WTO about all sanitary and phytosanitary regulations and measures within 30 days after accession.
Transparency	Improve the openness of China's trade regime by, for example, publishing information, designating an enquiry point, or providing clarifying information on rules, laws, or processes.	Trade framework: China committed to making available to WTO members, upon request, regulations and other measures pertaining to or affecting trade in goods, services, TRIPS, or the control of foreign exchange before such measures are implemented or enforced.
Laws and regulations	Create, modify, or repeal an existing law or regulation in order to comply with a WTO requirement.	Intellectual property rights: China committed to amending its trademark law in compliance with the TRIPS agreement.
Guidance	Implement a commitment by following a specific procedure. These commitments can also describe the process China will follow, the responsible authorities (for example, ministry or level of government), and the principles that describe the procedure.	Import regulation: China committed to accepting that the approving organization for a quota application will issue an import license within 3 working days, and within 10 days in exceptional cases.
Adhere to WTO	Confirm or reiterate adherence to a separate WTO commitment or agreement such as the General Agreement on Services or the agreement on Trade-Related Aspects of Intellectual Property Rights.	Trading rights and industrial policies: China committed to eliminating subsidies provided in connection with special economic zones and other special economic areas that were inconsistent with the WTO Agreement on Subsidies and Countervailing Measures.
Nondiscrimination	Confirm or reiterate adherence to WTO principles of national treatment and most favored nation[a]	Trade framework: China committed to treating foreign individuals and enterprises no less favorably than their domestic counterparts with regard to the procurement of inputs and goods necessary for production.

[a]National treatment is the principle under which foreign products and services are treated no less favorably than domestic products or services. The most-favored-nation principle extends to all WTO members the best trade privileges granted to any other member.

Source: GAO analysis of China's WTO accession agreement.

The definitional, reporting, transparency, laws and regulations, and some guidance commitments we identified mainly require specific actions from China. For example, annex 1A of China's accession agreement lists 62 commitments relating to economic and trade policy information that China is to provide to various WTO committees as part of the WTO's transitional review mechanism for China.[11] Additionally, some guidance commitments require specific actions. We found that about 40 percent of the 685 commitments are guidance commitments, and that most of the commitments of this type are in the areas of agriculture and import regulation. More specifically, about half of the guidance commitments in both of these areas describe the specific procedures that China will follow to administer its agricultural and industrial tariff-rate quotas. Sections of the working party report describe members' concerns about how China will administer its tariff-rate quota regime, and the large number of commitments in this area illustrate how members negotiated specific guidance concerning the way in which the tariff-rate quota system should operate.

We identified other commitments that are more general in nature, including 123 commitments that confirm or reiterate China's adherence to WTO agreements. For example, more than half of the commitments in the area of intellectual property rights are of this type. Specifically, several paragraphs in the working party report outline member concerns regarding China's enforcement of intellectual property rights, and most of the commitments related to enforcement confirm how China will comply with various articles of the Agreement on Trade-Related Aspects of Intellectual Property. Lastly, other general commitments that we identified require China to adhere to the WTO's nondiscrimination principles of most-favored-nation and national treatment. These types of commitments are most common in the areas relating to China's trade framework and import regulation. For example, within the area of import regulation, we identified 18 commitments that obligate China to abide by the national treatment principle by ensuring that technical standards and regulations apply equally to both imported and domestic goods.

Last, we identified 108 commitments that did not fit into any of the seven commitment types and classified these commitments as "other." We

[11]Beginning 1 year after China's accession, the information is to be provided annually for 8 years, with a final review in the 10th year following China's accession, or at an earlier date decided by the WTO's General Council. See appendix IV for additional information on the transitional review mechanism.

identified commitments of this type throughout the agreement, but many are in the area of the agreement relating to safeguards and trade remedies. For example, 34 commitments describe how other WTO members can apply safeguard measures to China, and they set forth the details of the transitional review mechanism. (See app. IV for additional details on safeguards and trade remedies.) Table 3 shows the number and type of commitments we identified in each area of China's trade regime.

Table 3: Type and Number of Trade Regime Commitments, by Area

Area	Number of commitments in area	Definitional	Reporting
Trade framework	82	4	10
Import regulation	227	16	37
Export regulation	9	0	3
Trading rights and industrial policies	117	6	22
Agriculture	101	9	11
Services	45	9	6
Intellectual property rights	34	9	2
Safeguards and trade remedies	70	3	8
Total	**685**	**56**	**99**

Commitment type					
Transparency	Laws and regulations	Guidance	Adhere to WTO	Nondiscrimination	Other[a]
19	19	31	12	24	8
31	14	111	38	24	20
1	1	2	3	0	1
7	1	31	22	10	23
13	3	64	12	5	4
5	3	23	3	2	5
1	15	9	21	2	1
0	1	10	12	0	46
77	**57**	**281**	**123**	**67**	**108**

Note 1: The commitment types are not mutually exclusive. For example, a commitment in the trade framework area could be classified as both a "guidance" and a "transparency" commitment. Consequently, the totals of the commitment types do not add to 685.

Note 2: These 685 commitments exclude market access commitments discussed later but include commitments identified in other annexes. Additionally, these 685 commitments do not include 20 general commitments that describe, among other things, the relationship between the protocol and the working party report and other multilateral WTO agreements. See appendix I for a description of our methodology for identifying commitments.

[a]We identified commitments that did not fit into any of these seven commitment types and categorized these commitment types as "other."

Source: GAO analysis of China's WTO accession agreement.

We also identified a number of commitments that exceed usual WTO requirements. A number of these commitments are in the trade framework area. For example, unlike other WTO members, China committed to providing a public comment period prior to implementing certain trade measures. Furthermore, China committed to establishing a mechanism by which individuals can bring questions about inconsistent application of laws within China's trade regime. Certain commitments in the area of safeguards and trade remedies also exceed what WTO rules usually require. For example, China's commitments allow WTO members to use standards for applying product-specific and textile safeguards against Chinese imports that are easier than the standards set forth in the WTO Agreement on Safeguards and the Agreement on Textiles and Clothing. Furthermore, commitments relating to the transitional review mechanism establish an additional review process that is more comprehensive than the WTO's trade policy review mechanism for other WTO members.

China Made Market Access Commitments for Goods to Reduce or Eliminate Important Tariffs and Other Trade-Distorting Measures

As part of its WTO accession agreement, China committed to reducing or eliminating a variety of market access barriers to foreign products. Although China reduced its overall average tariff over the past decade, certain sensitive products such as agricultural commodities and automobiles continued to face high tariffs, as well as other trade-distorting measures. In its agreement, China made specific commitments on the tariff rates for more than 7,000 products covering all imports, as well as commitments on other trade-distorting practices, such as state trading and quotas, affecting more than 900 products.[12] Reduction or removal of these barriers and practices will eliminate significant barriers to access in China's market for foreign exporters. However, relatively high tariffs or other trade-distorting measures will remain on some products.

Tariff Reductions Affect Wide Range of Products, but Some Final Rates Are Still Relatively High

Through its WTO commitments, China agreed to reduce tariffs on numerous products including many sensitive items, as well as to eliminate duties altogether on other products, such as information technology goods. However, a few products will still face high tariff barriers. Although many of China's tariffs fell upon accession to the WTO, about half of China's 7,000 tariffs will continue to be reduced over a phasein period. By 2010, the end of this phasein period, China's overall average tariff is scheduled to be less than 10 percent.[13] However, most of these tariff reductions will actually be completed by 2005. China had already begun reducing tariff rates in the early 1990s, when the average tariff rate was above 40 percent. By 1999, the year that China's WTO negotiations on tariffs ended, China had reduced the average tariff applied to imports to about 17 percent. Upon joining the WTO in 2001, China agreed to an average tariff of about 14 percent. In addition, China agreed to "bind" all tariff rates at the levels agreed upon in its accession agreement. That means that China may not charge a tariff rate higher than the amount it agreed to, except under special circumstances.[14] Therefore, the average tariff rate that China applies in the future may be even lower.

[12]State trading involves providing certain state-run entities the rights to import or export products. Quotas are quantitative restrictions on imports or exports that limit the amount of a product that can be traded.

[13]Relative to other WTO members, China has an average tariff rate that is lower than those of many developing countries but higher than those of developed economies, such as the United States and the European Union.

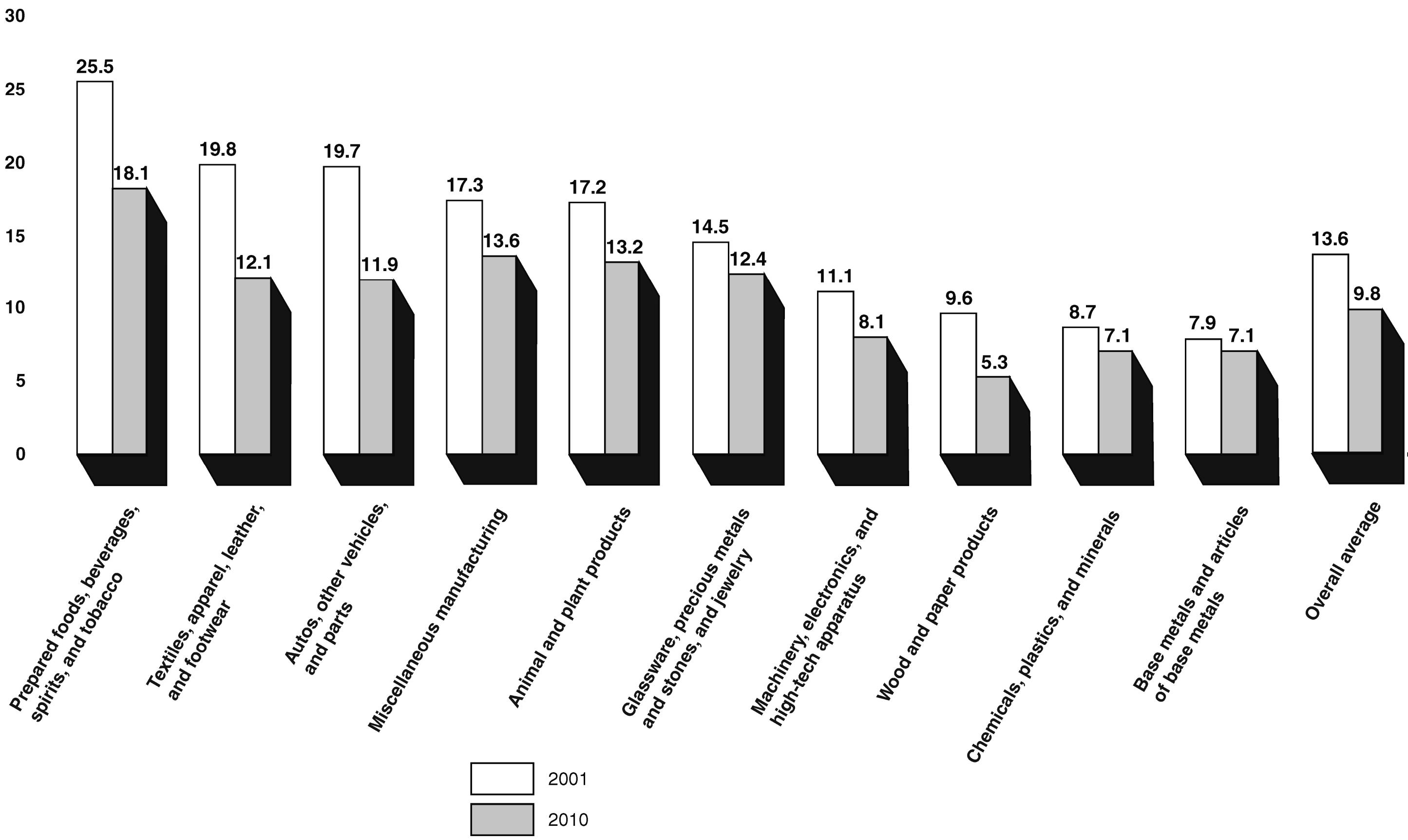
[14]China could charge higher duties than its bound tariff rates in cases where China is applying safeguards or antidumping or countervailing duties, or in other special circumstances.

For some products and sectors of importance to the United States, China committed to large tariff reductions. For example, tariffs on certain types of automobiles and alcohols are to fall more than 35 percentage points by 2006 and 2005, respectively.[15] On agricultural products, the average tariff is scheduled to fall to about 15 percent in 2010, while for nonagricultural products, the average tariff is scheduled to fall to about 9 percent in 2010. The U.S. Trade Representative reported that tariffs on products of particular importance to the United States would fall to 7 percent on average for industrial products and 14 percent on average for agricultural goods. Tariffs on about 300 information technology products, such as computers and semiconductors, are to be eliminated by 2005.[16] U.S. exports of information technology products accounted for nearly one-fourth of U.S. exports to China in 2001. Reductions in tariff rates will vary across industry categories. Figure 1 shows China's average tariff rates by industry for 2001 and 2010.

[15]China committed upon accession to tariff rates of 61.7 percent on certain types of automobiles, falling to 25 percent by July 1, 2006; of 46.7 percent on certain types of alcohols (including whiskies, gin, and vodka) upon accession, falling to 10 percent by 2005; and of 42 percent on beer upon accession, falling to zero by 2004.

[16]Twelve products (out of 317) identified as information technology products in China's schedule will have tariffs reduced to between 2 and 12 percent by 2005, but not eliminated. The average tariff rate for all information technology products is scheduled to fall from 6.5 to 0.3 percent.

Figure 1: Average Chinese Tariff Rates by Industry Category, 2001 and 2010

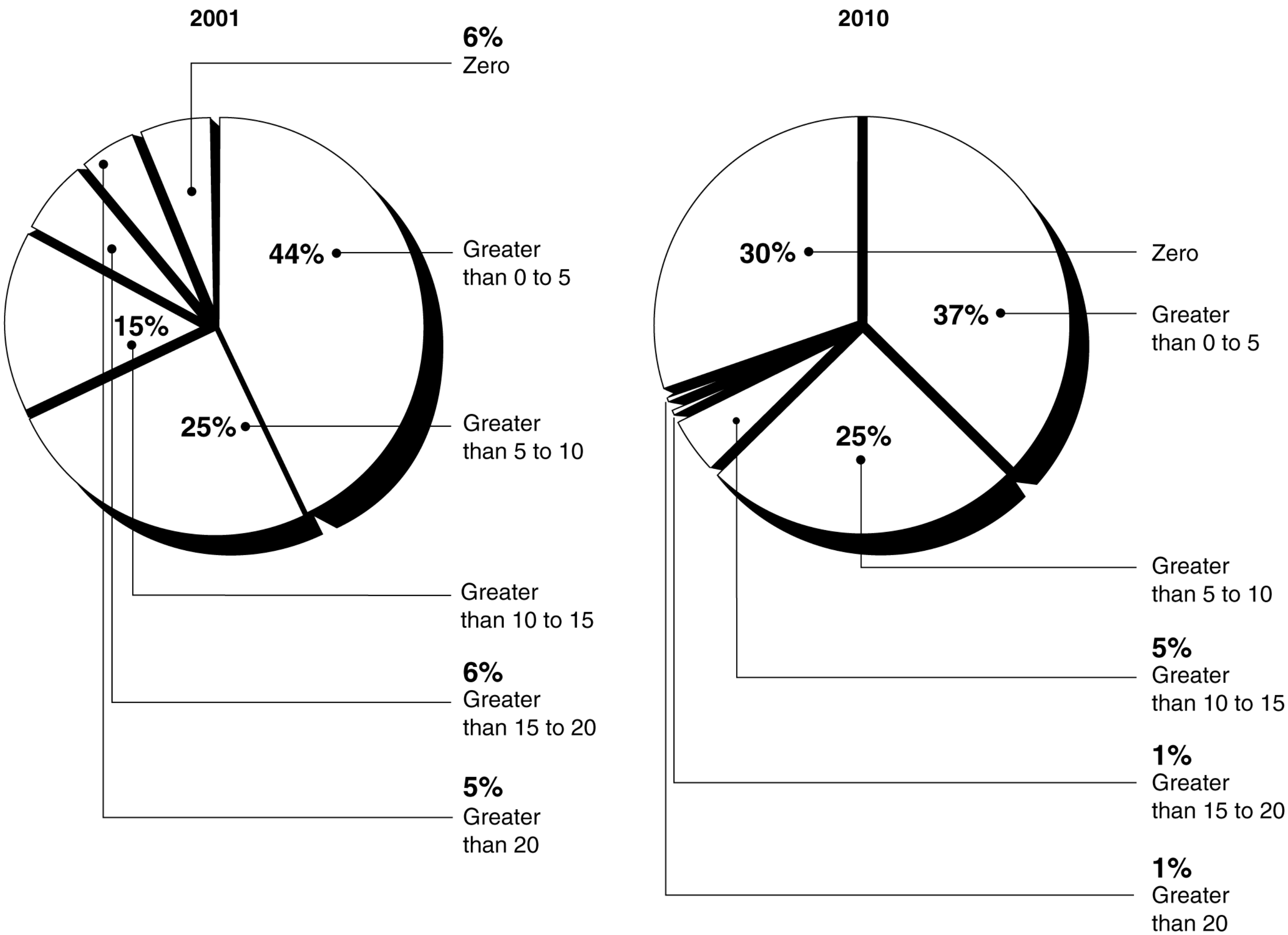


Note: Categories are based on aggregated groupings of the international harmonized system (HS) nomenclature, a World Customs Organization classification system for traded products (see app. III for more information).

Source: GAO analysis of China's WTO accession agreement.

In terms of U.S. exports to China, the share of products that potentially face low tariffs is scheduled to rise. Figure 2 shows that upon accession in 2001, China charged no tariff on products accounting for 6 percent of U.S. exports to China. At the end of the phasein period in 2010, the share of U.S. exports facing no tariffs will rise to 30 percent (based on actual U.S. exports in 2001). By 2010, products accounting for nearly 70 percent of U.S. exports will face tariff rates of 5 percent or less. Products facing no tariffs include information technology products and a variety of other imports, such as certain types of live poultry, seeds, salt, metal ores (nickel, copper, zinc), newspapers, maps, precious metals, and production machinery.

Figure 2: Share of U.S. Exports to China Facing Certain Tariff Ranges, 2001 and 2010



Note: Percentages may not equal 100 percent because of rounding. Shares are based on actual U.S. exports to China in 2001. As tariffs fall, exports of those products facing larger tariff reductions may increase as a share of total U.S. exports to China, affecting the calculated shares. Conversely, products subject to higher tariff rates may be disproportionately smaller because of the higher barriers.

Source: GAO analysis of China's WTO accession agreement and U.S. trade data from the Department of Commerce.

Figure 2 shows that products subject to tariffs of 20 percent or greater in 2010 account for only about 1 percent of total U.S. exports to China (based on 2001 data). However, these products could potentially account for a larger share of U.S. exports. Since the shares in figure 2 are based on actual U.S. exports to China, higher tariff rates may have disproportionately reduced exports of certain products, lowering their current share of total exports. In contrast, we found that the products that will be subject to final tariff rates of 20 percent or greater accounted for about 8 percent of current U.S. exports to all countries, rather than just 1 percent of U.S. exports to China. This difference may be caused in part by higher trade barriers on these products in China relative to other countries.[17] Therefore, although current exports of these products to China may be relatively small, they potentially could be important exports if remaining barriers were removed.

Several types of products will remain subject to high Chinese tariff rates following the phasein period for tariffs, which lasts until 2010. Table 4 lists products subject to tariff rates of 35 percent or more. The highest duties (50 to 65 percent) are on agricultural products subject to tariff-rate quotas (discussed below).[18] Also, a wide variety of other products will face high tariff rates, such as certain types of manufactured tobacco (65 percent), photographic film and paper (35 to 47 percent), jewelry (35 percent), and gas water heaters (35 percent).

[17] U.S. exports to all countries are also affected by trade barriers in other countries, but these may be lower overall on particular products than barriers in China. Also, many factors besides trade barriers may affect whether a country imports certain products, including domestic demand and competition from other suppliers. Figure 2 is intended only to provide an indication of the relative importance to U.S. exports of Chinese tariff rates, and of how they change over time.

[18] These are the "out-of-quota" tariff rates. Tariff-rate quotas charge two different tariff rates. A low rate is applied to a certain "in-quota" amount of the product. The remaining "out-of-quota" amount faces a higher tariff rate.

Table 4: Products for Which China's Bound Tariff Rates Will Be 35 Percent or Higher in 2010

Product description:[a] certain types of	Tariffs 2001 (percent)	Tariffs 2010 (percent)	U.S. Exports to China, 2001 (in thousands)
Wheat (subject to TRQs)	74%	65%	$21,736
Corn (subject to TRQs)	74	65	1,225
Rice (subject to TRQs)	74	65	184
Barley	65	65	0
Vermouth	65	65	70
Manufactured tobacco and substitutes	65	65	23
Cane or beet sugar (subject to TRQs)	55 to 71.6	50	354
NPK chemical fertilizer (covered by TRQ)	50	50	n.a.
Diammonium chemical fertilizer (covered by TRQ)	50	50	n.a.
Urea (covered by TRQ)	50	50	n.a.
Photographic film	55.7	47	94
Motorcycles	52.3 to 53.8	45	24
Corn and rice flours (subject to TRQs)	64	40	345
Cotton (subject to TRQs)	61.6	40	42,981
Fermented beverages (cider, perry, mead)	60.5	40	18
Photographic film	53.3	40	667
Motorcycles	51.7	40	0
Ethyl alcohol	40	40	507
Wool (subject to TRQs)	38	38	2,238[b]
Beverage bases and flavored waters	44 to 50	35	10,550[b]
Photographic paper	45	35	71[b]
Jewelry and imitation jewelry	36.7 to 42.5	35	2,126
Gas water heaters	35	35	4,773
Electric heaters, hair dryers, toasters, coffee makers	35	35	732
Television cameras and video cameras	35	35	467[b]

Legend

n.a.: not available. Product-level information on U.S. exports of fertilizer is not available because of business confidentiality issues. U.S. exports to China of all types of fertilizer, including the three types listed in this table, account for about 2 percent of U.S. exports to China.

TRQ: tariff-rate quota

[a]Product descriptions above are not official descriptions but shorter descriptions used only for illustrative purposes. Certain products may be covered by multiple tariff lines, which are based on different characteristics of individual products. For example, in the table above, motorcycles and photographic film are covered by multiple tariff lines and appear multiple times.

[b]U.S. export values for these products are approximations. U.S. export data and the Chinese tariff schedule cannot be precisely matched in all cases. (See app. III.)

Source: GAO analysis of China's WTO accession agreement and U.S. trade data from the Department of Commerce.

Other Trade-Distorting Measures to Be Eliminated, but Certain Practices Will Remain

China agreed to eliminate some trade-distorting measures that currently limit imports of nearly 600 products, including certain types of automobiles, transport equipment, and high-tech apparatus. Nontariff barriers, such as quotas and licensing, may restrict market access, and China has committed to removing these practices by 2005. However, China's accession agreement allows it to retain other measures on more than 300 products. For example, certain types of grains, fertilizers, and other products will still be subject to tariff-rate quotas and state trading for imports.[19] Table 5 lists certain trade-distorting measures that China's accession agreement addresses, and whether they will be eliminated.[20] U.S. exports of products subject to these measures accounted for approximately 10 to 19 percent of total U.S. exports to China in 2001. After removing practices that China has agreed to eliminate, products subject to remaining measures accounted for about 6 to 7 percent of U.S. exports to China in 2001.[21]

[19]However, China committed to eliminate state trading monopolies on certain products by allocating an increasing share of the quotas to private traders.

[20]In addition to these specific practices, other characteristics of China's domestic economy, such as the large share of state-owned enterprises, may affect foreign goods' opportunities in China. However, calculating or isolating the effect of these characteristics is difficult.

[21]These percentages are based on U.S. exports of affected products to China in 2001. We present a range of values, because U.S. and Chinese trade statistics and tariff schedules cannot be precisely matched (see app. II). These percentages may understate the potential size of future U.S. exports of these products, which may grow as a share of total U.S. exports to China when barriers are removed.

Table 5: Types of Trade-Distorting Measures Addressed by China's WTO Accession Agreement

Type of trade-distorting measure	Products affected by measure: certain types of	Approximate share of U.S. exports to China (2001) of products subject to the measure[a] (percent)	Phaseout schedule
Designated trading	Natural rubber, timber, plywood, wool, acrylic, and steel	1%	Removed by 2004
Export duties	Fish products, base metals (lead, zinc, aluminum, tungsten, etc.), mineral products	Not applicable (should affect Chinese exports of products)[b]	Not removed
Export subsidies	None (China committed to eliminating all export subsidies upon accession)	Not applicable (should affect Chinese exports of products)	Eliminated upon accession
Government guidance pricing	Grains (wheat, corn, rice, and soybeans), vegetable oils (soybean, rape, colza, and mustard), processed oil, fertilizer (urea), silkworm cocoons, and cotton	6–7	Not removed
Licensing	Automobiles, motorcycles, parts, and a variety of other products	1	Removed by 2005
Price controls	Tobacco, edible salt, natural gas, pharmaceuticals	Less than 1	Not removed
Quotas	Automobiles, motorcycles, parts, and a variety of other products	1	Removed by 2005
State trading (imports)	Grains (wheat, corn, and rice), vegetable oils (soybean, palm, rape, colza, and mustard oils), sugar, tobacco, crude oil, processed oil, chemical fertilizers, and cotton	About 1	Not removed
State trading (exports)	Tea, rice, corn, soybeans, tungsten ore, ammonium paratungstates, tungstate products, coal, crude oil, processed oil, silk, cotton, woven fabrics, antimony products, and silver	Not applicable (should affect Chinese exports of products)[b]	Not removed
Tariff-rate quotas	Wheat, corn, rice, soybean oil, palm oil, rape-seed oil, sugar, wool, cotton, fertilizer, wool tops	Less than 1	Quota amount and private trading share increase over some period, but tariff-rate quota removed only on vegetable oils
Tendering	Transport equipment and high-tech apparatus	1–6	Removed by 2004

[a]These percentages are based on our analysis of U.S. exports to China in 2001 of products subject to these measures. Total U.S. exports to China in 2001 were about $18 billion. We present a range of values because U.S. and Chinese trade statistics and tariff schedules cannot be precisely matched (see app. II). These percentages may understate the potential size of future U.S. exports of these products, which may grow as a share of total U.S. exports to China when barriers are removed. Also, product-level information on U.S. exports of the three types of fertilizer affected by tariff-rate quotas and state trading are not available because of business confidentiality issues and are therefore not included in these figures. U.S. exports to China of all types of fertilizer, including types not covered by tariff-rate quotas, account for about 2 percent of U.S. exports to China.

[b]Export policies, such as duties and state trading, can distort trade by providing cheaper inputs for domestic production (by limiting exports) or by affecting the price of the product in international markets.

Source: GAO analysis of China's WTO accession agreement and U.S. trade statistics from the Department of Commerce.

Of the 11 types of trade-distorting measures addressed by China's accession agreement, 8 affect imports into China and 3 affect China's exports. China has agreed to remove some of these practices after a phaseout period, while others will remain in place. First, half the import measures, including nontariff restrictions such as licensing, quotas, tendering, and designated trading, are to be eliminated by 2005. Second, the other half of the import measures will remain (tariff-rate quotas, government guidance pricing, price controls, and state trading). Finally, for exports, export subsidies are to be eliminated upon accession, while export duties and state trading will remain.

First, over a 4 year phaseout period, China will completely eliminate certain nontariff restrictions, including licensing restrictions, quotas, and tendering practices on imports. Licensing, which requires that companies obtain government approval and submit documentation before importing, and quotas, which are quantitative restrictions on imports, have been used widely by China in the past to restrict trade. Tendering is a requirement that private citizens or enterprises obtain government approval before making major purchases. In total, products affected by these practices accounted for about 1 to 7 percent of U.S. exports to China (between about $0.2 billion and $1.1 billion) in 2001. Although these amounts are a relatively small portion of total U.S. exports, these three nontariff barriers (licensing, quotas, and tendering) affect important U.S. exports such as automobiles, motorcycles, parts, and other transport equipment, as well as high-tech apparatus. Also, by 2004, China should eliminate designated trading on products that accounted for about 1 percent of U.S. exports to China ($173 million) in 2001. (See table 5.) Designated trading is a practice that provides the right to import certain products to certain entities designated by the government.

Second, certain trade-distorting measures will remain on some imports. Like some other WTO members, China will maintain tariff-rate quotas on several important agricultural products, including certain types of wheat, corn, rice, soybean oil, palm oil, rape-seed oil, sugar, wool, and cotton. Tariff-rate quotas allow a certain amount of a product (the "in-quota" amount) to enter the market at a low tariff rate (generally less than 10 percent). Any additional amount of imports (the "out-of-quota" amount) faces a prohibitively high Chinese tariff rate (generally 40 percent or greater, though lower in some cases). China has agreed to increase the quota amounts over time for these products and to eliminate the quotas altogether for vegetable oils in 2005. It has also agreed to allow private traders to share in the quota allocations and to increase the private share over time for some products, reducing the share allocated to state trading enterprises. Agricultural products covered by China's tariff-rate quotas accounted for about 4 percent of total U.S. agricultural exports to China in 2001.[22] China will also maintain tariff-rate quotas on some nonagricultural products—fertilizers and wool tops. Generally, WTO obligations do not allow tariff-rate quotas on nonagricultural products.

Besides tariff-rate quotas, other measures affecting imports will also remain. For instance, state trading, a practice that provides the right to import certain products primarily to state-run entities, will not be eliminated. U.S. exports of products affected by state trading accounted for about 1 percent of total U.S. exports to China (about $100 million to $200 million; see table 5) in 2001. In addition, China will also maintain price controls and government guidance pricing on certain domestically sensitive products. These measures, which require prices to be fixed or to fluctuate within a certain range, will affect certain types of tobacco, edible salt, natural gas, pharmaceuticals, grains, vegetable oils, processed oil, fertilizer (urea), silkworm cocoons, and cotton. China has gradually liberalized prices, and it claims that only about 5 percent of products are subject to price controls, in order to ensure adequate domestic supply and to keep prices within an affordable range. These products accounted for about 6 to 7 percent of U.S. exports to China in 2001.

Finally, besides these measures that affect the access of imports to China's market, the accession agreement also restricts certain practices affecting China's exports. These practices may distort trade by promoting exports to third-country markets in which they compete with other WTO members' goods, or by restricting exports in order to provide more inexpensive inputs to domestic production. China committed as part of its accession agreement to eliminate export subsidies for both agricultural and nonagricultural products. Under the WTO Agreement on Subsidies and Countervailing Measures, subsidies that require the recipient producer either to meet certain export targets or to use certain domestic products rather than imports are prohibited, and China agreed to abide by this obligation upon accession.[23] For agricultural products, WTO members are

[22]However, this share is significantly lower than a peak in 1998, when the same products accounted for 39 percent of U.S. agricultural exports to China. Since that time, the value of U.S. agricultural exports to China has risen somewhat (from $1.3 billion to $1.9 billion), but the share of products subject to tariff-rate quotas has fallen significantly.

[23]Domestic subsidies (those not tied directly to trade) are permitted under WTO provisions; however, if they are shown to have trade-distorting effects, WTO members can request their removal or in some cases impose countervailing duties on Chinese exports that benefit from the subsidy (see app. IV).

able to maintain export subsidies under certain conditions, but China agreed to eliminate their use, as well. This is a potentially important commitment for U.S. farmers who compete in third-country markets with Chinese exports of corn, rice, and cotton. Although committed to eliminate export subsidies, China will maintain state-trading practices on 134 export products and will apply an export duty between 20 and 50 percent on 84 products. Export policies, such as these, can distort trade by providing cheaper inputs for domestic production (by limiting exports) or by affecting the price of the product in international markets.

Market Access Commitments for Services Cover Multiple Sectors, but Some Limitations Continue

China's services commitments are broad in scope and provide increased access across a number of industries, with some specified limitations. China's market access commitments for services are described primarily in the services schedule included in an annex to the accession agreement.[24] The WTO classifies services into 12 general sectors and 154 subsectors. China made commitments to open 9 of the 12 general sectors and 88 of the 154 subsectors—including several sectors important to U.S. trade such as insurance, banking, distribution, telecommunications, and professional services. For example, prior to accession, foreign insurers' access to China's market had been restricted through selective licensing processes, and foreign insurers were allowed to provide only certain services in a limited number of cities. China's WTO commitments relax or remove many of these restrictions, over a 5 year phasein period. Similarly, foreign telecommunications service providers were restricted from China's market. Within 6 years following accession, foreign providers will be allowed to offer a broad array of telecommunications services with no geographic restrictions, but only through joint ventures with Chinese partners. (Table 6 shows the number of sectors where China made commitments. Additional information about China's services commitments is included in app. IV.)

[24] As noted in table 1, the working party report also describes 45 services-related commitments. These commitments include, for example, general guidance concerning licensing procedures and specific commitments relating to the insurance sector.

Table 6: Number of WTO Services Sectors where China Made Commitments

General WTO services sector	Number of subsectors included in WTO general sector	Number of subsectors included in China's commitments
Business	46	26
Communication	24	17
Construction	5	5
Distribution	5	5
Education	5	5
Environmental	4	4
Financial	17	13
Health-related and social	4	0
Tourism and travel-related	4	2
Recreation, cultural, and sporting	5	0
Transport	35	11
Other	Number of subsectors not specified	No commitments in this sector
Total	**154**	**88**

Note: For purposes of analysis, the information in this table is ordered according to the organization of services commitments listed in China's services schedule.

Source: GAO analysis of China's WTO accession agreement.

Although China made market access commitments in 88 services subsectors, access to most of these subsectors will remain subject to limitations. The WTO's General Agreement on Trade in Services provides the rules for services trade among members. Under these rules, members may decide which sectors to include in their services schedule and may specify what limitations on access and national treatment will be applied. There is no WTO requirement to grant access to all services sectors, and, in fact, no member allows unrestricted access to all sectors and subsectors.

Like other WTO members, China has a services schedule that describes commitments in specified services sectors and lists the types of limitations on access and national treatment within those sectors. Some of the limitations are horizontal—that is, the limitations apply generally to all services sectors in the schedule unless otherwise specified. Horizontal limitations include, for example, restrictions on the establishment of branches, on the profit-making activities of representative offices, and on the length of time permitted for the use of land in China. However, most limitations listed in China's services schedule describe the limitations on the specified services sectors that China committed to open. For example, access to several services sectors is opened only in designated cities or geographic regions, and only for a specific scope and type of operation. Other limitations require foreign service providers to partner with a Chinese entity in order to gain access, or to limit the participation of foreign capital in an investment. And other limitations include exceptions to national treatment by requiring that foreign service providers meet specific professional qualifications, or subject foreign providers to licensing procedures that differ from those required of domestic suppliers. In many sectors, some of the limitations are phased out over a specified time period. Table 7 lists the eight types of limitations we identified in China's services schedule.[25]

Table 7: Eight Types of Limitations in China's WTO Services Schedule

Limitation type	Description	Example of limitation type
Cross-border	Limitation on providing a service across national borders. In some cases, services may be provided only by establishing a commercial presence in China.	Wholesale distribution services are not permitted to be provided across borders.
Form	Limitation on the legal form of establishment, such as those requiring that services be provided through a joint venture with a Chinese partner.	Foreign providers of software implementation services may establish in China only in the form of a joint venture.
Equity	Limitation on the amount or share of foreign equity in a service operation.	Within 2 years following accession, foreign investment in certain types of telecommunications services shall be no more than 50 percent.
Geographic	Limitation on the specific geographic locations in which service providers are allowed to operate.	Certain foreign banking services are restricted to designated cities. These restrictions are phased out over time.
Nationality	Limitation on national treatment based on the residency or nationality of a service provider.	Legal service representatives shall be resident in China for no less than 6 months each year.
Number	Limitation on the number of foreign service providers or quantity of output or operations.	Number of foreign-invested medical and dental service operations subject to quantitative limits based on China's needs.
Scope	Limitation on the scope of business that may restrict certain types of services within a sector or restrict the type of client to whom services may be provided.	Commitments on courier services exclude services specifically reserved for Chinese postal authorities by law.
Qualifications	Limitation on national treatment through qualifications, standards, or licensing requirements.	Licensing requirements for foreign insurance providers require more than 30 years' establishment experience in a WTO member country.

Note: We also identified limitations that did not fit into any of these eight limitation types, and we categorized these limitation types as "other."

Source: GAO analysis of China's WTO accession agreement.

[25]We identified limitations that did not fit into these eight limitation types, and categorized these limitation types as "other."

Of the eight limitation types, we found that the most common types of limitations that will remain on China's services sectors are those on the legal form of establishment (45 percent) and scope of business (35 percent). (Table 8 lists the types of limitations that China will maintain on service providers in specific sectors following the phaseout periods.) For example, foreign businesses seeking to provide most types of professional services (subsectors within the business services sector) will still be required to operate through joint ventures or other types of partnerships with a Chinese entity. Similarly, certain limitations on the scope of business allowed in the insurance subsector (included within the financial services sector) will remain, and they preclude foreign insurers from providing certain types of vehicle insurance. Although China initially places geographic limitations on several types of services, most geographic limitations will be phased out, and, as a result, limitations of that type will be the least prevalent in China's services sectors. For example, geographic limitations on foreign providers of basic telecommunications services are to be phased out 6 years after accession, and foreign banks will be allowed to conduct local currency business without geographic restrictions within 5 years of accession.

Table 8: Types of Limitations That China Will Maintain in Specific Services Sectors

		Percentage of covered subsectors subject to specified limitation								
General WTO services sector	Number of subsectors covered by China's services schedule	Cross-border	Form	Equity	Geo-graphic	Nationality	Number	Scope	Qualifications	Other
Business	26	4%	54%	0%	0%	8%	4%	23%	42%	15%
Communication	17	47	59	53	0	0	6	18	0	12
Construction	5	0	0	0	0	0	0	100	0	0
Distribution	5	60	20	0	0	0	0	60	0	0
Education	5	100	100	0	0	0	0	0	100	100
Environmental	4	100	100	0	0	0	0	100	0	0
Financial	13	15	15	15	0	0	0	46	7	0
Health-related and social	0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Tourism and travel-related	2	0	0	0	0	0	0	50	0	0
Recreation, cultural, and sporting	0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Transport	11	27	36	27	0	0	0	27	0	27
Other	0	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Total	**88**	**30%**	**45%**	**16%**	**1%**	**2%**	**2%**	**35%**	**30%**	**16%**

Legend

n.a.: not applicable

Cross-border: limitation on providing a service across borders

Form: limitation on the form of establishment

Equity: limitation on the amount or share of foreign equity in a service operation

Geographic: limitation on the specific geographic locations in which service providers are allowed to operate

Nationality: limitation on national treatment based on the residency or nationality of a services provider

Number: limitation on the number of foreign services providers or quantity of output or operations

Scope: limitation on the scope of business

Qualifications: limitation on national treatment based on qualifications, standards, or licensing requirements

Other: other types of limitations that do not fit any of the eight aforementioned limitation types

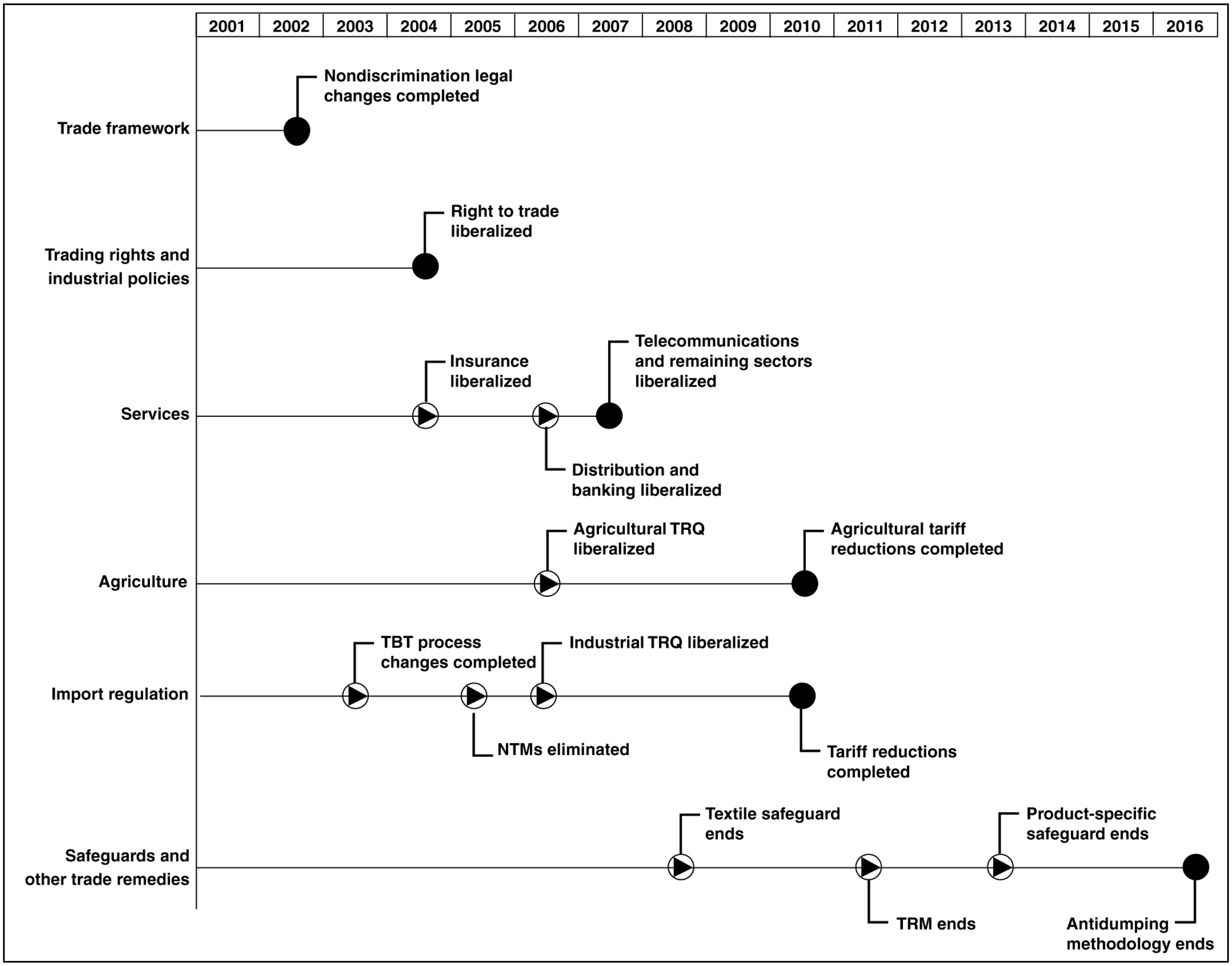
Note: Limitations within the sectors are not mutually exclusive. Consequently, totals do not add to 100 percent.

Source: GAO analysis of China's WTO accession agreement.

Some of China's Commitments Are Phased in Over Time

Phasein periods for China's commitments vary across the eight broad areas of the agreement. In two areas, export regulation and intellectual property rights, all commitments were due to be implemented upon China's accession to the WTO. In the other areas, the longest phasein periods are for trade regime commitments relating to safeguard and trade remedy provisions. For example, commitments allowing WTO members to use alternative methodologies when applying antidumping provisions to Chinese imports last for 15 years (until 2016). The phasein periods for other commitments that relate to China's administration of its trade regime are phased in by 2010. Additionally, China's market access commitments to reduce tariffs are scheduled to be fully phased in by 2010, but tariff reductions on most products and the elimination of other trade-distorting measures are to be completed by 2005. Lastly, most market access commitments for services are phased in by 2007. (See app. IV for further discussion of China's commitments in each of these areas.) Figure 3 summarizes key phasein dates for China's WTO commitments.

Figure 3: Summary of Key Phasein Dates for China's WTO Commitments, 2001–2016



Legend

NTM: nontariff measure

TBT: technical barriers to trade

TRQ: tariff-rate quota

TRM: transitional review mechanism

Note 1: No commitments in the areas of export regulation and IPR have phasein periods.

Note 2: Commitments to liberalize agricultural TRQs and various services sectors are scheduled to be phased in by the dates shown, but other restrictions on these sectors that China did not commit to removing may remain in place.

Source: GAO analysis of China's WTO accession agreement.

Interrelationships among Commitments Can Affect Foreign Business Opportunities

The potential for China's WTO accession agreement to open China's market to foreign goods and services cannot be assessed by examining only individual commitments. China's commitments in various areas are interrelated and together affect what and how business is done in China. For example, China's commitments may allow a particular foreign product to be exported to China, but extended time frames for implementing commitments on trading rights may require that the product be sold to a Chinese business or a state trading enterprise before it can enter the country. Other particular commitments determine what tariff must be paid, whether a license must be obtained, whether a quota applies, and whether the product must pass inspections related to food safety or product standards. Once the product is in China, still other commitments then determine whether foreigners have the ability to distribute the product within China or to provide other product-related services, perhaps requiring that these be supplied through a partnership with a Chinese firm. Finally, other commitments seek to improve foreigners' ability to protect patents, copyrights, and trademarks associated with selling a product in China. After reviewing China's WTO commitments, we found that some of these interrelationships work together to strengthen the general business climate but that others may result in some delays or limitations on foreigners' ability to do business competitively in China with regard to certain products or services.

Interrelationships among Some Commitments Could Strengthen China's Overall Business Environment

China made numerous commitments that relate to conforming the overall structure of its trade regime to WTO rules, and the interrelationship of these commitments could contribute to an improved environment for U.S. and other foreign businesses. The clearest examples of these are related to improving China's rule of law. Specifically, these structural, or trade framework, commitments include principles of transparency; nondiscrimination; judicial review; and the consistent application of laws, regulations, and other measures. Each of these is closely interrelated with several other sections of the accession agreement.[26] For example, although the protocol lists several general commitments requiring China to improve

[26]See appendix IV for a description of these trade framework commitments.

the overall transparency of its trade regime, specific commitments on transparency are described throughout the agreement to address WTO members' concerns. Sections of China's accession agreement relating to agricultural tariff-rate quotas, export and import regulation, state trading, and services all include transparency commitments intended to improve the openness of administrative rules and procedures relating to China's business environment. Commitments requiring consistent application of legal measures throughout China, nondiscriminatory treatment between foreign and Chinese enterprises, and more independent judicial review of trade disputes could also improve the rule of law and the overall legal environment for foreign businesses in China.

Similarly, the combined effect of several other types of commitments could lead to improvements in the overall business environment. Specifically, China's commitments to reduce subsidies, reform state-owned enterprises, and decrease the role of state trading can, if fully implemented, contribute to the development of a more market-oriented environment in China.

Interrelationships among Some Commitments Could Delay or Limit Foreign Business Opportunities

While most of the 685 commitments we identified were to take effect upon China's accession to the WTO, a number of interrelated commitments are phased in over time; in some cases, barriers to entering China's market will remain following the phasein of all commitments. These interrelationships can delay or limit foreign business opportunities in China's market. For example, commitments in the areas of trading rights (that is, a company's right to import products into and export products from China) and tariff-rate quotas are interrelated in this way. Trading rights for most products are phased in over a 3-year period, and this can temporarily delay a foreign company's ability to benefit from China's commitments on tariff-rate quotas. Under the tariff-rate quota system, a specified quantity of imports is allowed in at a low tariff rate. China committed to reserving a portion of this low tariff quota for importation through nonstate trading enterprises (this includes private foreign companies). However, the number of private companies that can directly import the low-tariff quantity is limited in the short run, because the necessary trading rights are not fully phased in until 2004.[27]

There are also important short-term limitations on foreign companies arising from the interrelationship between trading rights and China's commitments on distribution services. China's commitments on trading rights and its services commitments allowing foreign enterprises to set up distribution systems in China will not be fully phased in until 2004. Thus, China's commitments to remove most restrictions on wholesale, retail, franchising, and other forms of distribution are similar to the 3 year phaseout of the restrictions on trading rights. As a result, the opportunity for foreign enterprises to integrate import, export, and distribution systems for most products will not be fully realized until 2004.[28]

Interrelated commitments pertaining to specific market access barriers to goods, such as tariffs and nontariff measures, can also delay or limit opportunities for U.S. businesses to export to China. For example, China has agreed to remove barriers in the automobile and parts sector, which has traditionally been highly protected in China, through a phaseout period lasting until July 2006. Tariffs, which ranged between 80 and 100 percent before accession on certain types of automobiles and auto products, are scheduled to fall to 25 percent by July 2006. Complementing these market access commitments are China's commitments covering technical barriers to trade and trade-related investment measures that are intended to create a more open business environment for automobile producers. Despite the improved access to the sector, some restrictions will remain. Automobiles will still be subject to quota and licensing restrictions through 2005. Automobile companies are also affected by restrictions on the types of services they can provide their customers. For example, restrictions limiting the amount of foreign equity in commission agents' and wholesale distribution of most products, including automotive products, will not be phased out until 2004. Similarly, equity restrictions

[27]China's trading rights commitments state that joint venture enterprises with a minority share of foreign investment are allowed full trading rights beginning 1 year after accession, and majority-share foreign-invested joint ventures are granted full trading rights 2 years after accession. See appendix IV for a further discussion of China's trading rights commitments.

[28]Certain products are excluded from China's commitments on trading rights and are reserved for importation and exportation by state trading enterprises. These products are listed in annex 2A of China's accession agreement and include certain grains, vegetable oils, fertilizer (urea), crude oil, and other products.

on foreign retail chain stores with more than 30 outlets that are engaged in the distribution of motor vehicles will not be removed until 2006. Besides automobiles, several other products are also subject to multiple trade-distorting measures. Table 9 lists certain products and services that are affected by multiple measures and the phaseouts of these measures.

Table 9: Selected Products and Services Sectors Subject to Multiple Restrictions and Trade-Distorting Measures

Products and services sectors	Restrictions and trade-distorting measures, with the phaseout schedule
Automobiles and parts	• Wide range of rates, but tariffs on certain automobiles falling from over 50 percent (2001) to 25 percent (2006); lower on parts • Quotas and licenses (removed by 2005) • Restrictions on distribution (gradual removal of restrictions by 2006; most removed by 2004) • Restrictions on third-party auto liability insurance and driver and operator liability for buses and other commercial vehicles (not removed)
Chemical fertilizers	• Tariff-rate quota (increased quotas through 2006, but not removed) • In-quota tariff rate of 4 percent; out-of-quota rates of 50 percent • State trading (imports; not removed) • Government guidance pricing on urea (not removed) • Foreign distribution excluded (removed by 2006)
Corn, cotton, rice	• In-quota tariff rates between 1 and 10 percent; out-of-quota rates between 10 and 65 percent • Tariff-rate quota (increased quotas through 2004, but not removed) • State trading (both imports and exports; not removed) • Government guidance pricing (not removed)
Legal services	• Restrictions on the scope of business, form of establishment, and national treatment–nationality/residency and qualifications requirements (not removed) • Government guidance pricing (not removed)
Life insurance services	• Restrictions on scope of business, form of establishment, participation of foreign capital, cross-border trade, and national treatment–licensing requirements (not removed)
Natural rubber	• 20 percent tariff rate • Quotas and licenses (removed by 2004) • Designated trading (removed by 2004)
Processed oils (gasoline, kerosene, diesel)	• Tariffs between 6 and 9 percent upon accession • Quotas and licenses (removed by 2004) • State trading (both imports and exports; not removed) • Government guidance pricing (not removed) • Foreign distribution excluded (removed in 2004 for retailing services and 2006 for wholesale and commission agents' services)
Sugar	• Tariff-rate quota (increased quotas through 2004, but not removed) • In-quota tariff rate falling from 20 percent to 15 percent by 2004; out-of-quota rate of 50 percent • State trading (imports)
Telecommunications services (value added)	• Restrictions on form of establishment, participation of foreign capital, and cross-border trade (not removed) • Government pricing (not removed)
Tobacco	• Final tariff rates range from 65 to 10 percent on a variety of tobacco products. Most tariff reductions phased in by 2004 • State trading (imports; not removed) • Price controls (not removed) • Foreign distribution excluded (not removed)

Products and services sectors	Restrictions and trade-distorting measures, with the phaseout schedule
Vegetable oils (soy bean, palm, rape seed)	• Tariff-rate quota (increased quotas until removed in 2006) • In-quota tariff rate of 9 percent; out-of-quota rate of 63.3 percent, falling to 9 percent in 2006 • State trading (imports; not removed) • Government guidance pricing on soy bean and rapeseed oil (not removed)
Wheat	• Tariff-rate quota (increased quotas through 2004, but not removed) • In-quota tariff rates between 1 and 10 percent; final out-of-quota rates of 65 percent • State trading (imports; not removed) • Government guidance pricing on certain wheat products (not removed)
Wool and wool tops	• Tariff-rate quota (increased quotas through 2004, but not removed) • In-quota tariff rates of 1 percent (wool) and 3 percent (wool tops) ; out-of-quota rates of 38 percent • Designated trading (removed by 2004)

Source: GAO analysis of China's WTO accession agreement.

Concluding Observations

China's accession to the WTO represents a major step in China's recent reform efforts, which have been occurring since the late 1970s. The United States and other WTO members seek benefits from China's continued integration into the world trading system, guided by the rights and obligations of WTO membership. China's accession agreement is the most comprehensive of any acceding WTO member to date. It includes some commitments that exceed the underlying obligations of all WTO members, especially with regard to the protective safeguards and trade remedies that WTO members can apply to Chinese exports that injure their home markets.

Our analysis of China's accession agreement describes the broad scope of China's WTO commitments across eight areas, as well as the many types of commitments China made, which range from specific, discrete actions to general pledges. Our analysis also describes the complexity of the agreement and the ways in which the interrelationship between some individual commitments could strengthen the general business environment in China by fostering a more transparent, consistent, and market-oriented trade regime for U.S. business. On the other hand, some related commitments could delay or limit the access given to U.S. businesses because the commitments are to be phased in over time or they provide only partial access for particular foreign products or services. The benefits from China's WTO membership are contingent upon China's successful implementation of its many commitments as they come into practice during the next 10 years. The breadth and complexity of China's commitments indicate the challenges facing China in fulfilling its WTO obligations, and other WTO members in monitoring and enforcing China's compliance.

Agency Comments and Our Evaluation

We requested comments on a draft of this report from the U.S. Trade Representative and the Secretaries of Commerce, Agriculture, and State, or from his or her designee. On September 17, 2002, the Deputy Assistant U.S. Trade Representative for China provided us with oral comments on the draft. These comments included the views of officials from the Departments of State and Agriculture, which were transmitted to USTR in its capacity as chair of the interagency Trade Policy Staff Committee, Subcommittee on China WTO Compliance. The Department of Commerce did not provide comments.

USTR officials complimented the scope and depth of our analysis, but declined to comment on some of the details of our analysis—particularly relating to the number and type of commitments. Nevertheless, they provided technical and editorial comments about our characterization of particular Chinese commitments and provisions in the WTO agreements. For example, USTR officials thought that our presentation of commitments subject to phasein periods was overly focused on the end points for the phasein of all obligations. Officials noted that in a number of instances, these end points related only to limited exceptions or items of marginal trade interest to the United States, and that most of the benefits from China's commitments should accrue early in the periods. We added more information to various sections of our report to make that point clearer. Furthermore, they believed that we characterized some Chinese commitments as market access limitations rather than as opportunities for trade, and this undervalued those commitments (for example, in the area of tariff-rate quotas). We modified certain sections based on their comments, but, in general, we believe that our discussion of the commitments is accurate and balanced and properly acknowledges both the potential benefits and the limitations. USTR officials also provided a number of technical comments and corrections on other topics, which we incorporated as appropriate.

We are sending copies of this report to the U.S. Trade Representative and interested congressional committees. Copies of this report will also be made available to other interested parties on request. In addition, the report will be made available at no charge on the GAO Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-4128. Other GAO contacts and staff acknowledgments are listed in appendix V.

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Appendix I: Objectives, Scope and Methodology

As part of a long-term body of work that the Chairman and the Ranking Minority Member of the Senate Committee on Finance, as well as the Chairman and the Ranking Minority Member of the House Committee on Ways and Means, requested, we examined (1) the scope and types of China's World Trade Organization (WTO) commitments; and (2) the interrelationships of commitments described in China's accession agreement, which can affect foreign business opportunities. To conduct our analysis, we completed a detailed review of China's accession agreement—documents totaling more than 800 pages that describe the terms of China's WTO membership. The agreement includes the *Protocol on the Accession of the People's Republic of China* and the accompanying *Report of the Working Party on the Accession of China*. These documents provide China's particular commitments to the WTO and describe how China will adhere to WTO agreements, principles, and rules. Additionally, the agreement includes schedules for how and when China will grant market access to foreign goods and services, and seven other annexes.

In order to examine the scope and type, as well as the interrelationships among, China's WTO commitments described in China's accession agreement, we created a database for the protocol and working party report (83 pages of legal text), systematically analyzed individual commitments, and classified them by the type of commitment made. The accession agreement contains commitments made by China, background or contextual information, and concerns expressed by working party members about the operations of China's trade regime.[29] The working party report is divided into numbered paragraphs that provide a narrative on the results of the negotiations. Of the 343 paragraphs in the working party report, 144 contain China's specific commitments to WTO members. A few paragraphs also describe pledges of WTO members to China about certain actions that the members will take with respect to China's commitments. The remaining paragraphs describe China's explanation of existing trade practices or other statements of fact, while other paragraphs list specific working party concerns. As a legal matter, the protocol includes China's commitments in the working party report. Thus the commitments set forth in the protocol and the working party report have the same status and carry the same legal effect under WTO rules.

[29] We grouped the subjects of the accession agreement into eight broad areas and 47 subcategories. Appendix II lists these categories.

We identified more than 600 individual commitments in the protocol and working party report. This figure does not include the market access commitments, such as tariffs, made on specific products and sectors in the goods and services schedules, as well as product-specific commitments in the additional annexes, although we included text notes from these documents in the database.[30] We defined "commitments" as legally binding pledges that China has provided to the WTO and its members. For the most part, these commitments are set forth in separate paragraphs in the protocol, working party report, and text notes. Nevertheless, many of these paragraphs include multiple pledges. The working party report describes each of the commitment paragraphs as providing for a "commitment" or "commitments," though the report does not specifically indicate the number of commitments when they are plural. Thus, separating out the commitments in the accession agreement can be done in different ways. For example, some analyses of the agreement might count the number of paragraphs as the number of commitments. We chose, however, when appropriate, to break down each paragraph into multiple commitments, and thus our total number of commitments is considerably larger than the number of paragraphs in the protocol, working party report, and text notes.

After identifying individual commitments, we classified them by their characteristics. We identified seven different types of commitments (for example, commitments that require transparency or nondiscrimination) and then for each commitment assessed whether it fit the type. We developed these types, defined in table 2, in order to characterize the content of China's commitments across the agreement. We also identified some commitments that did not fit any of these seven types and categorized these commitments as "other." We discussed this methodology with other U.S. government agencies, including the Office of the U.S. Trade Representative and the Departments of Agriculture, Commerce, and State. Each commitment could be characterized by more than one type. Also, our different types are not an exhaustive list of the types of commitments that were made—one of our categories is for commitments that did not match any of the other types. We also identified whether particular commitments specified phasein or phaseout periods or made

[30]The annexes and parts of the market access schedule for goods included text notes that were similar to those in the protocol and the working party report. These were included in the database analysis of commitments in the protocol and the working party report. We analyzed the remainder of the annexes and market access schedules separately on a product-level basis.

references to specific WTO agreements, and whether WTO working party members raised particular concerns about the areas that the commitments addressed.

We analyzed the market access schedules and annexes and combined them with relevant U.S. and Chinese trade data. China's market access schedule for goods lists specific tariff bindings and phasein periods for more than 7,000 products. Several other annexes include product-specific information on China's trade policies, such as state trading and licensing. Appendix III provides a detailed description of our data sources and methodology. We also analyzed individually China's market access schedule for services. We examined the number of sectors (such as financial services or tourism) included in China's market access schedule, as well as the types of limitations, as defined by the WTO, that China made for each sector.

In addition, we interviewed knowledgeable U.S. government officials from the Office of the U.S. Trade Representative and the Departments of Agriculture, Commerce, State, and the Treasury. We also met with WTO officials in Geneva, Switzerland, and high-level Chinese officials in Geneva and in Beijing, China. We also reviewed other analyses of China's accession agreement from a variety of sources, including the U.S. government, international organizations, and private-sector organizations.

We performed our work from November 2001 through September 2002 in accordance with generally accepted government auditing standards.

Appendix II: Areas of China's Trade Regime That China's WTO Accession Agreement Covers

For purposes of our analysis, we categorized the commitments related to China's trade regime that China's WTO accession agreement covers into eight broad areas and 47 subcategory topics. Generally, our topics correspond to those that the WTO uses in China's accession agreement, while our broad areas are somewhat similar to the section headings in the agreement. Table 10 lists these broad areas and topics.

Table 10: Areas and Topics Covered by China's WTO Accession Agreement

	GAO area		GAO topic
1.	Trade framework	1.	Nondiscrimination
		2.	Transparency
		3.	Uniform administration
		4.	Judicial review
		5.	Special economic areas
		6.	Special trade arrangements
2.	Import regulation	7.	Tariffs, taxes, and charges
		8.	Nontariff measures (licenses, quotas, tendering)
		9.	Industrial tariff-rate quotas
		10.	Regulatory border measures (rules of origin, customs valuation, preshipment inspection)
		11.	Technical barriers to trade
3.	Export regulation	12.	Export licensing
		13.	Export duties
4.	Trading rights and industrial policies	14.	Right to trade
		15.	State trading
		16.	Price controls
		17.	Subsidies (including export subsidies)
		18.	State-owned and state-invested enterprises
		19.	Investment policies
		20.	Foreign exchange controls
		21.	Balance of payments
		23.	Civil aircraft trade
		24.	Government procurement
5.	Agriculture	25.	Tariffs
		26.	Tariff-rate quotas
		27.	Subsidies
		28.	Sanitary and phytosanitary measures

	GAO area		GAO topic
6.	Services[a]	29.	Horizontal commitments
		30.	Business services
		31.	Communication services
		32.	Construction services
		33.	Distribution services
		34.	Education services
		35.	Environmental services
		36.	Financial services
		37.	Tourism and travel-related
		38.	Transport services
		39.	Other services commitments
7.	Intellectual property rights (IPR)	40.	General
		41	Copyrights, trademarks, patents, and other IPR
		42.	Enforcement
8.	Safeguards & trade remedies	43.	Product-specific safeguard
		44.	Textile safeguard
		45.	Price comparability in determining Chinese dumping
		46.	Price comparability in determining Chinese subsidies
		47.	Transitional review mechanism

[a]Topics 29–38 listed in the services area reflect the topics covered by China's WTO services schedule. Services commitments from other sections of China's accession agreement are discussed under topic 39 ("other services commitments"). See appendix IV for a further discussion of China's services commitments.

Source: GAO analysis of China's WTO accession agreement.

Appendix III: Data Sources and Methodology for Analysis of China's WTO Goods Commitments

China's market access schedule for goods lists specific tariff bindings and phasein periods for more than 7,000 products. China's eight-digit classification of these products is based on the international harmonized system (HS) nomenclature for imports and exports published by the World Customs Organization. In addition, China's goods schedule and annexes list products that are subject to other types of trade measures, such as tariff-rate quotas and state trading practices. We combined the goods schedule and all annexes into one database in order to analyze what types of measures and practices each product is scheduled to face. We added U.S. and Chinese government trade statistics to this database to provide context for describing China's commitments. U.S. trade statistics are from the U.S. Department of Commerce's Bureau of the Census (goods) and the Bureau of Economic Analysis (services). Chinese trade statistics (goods) were acquired from the Global Trade Information Service, which produces the *World Trade Atlas*. Data are official Chinese Customs statistics.

We provide the amount of U.S. trade with China in products that are subject to various trade measures discussed in China's accession agreement. Since existing Chinese trade barriers have affected U.S. trade, current bilateral trade data (2001) may not represent future trade patterns after barriers are removed. Therefore, data presented in this report on the amount or share of trade affected by various measures should be considered only as rough indicators of future trade patterns. In addition, we also present U.S. world trade data in places as another indicator of the importance of the sectors that these commitments potentially affect.

Bilateral trade data that the U.S. and Chinese governments publish differ significantly for some sectors. Overall, China reports larger U.S. exports to China and smaller Chinese exports to the United States than does the United States. One factor affecting this discrepancy is that a large share of China's trade passes through Hong Kong. China treats a large share of these exports as exports to Hong Kong for statistical purposes, while many countries that import Chinese products through Hong Kong generally attribute their origin to China. We mainly report U.S. statistics but supplement these with Chinese statistics when appropriate.

U.S. and Chinese trade statistics are not comparable at a detailed product level. The harmonized system nomenclature used to record trade data (both U.S. and Chinese statistics) is comparable only between countries at the six-digit level. However, China's tariff schedule and other annexes are reported at an eight-digit (more disaggregated) level. Therefore, U.S. trade data cannot be precisely matched to the Chinese tariff and other trade measure schedules. To overcome this challenge, we have produced ranges of values of U.S. trade (exports or imports) at the eight-digit level that are affected by Chinese tariffs and other trade measures. In cases where not all eight-digit products in a given six-digit grouping are affected by a particular trade measure, we produce a range of trade affected by the measure. The low end assumes that all U.S. trade occurred with products not affected by the measure. The high end assumes that all U.S. trade occurred with products that were affected by the measure. In cases where all 8-digit products (in a six-digit group) are affected by a trade measure, we know that all trade is in products that are affected and no range is needed.

To facilitate a broad analysis of China's commitments, we grouped imports and exports into higher-level categories of goods based on the HS product codes and our discussions with tariff experts. We took the 22 section headings of the harmonized system and grouped them into 11 broader categories. Table 11 shows these groupings in detail.

Table 11: Concordance between GAO Categories and Harmonized Schedule Section Headings

GAO categories	HS section headings
1. Animal and plant products	1- Live animals; animal products 2- Vegetable products 3- Animal or vegetable fats and oils; edible fats; waxes
2. Prepared foods, beverages, spirits, and tobacco	4- Prepared foodstuffs; beverages; spirits; vinegar; tobacco
3. Chemicals, plastics, and minerals	5- Mineral products 6- Products of chemical or allied industries 7- Plastics and articles thereof; rubber
4. Wood and paper products	9- Wood and articles of wood 10- Pulp of wood, paper, and paperboard
5. Textiles, apparel, leather, and footwear	8- Leather, travel goods, handbags 11- Textiles and textile articles (apparel) 12- Footwear, headgear, umbrellas
6. Glassware, precious metals and stones, jewelry	13- Articles of stone, plaster, ceramics, glass, and glassware 14- Pearls, precious or semiprecious stones, precious metals, jewelry, coin
7. Base metals and articles of base metals	15- Base metals and articles of base metals (except tools and implements)
8. Machinery, electronics, and high-tech apparatus	15- Base metals and articles of base metals (tools and implements) 16- Machinery and mechanical appliances, electrical equipment, sound recorders, televisions 18- Optical, photographic, cinematographic, measuring, and other apparatus (except clocks and watches, musical instruments)
9. Autos and other vehicles and parts	17- Vehicles, aircraft, vessels, and associated transport equipment
10. Miscellaneous manufacturing	18- Optical, photographic, cinematographic, measuring, and other apparatus (clocks and watches, musical instruments) 19- Arms and ammunition 20- Miscellaneous manufactured articles 21- Works of art, collectors' pieces, antiques
11. Special provision products	22-Special classification provisions

Source: GAO and the international harmonized system nomenclature (World Customs Organization).

Also, in the discussion of China's trade framework in appendix IV, we refer to U.S. exports of chemicals, pharmaceuticals, and spirits. We defined these product groups based on harmonized schedule categories. For chemicals, these are HS categories 28 (inorganic chemicals; organic or inorganic compounds of precious metals, of rare earth metals, of radioactive elements, or of isotopes); and 29 (organic chemicals). For pharmaceuticals, this is HS category 30 (pharmaceutical products). For spirits, these are HS categories 2203 (beer made from malt) through 2208 (ethyl alcohol, spirits, liqueurs, and other spirituous beverages).

Appendix IV: Summary and Analysis of China's WTO Commitments

During China's negotiations to accede to the World Trade Organization, WTO members sought and achieved a variety of commitments from China that addressed a range of member concerns. Many of these commitments relate to the transitional status of China's economy as it becomes more market oriented and less state controlled. Among other things, the commitments address how China manages its trade regime; what level of market access China provides for goods, agriculture, and services; how China uses import and export regulations to monitor and influence its trade with other countries; how China applies and enforces intellectual property rights protection; and how the state intervenes in the economy with respect to foreign investment, firms' rights to trade, and state-owned enterprise operations. In addition, China agreed to certain safeguards and trade remedies, including a special oversight review mechanism, to provide protection to WTO members to deal with trade-related problems that might arise as China implements its WTO obligations. We grouped China's WTO commitments into eight areas—trade framework, import regulation, export regulation, trading rights and industrial policies, agriculture, services, intellectual property rights, and safeguards and other trade remedies. In the following sections we discuss China's commitments in each of the eight areas, as well as the phasein schedule of selected commitments.

Trade Framework

China's trade framework commitments cover a number of topics that deal broadly with how China manages its trade regime.[31] Prior to China's accession to the WTO, U.S. businesses and government officials complained that China's trade regime discriminated against foreign enterprises and individuals, lacked transparency, and did not consistently apply its trade laws and other measures throughout China. U.S. government officials and businesses were also concerned that China's court system lacked the expertise and independence necessary to help establish a stable business and trade climate in China. The lack of an independent judiciary has caused U.S. businesses to rely more on arbitration proceedings than on China's courts to resolve commercial disputes. The topics that China's trade framework commitments cover include nondiscrimination, transparency, uniform administration of China's trade regime, and judicial review. Several of these topics also include commitments requiring China to revise its laws, regulations, and

[31] We refer to "topics" as the subcategories under our eight broad categories. Overall, there are 47 topics in the eight categories (see app. II).

other legal measures for conformity with WTO rules. Other topics include application of China's WTO commitments to its special economic areas and to China's special trade arrangements, such as barter trade.[32] Some of the important commitments in this area are shown in table 12.

Table 12: Examples of China's WTO Commitments Relating to China's Trade Framework

Topic	China committed to
Nondiscrimination	• Treating foreign individuals and enterprises, including foreign-funded enterprises, no less favorably than other enterprises and individuals regarding (1) procurement of goods and services necessary for production and (2) prices and availability of goods and services supplied by public entities. • Repealing and ceasing to apply, upon accession, all existing laws, regulations, and other measures inconsistent with WTO rules on national treatment.
Transparency	• Publishing trade measures, and a list of all organizations responsible for authorizing, approving, or regulating services activities, in an officially designated journal. • Allowing a reasonable period of time after publication of trade measures for public comment before measures are implemented. • Enforcing only trade measures that are published and readily available to other WTO members. • Making available trade measures in one or more official WTO languages, not later than 90 days after they are implemented or enforced. • Establishing one or more enquiry points where individuals, enterprises, or WTO members can obtain information on trade measures. • Ensuring that replies from enquiry points to WTO members represent authoritative view of Chinese government, and that replies to individuals and enterprises are accurate and reliable.
Uniform administration	• Applying China's WTO commitments uniformly throughout China, including in its special economic areas. • Applying China's trade measures uniformly at central and subnational levels, and ensure that local measures are consistent with WTO rules. • Establishing a mechanism for receiving complaints regarding nonuniform • application of China's trade regime. • Requiring Chinese authorities to act promptly to address cases of nonuniform application.
Judicial review	• Establishing or designate tribunals to review a broad array of administrative actions relating to trade. • Ensuring that tribunals are impartial and independent of administrative agencies entrusted with enforcement of trade-related actions. • Providing opportunity for appeal to judicial body where initial right of appeal of trade-related action is to an administrative agency.
Special economic areas	• Applying to imported products introduced into other parts of China from its special economic areas all taxes, charges, and measures that are normally applied to imports. • Ensuring that preferential arrangements provided to foreign-invested enterprises located within China's special economic areas are provided on nondiscriminatory basis.
Special trade arrangements	• Eliminating or bringing into conformity with WTO rules all special trade arrangements, including barter trade arrangements, with third countries and separate customs territories.

Source: GAO analysis of China's WTO accession agreement.

[32]These special economic areas include China's special economic zones, open coastal cities, border trade regions and minority autonomous areas, and economic and technical development zones.

Nondiscrimination, Transparency, Uniform Administration, and Judicial Review

China's trade framework commitments are substantial and require China to continue to make changes to the way in which its trade regime functions. Many of these commitments can be viewed as furthering China's overall rule of law development, which has been occurring since the late 1970s. About half of China's trade framework commitments are of the nondiscrimination and transparency type, and nearly all those pertaining to nondiscrimination involve China's providing national treatment to foreign enterprises and individuals.[33] Also, the topic of nondiscrimination has the largest number of commitments of any topic in the agreement that requires China to revise its laws—covering the creation and modification of some laws and the repeal of others.[34] One important commitment in this topic is that, by accession, China would repeal and cease to apply all legal measures that are inconsistent with WTO rules on national treatment. Aside from these nondiscrimination and transparency commitments, a number of others in the topic of uniform application of laws call for revising legal measures to ensure their consistency with WTO rules. Thus, China has committed to applying its WTO commitments throughout its territory, to conform local legal measures to its WTO obligations, and to ensure consistency of national and subnational legal measures. One important related commitment states that China will honor its WTO obligations even if administrative regulations, departmental rules, and other measures are not in place to implement them. Finally, China made many nondiscrimination and transparency commitments in other areas of its accession agreement, such as import regulation, agriculture, and trading rights and industrial policies.

China's rule of law–related commitments, particularly in the areas of transparency, uniform application of laws, and judicial review, affect not only China's implementation of its trade regime but also its overall legal system. Consequently, it may be some time before WTO members can accurately assess how well China is implementing those commitments. Some of these commitments also exceed the requirements set forth in the WTO agreements and rules. For example, WTO rules generally do not require, as does China's accession agreement, that its members (1) provide a public comment period before a trade measure can be implemented; (2)

[33] National treatment requires China to provide foreign enterprises and individuals treatment that is at least equal to that provided to domestic enterprises.

[34] With regard to law revision generally, about a tenth of the nearly 700 commitments that we identified in China's WTO accession package specifically obligate China to enact, repeal, or modify trade-related laws and regulations.

establish enquiry points for transparency purposes, which must respond authoritatively to transparency-related questions that WTO members raise; or (3) establish a mechanism by which individuals can bring questions about inconsistent application of a WTO member's trade regime.

Special Economic Areas and Trade Arrangements

Because of WTO member concerns about products from China's special economic areas being treated differently from other products imported into China, and because of the lack of available information about these topics, China made about a dozen commitments that apply to these areas. For example, China committed to applying to imported products introduced into other parts of China from its special economic areas all taxes, charges, and measures that normally apply to imports. China also pledged to provide the WTO information describing how special trade, tariff, and tax regulations were limited to the designated special economic areas, including information on their enforcement.

One of the main reasons for the rapid economic development in these special economic areas, such as the Shenzhen special economic zone, has been the preferential benefits provided to foreign businesses, including tax benefits and the use of foreign capital. Although the commitments that apply to these economic areas require China to fully observe WTO provisions on nondiscrimination, they still allow China to continue to provide preferential arrangements to U.S. and other foreign businesses. Thus, consistent with China's overall national treatment commitments, China cannot treat foreign businesses less favorably than Chinese enterprises in these areas, but China can give them better treatment. In addition, China committed to bringing all special trade arrangements with other countries and separate customs territories, including barter arrangements, into conformity with WTO rules.

Key Dates

With several relatively minor exceptions, China's trade framework commitments became applicable on December 11, 2001, the date of China's accession to the WTO. However, one exception relates to a 1 year phasein period for amending or repealing legislation dealing with aspects of national treatment relating to pharmaceuticals, spirits, and chemicals.[35]

[35]In 2001, U.S. exports to China totaled about $494 million in chemicals, $50 million in pharmaceuticals, and $4 million in spirits. This amounted to 3 percent of total U.S. exports to China for that year.

Import Regulation

During China's WTO accession negotiations, WTO members sought to limit China's future use of a variety of import mechanisms that could be employed to control market access and potentially reduce the prospective gains to WTO members resulting from China's WTO concessions. We found that China made more commitments in the import regulation area than in any of the other eight areas of its agreement. They make up about one-third of those we identified. China has used high import duties (tariffs),[36] restrictive quotas, and burdensome technical standards and inspection procedures to restrict trade. To join the WTO, China made commitments to reduce its use of these barriers and to follow WTO basic principles so that these barriers are not used as a discriminatory or burdensome hindrance to trade. In addition, China agreed to implement the WTO agreements covering regulatory border measures (such as rules of origin and customs valuation) upon accession and to ensure that its laws, regulations, and other measures conform to WTO rules. Examples of commitments that China agreed to concerning import regulation are listed in table 13.

Table 13: Examples of China's WTO Commitments Relating to China's Import Regulation

Topic	China committed to
Tariffs, taxes, and charges	• Binding (not to raise tariffs beyond a certain level) all tariff lines and bind at zero other duties and charges. • Eliminating tariffs and other duties and charges on information technology products. • Conforming customs fees and charges to WTO rules, such as limiting duties to the approximate cost of services rendered. • Providing nondiscriminatory treatment to imports with respect to tariffs, charges, and border tax adjustments.
Nontariff measures (licensing, quotas, tendering)[a]	• Gradually eliminating licensing, quota, and tendering requirements for certain products. • Refraining from instituting new, nontariff measures beyond those listed in China's scheduled commitments. • Ensuring that China's quota and licensing system conforms to WTO rules, including that they be administered in a transparent, nondiscriminatory manner. • Ensuring that entities holding quota allocations also receive necessary import licenses. • Abiding by specific time frames for allocating quotas and a minimum validity period for issued licenses. • Publishing key information on licensing and quota allocation rules and procedures, including lists of products subject to licensing and tendering requirements or other trade restrictions, criteria for obtaining licenses or quotas, and amount of quota available. • Reallocating unused quota by a specific date to encourage full quota utilization.
Industrial tariff-rate quotas (TRQ)[b]	• Establishing annual TRQs for certain fertilizer and wool top products and gradually increase quota levels during a phasein period. (See table 15.)[c] • Abiding by specific time frames for allocating initial quota and reallocating unused quota

[36]A tariff is a tax collected at the border based on a given percentage value of an imported product or a specific rate per unit of the product.

Topic	China committed to
	to encourage full TRQ utilization. (See fig. 5.) • Publishing information on amount of quota allocations available and respond to inquiries within 10 days to increase transparency about what entities received quota allocations. • Reserving a portion of all TRQs for private traders, and allocate quotas directly to end-users to increase private competition and reduce state intervention. • Allocating at least 10 percent of TRQ to new quota-holders in the first year.
Regulatory border measures (rules of origin, customs valuation, preshipment inspection)[d]	• Ensuring that laws and regulations conform to the WTO agreements for rules of origin, customs valuation, and preshipment inspection upon accession. • Refraining from using minimum or reference prices, such as an artificial market price, for customs valuation purposes. • Adopting two WTO decisions that affect how certain products are treated for customs valuation purposes within 2 years of accession. • Ensuring upon accession that fees charged for preshipment inspection are commensurate with the services provided and do not provide indirect protection to domestic products or serve as a tax for fiscal purposes.
Technical barriers to trade[e]	• Bringing all technical regulations, standards, and conformity assessment procedures into conformity with WTO rules, including the nondiscriminatory application of and opportunity to comment on proposed rules. • Ensuring that imported products are not subject to multiple or duplicative conformity assessment requirements. • Unifying China's conformity assessment procedures and inspection certificate marks for both imported and domestic products, and shorten the time frames for obtaining the unified certification mark. • Increasing the use of international standards and recommendations as the basis of technical regulations, standards, and conformity assessment rules. • Publishing information on adopted and proposed technical regulations, standards, and conformity assessment procedures, including criteria used and regulatory bodies having responsibilities for administering such rules. • Adopting the WTO *Code of Good Practice* within 4 months of accession (includes provisions for nondiscriminatory treatment, the avoidance of using standards as barriers to trade, the use of international standards in standards setting, and measures to increase transparency).

[a]Licensing is a requirement that companies obtain government approval and submit documentation before importing. Quotas are quantitative limits on the amount of a certain product that can be imported. Tendering is a requirement that enterprises or private individuals obtain government approval before making major purchases.

[b]Tariff-rate quotas are special mechanisms that allow imports to enter at a low tariff up to an agreed quota level, with any additional imports at a higher tariff level. China also made commitments concerning tariff-rate quotas for certain agricultural products. These commitments are discussed in the agriculture section.

[c]A wool top is a semiprocessed product of wool before it goes into fabric.

[d]Rules of origin are the standards that a country uses to classify a country of origin for customs purposes. Customs valuation refers to the standards that a country uses to determine the value of imports for customs purposes. Preshipment inspection is a requirement by some countries that imports undergo an inspection in the exporting country to confirm that the merchandise matches what the exporter declares.

[e]Technical barriers to trade include packaging, marketing, and labeling requirements, as well as procedures for sampling, testing, verifying, and certifying conformity or compliance with these rules through a "conformity assessment" process. Technical barriers to trade can restrict trade if used in a discriminatory manner.

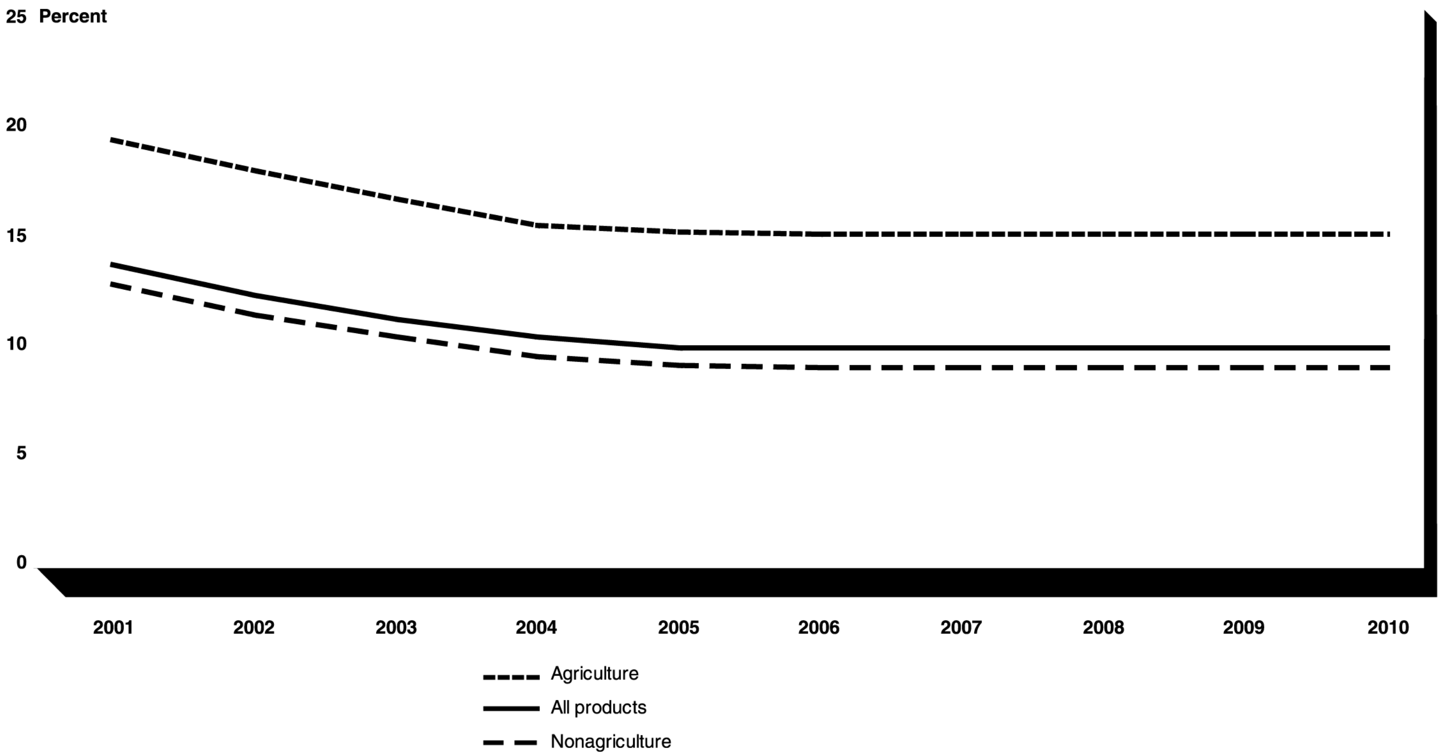
Source: GAO analysis of China's WTO accession agreement.

Tariffs, Taxes, and Charges

As discussed previously, China's commitments for tariffs, taxes, and other charges include its agreement to bind its tariffs, reduce them gradually, and eliminate all tariffs and any other charges on information technology products.[37] For example, China agreed to bind all of its tariff lines upon accession (more than 7,000 products), reduce its tariff rates by 2010 to an overall average of less than 10 percent, bind at zero any other duties and charges, and eliminate tariffs on information technology products—commitments that not all WTO members have made. China also agreed to implement these commitments in a nondiscriminatory manner. Figure 4 shows how China's average tariffs for agriculture, nonagriculture, and all products are anticipated to fall between 2001 and 2010. Most tariff reductions are to be completed by 2005, when the average tariff on agriculture products is to be about 15 percent and the average tariff on nonagriculture products is to be about 9 percent. (The section below on agriculture discusses agricultural tariffs in more detail). Only a few products, such as fresh strawberries, have a tariff phasein schedule lasting until 2010.

[37]To "bind" a tariff line means that a country commits to not raising its tariff rate above a certain agreed-upon rate, known as the bound rate. However, a country may charge less than its bound rate.

Figure 4: China's Average Tariffs for Agriculture, Nonagriculture, and All Products, 2001–2010



Source: GAO analysis of China's accession agreement.

Nontariff Measures

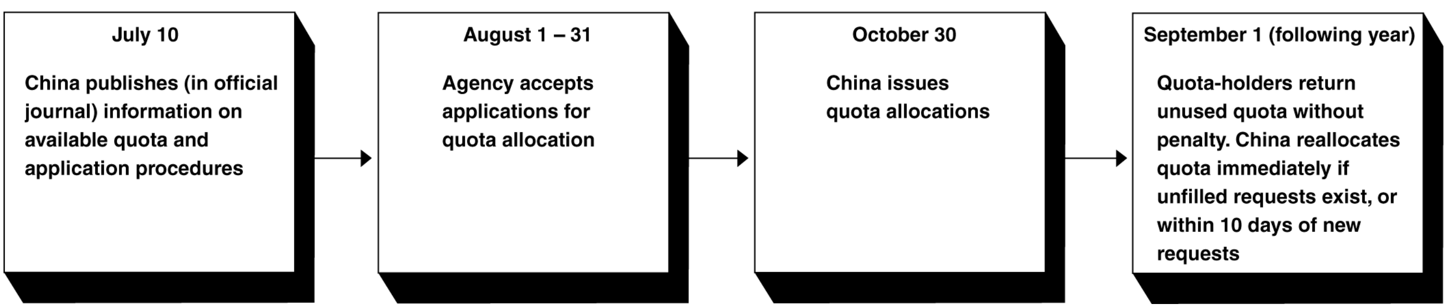
With respect to nontariff measures, China agreed to gradually eliminate licensing, quota, and tendering requirements on all products by 2005 and to generally refrain from introducing new requirements. These measures affect more than 400 products, including automobiles and parts, other transport vehicles, chemical fertilizers, and high-tech apparatus. In 2001, the United States exported approximately $0.2 billion to $1.1 billion to China of products that are subject to these measures (between about 1 and 7 percent of total exports to China). Since trade-distorting measures (such as quotas and licenses) often reduce imports of the affected sectors, using historical trade data for these sectors could understate the potential importance of these barriers. Therefore, we also used U.S. export data to all countries to measure the potential importance of these trade barriers.[38]

[38]We assumed that other U.S. export markets were less distorted by these trade barriers. However, other market barriers may also distort U.S. world exports. (See app. III for more discussion of our trade data methodology.)

Using these data, we found that about 5 to 9 percent of total U.S. world exports were in goods subject to Chinese licenses, quotas, and tendering.

In addition, China's commitments provide guidance, including specific details on how China should manage its licensing and quota systems and what information should be published in China or reported to the WTO. For example, China committed to ensuring that entities receiving quota allocations will also receive necessary import licenses, and that quota allocation amounts will be published in advance of the time when importers must apply for these allocations. Moreover, China committed to generally issuing import licenses that are valid for at least 6 months, and to allocating quotas to applicants no later than 60 days after the quota application period closes (see fig. 5 for more information on China's annual schedule for quota administration). The licensing example goes beyond normal WTO rules that require members to issue licenses for a "reasonable" duration. However, the accession agreement appears to provide China with additional time to notify the WTO when it changes its licensing requirements—China has 75 days to notify the WTO after it publishes such changes, while WTO import licensing rules give members 60 days to do so.

Figure 5: Schedule for China's Quota Administration



Source: GAO analysis of China's WTO accession agreement.

Industrial Tariff-Rate Quotas (TRQ)

Generally, WTO members do not use TRQs for nonagricultural products. However, under its agreement China will maintain TRQs for some fertilizer and wool top products but will provide an increasing level of quota access (see table 14).[39] U.S. Trade Representative officials said that the fertilizer quotas will continue to grow indefinitely until such time as a new growth rate for the average of the three fertilizer products is negotiated. Its agreement also contains substantial, specific guidance for how China will implement this TRQ system—we found that more than three-quarters of its commitments concerning industrial TRQs are guidance-related. As with its commitments on maintaining agricultural TRQs for key commodities (discussed later), China agreed to be subject to some detailed and specific procedures for its TRQ administration system. Key features of this TRQ administration system include provisions to reserve a portion of all quota amounts for private traders and new quota-holders, to allocate quotas directly to end-users, and to reallocate unused quotas. Collectively, these provisions are intended to increase competition and reduce state intervention between buyers and sellers. Additionally, China committed to following the same specific guidance set forth for the administration of its agricultural TRQs, with respect to the information that should be published about available quota amounts and time frames for making decisions in administering its quota system (see discussion of agricultural TRQ and fig. 7).

[39] According to U.S. trade statistics, the United States exported about $415 million in fertilizers to China in 2001, accounting for about 20 percent of U.S. world exports of fertilizers. However, because of business confidentiality, the U.S. Department of Commerce does not report detailed information on the amounts of specific types of fertilizers (including diammonium, urea, and nitrogen phosphorus potash [or NPK]) that are exported. Chinese trade statistics, which differ from U.S. statistics (see app. III), report receiving U.S. exports of diammonium of about $526 million, nitrogen phosphorus potash of $500,000, and no exports of urea in 2001. The U.S. Department of Commerce reported exports of wool tops to China of about $2 million in 2001.

Table 14: China's Industrial TRQ Commitment Phasein Schedule

Product	Initial quota quantity (million MT)	Final quota quantity (million MT)	Year reaching final quota quantity	In-quota tariff (percent)	Out-of-quota bound tariff (percent)	Other specific terms and conditions
Diammonium phosphate (phosphate fertilizer— one product)	5.4	6.9	2006	4%	50%	• Initial state trading enterprise (STE)[a] portion is 90 percent, reducing by 5 percentage points per year until reaching 51 percent in year 9 (2009). • Tariff-quota level will increase 5 percent annually until 2006. • After 2006 growth rate will be linked to NPK growth rate.
Urea (nitrogen fertilizer— one product)	1.3	3.3	2006	4	50	• STE portion is 90 percent. • Tariff-quota level increases as follows: Year 2: 1.3 mmt Year 3: 1.8 mmt Year 4: 2.3 mmt Year 5: 2.8 mmt • After 2006, growth rate will be linked to NPK growth rate.
NPK (nitrogen phosphorus potash fertilizer —one product)	2.7	n.a.	indefinite	4	50	• Initial STE portion is 90 percent, reducing in equal steps to 51 percent over 8 years (2009). • Tariff-quota level will increase 5 percent annually.
Wool tops[b] (three products)	0.06875	0.08	2004	3	38	• Allocate access to WTO members, taking into account their bilateral historical trade flows.

Legend

MT: metric ton

MMT: million metric tons

n.a.: not applicable

[a]State trading enterprises are state entities that have received special rights to import and export. A discussion of the practices of these enterprises can be found in the trading rights and industrial policies section of this appendix.

[b]A wool top is a semiprocessed product of wool before it goes into a fabric.

Source: GAO analysis of China's WTO accession agreement.

Regulatory Border Measures

China's commitments regarding regulatory border measures cover its use of standards to classify the country of origin (rules of origin) of imports and to determine the value of goods for customs purposes (customs valuation). The commitments also cover requirements for imports to undergo inspection prior to shipment from exporting countries, to confirm certain export information (preshipment inspection). A majority of China's commitments under this topic affirm its intention to implement WTO agreements covering these measures upon accession and ensure that its laws, regulations, and other measures conform to WTO rules. In addition, China made specific commitments to refrain from using minimum or reference prices in valuing goods for customs purposes; to adopt two WTO decisions concerning customs valuation; and to ensure that fees charged for preshipment inspection are commensurate with services provided, and are not used as a protective measure for domestic products or as a tax for fiscal purposes.

Technical Barriers to Trade

China's working party report includes considerable discussion regarding China's practices under the topic of technical barriers to trade. Our analysis of China's overall commitments shows that China undertook more commitments under this topic than in any other topic in the agreement. More than 40 percent of China's commitments in this area affirm its intention to implement WTO rules upon accession and to provide nondiscriminatory treatment to imports in the application of technical rules and assessment procedures. China's commitments also provide guidance regarding the procedures followed and the operation of conformity assessment bodies. The bodies implement procedures for sampling, testing, verifying, and certifying conformity or compliance with technical standards. In addition, about a quarter of China's commitments under this topic involve nondiscriminatory treatment, particularly addressing four sectors—automobiles and parts, boilers and pressure vessels, chemicals, and electrical equipment—in response to WTO member concerns. Finally, about 30 percent of China's technical barriers to trade commitments (or 19 out of 66 commitments) require it to provide specific information to the WTO on its practices; we found that China has more notification requirements in this topic than in any other subcategory of the agreement. Some notifications go beyond what is generally required of WTO members. For example, while all members are encouraged to adopt international recommendations and standards in establishing technical rules and conformity assessment procedures, China is also required to notify the WTO and to update the progress it is making under its unique transitional review mechanism.

Key Dates

Most of China's commitments concerning import regulations are scheduled to be implemented within 5 years. Some commitments, such as binding all tariff lines, reducing tariffs on certain products, and providing nondiscriminatory treatment to imports with respect to certain regulatory measures, are applicable upon accession. Although all tariff lines are bound at certain rates upon accession, bound rates on about half of China's tariff schedule (over 3,000 products) will decrease further because of reductions scheduled between 2002 and 2010. China's commitments concerning technical barriers to trade are to be fully implemented by June 2003. China committed to eliminating its licensing and quota requirements for specific products by 2005. (See table 15 for implementation dates for certain import regulation commitments.)

Table 15: Timetable for Selected Chinese WTO Commitments Relating to Import Regulation

Date	Commitment
April 2002	Technical barriers to trade: Notify acceptance of the WTO's Code of Good Practice, contained in annex 3 of the WTO Agreement on Technical Barriers to Trade.
December 2002	Technical barriers to trade: Ensure that all conformity assessment bodies can undertake assessments for both imported and domestic products.
June 2003	Technical barriers to trade: Assign respective responsibilities to conformity assessment bodies solely on the basis of scope of work and type of product, without giving consideration to product origin.
December 2003	Customs valuation: Within 2 years adopt two WTO customs valuation decisions concerning the treatment of interest charges and the valuation of carrier media-bearing software for data-processing equipment.
January 2005	Nontariff barriers: Complete the elimination of all licensing and quotas for products listed in China's schedule of commitments.
January 2010	Tariffs, taxes, and charges: Tariff reductions are completed.

Source: GAO analysis of China's WTO accession agreement.

Export Regulation

Some WTO members have expressed concern that China's export regulations violated WTO rules by placing restrictions on exports of certain agricultural products, resource products, and chemicals. They were also concerned about China's restrictions on exports of silk and a number of raw materials or intermediate products that could be subject to further processing, such as tungsten, ore concentrates, rare earth, and other metals.[40] WTO rules allow restrictions on exports only in limited cases, such as critical shortages of foods and in other exceptional circumstances. In response, China committed to modifying its export regulations and restraining its use of export duties. Table 16 shows examples of the types of commitments that China made in the area of export regulation.

Table 16: Examples of China's WTO Commitments Relating to China's Export Regulation

Topic	China committed to
Export licensing	• Abiding by WTO rules on nonautomatic export licensing and export restrictions, and to removing or modifying any laws that conflict with WTO rules. • Updating and publishing a list of all entities responsible for authorization of exports within 1 month of any changes.
Export duties	• Eliminating all taxes and charges applied to exports, except for the 84 products listed in China's accession agreement, or except when applied according to WTO principles. • Refraining from increasing the rates of duty beyond what is listed in the accession agreement, and refraining from raising presently applied rates without consulting WTO members, and only under exceptional circumstances. • Providing foreign individuals, enterprises, and foreign-invested enterprises with treatment no less favorable than that given to domestic individuals and enterprises, with respect to border tax adjustments.

Source: GAO analysis of China's WTO accession agreement.

Export Licensing

During its accession negotiations, China told WTO members that it requires export licenses on certain agricultural products, resource products, and chemicals. The number of products subject to export licensing requirements has fallen since 1992, when these requirements covered approximately 50 percent of China's exports. China told WTO members that it still maintained export licensing requirements on 58 categories of products and 73 specific items with an export value of $18.5

[40] Countries use restrictive export regulations, such as licensing and duties, to achieve several purposes. Sometimes they are employed to control trade with recipient countries, to restrict proliferation of sensitive material or devices (high-speed computers or weapons), or to preserve domestic supplies of some raw materials that might otherwise be sold to foreign markets. In addition, if a country is a primary producer of a product, it may be able to obtain a higher price on international markets by limiting exports or to gain additional fiscal revenue by taxing exports.

billion (9.5 percent of its total exports). China committed to bringing its export licensing regime, including its Foreign Trade Law, into conformity with WTO rules that prohibit using licensing to restrict exports, except under exceptional circumstances.[41]

Export Duties

China also committed to eliminating all taxes and charges on exports unless they are in conformity with WTO principles or specified in its accession agreement. The agreement lists 84 products (affecting products accounting for less than 1 percent of its total exports in 2001) that are subject to export duties of between 20 and 50 percent. China committed to binding its export duties on these products at these rates. Most of the products are base metals and related products, such as aluminum, copper, and zinc, as well as bars, plates, and wires made from them. China also agreed to refrain from increasing the present rate of duty on these products, except under exceptional circumstances, and to consult with affected WTO members in these cases.

More generally, China's commitments in the area of export regulation covering both licensing and duties primarily require it to follow existing WTO rules and to notify the WTO of its laws and regulations. Of the nine commitments that we identified in this area, three confirm that China will abide by existing WTO provisions and one requires China specifically to modify its Foreign Trade Law so that it conforms to WTO provisions. These commitments are intended to bring China's export regime into conformity with WTO obligations upon accession, and to limit export duties to products and levels specified in the agreement. China also agreed to notify the WTO annually of the value of export duties or taxes (by product), and to notify any restrictions on exports through nonautomatic licensing requirements or other means. All of the commitments in this area were to be implemented upon accession, without phasein periods.

[41]Exports may also be affected by state trading practices and subsidies. State trading can restrict exports by providing exclusive rights to export for certain enterprises. Export subsidies can be used to promote greater exports by providing financial support to producers linked to their exports. China's commitments in these areas are discussed later, under trading rights and industrial policies. However, only four tungsten and antimony products are subject to both export duties and state trading.

Trading Rights and Industrial Policies

Despite gradual reforms during the past 2 decades, the Chinese economy still is subject to active government involvement in certain sectors and retains other characteristics of a centrally planned economy. For example, the government still controls trading activities and prices in certain sectors, and state-owned enterprises still account for a significant share in the economy, although their importance has declined.[42] In addition, central and local governments continue to provide various incentives and measures to direct investment to selected industries and also to influence business decisions on trade. The WTO accession agreement committed China to phasing out the general limitations on companies' rights to trade—that is, to import or export—within 3 years of accession, although China will reserve the right of state trading for certain products. Similarly, China agreed to allow market forces to determine most prices except for product or service prices specifically listed in the accession agreement. China's WTO commitments also require increased transparency and nondiscrimination from China's state-owned enterprises and state trading practices. These commitments also limit the conditions that China can impose on foreign investors, restrict the use of certain subsidies, and eliminate subsidies for exports. China also committed to abiding by the International Monetary Fund's (IMF) disciplines on balance of payments and foreign exchange-related measures.[43] Examples of China's commitments in these areas are listed in table 17.

[42]State-owned enterprises accounted for 24 percent of Chinese industrial output in 2000, according to the Chinese *Statistical Yearbook*, having declined from 80 percent in the late1970s.

[43]The WTO agreements contain provisions that allow members to impose temporary restrictions on imports or access to foreign currency when faced with a deterioration of their foreign reserve holdings. Restrictions on imports, known as "balance of payments measures," reduce domestic demand for foreign currency needed to purchase imports. Restrictions on access to foreign currency, known as "foreign exchange controls," limit the supply of foreign currency and also indirectly restrict imports. The related disciplines on applying these measures are included in article VIII of the Articles of Agreement of the International Monetary Fund. For example, countries are not to impose these restrictions to protect specific sectors.

Table 17: Examples of China's WTO Commitments Relating to China's Trading Rights and Industrial Policies

Topic	China committed to
Right to trade (right to import and export granted to enterprises or individuals)	• Progressively granting trading rights to all enterprises in China and eliminating the current system of examination and approval over 3 years. • Eliminating, upon accession, any criteria requiring export and prior experience for enterprises to obtain or maintain trading rights. • Providing nondiscriminatory trading rights to all foreign individuals and enterprises. • Providing nondiscriminatory treatment on imported and exported goods, with respect to their distribution, internal sale, purchase, transportation, and use.
State trading (products subject to state importing or exporting, or traded only by government-designated companies)	• Reducing over 3 years the list of goods to be traded only by companies designated by the central government. This affects six commodities (natural rubber, timber, plywood, wool, acrylic, and some steel products). • Ensuring transparency of state trading enterprises in import-purchasing procedures in compliance with WTO rules, and refraining from influencing these purchases. This affects imports of grains, vegetable oil, sugar, tobacco, crude and processed oil, chemical fertilizers, and cotton. • Abolishing state trading and granting trading rights to all individuals and enterprises for silk no later than January 2005. • Refraining from excessive domestic price markups on the imports of state trading enterprises beyond those allowed under WTO rules. • Preserving the rights of nonstate trading enterprises in importing and providing nondiscriminatory treatment. • Ensuring exporters' access to supplies of raw materials in the textiles sector at conditions no less favorable than those for domestic users.
Price controls	• Allowing prices of all goods and services to be determined by market forces, except for 10 commodity groups and some utilities and other essential services that will continue to be subject either to government pricing or guidance pricing.[a] • Ensuring that remaining price controls are consistent with WTO rules, and reporting any exceptions to the WTO. • Eliminating multi-tier pricing practices for goods and services[b] • Publishing in an official journal the list of goods and services subject to state pricing and the changes; also the price-setting mechanisms and policies.
Subsidies (including export subsidies)	• Ceasing all subsidies for exports by all levels of government upon accession. • Eliminating upon accession all subsidies to enterprises requiring either the use of domestic goods or exports. • Eliminating (by 2000) 3 of the 24 subsidy programs notified to the WTO. Two of these 3 are subsidies for the automotive sector, and the other is the central government's subsidies to money-losing state-owned enterprises (SOE)[c] • Subjecting subsidies granted to SOEs to WTO disciplines, if the SOEs are the predominant recipients. • Agreeing not to invoke certain WTO provisions that make challenging subsidies of developing countries harder for WTO members.
State-owned and state-invested enterprises	• Refraining from influencing SOEs' purchase and sale decisions, and allowing them to be made based solely on commercial considerations. • Allowing foreign enterprises to compete in sales or purchases on nondiscriminatory terms. • Refraining from treating some SOEs' purchases as government procurements that would be exempted from WTO disciplines.
Investment policies	• Conforming investment guidelines and their implementation to WTO rules. • Complying fully with the WTO's Agreement on Trade-Related Investment Measures upon accession, and eliminating policies requiring trade and foreign exchange balancing, local content, and export performance. • Ensuring that investment approval is not conditioned on whether competing domestic suppliers of such products exist or performance requirements of any kind, including the

Topic	China committed to
	transfer of technology and the conducting of research and development in China. • Amending industrial policies for the automotive sector to ensure gradual liberalization on types or models of vehicles permitted for production over 2 years and investment levels approvable by provincial governments over 4 years, and removing the 50 percent foreign equity share limit on automotive engine plants upon accession.
Foreign exchange controls	• Implementing its obligations with respect to foreign exchange matters in accordance with WTO disciplines concerning the IMF. • Not resorting to any laws, regulations, or other measures that would restrict the availability of foreign exchange for current international transactions, unless otherwise provided for in IMF rules.
Balance of payments	• Complying fully with the WTO provisions regarding balance of payments provisions. • Giving preference to price-based measures, and transforming non–price-based measures into price-based ones as soon as possible if China uses such measures. • Ensuring that measures taken during a serious decline in foreign exchange reserves not exceed what is necessary, and applying these measures only to control the general import level.
Civil aircraft trade	• Refraining from imposing offsets[d] or other forms of industrial compensation when purchasing civil aircraft, including specified types or volumes of business opportunities.
Government procurement	• Becoming an observer to the WTO's Government Procurement Agreement upon accession. • Ensuring that all government entities (including the subnational level) conduct procurement in a transparent manner, and providing all foreign suppliers with equal opportunity to participate.

[a]Products subject to state pricing include tobacco, edible salt, natural gas, and pharmaceuticals; products subject to government guidance pricing include grain (wheat, maize, rice, soybeans), vegetable oil, processed oil, fertilizer, silkworm cocoons, and cotton. Public utilities and services sectors subject to government pricing include gas, tap water, electricity, heating power, water supplied by irrigation works, postal and telecommunication services charges, entrance fees for tour sites, and educational services charges. Services sectors subject to government guidance pricing include most transport services charges; professional services charges; charges for commission agents' services; charges for settlement, clearing, and transmission services of banks; selling price and renting fee of residential apartments; and health-related services.

[b]In the late 1970s, the Chinese government purchased preset amounts of agricultural products from farmers at fixed prices while allowing farmers to sell extra production at free market prices. This multi-tier pricing was later extended to nonagricultural products. However, by the early 1990s, the government eliminated most fixed prices and allowed market forces to determine most prices.

[c]China reported that its subsidy programs include direct subsidies given by central and local governments to money-losing state-owned enterprises; the priority in obtaining loans and foreign currencies, based on export performance; preferential tariff rates, based on the local content of automotive production; preferential policies for the special economic zones and other special areas; preferential policies for foreign-invested enterprises; loans from the state policy banks; subsidies for poverty alleviation; funds for technology renovation and research and development; infrastructure construction funds for agricultural water conservation and flood protection; tax and tariff refunds for export products; tariff reduction and exemption for enterprises; provision of low-price inputs for special industrial sectors; subsidies to certain enterprises in the forestry industry; and preferential income tax treatment for enterprises satisfying any of the specified criteria, including using high technology, transferring technology, utilizing waste, investing in poverty-stricken regions, or providing job opportunities for the unemployed.

[d]Offsets refer to the terms of transactions imposed on sellers that can include paying for imports with some locally produced goods or contracting for parts production to make the imported goods. It can be viewed as a form of barter, counter-purchase, and buy-back.

Source: GAO analysis of China's WTO accession agreement.

More than 100 commitments in China's accession agreement deal with the area of trading rights and industrial policies. About a fifth of these commitments require adherence to existing WTO rules or principles. A similar number involve reporting information to the WTO on China's policies, practices, and economic conditions related to state-controlled sectors. Many of these reporting requirements are specified in conjunction with China's annual transitional review mechanism. (The transitional review mechanism is discussed later, under the Safeguards and Other Trade Remedies section.) Additionally, about a quarter of the commitments provide guidance on how China will implement policy changes in this area, especially with regard to trading rights and state trading issues.

Right to Trade and State Trading

China has gradually liberalized its trading regime since 1978. State control of foreign trade was one of the most important features of the Chinese economy prior to reform. Prior to 1978, China conducted its foreign trade through 12 state trading companies, each one with a monopoly to trade certain goods and to conduct trade in accordance with the central plan. These companies also controlled the distribution of traded goods within China. (Distribution rights are considered a separate services area in China's WTO accession agreement.) During the past 2 decades, China has granted trading rights to more domestic companies and reduced the number of commodities subject to state control.[44] As China opened its economy to foreign investment, China also granted foreign-invested enterprises the right to import goods needed for their production. Foreign-invested firms, however, could not import other goods or distribute any goods in China; they were allowed to export only goods that they made.[45]

The extent to which China provides foreign businesses and individuals with trading rights was one of the major issues in China's WTO accession negotiations. China pledged to liberalize the availability and scope of trading rights for all enterprises in China over a 3 year period. Those foreign-invested enterprises holding minority foreign shares will be

[44]China extended trading rights to greater numbers of state and collective enterprises in the 1980s, and also to manufacturing firms and Sino-foreign joint ventures in the 1990s, including some private Chinese enterprises. In 1980, about 90 percent of traded goods were subject to state trading control; the percentage declined to 40 percent in 1994, and 11 percent in 1998.

[45]However, foreign firms could contract with companies having trading rights to conduct their international trading transactions.

granted full trading rights 1 year after accession; those holding majority foreign shares will receive those rights 2 years after accession; and all enterprises in China and all foreign enterprises and individuals will obtain full trading rights 3 years after accession. In addition, foreign-invested enterprises will not be required to establish in a particular form (such as registering as enterprises in China) to engage in importing or exporting.

Although China allowed foreign-invested enterprises to obtain limited trading rights based on the enterprises' approved scope of business prior to WTO accession, even wholly Chinese-invested enterprises were required to apply for trading rights. The Chinese government approved these applications using certain criteria, including a minimum registered-capital requirement. Upon accession, China pledged to eliminate export performance, trade and foreign exchange balancing,[46] and prior-experience requirements as criteria for obtaining or maintaining the right to import and export. However, China will maintain a minimum registered-capital requirement for Chinese enterprises to be qualified for trading rights. China committed to reducing this requirement to RMB 5 million (about $604,000) in the first year, RMB 3 million (about $362,000) in the second year, and RMB 1 million (about $121,000) in the third year.[47]

Although China committed to liberalizing general trading rights for all enterprises, certain commodities will continue to be traded primarily by state trading companies. State trading will continue to cover imports for 8 commodity groups and exports for 21 groups. The import groups are grains, vegetable oil, sugar, tobacco, crude oil, processed oil, chemical fertilizers, and cotton. The export groups consist of some agricultural commodities (such as tea, rice, corn, and soybeans) and raw materials (such as tungsten, coal, crude and processed oil, silk, cotton, and yarn). Additionally, 6 commodity groups (natural rubber, timber, plywood, wool, acrylic, and certain steel products) can be traded only by those companies designated with trading rights. The central government made these decisions based on criteria including minimum registered capital.[48] China

[46]Trade balancing requirements limit an enterprise's imports to an amount equal to or less than the value of local products that it exports. Foreign exchange balancing requirements limit an enterprise's access to foreign exchange to the amount it exports or the amount of foreign exchange attributable to the enterprise.

[47]The basic unit of currency in China is the yuan, or RMB. China has maintained a very stable exchange rate between the RMB and the U.S. dollar. The recent trading band (in July 2002) was around 8.276 to 8.28 RMB to the dollar.

[48]Designated trading companies do not usually have monopoly power in trading.

committed to phasing out the designated trading system in 3 years and to increasing the numbers of designated entities during the phaseout period. China also committed to phasing out state trading on silk by January 1, 2005. In addition, China committed to more transparent and disciplined state trading operations, and it agreed to refrain from imposing excessive domestic price markups on imports beyond what is allowed under WTO rules.

To examine the extent of these remaining restrictions on state trading, we analyzed U.S. and Chinese trade data. Our analyses of 2001 U.S. export data showed that products subject to Chinese state trading control accounted for about 0.4 to 1.3 percent of U.S. exports to China, with about 1 percent on goods under designated trading control. However, Chinese trade data showed that about 3 percent of exports from the United States to China appeared to be subject to state trading control, and about 0.9 percent were subject to designated trading control in 2001. Using Chinese government data on imports from all countries, we calculated that 7.1 percent were in goods subject to state trading, and 5.8 percent were subject to designated trading in 2001. Because trade-distorting measures (such as state trading control) often reduce imports in the affected sectors, using historical trade data for these sectors would understate the potential importance of these barriers. Therefore, we also used U.S. export data to all countries to measure the potential importance of these trade barriers.[49] Using these data, we found that about 2.5 to 3.5 percent of total U.S. exports were in goods subject to Chinese state trading, and about 1.3 percent were in goods subject to designated trading in 2001.

Price Controls

Price controls in China primarily take two forms—direct state or government pricing and government guidance pricing.[50] Government guidance pricing is a more flexible form, generally allowing a 5 to 15 percent range of prices. China has gradually liberalized price controls in the past 2 decades. Nevertheless, most imported goods that are to remain subject to state trading control will also remain subject to price controls or government guidance on prices. These include tobacco, grains (wheat,

[49]We assumed that other U.S. export markets were less distorted by these trade barriers.

[50]Chinese officials described prices that are not subject to these two forms of controls as "market-regulated prices." Enterprises are free to set these prices in accordance with supply and demand to the extent permitted by generally applicable laws, regulations, and policies concerning prices.

corn, rice, and soybeans), vegetable oil, processed oil, fertilizer, and cotton. In addition to these goods, under the accession agreement China can also control prices on

- edible salt
- some pharmaceutical products
- public utilities (such as gas, water, electricity, and heating power)
- other services that China has designated as essential to citizen living (such as postal, telecommunication, health, education, and some transport services)
- some inputs essential for the production of China's major exports (like silkworm cocoons and cotton)
- some professional services (such as fees for commission agents; settlements; bank clearing and transmission; and apartment rental fees).

Nevertheless, China also committed to not extending price controls on other goods not specifically identified in the accession agreement and to reducing or eliminating the existing controls. In addition, China committed to more transparent and disciplined management of these controls, and to refraining from using price controls to protect domestic sectors or to limit market access for foreign goods.

According to a Chinese official, 94.7 percent of retail prices in China were set by market forces in recent years. Our analysis of U.S. export data showed that about 0.2 to 0.3 percent of U.S. exports to China were in goods subject to Chinese direct domestic price controls in 2001, and about 6.2 to 6.6 percent of U.S. exports to China in the same year were in goods subject to Chinese government guidance pricing. Chinese government data showed similar percentages in both cases. Using data of U.S. exports to all countries, about 0.9 to 2 percent of U.S. exports were in goods subject to Chinese domestic price controls, and about 2.6 to 3.6 percent were in goods subject to guidance pricing in that year. Chinese government data showed that 0.5 percent of Chinese imports from all countries were subject to Chinese domestic price controls and 2.6 percent were subject to government guidance pricing in that year.

Subsidies

China agreed, upon accession, to terminate all subsidies on exports, as well as the subsidies conditioned upon either the use of domestic goods or export performance. China listed 24 subsidy programs in the accession agreement and agreed to eliminate 3 programs upon accession. The 24 programs include direct subsidies given by central and local governments to money-losing state-owned enterprises and many other types of indirect subsidy programs. Indirect subsidies include loan priorities, preferential tariffs, tax breaks given to firms encouraged by the government because of their locations, export performance (amount of exports), and use of local resources for the products that they make. [51]

Among the three programs that China agreed to eliminate, two were related to subsidies to the automobile sector, and the other was the central government's program to give budgetary subsidies to money-losing state-owned enterprises. China also committed to treating other subsidies given to state-owned enterprises as subsidies to private enterprises and subjecting them to WTO disciplines. Furthermore, China agreed not to invoke certain articles in the Agreement on Subsidies and Countervailing Measures that make determination of "actionable" subsidies[52] more difficult to establish against developing countries. Given China's present level of economic development and reform, some WTO members were concerned about the potential for China to maintain or raise industrial subsidies, especially to state-owned enterprises. Some members also raised concerns that China's reporting on subsidies in the WTO negotiations was incomplete. In response, China agreed to work toward full notification and acknowledged that subsidies are sometimes difficult to identify.

State-Owned and State-Invested Enterprises

State-owned enterprises once dominated the Chinese economy, and they still control about a quarter of Chinese industrial output. Upon accession to the WTO, China committed to refraining from influencing state-owned enterprises' decisions on purchases and sales, and to allowing these decisions to be based solely on commercial considerations. China also committed to refraining from treating these purchases as government procurement, which are exempted from some WTO disciplines.

[51] The government encourages the development of products that use high technology, conduct research and development, preserve forestry, reduce environmental waste, or provide job opportunities for the unemployed.

[52] "Actionable" subsidies are a category of subsidies described in the WTO Agreement on Subsidies and Countervailing Measures. Subsidies are considered actionable, and therefore illegal, if they cause injury to the domestic industry of another member, negate other commitments made under the General Agreement on Tariffs and Trade, or cause serious prejudice to the interest of another member. The subsidies must be withdrawn or the adverse effects removed.

Investment Policies

China's incentive policies to guide investment to selected industries generally are not affected by the WTO accession agreement. Nevertheless, China committed to eliminating certain trade-distorting requirements on investment, such as those on trade and foreign exchange balancing, local content, and export performance. China also committed to not imposing conditions on technology transfer in approving investment projects. Additional investment rules on the automotive sector will be gradually liberalized over 2 to 4 years, such as the types (and models) of vehicles permitted for production, the investment levels approvable by provincial governments, and restrictions on the percentage of foreign equity investment in automotive engine plants.

Foreign Exchange Controls, Balance of Payments, Civil Aircraft Trade, and Government Procurement

China's trading rights and other industrial policy commitments also cover a variety of other issues. China agreed to adhere to WTO rules governing measures related to foreign exchange and balance of payments. China had formally accepted in 1996 the obligations imposed by the IMF on current account convertibility,[53] and the accession agreement sets forth China's commitments regarding conformity with to the IMF rules. In addition, China also made limited commitments on civil aircraft trade and government procurement, although China has not acceded to these agreements.

Key Dates

With the exception of commitments in the areas of trading rights and investments policies in the automotive sector, most commitments in this area were to be implemented when China joined the WTO. (See table 18.)

[53]The IMF Articles of Agreement require members to avoid imposing restrictions on payments related to current account international transactions and transfers. That is generally described as "current account convertibility." The current account transactions include imports and exports of goods and services and investment income but exclude long-term capital flows.

Table 18: Timetable for Selected Chinese WTO Commitments Relating to Trading Rights and Industrial Policies

End date	Commitment
December 11, 2004	• Right to trade: progressively liberalize trading rights in 3 years for all enterprises in China, except for those goods listed in the accession agreement. • Grant minority foreign-owned joint ventures full rights to trade 1 year after accession; majority foreign-owned joint ventures 2 years after; and wholly owned enterprises 3 years after. • Reduce the minimum registered-capital requirement for Chinese-invested enterprises to obtain trading rights to RMB 5 million for the first year after accession; to RMB 3 million for the second year; and to RMB 1 million in the third year[a] • Reduce over 3 years the list of goods to be traded only by companies designated by the central government. This affects six commodities (natural rubber, timber, plywood, wool, acrylic, and some steel products).
January 1, 2005	• Abolish exclusive state trading rights for silk, and grant trading rights to all individuals and enterprises.
December 11, 2005	• Automotive investment rules: revise certain rules in 2 or 4 years. (Liberalize types or models of vehicles permitted for production over 2 years. Raise the investment level approvable by provincial government over 4 years.)

[a]The basic unit of currency in China is the yuan, or RMB. China has maintained a very stable exchange rate between the RMB and the U.S. dollar. The recent trading band (in July 2002) was around 8.276 to 8.28 RMB to the dollar.

Source: GAO analysis of China's WTO accession agreement.

Agriculture

Agriculture was a sensitive area in China's WTO accession negotiation. China has traditionally pursued self-reliance in food production and raised many barriers to its agricultural market, such as high tariff rates and state trading. U.S. agricultural exports to China were about $2 billion in 2001, accounting for more than 10 percent of total U.S. exports to China, according to official U.S. statistics.

China's WTO commitments relating to agriculture cover four topics. Specifically, China committed to imposing lower tariffs on agricultural products; to administering a tariff-rate quota system to allowing controlled access for imports of some bulk agricultural commodities in a transparent, consistent manner and based on commercial considerations; to capping agricultural domestic subsidies and abolishing export subsidies; and to fully abiding by the WTO rules governing sanitary and phytosanitary (SPS) measures on imports, which place disciplines on how countries apply health and safety standards. Other commitments relate to domestic support subsidies and state trading in bulk agricultural commodities. About half of the agricultural commitments we identified are guidance commitments that describe specific procedures China should follow to administer its agricultural tariff-rate quotas. The number and type of commitments in this area reflect the concerns held by some WTO members about the way in which China's TRQ system would operate following accession. Table 19 lists some examples of the commitments in each topic.

Table 19: Examples of China's WTO Commitments Relating to Agriculture

Topic	China committed to
Agriculture tariffs	• Binding its tariff rates upon accession. • Reducing its tariff rates through 2010.
Tariff-rate quotas	• Applying tariff-rate quotas to wheat, corn, rice, soybean oil, palm oil, rapeseed oil, sugar, wool, and cotton. • Reserving a portion of TRQs for importation through non–state-trading enterprises, and progressively increasing the portion for edible oils and corn. • Administering TRQs on a transparent, predictable, uniform, fair, and nondiscriminatory basis using clearly specified time frames, administrative procedures, and requirements. • Designating a single, central authority to make the decisions regarding all allocations and reallocations to end-users.
Subsidies	• Eliminating export subsidies on agricultural products. • Including investment input subsidies (such as fertilizer) in the WTO calculation of domestic support. • Limiting the level of allowable domestic support for specific products to 8.5% of the product production value, and limiting the aggregate level of support to 8.5% of the total agricultural output value.
SPS measures	• Complying with the WTO Agreement on Sanitary and Phytosanitary Measures, and ensuring that all of China's laws, regulations, decrees, requirements, and procedures relating to SPS measures conform to WTO SPS rules upon accession. • Notifying the WTO of laws, regulations, and other measures relating to China's SPS, including products and relevant international standards, guidelines, and recommendations.

Source: GAO analysis of China's WTO accession agreement.

Agriculture Tariffs

Like all countries that have recently acceded to the WTO,[54] China bound tariffs for all agricultural products. Moreover, China will gradually reduce agricultural tariffs by 2010. There are 977 agricultural tariff items in China's WTO accession schedule. Fifteen percent of the agricultural products (148 products) have a final bound tariff at or below 5 percent. These products include soybeans, some grains (oatmeal and buckwheat), and some spices (cardamom and cloves). About 50 percent of the agricultural products (490 products) have a final bound tariff of between 6 and 15 percent. These products include dairy products (yogurt, butter, and cheese) and fruits (grapes, apples, and citrus fruits). Thirty-five percent of agricultural products (339 products) have tariffs above 15 percent. These products include rice, cotton, and wool. The maximum final bound tariff is

[54]Recently acceded countries in the order of accession are Ecuador, Mongolia, Bulgaria, Panama, the Kyrgyz Republic, Latvia, Estonia, Jordan, Georgia, Albania, Oman, Croatia, Lithuania, Moldova, and Taiwan (Chinese Taipei).

65 percent, which is on some grains (wheat, some rice, and some corn)[55] and some tobacco products. Agricultural products will still have, on average, higher tariffs than nonagricultural products. The average tariff on agricultural products was 19 percent upon accession and will be 15 percent by 2010, while the average tariff on nonagricultural goods was 13 percent upon accession and will be 9 percent by 2010. However, according to U.S. Department of Agriculture estimates, the terms of China's WTO accession could make China one of the most open countries in the world in terms of agricultural trade. The world's average tariff for food and agricultural products is 62 percent.

Tariff-Rate Quotas

China, like other WTO members, including the United States, will use a tariff-rate quota system to control market access for certain sensitive commodities. Under the system, a specific quantity of imports will be allowed in at a low duty, while imports above that quota amount will face higher tariffs. These commodities are wheat, corn, rice, cotton, soybean oil, palm oil, rapeseed oil, sugar, and wool, covering 37 tariff lines in China's accession schedule. U.S. exports in 2001 of products affected by TRQs accounted for about 4 percent of total U.S. agricultural exports to China, according to official U.S. statistics. China has committed upon accession to eliminating TRQs on a number of products and to subjecting these only to tariffs, including barley, soybeans, rapeseed, peanut oil, sunflower seed oil, corn oil, and cottonseed oil. In 2006, China will eliminate TRQs on soybean oil, palm oil, and rapeseed oil.

China has committed to increasing its tariff-rate quota volumes over a 3–4 year implementation period. However, while the in-quota volume is generous as compared with the historic levels of Chinese imports, it still remains a small fraction of Chinese domestic demand for certain products. For example, the final quota on wheat is about 10 million metric tons. Chinese statistics reported that China imported less than 1 million metric tons of wheat in total in 2001. The U.S. Department of Agriculture reported Chinese wheat consumption was 114 million metric tons in 2000. With that level of consumption, the maximum amount of wheat that could be imported under the low tariff rate would be about 9 percent of Chinese wheat consumption. Table 20 lists the initial and final quota volumes, in-quota tariffs, and out-of-quota tariffs.

[55]This is the out-of-quota tariff rate affecting imports of products above a certain quantity. China's in-quota tariff rates on these products are generally between 1 and 10 percent (see table 20).

Table 20: China's TRQ Terms for Agriculture Products

Agricultural product	Initial quota quantity (million MT)	Final quota quantity (million MT)	Date reaching final quota quantity	In-quota tariff (percent)	Out-of-quota bound tariff (percent)	Schedule for increasing TRQ quantity (million MT)
Wheat (6 products)	7.884	9.636	2004	1 – 10 % (depending on product)	74% (accession); 65 (final)	2002: 8.468 2003: 9.052 2004: 9.636
Corn (5 products)	5.175	7.2	2004	1 – 10 (depending on product)	64 (accession); 51(final)	2002: 5.85 2003: 6.525 2004: 7.2
Rice—short and medium grain (7 products)	1.6625	2.66	2004	1 – 9 (depending on product)	57 (accession); 46(final)	2002: 1.995 2003: 2.3275 2004: 2.66
Rice—long grain (7 products)	1.6625	2.66	2004	1 – 9 (depending on product)	57 (accession); 46(final)	2002: 1.995 2003: 2.3275 2004: 2.66
Soybean oil (2 products)	2.118	3.5871	2005	9	63.3 (accession); 9 (final by 2006)	2002: 2.518 2003: 2.818 2004: 3.118 2005: 3.5871
Palm oil (2 products)	2.1	3.168	2005	9	63.3 (accession); 9(final by 2006)	2002: 2.4 2003: 2.6 2004: 2.7 2005: 3.168
Rapeseed oil (3 products)	0.7392	1.243	2005	9	63.3 (accession); 9 (final by 2006)	2002: 0.8789 2003: 1.0186 2004: 1.1266 2005: 1.243
Sugar (6 products)	1.68	1.945	2004	20 (initial); 15 (final)	68.8 (accession); 50 (final)	2002: 1.764 2003: 1.852 2004: 1.945
Wool (6 products)	0.25325	0.287	2004	1	38 (accession); 38 (final)	2002: 0.2645 2003: 0.27575 2004: 0.287
Cotton (2 products)	0.78075	0.894	2004	1	61.6 accession); 40 (final)	2002: 0.8185 2003: 0.85625 2004: 0.894

Legend

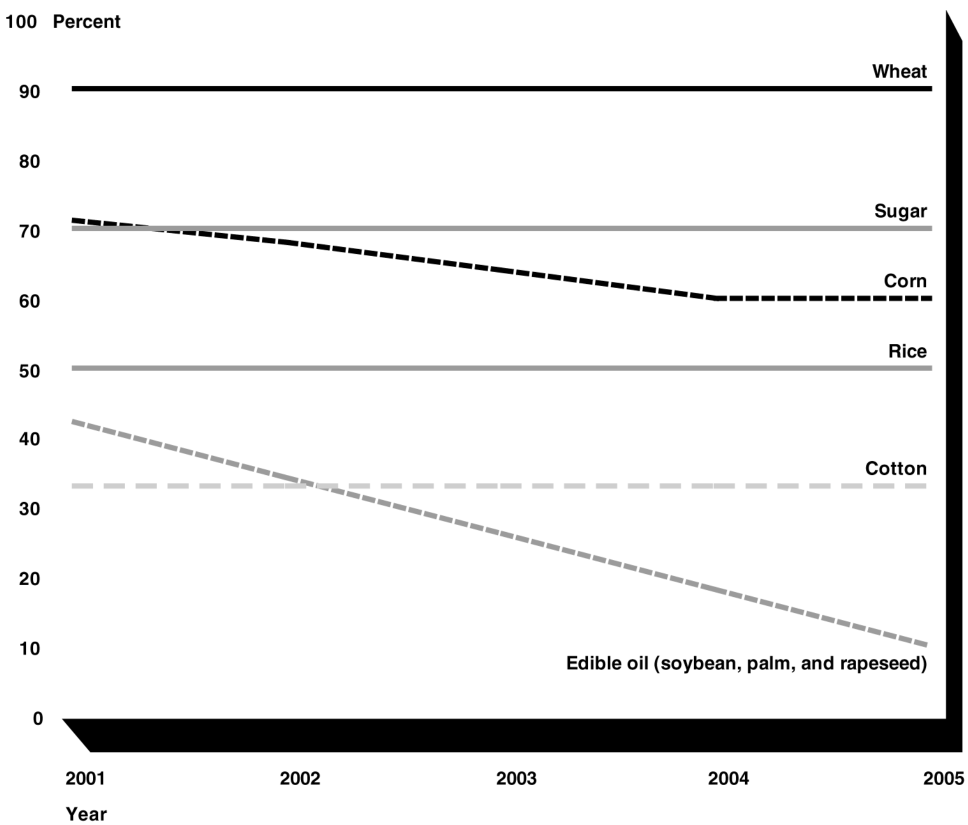
MT: metric ton

Note: TRQs on soybean oil, palm oil, and rapeseed oil will be eliminated on January 1, 2006.

Source: GAO analysis of China's WTO accession agreement.

In addition to increasing the size of the TRQ, China has also committed to reserving a portion of the TRQs for importation through non-state trading enterprises. Accordingly, private traders will be able to trade commodities that have traditionally been under the state trading monopoly. Figure 6 shows the TRQ portion reserved for importation through state trading enterprises over time. This portion will remain constant for wheat, sugar, rice, and cotton, but will gradually diminish for corn and edible oils. Nevertheless, state trading will remain an important trade barrier on several of these products. More than half of the in-quota TRQ volumes are reserved for importation through state trading on wheat, sugar, and corn.

Figure 6: Percentage Share of TRQs Reserved for Importation through Chinese State Trading Enterprises, 2001–2005

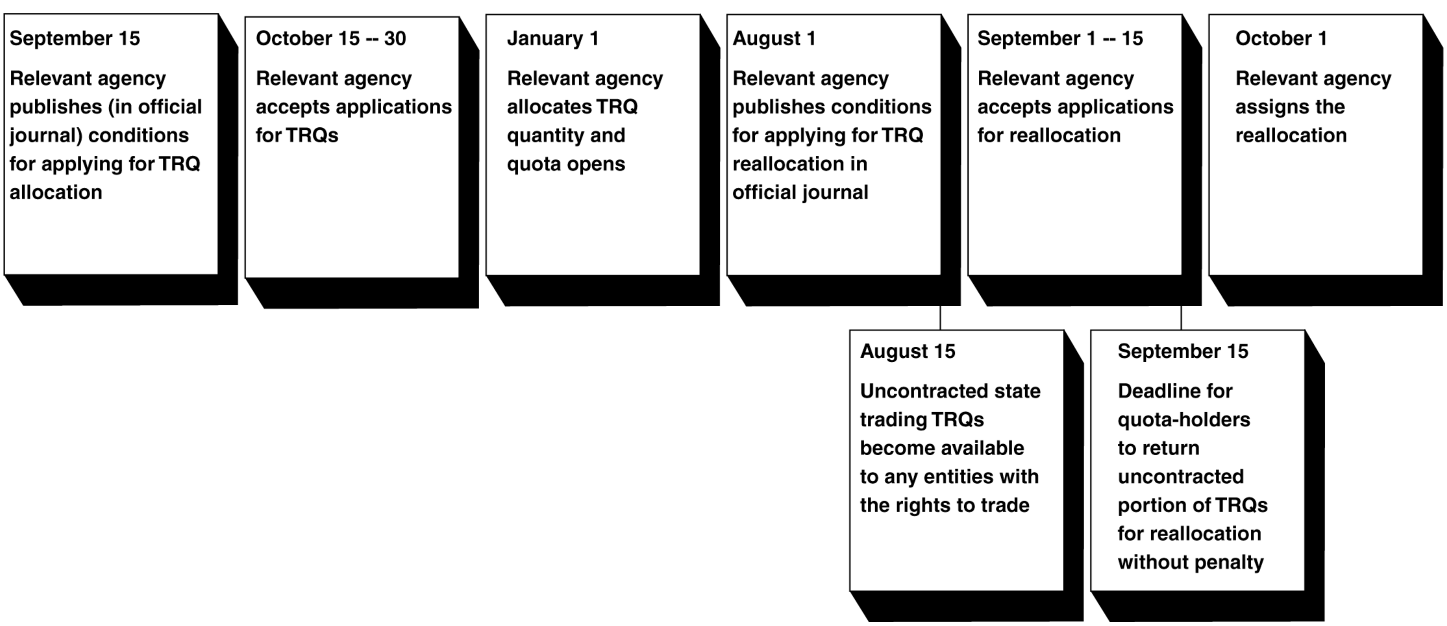


Source: GAO analysis of China's WTO accession agreement.

During the accession negotiations, WTO members were concerned about China's administration of the TRQ system. Among the 58 commitments that we identified as relating to TRQs, we found 40 to be guidance, providing clear, specific procedures for the TRQ administration. These commitments cover (1) specific annual timelines that China must follow to publish quotas, accept applications, and allocate quotas; (2) deadlines for firms to return unused quotas without penalty; and (3) specific dates after which the share for importation through state trading enterprises becomes available to any enterprise with trading rights. China committed to administering its TRQ system according to the annual timeline illustrated in figure 7.

WTO members were also concerned with the transparency of the TRQ administration. To address these concerns, China committed to setting up enquiry points and publishing information on its quota allocation in an official journal.

Figure 7: Timeline for China's Tariff-Rate Quota Administration



Note: The Chinese agency that administers the TRQ for agricultural products is the State Development and Planning Commission; for fertilizers, it is the State Economic and Trade Commission.

Source: GAO analysis of China's WTO accession agreement.

Subsidies

China's commitments also cover the use of export and domestic subsidies in agriculture. Specifically, China committed to not using export subsidies. The U.S. Department of Agriculture considers China's commitment to be particularly useful with regard to addressing potential U.S. exports of corn and cotton. The department believes that subsidized Chinese exports have displaced U.S. exports of these commodities from third-country markets in the past. Second, with respect to domestic support, the WTO requires a reduction in subsidies and sets a level for domestic support exempted from the total level of support allowable—called the *de minimis* level—that the WTO regards as having minimal effect on trade. Under WTO rules, this *de minimis* domestic support level is set at 5 percent[56] for developed countries and 10 percent for developing countries. China's *de minimis* level commitment falls between these levels, at 8.5 percent. In addition, unlike developing countries, China has to include input (such as fertilizer) subsidies in the calculation of its domestic subsidy level. The U.S. Department of Agriculture estimates that if the 8.5 percent annual threshold were reached, domestic support could potentially be as high as $14 billion, based on China's current crop output value. China's current level of support is less than 2 percent, based on a 1996–1998 base period.

Sanitary and Phytosanitary Measures

China committed to fully abiding by the terms of the WTO Agreement on Sanitary and Phytosanitary Measures. In U.S.-China bilateral negotiations, China and the United States agreed on the terms for the removal of restrictions on importation of U.S. grain, citrus, and meat. Among other things, WTO rules governing SPS measures require that members base SPS measures on scientific principles and not apply SPS measures in a manner that constitutes a disguised restriction on trade. Out of China's five commitments in SPS, three committed China to fully adhering to the WTO SPS rules, and three required China to refrain from using SPS as a form of trade barrier.[57] China committed to ensuring that all of its laws, regulations, decrees, requirements, and procedures relating to SPS measures would conform to WTO rules upon accession. China also agreed to notifying the WTO of its laws, regulations, and other measures relating

[56]There are product-specific and non–product-specific *de minimis* domestic support subsidy levels. The product-specific *de minimis* level is a percentage of the value of production of individual products; the non–product-specific *de minimis* level is a percentage of the value of total agricultural production.

[57]The commitment types are not mutually exclusive. A commitment could be classified as both "adhere to WTO" and "refrain."

to SPS, including products and relevant international standards, guidelines, and recommendations.

Services

China's services market has historically been heavily regulated, and foreign service providers' access to the market has been significantly restricted. Although U.S. services exports to the world totaled $278.6 billion in year 2000, only $4.6 billion (or 2 percent) of total U.S. services exports went to China in the same year. China has made numerous commitments to increase access to its services markets by opening 9 general services sectors and 88 subsectors, subject to certain limitations.[58] These commitments, if fully implemented, could provide significant business opportunities in sectors important to U.S. companies, including providers of professional, telecommunications, distribution, and insurance services.

The WTO's General Agreement on Trade in Services requires that members maintain a schedule of market access commitments for services. Consistent with this requirement, China's market access commitments are described primarily in the services schedule in an annex to China's WTO accession agreement. The schedule describes both horizontal—that is, applying broadly to all services sectors in which China made commitments—and sector-specific commitments. Additionally, the schedule specifies limitations on market access and national treatment within these services sectors. Table 21 gives examples of commitments and limitations described in China's services schedule and lists the time frames for implementing these commitments. We discuss commitments in selected sectors in the sections following the table.

[58]The WTO classifies services into 12 general sectors and 154 subsectors. See table 6 for additional details on the number of sectors and subsectors in which China made commitments.

Table 21: Examples of China's WTO Commitments Relating to Services

General WTO services sector	Description of commitment and key limitation	Time frame
Horizontal (all services sectors)	• Minimum foreign investment in equity joint ventures shall be no less than 25 percent of the registered capital of the joint venture. • Conditions of ownership, operation, and scope of activities for existing foreign service suppliers will not be made more restrictive than they exist as of the date of China's accession.	• Upon accession • Upon accession
Business	**Legal services** • May establish representative offices without geographic or quantitative restrictions. • Foreign representative offices are restricted in the scope of services they may provide in areas relating to Chinese law. **Accounting, auditing, and bookkeeping services** • Certified Public Accountants licensed by Chinese authorities may incorporate or establish partnerships. **Taxation services** • Foreign firms may establish wholly owned subsidiaries. **Medical and dental services** • Foreign suppliers permitted to establish joint ventures, subject to quantitative restrictions.	• Within 1 year of accession • Upon accession • Upon accession • Within 6 years of accession • Upon accession
Communication	**Courier services** • Foreign suppliers may establish wholly owned subsidiaries. **Value-added telecommunications services** • Foreign suppliers permitted to establish joint ventures with no more than 50 percent equity; no geographic limitations. **Domestic and international telecommunications services** • Foreign suppliers permitted to establish joint ventures with no more than 49 percent equity; no geographic limitations.	• Within 4 years of accession • Within 2 years of accession • Within 6 years of accession
Construction	• Foreign providers permitted to establish wholly owned foreign enterprises; scope of business limited to certain types of projects.	• Within 3 years of accession
Distribution	**Wholesale and commission agents' services** • Foreign distributors of most products permitted to establish wholly owned enterprises with no geographic limitations.[a] **Retailing services** • Foreign retailers of most products may establish wholly owned foreign enterprises with no geographic limitations; equity limits on chain stores based on number of products and types of products sold. **Franchising services** • Foreign franchising permitted.	• Within 3 years of accession • Within 3 years of accession • Within 3 years of accession
Education	• Foreign providers permitted to establish majority- owned joint venture schools.	• Upon accession
Environmental	• Foreign suppliers permitted to establish majority-owned joint ventures.	• Upon accession

General WTO services sector	Description of commitment and key limitation	Time frame
Financial	**Life insurance services**	
	• Foreign life insurers permitted to establish joint ventures with 50 percent equity, with no geographic limitations; subject to licensing requirements.	• Within 3 years of accession
	Nonlife insurance services	
	• Foreign nonlife insurers permitted to establish wholly owned subsidiaries, with no geographic limitations; subject to licensing requirements.	• Within 3 years of accession
	Banking services	
	• Foreign providers of foreign currency services permitted without geographic and client limitations.	• Upon accession
	• Foreign providers of local (Chinese) currency services permitted without geographic and client limitations.	• Within 5 years of accession
	• Foreign providers of banking services subject to licensing and qualification requirements.	• Upon accession
	Securities	
	• Foreign providers may establish fund management joint ventures with no more than 49 percent equity.	• Within 3 years of accession
Tourism and travel-related	**Hotel and restaurant services**	
	• Foreign providers may establish wholly owned subsidiaries.	• Within 4 years of accession
	Travel agency and tour operator services	
	• Foreign suppliers permitted to establish wholly owned subsidiaries, with no geographic limitations; subject to limitations on scope of business.	• Within 6 years of accession
Transport	**Maritime transport services**	
	• Foreign suppliers permitted to establish joint ventures with no more than 49 percent of the registered capital of the joint venture; fleet must operate under China's flag.	• Upon accession
	Air transport services	
	• Foreign providers permitted to establish joint venture aircraft repair and maintenance enterprises; Chinese partner must hold controlling share or be in dominant position in the joint venture; establishment of joint ventures subject to licensing limitations.	• Upon accession
	Road transport services	
	• Foreign providers permitted to establish wholly owned subsidiaries.	• Within 3 years of accession

[a]Foreign distributors of chemical fertilizers and processed and crude oil are permitted to establish wholly owned enterprises within 5 years of accession. Wholesale distribution of salt and tobacco is prohibited.

Source: GAO analysis of China's WTO accession agreement.

Business: Professional Services

China has made commitments to open eight professional services subsectors, including legal, accounting, taxation, and medical and dental services.[59] As more foreign firms enter China's market, demand for these types of services is likely to increase. U.S. exports of business, professional, and technical services to the world totaled $28 billion in 2000, but only about 2 percent ($678 million) of this total went to China. Notwithstanding China's broad-ranging commitments to open several professional services subsectors, foreign providers' access will remain subject to certain limitations. For example, foreign law firms will generally continue to be restricted from directly providing legal services involving Chinese law. Additionally, restrictions on the form of establishment for foreign medical and dental services providers will require foreign providers to establish joint venture hospitals or clinics with Chinese partners in order to enter China's market.

Communications: Telecommunications

Prior to its accession to the WTO, China prohibited foreign companies from providing any type of telecommunications services in China, and the market had been controlled by a government-run telecommunications monopoly. Although foreign providers will remain subject to significant limitations, China has made important commitments allowing foreign firms to provide a broad array of telecommunications services, including both basic and value-added services.[60] Foreign providers must establish joint ventures with Chinese partners in order to enter the telecommunications market, and China places limits on the share of foreign equity in the joint ventures. The WTO has noted that these types of limitations are common among WTO members that have made telecommunications commitments. These limitations on the participation of foreign equity in the joint ventures in China allow an increasing share of foreign equity over a 1–6 year period following China's accession to the WTO, but prohibitions on foreign majority ownership will remain. Additionally, although there are limitations on where foreign providers may establish businesses in China, these geographic limitations are to be completely phased out over a 2–6 year period following accession.

[59]China also made commitments relating to four other types of professional services: architectural, engineering, integrated engineering, and urban planning services.

[60]Basic telecommunications services comprise a public telecommunications network infrastructure and include domestic and international wired services and mobile voice and data services. Value-added services are provided through the public network infrastructure and include services such as E-mail and on-line information. The U.S. Trade Representative notes that Internet services are subsumed under value-added telecommunications services.

China's services schedule also indicates that China is committed to adhering to the WTO Agreement on Basic Telecommunications and its binding set of principles, as described in the reference paper annexed to China's services schedule. Adherence to the principles in the reference paper requires China to, among other things, ensure that regulators are independent from suppliers, prevent anticompetitive practices, and ensure that rights of interconnection are provided on a nondiscriminatory basis.[61]

Distribution

Prior to China's WTO accession, foreign firms were generally prohibited from distributing their products in China. These restrictions encompassed wholesale and retail distribution, as well as services related to distribution, such as after-sale maintenance and repair. As a result of these restrictions, foreign firms were unable to fully integrate production and distribution networks. For example, a foreign company established in China might have been able to import products from its factories located outside of China, but the company did not have the right to distribute that product within China using its own distribution networks. China's distribution services commitments remove many restrictions on foreign firms' ability to distribute products in China. Although wholesale distribution services are initially subject to form-of-establishment and foreign equity limitations, China's commitments will allow wholly owned foreign firms to engage in the wholesale distribution of most products with no geographic limitations within 3 years after China's accession. Foreign retailers are also subject to certain limitations. Initially, foreign retailers' access is limited to establishing minority joint ventures in designated zones and cities. China also initially limits the number of retailing enterprises that can be established in its cities. Within 3 years after China's accession, these limitations will be lifted for most foreign retail enterprises.[62] Last, China will initially maintain some limitations on the scope of products that can be distributed in China by foreign enterprises. These are to be phased out over 5 years. Prohibitions on wholesale distribution of tobacco and salt will remain, however, as will restrictions on the retailing of tobacco.

[61]Interconnection rights relate to the connection and sharing of different telecommunications networks to allow users of one supplier to communicate with users of another supplier.

[62]China will maintain equity limits on chain stores based on the number of stores and products sold.

Financial: Insurance

China's market had been closed to foreign insurers since the early 1950s. In 1992, China reopened the market on a limited basis by granting a license to a single foreign company (the American International Group), and by mid-2001, 17 foreign insurance companies had received licenses to operate on a limited basis in three designated cities in China.[63] China's services commitments reduce or eliminate many restrictions on foreign insurers. Geographic restrictions on foreign nonlife insurers will be removed within 3 years of China's accession. Furthermore, all restrictions on the form of establishment and equity participation will be phased out within 2 years of accession. Although geographic restrictions on foreign life insurers will also be removed within 3 years following accession, China will maintain limitations that require foreign life insurers to establish joint ventures with no more than 50 percent equity ownership in order to enter China's market.

Other Services Commitments

In addition to the commitments and limitations described in China's services schedule, we identified 45 services-related commitments set forth in other sections of China's accession documents. Over half (29) of these commitments relate to licensing conditions and procedures for services providers operating in China, and respond to WTO member concerns that licensing not act as a barrier to foreign companies seeking to enter China's services market. As such, the commitments supplement and clarify information provided in China's services schedule. For example, we identified 23 guidance commitments that describe, among other things, the fees, responsible authorities, and application procedures that apply broadly to obtaining a license to provide services in China. Other commitments relate to specific sectors and provide additional details that are essential to interpret the commitments and limitations described in China's services schedule. For example, several commitments define certain insurance terms used in China's services schedule and describe requirements and conditions related to the issuance of certain types of insurance policies.

[63] The cities were Shanghai, Guangzhou, and Shenzhen.

Intellectual Property Rights

China's protection of intellectual property rights (IPR) has improved in recent years but remains an ongoing concern for the U.S. government and the business community. IPR are defined as ownership rights over a creation for a certain period of time, which include the protection of copyrights, trademarks, trade secrets, and patents. Estimates of business losses resulting from IPR violations are significant. For example, the Business Software Association estimated revenue losses resulting from retail software piracy in China to be about $1.7 billion dollars in 2001. Despite China's progress in promulgating and revising regulations and initiating measures to protect IPR, the U.S. Trade Representative notes that enforcement remains inadequate and infringement continues. Specifically, the agency's annual Special 301 report on global IPR protection notes that China has taken actions to protect IPR such as amending its copyright, patent, and trademark laws and issuing judicial interpretations on IPR issues. However, areas of concern include completing the issuance and modification of regulations necessary for compliance with international IPR agreements and encouraging more instances of criminal prosecution to deter infringement.

China's WTO IPR commitments relate mainly to how China will implement the various provisions of the WTO's Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS defines both the scope and enforcement procedures of intellectual property rights in various areas. These areas include copyrights, trademarks, patents, geographical indications (where particular characteristics of a good are related to its geographical origin, like bourbon), industrial designs, integrated circuits (semiconductor chips), trade secrets, and control of anticompetitive practices in contracts. Examples of China's IPR commitments are described in table 22.

Table 22: Examples of China's WTO Commitments Relating to Intellectual Property Rights

Topic	China committed to
General	• Amending patent, copyright, and trademark laws and relevant implementing rules upon accession, to comply with TRIPS. • Modifying relevant laws, regulations, and other measures to ensure national and most-favored-nation treatment to foreign IPR holders, to comply with TRIPS. • Providing legal treatment to foreigners in accordance with any agreement or international treaty to which both countries are party. • Reporting to WTO Council for Trade-Related Aspects of Intellectual Property Rights on amendments to copyright, trademark, and patent laws and implementation of TRIPS, as part of China's review under the transitional review mechanism.
Copyrights, trademarks, patents, and other IPR	• Amending copyright regime, including regulations for the implementation of the copyright law and provisions on the Implementation of the International Copyright Treaty, to ensure consistency with TRIPS. • Amending trademark laws to meet TRIPS requirements. Modifications would be made to aspects of registration, content, symbols, well-known trademarks, priority rights, rights confirmation system, judicial review, crackdown on infringements, and infringement damages. • Amending the Implementing Rules of Patent Law, to ensure that the provisions would be implemented in compliance with TRIPS provisions that describe certain terms under which a WTO member may deny a patent (Article 27.2). • Introducing and enacting laws and regulations to comply with TRIPS, to ensure protection of undisclosed information submitted to Chinese authorities in support of applications for marketing approval for certain pharmaceutical and agricultural chemicals (Article 39.3).
Enforcement	• Implementing judicial rules of civil procedure in accordance with TRIPS provisions relating to fair and equitable civil judicial procedures and evidence (Articles 42 and 43). • Amending relevant implementing rules to ensure compliance with Articles 45 and 46 of TRIPS provisions, relating to damages and compensation for IPR infringement. • Continuing to enhance enforcement efforts, including the use of more effective administrative sanctions. • Granting relevant agencies the authority to confiscate equipment and other evidence used in infringing activities. • Referring appropriate cases, including those involving repeat offenders and willful piracy and counterfeiting, to the relevant authorities, for prosecution under criminal law. • Recommending that the judicial authority lower the monetary thresholds required for criminal prosecution of IPR violators.

Source: GAO analysis of China's WTO accession agreement.

All governments acceding to the WTO are required to comply with TRIPS. Notwithstanding this general obligation, the section of China's accession agreement relating to IPR describes, clarifies, and reiterates how China will conform its IPR regime to WTO standards. There are 55 paragraphs in the working party report that relate to trade-related aspects of China's IPR regime, but only 17 of these paragraphs contain commitments. Within these 17 paragraphs, we identified 32 commitments.[64] About half of China's IPR commitments relate specifically to enforcement (discussed later). Additionally, we found that most commitments affirm China's obligation to comply with specific articles of TRIPS, and that many of these same commitments also describe how China will modify existing or create new laws and regulations to adhere to TRIPS. The 38 paragraphs that do not contain commitments describe, among other things, China's existing IPR laws and regulations, responsible authorities for administering IPR in China, and member concerns and comments about various aspects of China's IPR regime. All of China's IPR commitments are effective upon accession.

General

At the broadest level, China's general IPR commitments obligate China to bring all laws, regulations, and implementing rules into compliance with the TRIPS agreement upon accession. China's commitments in this area also relate broadly to how IPR laws and regulations are enforced in China. For example, where an infringement of IPR is found in China, the aggrieved party can initiate a lawsuit in a court. In this regard, China noted that since 1992, special IPR branches of the Chinese people's courts have been set up in major cities, such as Beijing and Shanghai. Other general IPR commitments confirm that China will modify laws, regulations, and other measures to ensure nondiscriminatory treatment of foreign IPR holders, as required by the TRIPS agreement.[65] Lastly, one paragraph in this section describes China's membership or participation in 12 international agreements, treaties, and conventions and includes a general commitment that China will treat foreigners in accordance with any agreement between the foreign country and China.

[64]We also identified two commitments in annex 1A of the agreement that require China to report IPR-related information to the WTO in the context of the trade review mechanism.

[65]Articles 3 and 4 of TRIPS relate to national and most-favored-nation treatment. Specifically, Article 3 requires that each member shall accord to the nationals of other members treatment no less favorable than it accords to its own nationals with regard to the protection of intellectual property, subject to some exceptions. Article 4 provides that any advantage, favor, privilege, or immunity granted by a member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other members.

Copyrights, Patents, Trademarks, and Other IPR

Many of the paragraphs relating to copyrights, patents, trademarks, and other IPR provide narrative on China's existing laws and regulations and contain some details concerning how these laws and regulations are to be administered. Other paragraphs describe some WTO members' concerns about the consistency or adequacy of China's existing IPR regime in relation to TRIPS. In some cases, China acknowledges differences or inconsistencies between existing laws and TRIPS. For example, China noted that certain aspects of existing copyright, patent, and trademark laws fell short of what was required by TRIPS, and made commitments to modify the relevant laws and regulations to fully meet TRIPS requirements.

Enforcement

Some WTO members noted several concerns about the enforcement of IPR in China, and the majority of China's IPR commitments are intended to address these concerns. For example, members raised concerns about filing civil judicial actions relating to IPR violations in China, and they noted that the way in which damages resulting from IPR violations were calculated often resulted in inadequate compensation. In response, China committed to fully implementing TRIPS provisions relating to civil judicial procedures and evidence (Articles 42 and 43), as well as those relating to damages and compensation (Articles 45 and 46). Members were also concerned about the use of administrative and criminal procedures to address IPR infringement. In particular, members noted that administrative sanctions (that is, penalties imposed by administrative bodies on IPR violators) were inadequate, and that monetary thresholds for initiating a criminal action against an IPR violator were too high and were seldom met. China made commitments to address each of these areas by clarifying the use of administrative sanctions and recommending that the monetary thresholds required to initiate criminal action be lowered.

Safeguards and Other Trade Remedies

Since China's economy is in a transitional stage, becoming more market-oriented but still retaining characteristics of a nonmarket economy, WTO members, and particularly the United States, lobbied for the inclusion of safeguards and other trade remedy commitments in China's accession package to augment those already set forth in the WTO agreements. These commitments provide other WTO members both with extra protection from surges in imports from China and with additional WTO monitoring of China's implementation of its WTO commitments. The additional safeguards include a product-specific safeguard, which covers Chinese products generally, and a special textile safeguard, which applies to textiles and apparel. The special textile safeguard was particularly important for the U.S. textile and apparel sector, an import-sensitive sector to which China is the second largest supplier. The other trade remedies allow WTO members to use alternate methodologies for calculating prices and subsidies in antidumping and countervailing duty cases against China.[66] Finally, the trade remedies include a transitional review mechanism to review China's implementation of its WTO commitments and the development of China's trade with other WTO members. This mechanism is additional to the WTO's trade policy review mechanism. Although the trade policy review mechanism provides for a broad review of the trade regimes of all WTO members, WTO members viewed it as insufficient to oversee China's implementation of its commitments. A number of the particular commitments in the safeguards and other trade remedies area are described in table 23.

[66]Antidumping measures include a duty or fee imposed to neutralize the injurious effect of unfair pricing practices known as "dumping." Dumping refers to the sale of a commodity in a foreign market at a price lower than its fair market value. A countervailing duty is a special duty that an importing country imposes to offset the economic effect of an actionable subsidy and to prevent injury to a domestic industry caused by a subsidized import.

Table 23: Examples of China's WTO Commitments Relating to Safeguards and Other Trade Remedies

Topic	China committed to
Product-specific safeguard	• Allowing WTO members to withdraw concessions or limit imports when Chinese products are imported to WTO members and cause or threaten to cause market disruption. • Allowing WTO members to withdraw concessions or limit imports only for such time as is necessary to prevent or remedy market disruption. • Allowing China to suspend application of substantially equivalent concessions when a WTO member adopts a measure in response to (1) a relative increase in Chinese imports, and when the measure remains in effect for more than 2 years, or (2) an absolute increase in imports, when the measure remains in effect more than 3 years. • Allowing WTO members to withdraw concessions or otherwise limit Chinese imports if the application of the product-specific safeguard by another WTO member against China threatens to cause significant diversions of trade into the market of the other importing WTO member. • Terminating the product-specific safeguard on December 11, 2013, 12 years after China's accession to the WTO. • Requiring WTO members to follow various procedural requirements when invoking the product-specific safeguard against China. • Requiring WTO members to apply objective criteria in assessing whether actions taken against China to prevent or remedy market disruption cause or threaten to cause significant diversion of trade.
Textile safeguard	• Allowing WTO members to invoke the textile safeguard against China when imports of Chinese textiles or apparel products cause market disruption that threatens to impede the orderly development of trade. • Holding shipment of textiles and apparel to certain levels, upon request for consultations to ease market disruption. • Permitting WTO members to use the textile safeguard until December 31, 2008, 4 years after expiration of the WTO Agreement on Textiles and Clothing. • Allowing WTO members to apply safeguard measures under the textile safeguard only for 1 year, without reapplication, unless otherwise agreed. • Prohibiting the textile safeguard and product-specific safeguard from being applied to the same product at the same time.
Price comparability in determining Chinese dumping	• Allowing importing WTO members to use a methodology not based on strict comparison with Chinese domestic prices or costs in determining price comparability for antidumping, when producers under investigation cannot clearly show that market economy conditions prevail in industry involved. • Requiring importing WTO members to use Chinese prices or costs in determining price comparability for antidumping, when producers show market economy conditions prevail. • Allowing use of alternate methodology for antidumping actions for 15 years after China's accession.[a] • Requiring WTO members to follow certain procedures when using alternate methodology in antidumping cases. • Revising its antidumping regulations and procedures prior to WTO accession, to fully implement antidumping agreement.
Price comparability in determining Chinese subsidies	• Allowing WTO members to use methodologies for identifying Chinese subsidies that are not based on prevailing terms and conditions in China. • Allowing use of alternate methodologies for determining subsidies without including a termination date. • Revising its countervailing duty regulations and procedures prior to accession, to fully implement China's obligations under the WTO Agreement on Subsidies and Countervailing Measures.

Topic	China committed to
Product-specific safeguard	• Allowing WTO members to withdraw concessions or limit imports when Chinese products are imported to WTO members and cause or threaten to cause market disruption. • Allowing WTO members to withdraw concessions or limit imports only for such time as is necessary to prevent or remedy market disruption. • Allowing China to suspend application of substantially equivalent concessions when a WTO member adopts a measure in response to (1) a relative increase in Chinese imports, and when the measure remains in effect for more than 2 years, or (2) an absolute increase in imports, when the measure remains in effect more than 3 years. • Allowing WTO members to withdraw concessions or otherwise limit Chinese imports if the application of the product-specific safeguard by another WTO member against China threatens to cause significant diversions of trade into the market of the other importing WTO member. • Terminating the product-specific safeguard on December 11, 2013, 12 years after China's accession to the WTO. • Requiring WTO members to follow various procedural requirements when invoking the product-specific safeguard against China. • Requiring WTO members to apply objective criteria in assessing whether actions taken against China to prevent or remedy market disruption cause or threaten to cause significant diversion of trade.
Transitional review mechanism	• Authorizing relevant WTO subsidiary bodies and General Council, within 1 year after China's WTO accession, and annually for 8 years, to review China's implementation of its WTO commitments. • Providing relevant information to each subsidiary body in conjunction with WTO subsidiary body review. • Allowing final review in the tenth year after China's accession or at an earlier date decided by General Council.

[a]The 15 year period can be shortened for particular members if China can show, under the national law of the importing WTO member, that it is a market economy or that market economy conditions prevail in a particular industry or sector.

Source: GAO analysis of China's WTO accession agreement.

China has made a substantial number of commitments in the safeguards and other trade remedies area, particularly with respect to the product-specific safeguard, the use of an alternate methodology for comparing prices in antidumping cases, the textile safeguard, and the transitional review mechanism. We classified several of the commitments in this area as "other," since they did not correspond to any of the other seven types of commitments we identified (see table 3). Among other things, these commitments describe how product-specific safeguard measures will be applied and set forth the details of the transitional review mechanism. For both the product-specific safeguard and the use of an alternate methodology in antidumping cases, WTO members also provided pledges to China about the procedures they will use when implementing this safeguard and trade remedy. These procedures primarily relate to due process and transparency protections that WTO members agreed to follow when invoking either against China. Finally, as part of the WTO's transitional review mechanism, annex 1A of the protocol lists 62 commitments relating to economic and trade policy information that China is to provide to various WTO committees. We assigned these commitments to other areas covered in this appendix, based on the information that is required to be provided.

Product-Specific and Textiles Safeguards

China's commitments in the product-specific and textiles safeguards topic exceed the general obligations in the WTO agreements and rules.[67] Although the WTO Safeguards and the Textiles and Clothing agreements do have safeguards that can be used to deal with surges in imports, they are not as strong as those included in China's accession agreement. Thus, both the WTO agreement on Safeguards and that on Textiles and Clothing establish a "serious injury" or "serious damage" text for determining whether a safeguard can be applied, whereas China's product-specific and textile safeguards provide for an injury threshold referred to as "market disruption," which is easier to establish. Further, although the WTO Safeguards agreement allows members to use safeguards when they are subjected to or threatened by injury from imports of a particular product, these safeguards cannot target specific countries and must be applied to the product irrespective of its source. To the contrary, both the product-specific and the textile safeguards in China's accession agreement can and generally are intended to target products from China. Finally, although China's product-specific and textile safeguards cannot be applied to the same product at the same time, either can be used to deal with surges in textiles and apparel. This is important, because while the textile safeguard cannot be used after December 31, 2008, the product-specific safeguard can be applied to surges in textile and apparel imports for nearly 5 more years, until December 11, 2013.

Price Comparability in Determining Chinese Dumping and Subsidies

China's commitments to permit the use of an alternate methodology in dumping and subsidies cases were provided to deal with WTO members' concerns, including those of the United States, that Chinese domestic prices, production, or other economic data would not accurately reflect dumping margins or subsidy benefits.[68] The use of these alternate

[67]Special safeguards and review provisions were included in the protocols of accession of Poland, Romania, and Hungary to the General Agreement on Tariffs and Trade.

[68]Article VI of the General Agreement on Tariffs and Trade generally describes a dumping margin as the calculated difference between the normal value of a product and the price at which it is being sold in the importing market.

methodologies or benchmarks essentially will allow for comparisons of prices and subsidy benefits in countries other than China. Nevertheless, there are some limitations on the use of these methodologies in dumping cases. First, should China establish, under the national law of an importing WTO member, that it is a market economy or that market conditions prevail in the industry or sector subject to a dumping investigation, the alternate methodology cannot be used. Second, members' ability to use this alternative methodology terminates in 15 years.

Although the authority for using the alternate methodology for calculating subsidies does not terminate, this alternative may not have much practical effect for the United States because, at least presently, the United States does not apply U.S. subsidy/countervailing duty law to nonmarket economies, including China. In this regard, U.S. courts have held that subsidies cannot fairly be identified or quantified in countries with nonmarket economies because the economies are controlled by the state.[69]

Transitional Review Mechanism

China's commitments regarding the establishment of a transitional review mechanism to monitor implementation of its WTO commitments appeared to be one of the more difficult issues to negotiate with China. The commitments require annual reviews, first by all 16 WTO subsidiary bodies and later by the WTO General Council, making use of the results of those of the subsidiary bodies.[70] Annex 1A of the protocol sets forth a broad range of information that China must provide to the 16 WTO subsidiary bodies for their reviews.[71] Furthermore, annex 1A indicates that China is to respond to specific questions from both the subsidiary bodies and the General Council in connection with their reviews. Annex 1B provides that the General Council reviews are not limited to a review of China's implementation of its WTO commitments but are to include issues dealing with (1) the development of China's trade with WTO members and other

[69]See *Georgetown Steel Corp. v. United States*, 801 F.2d 1308, 1316 (Fed. Cir. 1986).

[70]The subsidiary bodies are described as councils or committees and are generally organized according to the various trade subjects covered by the WTO agreements: for example, the Council for Trade in Goods, the Council for Trade in Services, and the Committees on Agriculture and Technical Barriers to Trade.

[71]This includes economic data and information on China's (1) economic policies, (2) framework for making and enforcing policies, (3) policies affecting trade in goods and services, and (4) trade-related intellectual property regime.

trading partners and (2) recent developments and cross-sectoral issues regarding China's trade regime.

The annual reviews of the WTO subsidiary bodies and General Council will require coordination between the various WTO subsidiary bodies, the General Council, and China. For example, the WTO subsidiary bodies will have to work out with China when information should be provided to them for their reviews. Although annex 1B requires China to submit information and documentation relating to the General Council's review no later than 30 days prior to its review date, there is no similar specific requirement for when information should be provided to the subsidiary bodies for their reviews. Finally, the commitments relating to the transitional review mechanism do not specifically indicate when the reviews will end. Although the review process is scheduled to conclude with a final review in the tenth year after China's accession, the General Council could decide to terminate it at any time after the eighth year.

Key Dates

Although the additional safeguards and trade remedies to which China committed were applicable upon China's accession to the WTO on December 11, 2001, most of them phase out over time, and some represent the longest phaseouts in China's accession agreement. Thus, as noted in table 24, the product-specific and textile safeguards terminate, respectively, 12 and approximately 7 years after China's accession; the ability to utilize an alternate methodology in antidumping cases terminates no later than 15 years after accession; and the transitional review mechanism, at most, 10 years after accession. Although not a strict phasein, the first review under the transitional review mechanism is to be done within 1 year after China's accession.

Table 24: Timetable for Selected Chinese WTO Commitments Relating to Safeguards and Other Trade Remedies

Date	Commitment
December 11, 2002	Requires review of China's implementation of its WTO commitments by WTO subsidiary bodies and General Council, under transitional review mechanism, within 1 year of China's accession to the WTO.
December 31, 2008	Phases out textile safeguard a little more than 7 years after China's accession and 4 years after termination of the WTO Agreement on Textiles and Clothing on January 1, 2005.
December 11, 2011	Requires annual reviews of China's implementation of its WTO commitments for 8 years, under transitional review mechanism, with a final review in the 10th year or at an earlier date decided by the General Council.
December 11, 2013	Phases out product-specific safeguard 12 years after China's accession.
December 11, 2016	Phases out use of alternate methodology for antidumping cases 15 years after China's accession.

Source: GAO analysis of China's WTO accession agreement.

Appendix V: GAO Contacts and Staff Acknowledgments

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Acknowledgments

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