

# THE AMERICAN CHAMBER OF COMMERCE IN HONG KONG

## Position Paper

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### A Commercially Acceptable China WTO Accession Agreement

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The American Chamber of Commerce in Hong Kong believes that a commercially acceptable China WTO accession agreement should provide the following:

- **Trading Rights and Distribution:** Except as allowed by WTO rules, China should within three years of accession grant unrestricted trading rights to all companies, whether foreign or domestic, and progressively phase-out the list of goods subject to designated trading. In addition, foreign companies should upon China's accession be allowed to establish without restriction warehouses, wholesale operations and distribution networks. Foreign companies should also enjoy without delay the ability to market, maintain and service their products without restriction.
- **Transparency:** US companies should have full and timely access to all Chinese laws and regulations governing the conduct of their businesses. Upon accession, China should immediately publish all laws and regulations affecting trade and investment, and make these materials available for commercial indexing. China should also pledge that these laws and regulations will be uniformly enforced.
- **Services:** China should open the markets for a wide range of services, including banking, insurance, accounting, telecommunications, legal and travel services. Upon accession, all employment requirements and restrictions for foreign services companies should be abolished. Under the agreement, China should also commit to the following actions within three years of accession: remove geographic, commercial and numerical restrictions on insurance, accounting, banking and law firms; permit foreign companies to provide basic and value-added telecommunications services; adopt open telecommunications standards; allow foreign banking firms access to local currency; and permit securities firms to engage in underwriting and asset management.
- **Tariffs:** China should commit to reduce trade weighted tariffs not exceeding twice the existing OECD average within five years of accession. At a minimum, average weighted tariff rates on both industrial and agricultural goods should be reduced steadily each year during this period. All products should be subject to bound rates and no products should be exempt from such tariff limits. The agreement should hold China to developed country standards for customs valuation.
- **Non-Tariff Measures:** China should eliminate quotas and other non-tariff measures some over phase-out periods, but most immediately upon accession. Non-tariff measures instituted after the 1992 market access memorandum with the US should be abolished upon accession. Safety standards should be openly and equally applied and consistently enforced.

- **Agriculture:** Non-tariff measures affecting agricultural products should be converted into tariffs within eight years of accession. China's trade monopolies for agricultural goods should also be dismantled during the same period. Domestic supports should comply with WTO requirements for developed countries and input and investment subsidies should not be exempted when calculating the overall level of support. In addition, China should upon accession abide by the WTO's "objective scientific" standard when imposing sanitary and phytosanitary measures.
- **Investment Policies:** China should identify and remove, within the WTO-mandated two years, trade-related investment measures, including export requirements, import restrictions, equity limits, localization requirements and equity limits. Internal guidelines, as well as formal industrial plans, should be considered when assessing WTO compliance. No industry should be granted "infant industry" status.
- **Intellectual Property Rights:** China's laws on intellectual property rights (IPR) meet most of the requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, but effective deterrence and access to judicial relief, both WTO requirements, have often been lacking. China should commit to ensuring that its IPR enforcement system complies with WTO standards in these areas.
- **Safeguards:** China's accession agreement should include a general safeguard that would allow the suspension of WTO benefits if China does not abide by the commitments set out in the agreement.
- **Subsidies:** The WTO provides developing countries generous phase-in periods for the removal of subsidies including loans, grants, loan guarantees, tax incentives and government purchases. China claims that that it grants no subsidies, but instead uses the banking system to finance state-owned companies. China's protocol should address in some manner the various means that violate both the letter and spirit of the WTO agreement on subsidies, used to support state-owned companies in China.