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To ensure adequate monitoring of the commitments made by the People's Republic of China in its accession to the World Trade Organization and to create new procedures to ensure compliance with those commitments.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 29, 2000

Mr. BAUCUS (for himself, Mr. MURKOWSKI, Mr. BINGAMAN, Mr. AKAKA, Mr. WYDEN, and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To ensure adequate monitoring of the commitments made by the People's Republic of China in its accession to the World Trade Organization and to create new procedures to ensure compliance with those commitments.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “China-World Trade
5 Organization Compliance Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) On November 15, 1999, the United States
2 Trade Representative announced the completion of a
3 bilateral agreement with the People's Republic of
4 China regarding accession of the People's Republic
5 of China to the World Trade Organization.

6 (2) Congress must grant the People's Republic
7 of China permanent normal trade relations status in
8 order for the United States to receive all the benefits
9 of China's accession to the World Trade Organiza-
10 tion.

11 (3) The People's Republic of China has been a
12 centrally planned, nonmarket economy since its
13 founding in 1949.

14 (4) In 1978, the People's Republic of China ini-
15 tiated the first in a series of economic reforms and
16 has made some meaningful and desirable progress in
17 opening up its economy to imports, exports, and in-
18 vestment.

19 (5) Granting permanent normal trade relations
20 to China would help cement the economic reforms
21 that have taken place thus far and would help those
22 Chinese leaders who are committed to economic re-
23 form to institutionalize these reforms.

24 (6) Despite these reforms, the People's Repub-
25 lic of China is still largely a nonmarket economy and

1 the People's Republic of China is still a long way
2 from meeting international standards of trans-
3 parency, legal accountability, reliability of statistics,
4 and uniform application of law.

5 (7) The viability and credibility of the World
6 Trade Organization and the health of the world
7 trading system require that the People's Republic of
8 China adheres fully to the bilateral and multilateral
9 commitments it makes during the accession process.

10 (8) Current trade monitoring and enforcement
11 mechanisms within the United States Government
12 and within the World Trade Organization are not
13 designed to take account of the unique Chinese eco-
14 nomic structure.

15 (9) The General Accounting Office has reported
16 that even simple recordkeeping of agreements in var-
17 ious executive agencies is inadequate and incomplete.

18 (10) It is necessary to establish new mecha-
19 nisms, both within the executive branch and within
20 Congress, to ensure adequate and continual moni-
21 toring and enforcement of China's commitments at
22 the World Trade Organization.

23 (11) The opaque features of the Chinese econ-
24 omy, the nonuniform implementation of Chinese
25 Government economic policies, the decentralized na-

1 ture of Chinese Government economic management,
2 and the new nature of Chinese Government commit-
3 ments under the World Trade Organization, make it
4 necessary to create a comprehensive, multiagency ef-
5 fort to monitor China's compliance with its commit-
6 ments.

7 (12) Various Federal agencies should be tasked
8 with different aspects of monitoring China's compli-
9 ance with its commitments.

10 **SEC. 3. MONITORING.**

11 (a) PLAN.—

12 (1) IN GENERAL.—Not later than 90 days after
13 the date that the People's Republic of China accedes
14 to the World Trade Organization, the President
15 shall submit a detailed plan to Congress for moni-
16 toring the People's Republic of China's compliance
17 with the commitments it makes as part of that ac-
18 cession.

19 (2) CONTENT OF PLAN.—The plan described in
20 paragraph (1) shall—

21 (A) include specific assignments to Federal
22 agencies with respect to monitoring China's
23 compliance; and

1 (B) provide for a mechanism to assure
2 public participation in evaluating China's com-
3 pliance with its commitments.

4 (3) ESTIMATE OF COSTS FOR MONITORING AC-
5 TIVITIES.—The President shall submit to Congress,
6 as part of the plan described in paragraph (1), an
7 estimate of the cost for conducting the monitoring
8 activities required under this Act.

9 (4) ANNUAL UPDATES.—The President shall
10 annually submit to Congress an updated and revised
11 plan as part of the President's report to Congress
12 described in section 4.

13 (b) GAO SURVEY AND REPORT.—

14 (1) IN GENERAL.—In order to determine the
15 degree to which the People's Republic of China is
16 complying with its World Trade Organization com-
17 mitments and to obtain information about any prob-
18 lems encountered by United States businesses, the
19 Comptroller General of the United States shall sur-
20 vey annually the 50 United States companies doing
21 the most business with the People's Republic of
22 China in each of the following categories:

23 (A) Exporting nonagricultural goods.

24 (B) Exporting agricultural goods.

25 (C) Exporting or providing services.

1 (D) Investing.

2 (E) Importing goods.

3 (2) REPORT.—The Comptroller General shall
4 submit a report to Congress on the results of the
5 survey described in paragraph (1).

6 (c) REPORT BY ITC.—The International Trade Com-
7 mission shall report annually to Congress on United
8 States-China bilateral export and import statistics, includ-
9 ing, to the extent practicable, reconciling any differences
10 in United States-source and Chinese-source data.

11 **SEC. 4. REPORT ON COMPLIANCE.**

12 (a) IN GENERAL.—Not later than 1 year after the
13 People’s Republic of China accedes to the World Trade
14 Organization, and annually thereafter, the United States
15 Trade Representative shall submit a report to Congress
16 on China’s compliance with its commitments made in con-
17 nection with its accession to the World Trade Organiza-
18 tion, including both multilateral commitments and any bi-
19 lateral commitments made to the United States.

20 (b) PUBLIC PARTICIPATION.—In preparing the re-
21 port described in subsection (a), the United States Trade
22 Representative shall seek public participation by pub-
23 lishing a notice in the Federal Register and holding a pub-
24 lic hearing.

1 (c) CONTENT.—The report described in subsection
2 (a) shall include the results of monitoring China’s compli-
3 ance, and the specific conclusions reached by each Federal
4 agency assigned responsibility for monitoring.

5 **SEC. 5. ACTION BY COMMITTEES.**

6 (a) SECTION 301 ACTION.—

7 (1) IN GENERAL.—Notwithstanding any other
8 provision of law, the Committee on Finance of the
9 Senate and the Committee on Ways and Means of
10 the House of Representatives, after considering the
11 report described in section 4 and holding hearings
12 on the report—

13 (A) may, by majority vote of either com-
14 mittee, instruct the United States Trade Rep-
15 resentative to take appropriate action pursuant
16 to title III of the Trade Act of 1974 (19 U.S.C.
17 2411 et seq.), after initiating an investigation
18 under section 301 of such Act to determine
19 under section 304(a)(1) of such Act if—

20 (i) the rights of the United States
21 under any trade agreement are being de-
22 nied; or

23 (ii) an act, policy, or practice of the
24 People’s Republic of China—

1 (I) violates, or is inconsistent
2 with, the provisions of, or otherwise
3 denies benefits to the United States
4 under, any trade agreement; or

5 (II) is unjustifiable and burdens
6 or restricts United States commerce;
7 or

8 (B) may, by majority vote of both commit-
9 tees, instruct the United States Trade Rep-
10 resentative to initiate action before the Dispute
11 Settlement Body (as defined in section 121(5)
12 of the Uruguay Round Agreements Act).

13 (2) ADVERSE INFERENCE.—Section 304(a) of
14 the Trade Act of 1974 (19 U.S.C. 2414(a)) is
15 amended by adding at the end the following new
16 paragraph:

17 “(5) If the foreign country against which an in-
18 vestigation is initiated under this chapter fails or re-
19 fuses to cooperate in the investigation, the Trade
20 Representative may draw an inference adverse to the
21 interests of the country for purposes of making an
22 affirmative determination under paragraph (1).”.

23 (b) INITIATION OF OTHER ACTION.—

24 (1) IN GENERAL.—Upon completion of an in-
25 vestigation described in subsection (a)(1)(B), if the

1 United States Trade Representative determines that
2 an act, policy, or practice of the People's Republic
3 of China) violates, or is inconsistent with, the provi-
4 sions of, or otherwise denies benefits to the United
5 States under, any trade agreement (including the
6 commitments made by the People's Republic of
7 China as part of its accession to the World Trade
8 Organization), the United States Trade Representa-
9 tive shall initiate an action before the Dispute Set-
10 tlement Body of the World Trade Organization, un-
11 less there exists another, more effective action.

12 (2) CONSULTATION WITH CONGRESS.—Before
13 taking the action described in paragraph (1), the
14 United States Trade Representative shall consult
15 with Congress and provide Congress with the rea-
16 sons for taking or not taking an action.

17 **SEC. 6. SPECIAL WORLD TRADE ORGANIZATION REVIEW OF**
18 **CHINA.**

19 (a) IN GENERAL.—It is the sense of Congress that
20 there should be a special multilateral process at the World
21 Trade Organization for conducting an annual review of
22 the People's Republic of China's compliance with the com-
23 mitments it makes as part of its accession to the World
24 Trade Organization.

1 (b) USTR TO PROPOSE EXPANDED WTO RE-
2 VIEW.—The United States Trade Representative is di-
3 rected to propose that—

4 (1) as part of the Trade Policy Review Mecha-
5 nism of the World Trade Organization, a thorough
6 review of China’s trade policies be conducted each
7 year;

8 (2) the Trade Policy Review Mechanism be sig-
9 nificantly enhanced and expanded in connection with
10 the review of the People’s Republic of China; and

11 (3) the Trade Policy Review Mechanism of the
12 People’s Republic of China include onsite visits and
13 active participation by representatives of World
14 Trade Organization members.

15 **SEC. 7. INSTITUTION-BUILDING IN CHINA.**

16 (a) IN GENERAL.—Not later than 90 days after the
17 People’s Republic of China accedes to the World Trade
18 Organization, the President shall submit to Congress a
19 plan for providing assistance to China to build the institu-
20 tions necessary to carry out the obligations China has
21 made as part of its accession to the World Trade Organi-
22 zation. The plan shall include personnel and budget re-
23 quirements needed to provide assistance.

24 (b) MECHANISMS FOR PROVIDING ASSISTANCE.—It
25 is the sense of Congress that the United States should

1 provide the assistance described in subsection (a)
2 through—

3 (1) bilateral mechanisms; including nongovern-
4 mental organizations under contract to the Federal
5 Government;

6 (2) if appropriate, multilateral mechanisms
7 through the auspices of the World Trade Organiza-
8 tion; and

9 (3) because United States businesses will be a
10 primary beneficiary of China's compliance, cost-shar-
11 ing and other cooperative measures with the private
12 sector.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to carry out the provi-
15 sions of this section, the lesser of—

16 (1) \$5,000,000 for each fiscal year; or

17 (2) an amount equal to one-tenth of one per-
18 cent of the dollar value of the goods and services ex-
19 ported to the People's Republic of China during the
20 fiscal year preceding the fiscal year for which the
21 appropriation is made.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out the provisions of this
4 Act other than section 7.

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