
The 1999 US-China Bilateral Agreement and the Battle for PNTR

Making Trade Policy

On December 11, 2001, China became a member of the World Trade Organization (WTO), a move that would thrust new challenges on the Chinese leadership and people and fundamentally redefine China's relations with the rest of the world—especially the United States. This case describes the prolonged US-China bilateral negotiations over China's WTO accession and the subsequent debate and vote in the US Congress to permanently establish normal trade relations with China. Written from an American perspective, the case presents material that is useful for a discussion of such issues as (1) the problems inherent in conducting trade negotiations under the US system of government; (2) the role of trade policy in advancing America's economic interests; (3) the role trade agreements can and should play in promoting human rights, enhancing domestic reform, encouraging the rule of law, and promoting national security; (4) the costs and benefits of WTO membership; and (5) the nature of the WTO accession process.

In order to join the WTO, China had to negotiate not only a multilateral agreement with all the member countries as a group but also bilateral

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agreements with as many members as requested one. On November 15, 1999, China and the United States signed a bilateral agreement on market access that, many say, paved the way to China's WTO entry. China's commitments included pledges to cut tariffs, to remove trade barriers on US agricultural and industrial products and services, and to eliminate a number of restrictions on foreign investment.

By supporting China's WTO accession, the United States was essentially agreeing that China should receive all the rights of WTO membership. Such a decision was not made lightly, especially given the special challenge that China's application presented to the United States. The central principle of the WTO is nondiscrimination. For example, Article I of the General Agreement on Tariffs and Trade (GATT) requires that imports from all WTO members be subject to the same tariffs without conditions—so-called most favored nation (MFN) treatment. Even though China was not a WTO member, the United States had granted China MFN status since 1979. However, US law required Congress each year to affirm China's MFN status in a vote that entailed scrutiny on China's performance in upholding human rights. In order to support Chinese accession, the United States had to commit to nondiscriminatory treatment by agreeing to make China's MFN status permanent—known as permanent normal trade relations, or PNTR—and thereby giving up the right to annual reviews.

To understand how the United States and China behaved throughout these events, it is useful to reflect on the interests and concerns each side had about China's WTO accession. These considerations also help to explain why the bilateral agreement took the form that it did and why the PNTR vote was considered a landmark event.

Underlying Interests and Concerns

US Interests

The United States has major economic and political interests in how China develops. China is an important US supplier and also provides a large market for American goods, services, and investment—a market that is likely to become even larger. China's decisions about how to relate to the rest of the world will also have a significant impact on the global economy. Specifically, because China is a large and important economy, its membership in the WTO could affect the direction in which the WTO evolves.

China is the world's most populous nation and, as a result of sustained economic reform and international engagement, over the past two decades it has grown more rapidly than any other developing country. US trade with China has surged as a result. Domestically, however, China's political evolution has not matched its economic growth. The country re-

mains under the control of the Communist Party, and its administrative system generally reflects the rule of Party bureaucrats rather than the rule of law. Neither human rights nor property rights are firmly protected, making it very difficult for US firms to operate there; US unions in particular have complained about having to compete with workers on unfair terms.

China, as a nuclear power and a potentially dominant nation in the Pacific, is also a key player in global politics and security issues. China's relationship with Taiwan presents one of the most contentious issues in international relations and has led many Americans to view China as a rival. Over time, Chinese power is likely to grow, and the way it wields this power will be largely determined by how its economy and political system continue to change.

Chinese Interests

China sought WTO membership for several reasons. Participation in the WTO was an important step in China's quest to gain influence on the global scene generally, and China's growing exports would benefit from a system based on rules. The forum that the WTO provides for negotiating international liberalization could help China both to reduce barriers to its exports and to leverage its large domestic market to obtain concessions from its trading partners. As a participant in WTO negotiations, China could work to make the rules of global trade reflect its own interests more closely. Although China's Party-dominated economic system and low wages would expose it to frequent challenges as an unfair trader, its large domestic market would give it bargaining power in bilateral relationships.

China also had specific reasons to seek US approval for its WTO entry. Because the WTO generally functions by consensus, and because members are particularly deferential to the Quad countries (the European Union, the United States, Japan, and Canada), United States could have blocked Chinese accession. Alternatively, the United States could have permitted China to join, but invoked its right under GATT Article XXXV (Non-application of the Agreement Between Particular Contracting Parties) not to extend it benefits. Such a decision would have made WTO membership less useful to China, since the leadership was particularly interested in ending the annual US renewal of MFN status. Though the effectiveness of the MFN review in reducing human rights violations in China is debatable, the votes in Congress and the reviews of China's human rights record in the international press undoubtedly demanded the constant attention of Chinese officials. The votes also created an element of uncertainty regarding access to Chinese markets and discouraged investors who required such access in order to be profitable.

Domestic Chinese Reform

Entering the WTO has important implications for Chinese domestic reform. China had earlier taken several steps toward introducing a market system to its economy, but the enterprises that played a leading role in these reforms were generally owned by foreign investors and local Chinese governments rather than by private Chinese entrepreneurs. The prospect of WTO membership strengthened the hand of those seeking to hasten China's development toward a market economy, for China could join the organization (and thus gain the benefits of accession) only if it first undertook a number of domestic reforms. WTO entry has enabled China's leadership to make a more credible commitment to creating a system that more fully recognizes private enterprise. In addition, it has mobilized domestic firms to become more competitive through restructuring, acquiring new technologies, and undertaking new alliances and mergers with both domestic and foreign firms.

The requirements of WTO entry forced Chinese policymakers to confront the difficult political issues involved in reforming domestic banking institutions, subjecting state-owned enterprises to hard budget constraints, and allowing private firms to freely engage in international trade. The accession process also served to promote better Chinese governance, because the WTO requires policies to be transparent and enforced by rules rather than at a bureaucrat's discretion. Moreover, the WTO requirement of nondiscrimination (i.e., national treatment) for imported goods and services will have significant internal consequences. China remains a country with considerable domestic barriers and strong provincial governments; if provinces are forced to provide national treatment for imported goods and services, they will find it harder to discriminate against goods from other provinces.

Many of these reforms are changes that China might have chosen to embrace of its own accord, but entry into the WTO will advance their implementation. However, WTO membership also creates political and economic risks both domestically and internationally. At home, nationalists may argue that because the reforms are being imposed from outside, the Chinese people should reject them. Abroad, China exposes itself to scrutiny and challenge in the WTO dispute settlement system as it undertakes binding obligations.

China's Entry into the WTO and US Economic Interests in China

Historically, US firms operating in the Chinese market have faced many problems. In addition to dealing with formal border barriers, they must surmount the challenges of engaging with an economy in which market

forces are not always in play and property rights are not always secure. The hurdles include extensive and discriminatory bureaucratic intervention, restrictions on foreign investment, interventionist industrial policies, the need to compete with state-owned enterprises that are not subject to hard budget constraints, and the need to undertake trade through designated trading agents. While China's entry into the WTO will not eliminate these problems, it promises to ameliorate them, making the Chinese market more penetrable and offering more recourse when US interests are treated unfairly.

China's Entry and the Broader Political Relationship Between China and the United States

The question of whether to support China's bid to join the international trading system was long debated in the United States. Though no one can be sure how China will develop, President Clinton and many others held that accession to the WTO would reinforce its domestic political and economic reforms. Nonetheless, prominent figures on both the political left and right showed considerable reluctance to support the economic engagement with China that WTO membership would entail. On the left, the central issue related to human rights violations. Unions in particular were concerned about competing against Chinese workers who had low wages, poor working conditions, and limited rights. Political groups objected to the country's human rights violations and believed that the annual scrutiny from the MFN vote was the best way to maintain pressure on the Chinese to improve their record. On the political right, concerns about national security—and specifically to the fate of Taiwan—were at the forefront.

The above considerations suggest why US negotiators found it necessary to be particularly demanding in establishing conditions for Chinese entry into the WTO in the November 1999 bilateral agreement and provide the background for a discussion of its framework.

Developing Countries

Given its interests in enhancing domestic reform in China, opening the Chinese market to US products and investment, and mitigating any weakening of WTO rules, the United States refused to provide China with the lenient or special and differential treatment that was offered to smaller, less economically significant developing countries. Instead, it insisted that Chinese entry must be "on commercial terms." The US government feared that if China entered the WTO without committing to considerable reform, it might undermine the trading system. WTO members could per-

haps turn a blind eye to lax entry terms for a small country but not to China—it was too large a player. In addition, the terms of Chinese accession would surely become the model for other significant potential members that were waiting in the wings, such as Russia and Vietnam.

The United States also had domestic concerns in mind. US firms faced many problems when trying to sell products and services in China—problems that could be resolved only if China began to operate in a significantly different way. In this respect, US demands coincided with the goals of China’s domestic reformers, thereby helping them make the case for major policy changes.

Coverage and Depth

The 1999 US-China bilateral agreement was comprehensive, covering all goods (including agriculture), services, and foreign investment. Its scope and depth were driven both by US objectives and by the objectives of Chinese reformers. China pledged to eliminate or enlarge quotas and reduce tariffs, particularly in sectors that were US priorities, and made additional commitments related to domestic markets. China’s concessions in services were considerable: Foreign investment was extensively liberalized for a number of service industries—notably, telecommunications, insurance, banking, and tourism. China would implement the WTO’s Agreement on Trade-Related Investment Measures (TRIMs) and would no longer make permission to invest contingent on performance requirements. Restrictions on foreign participation in the distribution sector would be phased out within three years.

Winners and Losers

WTO membership has the potential to change the distribution of wealth and power in China. Trade liberalization will certainly have an impact on income—typically benefiting those associated with export activities and imposing costs on those competing with imports. Chinese producers in domestic agriculture and financial services are particularly worried about the effects of WTO membership. Workers in state-owned enterprises may also lose jobs when industry subsidies are withdrawn as part of domestic market reforms. WTO membership may also affect the balance of power between the central and provincial governments, reformers and conservatives, private entrepreneurs and state enterprise employees.

The distribution of power within the WTO itself may also change. After all, WTO members participate in the system on the basis of reciprocal concessions, and China’s large domestic market gives it a great deal of bargaining power as it seeks to advance its interests in export markets. And

since the MFN principle applies in the WTO, any benefits the Chinese are able to obtain in labor-intensive products must automatically be provided to other member countries that export such products. For example, if China is able to obtain lower tariffs on its textile exports to developed countries, all other producers of textiles will benefit. Moreover, China's WTO accession could change the regional balance of power. If WTO membership makes China a more competitive location for production and investment, its gains may come at the expense of other Asian developing countries.

China's accession has affected power relationships among political groups in the United States as well—especially in the wake of the vote to give China PNTR. The annual vote on China's MFN status provided human rights activists with opportunities to advance their cause. The vote also gave those who opposed trade with China, and those who were undecided, an opening to use the threat of a negative vote to obtain concessions from the administration on other issues.

Governance

The WTO requires members to administer their trade rules transparently: In accordance with GATT Article X, all trade rules must be published and independent judicial tribunals must be available to review administrative actions. The WTO also requires its members to implement legal regimes that enforce intellectual property rights (through the Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS). Accession will therefore force the Chinese government to make significant changes in administration and governance, increasing the use of rules-based systems. WTO members will monitor China's progress. Failure to implement the necessary policies could result in international challenges.

Enforcement

In the early 1990s, the United States threatened to impose sanctions on China as a way of pressuring Party leaders to enforce intellectual property protection. Now that China has joined the WTO, the United States can no longer make such threats: It is obligated to use the WTO's dispute settlement procedures. Some believe that without the ability to impose sanctions, the United States will have a tougher time enforcing trade agreements with China. On the other hand, if the United States is able to win cases at the WTO, the subsequent multilateral pressure on China to conform may be more effective than bilateral threats. For its part, China will be able to defend itself in a multilateral setting and to pursue its own

grievances at the WTO. Indeed, it was China that acted first in a bilateral dispute, bringing a case against US steel tariffs in 2002. As a country with a large market, China will also be able to use the prospect of suspending concessions to increase the compliance of other WTO members.

From an American standpoint, the 1999 US-China agreement was a remarkable success, with Chinese concessions going much further than most observers had hoped or expected. The Chinese agreed to liberalize their market, while the United States was required simply to enforce the status quo, giving up only the right to suspend MFN treatment. Yet despite the advantages of the agreement, passage of PNTR was highly controversial; almost two-thirds of the Democratic party and most American trade unions were strongly opposed to it. One reason the Clinton administration was so firm in its demands in the bilateral negotiations with China was that only a very good agreement was worth the very high political cost that the president knew he would have to pay. In the end, the US success in obtaining such a far-reaching agreement does not necessarily imply that China “lost” in the negotiations. Because the Chinese leadership was able to use the terms of the agreement to strengthen its reform agenda, they may in fact have been the bigger winners.

CASE STUDY: The Eagle and the Dragon—The 1999 US-China Bilateral Agreement and the Battle for PNTR

President Clinton was in the shower when US National Security Adviser Sandy Berger told him who was on the phone. The president took the call. United States Trade Representative (USTR) Charlene Barshefsky and National Economic Adviser Gene Sperling were standing in a ladies’ bathroom at the Chinese Trade Ministry in Beijing. “Mr. President,” Barshefsky exclaimed, “it’s done.”

On November 15, 1999, after six days of high-stakes negotiations, China and the United States signed a bilateral market access agreement. According to many observers, it was this agreement that paved the way to China’s entry into the World Trade Organization. In the deal, China agreed to cut tariffs, remove trade barriers on agricultural and industrial products and services, eliminate a number of restrictions on foreign investment, and allow the United States to guard against import surges that could hurt certain domestic industries. Some predicted that the agreement would become a key element in Clinton’s presidential legacy.

However, the bilateral agreement was not the final step in the process. While the president had the authority to support China’s WTO membership, it was Congress that would decide whether to grant China PNTR with the United States. Previously, China’s most favored nation trade status had faced an annual renewal that often became a focal point in

Congress for protests over human rights issues, security concerns, and the growing US trade deficit with China.¹ As a presidential candidate, Bill Clinton had campaigned on making China's trade status conditional on improvements in its human rights record, criticizing George H. W. Bush for "coddling" the Chinese. After opposition from the business community—and seeming indifference from the international community—Clinton backed away from this policy. Ultimately, following a heated fight, the House of Representatives voted to grant China PNTR in May 2000. PNTR was passed by the Senate in September and signed into law in October, during the last months of Clinton's presidency.

The US-China bilateral agreement and the fight for PNTR were not short on drama or strange bedfellows. Negotiations over the November 1999 bilateral deal were often all-night affairs. During the last round of talks in Beijing, USTR Barshefsky sent her luggage to the airport three times to indicate her readiness to walk away. The fight on Capitol Hill for PNTR was of historic proportions—one observer remarked that "The colossal lobbying battle over China's trade status will be studied by political science classes for years to come."² Republicans who had led the charge to impeach the president now found themselves working to advance Clinton's goals. Business interests spent record-setting amounts lobbying for the legislation. Labor and consumer groups, invigorated after their forceful and well-publicized protests in November 1999 at the Seattle WTO ministerial, vehemently opposed PNTR. In the end, three out of four Republicans voted for PNTR while two out of three Democrats opposed it. Yet a number of observers say that considerable credit for PNTR's passage belongs to a pro-labor Democrat who had voted against the North American Free Trade Agreement (NAFTA)—Representative Sander "Sandy" Levin (D-MI).

China and the GATT

China was an original signatory of the General Agreement on Tariffs and Trade (1947), the predecessor to the WTO,³ but its domestic political upheaval led to an unusual withdrawal. When Mao Zedong's Chinese Communist Party defeated Chiang Kai-shek's Nationalist Party in 1949, the People's Republic of China (PRC) was born and the remains of Chiang's Nationalist government fled to Taiwan. In March 1950, UN Secretary-

1. The US trade deficit with China rose from \$6 billion in 1989 to nearly \$84 billion in 2000 (see table 6.1).

2. Paul Magnusson, "The Battle over China—China Trade: Will Clinton Pull It Off?" *Business Week*, May 29, 2000, 74.

3. There were 23 original contracting parties to the GATT.

General Trygve Lie received a cable from Nationalist government officials in Taiwan indicating that “China” was withdrawing from the GATT. The withdrawal took effect a few months later. The mainland Communists refused to recognize the Nationalists’ action and contested its validity.⁴ The disagreement centered on the charged question of whether there was one China or two. Regardless, mainland China (hereafter called simply “China” or “the PRC”) would not play a role in GATT affairs for years to come (see Bhala 2000, Wang 1995).

Economic relations between the PRC and the United States effectively ended when the United States imposed an embargo on trade with China in 1950 at the start of the Korean War. In 1951, under the Trade Agreements Extension Act, President Harry Truman suspended the MFN tariff status not just of China but of all countries in the then Sino-Soviet bloc.

In 1965, the Nationalist government of Taiwan was accorded observer status in the GATT—a status withdrawn in 1971 after the United Nations recognized the Communist government of the PRC as the sole legal Chinese representative in the United Nations in UN General Assembly Resolution 2758 (XXVI). Though the PRC became a full member of the General Assembly, the Chinese government did not seek to reenter the GATT. Observers cite various reasons for this decision, including China’s Cultural Revolution of 1966–76, its isolation from the rest of the world, and the Chinese government’s insistence (contrary to GATT principles) on controlling foreign trade. Foreign trade was also only a small part of the PRC’s economy, for its guiding principle was self-reliance.

In 1980, China joined the International Monetary Fund (IMF) and the World Bank. It also applied for nonvoting observer status at the GATT, a request that was granted in 1982.⁵ These moves coincided with Deng Xiaoping’s economic reforms (which began in 1978), designed to jump-start China’s economy. The reforms profoundly changed China’s relationship with the outside world. Merchandise exports grew from \$11 billion in 1978 to \$24 billion in 1984, reaching \$154 billion by 1996 (Kennedy and Marquis 1998, 9).

Trade relations between the PRC and the United States were formally restored in the 1979 US-China Trade Agreement. The 1979 agreement—which entered into force in 1980—provided mutual MFN trading status, significantly lowering tariffs on traded goods.⁶ That status was not permanent,

4. According to the Communists, the Nationalists could not speak for the Chinese government because they did not control the mainland.

5. In 1983, China participated in negotiations as an observer and became a signatory to the GATT Multi-Fiber Arrangement (MFA).

6. MFN was not the lowest tariff status possible; some developing countries had even lower rates under the Generalized System of Preferences (GSP). The trade agreement with China would be renewed every three years.

however. Instead, as a nonmarket economy, China was subject to an annual review under section 402 of the Trade Act of 1974, the so-called Jackson-Vanik amendment.⁷ Each year on July 3, the US president had to waive Jackson-Vanik in order to renew China's MFN status. The president's renewal would go through automatically unless Congress voted to reject it.⁸

Accession Negotiations Begin . . . and Stall

In 1986, China requested the restoration of its status as a full contracting party to the GATT, arguing that the Beijing government had never agreed to China's withdrawal (Jackson and Rhodes 1999, 498; see also Yang and Cheng 2001, 299–302). Rejoining the GATT would assure China of lower tariffs for its goods when trading with GATT members. Entry would also eliminate other trade barriers China faced, such as quantity restrictions. Overall, the World Bank estimated that by acceding to the GATT, China would increase its exports by 38 percent (Bhala 2000, 1480). With the approval of the US Congress, accession would also mean the end of the US annual review of China's MFN status. In short, GATT membership would garner China all the benefits of belonging to the principal international trade organization.

But the path to that goal was not easy. The GATT accession process had both multilateral and bilateral levels (for more information on the process, see WTO 1995). As an applicant nation, China had to negotiate a *multilateral* Protocol of Accession with all interested members to establish the terms and conditions of GATT entry. To this end, a working party on "China's Status as a Contracting Party" was created in 1987.⁹ The first phase of the process required China to submit a memorandum on its trade regime for review by the working party, followed by negotiations on how and when China would revise policies that did not meet minimum GATT standards. Many issues needed to be discussed, including tariffs, market access, transparency of trade laws, and subsidies to state-owned enterprises. In addition, because decisions at the GATT were made by consensus, the opposition of one country could block the working party from concluding its task.

As part of the accession process, each GATT applicant also negotiated *bilateral* market access agreements with members of the working party. Thirty-seven countries requested such negotiations with China, and any

7. Jackson-Vanik was designed to deny MFN status to countries with nonmarket economies—notably the Soviet Union, which did not freely allow emigration.

8. Congressional rejection of the extension was subject to presidential veto, which could be overturned only by a two-thirds majority in both the House and the Senate.

9. The working party met at least 20 times: in 1987, 1988 (five times), 1989, 1990, 1992 (three times), 1993 (three times), 1994 (four times), and 1995 (at least three times) (*GATT Activities* [1987–95]).

commitments made by China would apply equally to all GATT members under nondiscrimination rules. In other words, the bilateral talks determined the benefits members could expect when China joined the GATT.

By the end of 1988, the working party had completed the initial phase of exploring China's trade regime and expected to begin considering possible terms of a Protocol of Accession in 1989.¹⁰ But in June 1989, tanks and army soldiers opened fire on unarmed students and other protesters in Tiananmen Square, killing hundreds and leading the United States to withdraw its support for China's accession to the GATT (Ross 1996, 22). Other GATT members were worried about the slowdown of China's economic reform. Citing "political and economic upheaval in China in the early summer," which "led participants to conclude that no useful work could be done at that stage," the GATT Working Party on China canceled its June 1989 meeting. Concerns about China's economy were also voiced at a meeting in December at which members of the working party "were anxious to clarify whether [China's] recent cutbacks in imports and slowdown in the pace of reform were a short-term reaction to an overheated economy or represented a more permanent change of approach."¹¹ The working party met again in September 1990—and then not until a year and a half later, in February 1992.¹²

Taiwan's 1990 bid to join the GATT heightened the controversy. China, which has never swerved from its policy favoring reunification with Taiwan, demanded that the island not enter the GATT until its own application was accepted. In 1992 the GATT established a working party to consider Taiwan's application as a "separate customs territory" under the name "Chinese Taipei."¹³ While China's and Taiwan's accession processes would continue independently, it was decided that China had to be accepted first.

In a final complication, attention sometimes was diverted from China's accession to the multilateral GATT Uruguay Round negotiations (1986–93)—especially when the talks broke down over agriculture at the end of 1990. "A lot of things go on hold while you're trying to complete a new global trade agreement," notes one negotiator. "Accessions tend to be one of them. So that contributed to the slowdown in China's WTO bid."

US-China Bilateral Trade Tensions

As discussions continued on the multilateral level, the issue of trade with China was becoming more contentious in the United States. From 1980—the year MFN status was restored after having been suspended in 1951—

10. *GATT Activities* (1988), 129.

11. *GATT Activities* (1989), 130, 131.

12. *GATT Activities* (1991), 132; *GATT Activities* (1992), 94.

13. *GATT Activities* (1992), 95–96.

until 1989, the annual renewal of China's trade status was relatively uncontroversial in the US Congress. However, Tiananmen Square caused many in Washington to advocate harsh economic sanctions against China. Some in Congress favored withdrawing China's MFN status altogether, or at least using the annual renewal as an opportunity to speak out against China's human rights abuses, use of prison labor, Taiwan policies, and weapons proliferation. Withdrawing MFN status would raise US tariffs on Chinese imports from an average of 8.4 percent to 47.5 percent.

Senate Majority Leader George Mitchell (D-ME) and Representative Nancy Pelosi (D-CA) led the charge on Capitol Hill to restrict China's MFN status during the presidency of George H. W. Bush. In 1990 and 1991, the House voted to set conditions on MFN status for China by overwhelming bipartisan majorities,¹⁴ but the Senate did not give these bills final approval. President Bush argued that retracting MFN status would be a setback for Chinese reformers. "If we withdrew MFN or imposed conditions that would make trade impossible, we would punish South China, in particular Guangdong Province, the very region where free-market reform and the challenge to central authority are the strongest," Bush said when he announced the extension of China's MFN status in 1991.¹⁵ Senate Majority Leader Mitchell criticized the president's comments as lacking "any moral or logical basis."¹⁶

Many in Congress also worried about the growing trade imbalance with China, which had ballooned from \$3.5 billion in 1988 to \$10.4 billion by 1990 (see table 6.1). Trade with China was changing—not just in volume, but also in composition. In 1980, the principal Chinese exports to the United States were crude oil and refined petroleum products. By the late 1980s and early 1990s, China's exports were largely composed of labor-intensive manufactures such as electronics, footwear, textiles, apparel, toys, and sporting goods (Sebenius and Hulse 2001a, 7).¹⁷ While the United States had a growing demand for these products, China did not have the same appetite for US goods.

Though President Bush refused to link human rights to MFN treatment, his administration did put pressure on the Chinese to reform their trade regime. Section 301 of the 1974 Trade Act allowed the president to take unilateral action against "unreasonable, unjustifiable, or discriminatory" practices by its trade partners. In 1991, the United States initiated a section 301 case against China over four unfair trading practices affecting US ex-

14. In the House, the 1990 bill (HR 4939) to put new human rights conditions on China's MFN status passed 384–30; the 1991 measure (HR 2212) to restrict the president's ability to renew MFN status for China in 1992 passed 313–112.

15. President George H. W. Bush, commencement address at Yale University, May 27, 1991.

16. Mitchell, quoted in *Congressional Quarterly Almanac* (1991), 14-E.

17. By 1997, approximately 87 percent of Chinese exports and 80 percent of Chinese imports consisted of manufactured goods (USITC 1999, 6).

Table 6.1 US merchandise trade with China, 1980–2003
(billions of dollars)

Year	US exports	US imports	US trade balance
1980	3.8	1.1	+2.7
1981	3.6	1.9	+1.7
1982	2.9	2.3	+0.6
1983	2.2	2.2	0.0
1984	3.0	3.1	-0.1
1985	3.9	3.9	0.0
1986	3.1	4.8	-1.7
1987	3.5	6.3	-2.8
1988	5.0	8.5	-3.5
1989	5.8	12.0	-6.2
1990	4.8	15.2	-10.4
1991	6.3	19.0	-12.7
1992	7.5	25.7	-18.2
1993	8.8	31.5	-22.8
1994	9.3	38.8	-29.5
1995	11.7	45.6	-33.9
1996	12.0	51.5	-39.5
1997	12.8	62.6	-49.8
1998	14.2	71.2	-57.0
1999	13.1	81.8	-68.7
2000	16.2	100.0	-83.8
2001	19.2	102.3	-83.1
2002	22.1	125.2	-103.1
2003	28.4	152.4	-124.0

Sources: US Department of Commerce, International Trade Administration, www.ita.doc.gov: US Total Exports to Individual Countries, 1997–2003; US Total Imports from Individual Countries, 1997–2003; US Exports by Country, 1985–2003; and US Imports by Country, 1985–2003.

ports, including tariff and nontariff barriers and a lack of transparency in Chinese trade rules.¹⁸ The case was the most sweeping market access investigation in USTR’s history. In August 1992, USTR determined that China had made insufficient progress and threatened to impose \$3.9 billion in trade sanctions—which would have been the highest amount ever levied in a section 301 case (Morrison 2001). In October 1992, China and the United States reached an agreement—the Memorandum of Under-

18. Specifically, the practices were (1) product- and sector-specific import prohibitions and quantitative restrictions, (2) restrictive import-licensing requirements, (3) technical barriers to trade such as testing and certification requirements, and (4) failure to publish laws, regulations, judicial decisions, and administrative rulings concerning requirements, restrictions, or prohibitions on imports affecting their sale and distribution in China (see USTR, *1992 Annual Report of the President of the United States on the Trade Agreements Program*, 56).

standing Between the Government of the People's Republic of China and the Government of the United States of America Concerning Market Access (hereafter referred to as the 1992 US-China Market Access MOU)—with China pledging to reduce a variety of trade barriers over the next five years. In return, the United States agreed to “staunchly support” the PRC's goal of becoming a GATT/WTO member (1992 US-China Market Access MOU, Article VIII).¹⁹

The Bush administration also put pressure on the Chinese in the area of intellectual property rights (IPR) violations, especially in the “piracy” of software, compact discs, and videos.²⁰ In the first visit to China by a US cabinet officer after Tiananmen Square, Secretary of State James Baker told government officials that misuse of American intellectual property stood with the sale of weapons of mass destruction to Iran and human rights abuses as one of three issues impeding better bilateral relations (Alford 1995, 113). In April 1991, China was named a “Priority Foreign Country” under Special 301 for failing to provide adequate protection to patents, trademarks, copyrights, and trade secrets.²¹ In May, USTR Carla Hills began an investigation and later warned that \$1.5 billion in trade sanctions would be imposed on Chinese products like clothing and electronics if an IPR agreement was not reached by January 1992. When China countered with plans to impose sanctions of its own, the Bush administration threatened to revoke China's MFN status and impede China's accession to the GATT (Sebenius and Hulse 2001a, 8). On January 17, 1992, China and the United States reached a deal: China agreed to significantly improve IPR protections on products such as computer software, agricultural chemicals, CDs, and pharmaceuticals and to join the Berne Convention on copyrights. The agreement reportedly brought about little real change, however.

In 1992, President Bush twice vetoed a conditional MFN bill passed by the House and Senate that linked trade with human rights. “There is no doubt in my mind that if we present China's leaders with an ultimatum on MFN, the result will be weakened ties to the West and further repression,” Bush wrote in a veto message.²² The Senate failed to override the presidential

19. 1992 US-China Market Access MOU, Article VIII, 2, “The US Government will staunchly support China's achievement of contracting party status to the GATT and will work constructively with the Chinese Government and other GATT contracting parties to reach agreement on an acceptable ‘Protocol’ and then China's rapid attainment of contracting party status.”

20. In his book *To Steal a Book Is an Elegant Offense*, William Alford (1995, 112) notes: “The Bush administration's professed concerns about interfering in China's internal affairs, which supposedly constrained it from pushing with vigor, either publicly or privately, for a peaceful resolution of the occupation of [Tiananmen] Square, simply did not carry over to intellectual property.”

21. On Special 301, see chapter 3.

22. Bush, quoted in his written presidential message to the House of Representatives, March 2, 1992.

vetoed (see table 6.2). In another development on the human rights front, in August 1992 the United States and China signed an MOU that committed China to cease exporting to the United States products made with prison labor (US law prohibits the importation of such goods). But debate continued over the MOU's implementation, focusing especially on visits by US customs officials to production facilities suspected of using forced labor.

As a presidential candidate, Bill Clinton was critical of the Bush policy of engagement with China. During his acceptance speech at the Democratic convention, Clinton declared that the United States needed a government that "does not coddle tyrants from Baghdad to Beijing"—a statement that would be repeated in the press for years to come. Clinton also noted in campaign speeches that "there is no more striking example of Mr. Bush's indifference toward democracy than his policy toward China" and criticized Bush for "signaling that we would do business as usual with those who murdered freedom in Tiananmen Square."²³ The Chinese government expressed "serious concern" at the possibility of Clinton's being elected to the White House.²⁴ In the lead-up to the election, Clinton continued to denounce Bush's stance on China's MFN status, endorsing legislation that would link China's MFN renewal to improvements in human rights, reductions of overseas arms sales, and fairer trade.

As president, Clinton followed through with his vision, issuing an executive order in May 1993 to make the renewal of China's MFN trade status in 1994 conditional on improvement in six areas, including human rights.²⁵ He was commended by Senator Mitchell and Representative Pelosi, who said that further congressional action would be unnecessary. Mitchell called Clinton's order "fair, reasonable, responsible."²⁶

Clinton's move was unpopular with many in the business community, however. As AT&T Chairman William Warwick told Secretary of State William Christopher, conditional MFN was "well-intentioned" but "in the view of American business interests is ill-conceived."²⁷ Before signing his

23. William J. Clinton, "American Foreign Policy and the Democratic Ideal," campaign speech, Pabst Theater, Milwaukee, WI, October 1, 1992; speech to the Los Angeles World Affairs Council, US Newswires, August 13, 1992.

24. Geoffrey Crothall, "MFN Worry If Clinton Wins," *South China Morning Post*, July 29, 1992, 11.

25. The five other areas were treatment of political prisoners, Tibet's heritage, emigration, international radio and television broadcasts in China, and the use of prison labor. See Executive Order 12850, "Conditions for Renewal of Most Favored Nation Status for the People's Republic of China in 1994," May 28, 1993.

26. Mitchell, quoted in "China's Trade Status Tied to Human Rights Record," *1993 Congressional Quarterly Almanac*, 184.

27. Warwick, quoted in Robert S. Greenberger and Kathy Chen, "China, US Head Toward Trade Collision—Beijing Refuses to be Railroaded by Washington over Human Rights," *The Asian Wall Street Journal*, March 14, 1994, 1. US businesses were not united on this issue; human rights concerns had already led some, such as Levi-Strauss and Timberland, to pull out of China.

Table 6.2 China MFN votes in Congress

Year	Vote	Republicans	Democrats	Independents	Total
House of Representatives					
1990	Conditions on China's MFN (HR 4939)				
	Yes	150	234	—	384
	No	19	11	—	30
1991	Conditional MFN for China in 1992 Conference Report (HR 2212)				
	Yes	151	257	1	409
	No	14	7	—	21
1992	Override veto of HR 2212				
	Yes	110	246	1	357
	No	51	10	—	61
	Conditional MFN for China in 1993 (HR 5318)				
	Yes	112	226	1	339
	No	47	15	—	62
	Override veto of HR 5318				
	Yes	102	242	1	345
	No	60	14	—	74
1993	Disapprove China MFN (HJ Res. 208; H Rept 103-167)				
	Yes	63	41	1	105
	No	108	210	—	318
1994	Disapprove China MFN (HJ Res. 373)				
	Yes	36	38	1	75
	No	141	215	—	356
	China MFN Executive Order Codification (HR 4590)				
	Yes	129	151	—	280
	No	44	107	1	152
1995	Disapprove China MFN/ Motion on table (HJ Res. 96)				
	Yes	178	143	—	321
	No	52	54	1	107
1997	Disapprove China MFN (HJ Res. 79)				
	Yes	79	93	1	173
	No	147	112	—	259
1998	Disapprove NTR status for China (HJ Res. 121)				
	Yes	78	87	1	166
	No	149	115	—	264
2000	PNTR for China (HR 4444)				
	Yes	164	73	—	237
	No	57	138	2	197
2000	Overturn decision to Extend PNTR (HJ Res. 103)				
	Yes	54	91	2	147
	No	164	117	—	281

(table continues next page)

Table 6.2 (continued)

Year	Vote	Republicans	Democrats	Total
Senate				
1991	Conditional MFN for China (HR 2212)			
	Yes	6	49	55
	No	37	7	44
1992	Conditional MFN for China/ Conference Report (HR 2212)			
	Yes	9	50	59
	No	34	5	39
	Override veto of HR 2212			
	Yes	9	51	60
	No	34	4	38
	Override veto of conditional MFN for China (HR 5318)			
	Yes	8	51	59
	No	35	5	40
2000	PNTR for China (HR 4444)			
	Yes	46	37	83
	No	8	7	15

— = 0

MFN = most favored nation status

NTR = normal trade relations

PNTR = permanent normal trade relations

Notes:

HR 4939 (1990): Passage of the bill to require the president to certify that the Chinese government is taking action to correct human rights violations before granting China MFN trade status in 1991.

HR 2212 (1991): Adoption of the conference report to allow the president to renew the extension of nondiscriminatory treatment for the products of China (MFN trading status) only if the Chinese government releases nonviolent Tiananmen Square demonstrators, does not sell missiles to Syria or Iran, and makes significant progress in human rights, its nuclear proliferation policy, and certain trade practices. A “nay” was a vote supporting the president’s position.

HR 5318 (1992): Conditional MFN for China in 1993: Bill to prohibit the president from waiving the Jackson-Vanik amendment to the 1974 Trade Act for Chinese state-owned enterprises in 1993 unless he certified that China had released and accounted for all prisoners from the Tiananmen Square demonstrations in 1989 and had made significant progress in resolving concerns over human rights violations, trade violations, and weapons nonproliferation. A “nay” was a vote supporting the president’s position.

HJ Res. 208—H Rept. 103-167 (1993): Disapprove China MFN: Joint resolution to disapprove President Clinton’s waiver of the Jackson-Vanik amendment to the 1974 Trade Act with respect to China for the period beginning July 3, 1993, through July 2, 1994.

HR 4590 (1994): China MFN Executive Order Codification: Substitute amendment to codify President Clinton’s May 26 executive order waiving the Jackson-Vanik amendment to the 1974 Trade Act and granting MFN status to China from July 1994 through July 1995, allowing Chinese products to enter the United States at the lowest available tariff rate.

HJ Res. 96 (1995): Disapprove China MFN: Wolf (R-VA), motion to table (kill) the joint resolution to disapprove President Clinton’s waiver of the Jackson-Vanik amendment to the 1974 trade act in order to grant MFN status to China for the period July 1995 through July 1996. A “yes” vote was a vote in support of the president’s position.

HJ Res. 79 (1997): Disapprove China MFN: Joint resolution disapproving of President Clinton’s decision to renew MFN status to China from July 3, 1997, to July 3, 1998. A “no” vote was a vote in support of the president’s position.

HJ Res. 121 (1998): Disapprove NTR status for China: Bill to deny president’s request to provide “normal trade relations” for items produced in China for the period July 1998 through July 1999.

HJ Res. 103 (2000): Overturn decision to extend PNTR: Disapprove the extension of the waiver authority contained in Section 402(c) of the Trade Act of 1974 with respect to the People’s Republic of China.

Source: *Congressional Quarterly Almanac* (various years).

executive order, Clinton had received a letter from 298 companies and 37 trade associations requesting him not to attach conditions to MFN status.²⁸ The business coalition against conditional MFN, which became known as “the new China lobby,” was described by trade experts as “perhaps the most formidable, pro-trade coalition ever sustained by US business on its own initiative” (Destler 1995, 234). Some administration officials, including Treasury Secretary Lloyd Bentsen, National Economic Council Chairman Robert Rubin, and Council of Economic Advisers Chair Laura Tyson also called for moderation with China. Nor did the international community rally to support Clinton’s executive order; the European Union and Japan had no plans to link trade with human rights. In the months following the executive order, some say the Chinese made a point of defying US conditions by cracking down on well-known political dissidents.²⁹ In June 1994, Clinton renewed China’s MFN status despite the consensus in the United States that if anything, human rights in China had worsened.

Later that month, USTR once again designated China a Special 301 “Priority Foreign Country” because of its lack of progress in enforcing agreements on intellectual property rights. According to industry estimates, “piracy” of their products in China cost US software publishers \$351 million annually.³⁰ The music industry calculated that China was copying 75 million CDs per year.³¹ In negotiations with the Chinese, Deputy USTR Charlene Barshefsky emphasized that improving IPR enforcement would be an important step in their bid for membership in the GATT, demonstrating to the international community that China was serious about making the required changes. But in February 1995, citing a lack of progress in the IPR talks, USTR released a list of more than \$1 billion worth of Chinese imports that would be subject to 100 percent tariffs. China retaliated by announcing sanctions of its own on US products, including CDs, cigarettes, Kodak film, and AT&T telecom switches.³² After a high-risk negotiation, China and the United States reached an agreement on IPR enforcement on February 26, 1995.

28. Fifty of these companies had made soft money contributions averaging \$30,000 each to the Democratic National Committee (John Kruger and Charles Lewis, “Bill’s Long March; When Big Money Talked, Clinton Retreated to George Bush’s Policy,” *The Washington Post*, November 7, 1993, C3).

29. Greenberger and Chen, “China, US Head Toward Trade Collision,” 1.

30. Robert Hurtado, “With Sanctions Set, Companies Rethink Their China Plans,” *The New York Times*, February 6, 1995, A1.

31. Kantor said about 70 million of these pirated CDs were exported. See “US Hits China with 301 Case on IPR, Spares Argentina, India,” *Inside US Trade*, July 1, 1994.

32. “New Chinese Retaliation List Targets Telecom Switches, Film,” *Inside US Trade*, February 10, 1995.

USTR once again put the Chinese on notice for failing to enforce IP rights in May 1996. Some US companies claimed that IPR piracy had actually worsened after the February agreement. For example, while China had conducted thousands of raids and destroyed millions of copied CDs at the retail level, USTR noted that many Chinese factories continued to produce and export pirated products.³³ Some in the administration felt that with Clinton running for a second term as president, a firm stance was important. As negotiations and threats of sanctions continued, Acting USTR Barshefsky turned down a surprise invitation to meet with President Jiang Zemin, explaining to China's trade minister, "I would be honored and delighted to meet with President Jiang, but I am afraid that would be impossible. I cannot meet with President Jiang and then impose sanctions. If all 15 factories are not closed, I will have no choice but to impose sanctions, and I do not want to put President Jiang, or you, in that embarrassing position."³⁴ Ultimately, in June 1996, China agreed to improve enforcement of the 1995 IPR agreement. "Three years ago, IPR enforcement was an abstract concept," Barshefsky said at a press conference. "Now, the Chinese authorities are taking concrete and tangible actions."³⁵ Nevertheless, IPRs would remain a potent issue in the years ahead.

China Sets a Goal

Meanwhile, back at the GATT, China set a goal of January 1, 1995, for reentry—the date the GATT would become the WTO. As Barshefsky remembers, "China viewed entry at the creation of the WTO as a psychologically important target. In large part, this was because China was a founding member of the GATT. Now it wanted to be a founding member of the WTO."³⁶ The GATT working party met between 1992 and the end of 1994, and China held bilateral market access negotiations with many countries.³⁷ Numerous issues were discussed, such as tariffs, nontariff bar-

33. USTR, *1995 Annual Report of the President of the United States on the Trade Agreements Program*, 88.

34. Barshefsky, interviewed in Sebenius and Hulse (2001b, 10).

35. See Seth Faison, "US and China Agree on Pact to Fight Piracy," *The New York Times*, June 18, 1996, A1.

36. Unless otherwise noted, all quotes from Charlene Barshefsky are from a March 2001 interview with Charan Devereaux. Observers at the GATT agreed with her assessment; e.g., see *GATT Activities* (1993), 105 ("Throughout the year, China expressed its wish that the negotiations on its status as a contracting party be concluded in time for it to become an original member of the World Trade Organization").

37. The countries participating included the United States, Canada, Japan, EC members, Mexico, the Nordic nations, and Switzerland (*GATT Activities* [1993], 104–5; *GATT Activities* [1994–95], 113).

riers, market access for financial services, insurance and telecommunications, labor standards, state-owned enterprises (SOEs), investment, agriculture, and China's lack of transparent trade laws. The United States wanted to see a special safeguard created that would allow restrictions on China to be reimposed if there was a flood of subsidized exports from China's nonmarket sectors. It also insisted that China expand trading rights so that foreign companies could import and export without going through Chinese middlemen.

From the US perspective, China's offers were far below expectations. In 1993, the United States and China held their first bilateral GATT accession meeting since formal talks were cut off in 1989. After two days of negotiations, Assistant USTR for GATT Affairs Douglas Newkirk told reporters that China had stepped back from commitments made before the military crackdown four years earlier—including those on the safeguard issue. "We made progress this week, but we are not as far along as we were in 1989," said Newkirk. "We're a long way from completing the negotiations. . . . I'm going to be retired in seven years, and I'm not sure I can wrap it up at the current pace."³⁸ For its part, China argued it had made major advances in economic reform and trade liberalization; it hoped to reenter the GATT as early as that year. "The accession process is driven by the acceding country," Newkirk noted. "If they want to agree to very tough obligations, we can do it very quickly. But if they want to draw the process out by talking about the virtues of a socialist market economy, it is going to take a long time."³⁹

As working party negotiations went on, US officials continued to express dissatisfaction with China's offers on its trade regime. "There is need for improvement," said one US official. "The offer has got to meet a certain threshold and they are just not there yet."⁴⁰ China's offers were "seriously deficient," Barshefsky declared.⁴¹ The European Union and Japan also found China's offers insufficient, though the European Union continued to press for China's entry as a WTO founding member. Some Chinese participants saw the situation differently, saying, "Though China's economic development showed very positive signs, negotiations for China's resumption of

38. Newkirk, quoted in David Schlesinger, "US Dashes China Hopes of Early GATT Entry," Reuters News, March 2, 1993. Newkirk said that China had to meet five conditions for GATT entry: a "single national trade policy" common to all provinces and regions, full transparency of trade regulations, the elimination of nontariff barriers, a commitment to move to a "full market price economy," and acceptance of safeguards to protect GATT signatories from a possible surge in Chinese exports.

39. Newkirk, quoted in "China's Bid to Join GATT Stalls Following Negotiations with US on Protocol," *Inside US Trade*, March 5, 1993.

40. Quoted in "Officials Say China Services Offer Falls Short, But See IPR Movement," *Inside US Trade*, September 2, 1994.

41. Barshefsky, quoted in "Barshefsky Blasts China for Inadequate Offers in WTO Talks," *Inside US Trade*, December 2, 1994.

membership in the GATT contrarily became more difficult. Western countries demanded more and more. . . ." (Yang and Cheng 2001, 315).

China's wish to become a WTO founding member would not be fulfilled. In December 1994, Working Party Chairman Pierre-Louis Girard said the panel had reached "substantive agreement" in some areas, but other questions of central importance remained unsettled.⁴² One particularly difficult question centered on whether China would gain admission to the GATT as a developing or as a developed country. China hoped to secure membership as a less-developed country (LDC), thereby ensuring that it would have "special and different status" under the GATT. For example, less-developed countries were offered certain exemptions, special consideration in dispute settlement, and a longer transition period for meeting international standards.⁴³ "The obligations to be assumed by China, in principle, should not exceed those that are required of developing countries," said Gu Yongjiang, China's vice minister of foreign trade and economic cooperation.⁴⁴ It was "unfair and unrealistic" for Western countries to expect China to achieve quickly what developed countries had accomplished over 100 to 200 years, Trade Minister Wu Yi would later add.⁴⁵ But the United States, pointing to China's size and its significance in the world trading system, insisted that it join as a developed country. The European Union indicated that it might support China's membership under less stringent requirements than those advocated by the United States. A European Commission strategy paper noted that the EU's approach reflected "a sympathetic understanding of the fact that China is a country that is rapidly developing, but, in important respects, has not yet become a developed economy" and that some WTO commitments "could be implemented under multilateral surveillance over a specified period of time after entry into the WTO" (European Commission 1995, 11).

USTR Creates a Road Map

In 1995, China renewed its application under the WTO and requested that the GATT working party continue its activities in the new organization. As the WTO working party's negotiations got under way, differences re-

42. *GATT Activities* (1994–95), 113.

43. See Article XVIII of the GATT 1994, which addresses governmental assistance in economic development. In addition, under part IV of the GATT, which was added in 1965, developed countries forgo the receipt of reciprocal benefits for their negotiated commitments to reduce or eliminate tariffs and restrictions on trade with less-developed member countries.

44. Gu, quoted in "Chinese Officials Concede PRC May Not Join WTO As Founding Member," *Inside US Trade*, July 8, 1994.

45. Wu, quoted in James Kynge, "Beijing in Offer on Services," *The Financial Times*, February 18, 1998, 7.

mained. The European Union, Japan, and others seemed willing to settle for China fulfilling some WTO criteria on entry and other requirements later. EU Commissioner Sir Leon Brittan spoke of allowing China to join the WTO “in principle,” given its political importance, a position supported by some in the US foreign policy community as well.⁴⁶

USTR disagreed, noting that the WTO was fundamentally not a political club but a contractual agreement—an agreement that contained specific terms enforced through a provision for binding dispute settlement. USTR was also thinking about the US Congress. If China were to enter the WTO (which has unconditional MFN treatment as a fundamental principle), Congress would be asked to end the annual review of China’s MFN status. USTR believed that Congress was unlikely to pass legislation making China’s MFN status permanent unless the deal that brought China into the WTO was negotiated on a commercial basis.

Therefore, the mantra at USTR was that China must enter the WTO on “commercially meaningful terms,” not as a political decision. Meanwhile, President Clinton and his senior policy advisers decided to make a major strategic push to deepen and stabilize relations with China. To communicate the seriousness of the United States, Deputy USTR Barshefsky created a road map for China’s WTO accession. In late 1995, her team put together a nine-page document that Barshefsky presented to her counterpart: Trade Minister Wu Yi, the highest-ranking woman in China’s government. The road map was designed to indicate the kind of comprehensive and far-reaching internal changes that would be necessary if China was to be admitted to the WTO. The document covered a number of controversial issues, such as reducing nontariff measures on agricultural products and providing market access for the telecom, banking, and insurance industries. As Barshefsky remembers:

The road map proved to be very helpful in two respects: one, it helped to focus the minds of the Chinese on the substance of what would have to be put together. Second, it was an early warning to the Chinese leadership that this was not a frivolous exercise, and it was not an exercise that could be successfully concluded on a political basis. This was not a political deal. This was a commercial deal. That would mean the leadership would have to come to grips politically at the highest level with the series of changes that would be demanded by the WTO membership.

The United States was taking a tough stance; in response, WTO Director-General Renato Ruggiero publicly called on the United States to offer a “political clarification” of its desire to see China in the WTO. Ruggiero believed that such a step would ensure a political environment conducive to effective negotiations, according to his spokesman.⁴⁷

46. Brittan quoted in “Barshefsky Says China’s Stall on WTO May Weaken Japan, EU Stance,” *Inside US Trade*, November 3, 1995.

47. Ruggiero quoted in “Kantor Rejects EU Proposals for Special Treatment of China in WTO,” *Inside US Trade*, October 27, 1995.

US concerns about the multilateral accession process continued, however. Some analysts worried that if a deal was reached first at the multilateral working party level, the European Union might altogether forgo engaging in the bilateral talks that members could also request as part of WTO accession. Some believed that if the European Union did not demand a bilateral agreement, then China would no longer feel inclined to make a meaningful bilateral deal with the United States. Therefore, US officials started to shift their focus. According to one US negotiator,

There were concerns that the Chinese might push for a political accession—a possibility that might have been supported by the EU—had the working party in Geneva concluded the multilateral part of the accession talks prior to conclusion of the bilateral market access negotiations. Some in Washington thought the EU would say, “They’ve done enough, just let them in on some special terms,” especially since negotiations had dragged on for so long. So the US had that over our shoulder, which is why we switched in mid-1997 to bilateral work.

As bilateral talks between the United States and China continued, interest in the US business community grew. Because the terms of the bilateral agreement would be more specific than those of previous discussions, industry leaders could see the potential benefits for their own companies. As one member of the US negotiating team said:

Up until that point, no country had engaged in comprehensive bilateral market access talks. In the summer of ‘97 it was decided that we’d put aside this multilateral process of negotiating working party documents and actually get right down into the nuts and bolts of the bilateral market access talks: the tariffs, the services, the agriculture, the quotas, and so forth. The how-does-it-affect-my-product kind of negotiations. And that also helped focus the wider US business community. It gave them a real sense of the advantages of China joining the WTO.

Also in July 1997, Hong Kong reverted back to Chinese rule after having been administered by the British for more than 150 years. A financial center of Asia, Hong Kong ranked among the world’s richest cities and boasted the region’s largest port. For the next 50 years, it would be a “Special Administrative Region” of China. President Jiang Zemin announced that Hong Kong would be administered under the “one country, two systems” concept, leaving the city with “a high degree of autonomy.”⁴⁸

Trade Tensions Continue (Domestic Politics)

As the talks moved forward, politicians and others in the United States kept up the debate about the wisdom of engaging China. As she had dur-

48. “Remarks by President Jiang Zemin of China at Ceremony Recognizing the Restoration of Hong Kong to the People’s Republic of China,” Hong Kong, June 30, 1997, transcript by Federal News Service.

ing the Bush administration, Representative Nancy Pelosi led the fight against granting China MFN status, joined by Representative Frank Wolf (R-VA). Despite such protests, the House rejected a 1997 resolution disapproving Clinton's decision to extend China's MFN status.⁴⁹

In October 1997, President Jiang Zemin and President Clinton held a summit in Washington, DC. Both sides hoped that in addition to addressing security issues such as mutual detargeting of nuclear missiles, they could make progress in the bilateral trade negotiations. President Jiang did make promises to reduce tariffs significantly by 2005 and committed to join the March 1997 Information Technology Agreement. However, the US press viewed the summit as showcasing mainly the differences between how the United States and China approach human rights—focusing especially on how the two presidents responded to questions about Tiananmen Square in a joint press conference.

Clinton's announcement in June 1998 that he would renew China's MFN status came against a backdrop of accusations from Republican members of Congress that the Chinese government had illegally contributed to his presidential campaign. The annual debate over MFN also reignited concerns about the US trade deficit with China. US figures indicated that the United States had imported \$62.6 billion in goods from China the year before, but exported only \$12.8 billion in goods (the differences in how China and the United States calculated imports and exports make such figures controversial).⁵⁰ And accusations over Chinese human rights violations continued. House Minority Leader Richard Gephardt (D-MO) declared he would once again oppose MFN status for China. The United States "must not reward the Chinese Communist government for its continuing political repression and tyranny," he said.⁵¹

49. Some MFN supporters believed that withholding MFN status for China would also hurt Hong Kong. Hong Kong was allowed to maintain separate economic and trade offices in the United States under a bill passed by the House and Senate and signed into law on June 27, 1997 (*Congressional Quarterly Almanac 1997*, 8–37).

A group of conservative Republicans and liberal Democrats pushed nine bills through the House that attacked China's human rights record, treatment of religious minorities, relations with Taiwan, support of compulsory abortion, and weapons proliferation (the House leadership delayed the votes on these measures until after President Jiang's state visit in October 1997; all passed by large majorities).

50. China claimed that the trade deficit was only \$10.5 billion in 1996. A primary source of disparity was different treatment of goods that passed through Hong Kong. The United States did not count US goods exported to Hong Kong and then reexported to China as exports to China, but it attributed to China the full value of all goods shipped through Hong Kong when calculating the bilateral trade balance. China counted only the value of goods leaving China whose final destination was known when they left the country, and it also claimed that many exports from the PRC were from US-operated companies.

51. Gephardt, quoted in Susan Page, "Clinton: Maintain Trade Ties with China, Annual Review Faces More Difficult Road," *USA Today*, June 4, 1998, 8A.

In addition, worries in Congress about security were growing. One concern was the possibility that the Chinese had used US technology to improve their missile guidance systems. Another centered on China's propensity to share weapons technology with Pakistan and Iran. Moreover, reports surfaced that China's military relied on American-made commercial satellites to transmit coded messages. One of the satellites was sold by a US company whose chairman was also the largest individual contributor to the Democratic Party in 1997.⁵² Promoting relations with Beijing, some congressional leaders argued, compromised national security. Nevertheless, the House overwhelmingly rejected a resolution to disapprove of extending China's MFN status in 1998, just as it had in 1997 (see table 6.2).

Concerns about engagement were not limited to the US side. Worries over the pace of domestic reform led many in China to conclude that efforts to join the WTO were premature. Chinese financial institutions were saddled with record levels of bad debts, and state-owned enterprises were experiencing runaway losses. China's state-owned sector included more than 300,000 SOEs, which were responsible for more than one-third of the country's GDP; they also provided livelihood and social welfare for over 200 million employees and pensioners and their families (Blumenthal 1999, 115). In order to comply with WTO principles, China would have to eliminate most subsidies to SOEs. Even in its early stages, SOE reform had increased unemployment and urban poverty in the PRC.

Some in China wondered if the stiff conditions of WTO entry were worth it. After all, the PRC already had trade relationships with 200 countries, many of which included MFN treatment (Bhala 2000, 1491). In addition, the Asian financial crisis of 1997–98—which started with bank defaults in Thailand and spread to Malaysia, Indonesia, the Philippines, and South Korea—revealed weaknesses in the Asian development model. A coalition of central Chinese government ministries, provincial representatives, and major industries petitioned the Beijing leadership to postpone WTO accession efforts, accusing the foreign trade establishment of “excessive impetuosity.”⁵³

Such internal debates highlighted the larger dynamic on the Chinese side: the struggle between the reformist and conservative elements within the Chinese leadership. This tension would continue to play a key role as negotiations continued. As then deputy USTR Richard Fisher observes, WTO accession “represented part of the struggle between the reformers in China and the conservatives. In the former camp are the Zhu Rongjis and in the latter camp would be the Li Pengs. As one evaluates what hap-

52. Bernard Schwartz, chairman of Loral Space and Communications (Jeff Gerth, “Reports Show Chinese Military Used American-Made Satellites,” *The New York Times*, June 13, 1998, A1).

53. Willy Wo-Lap Lam, “Open Door May Be Closed,” *South China Morning Post*, November 26, 1997, 19.

pened in this story—when the talks pressed forward and when they were lagging—this is the number one point to consider.”⁵⁴ Some US observers are quick to note that labeling Zhu Rongji and others as “reformers” did not imply they were considered free market enthusiasts. As former Deputy National Economic Adviser Lael Brainard puts it, “We certainly did not see Zhu as somebody who was a pure market-oriented reformer. It was much more complicated than that. He was a Chinese nationalist and would pursue reforms to the extent that he thought it was in China’s interest—not because of some ideological desire to be capitalist.”⁵⁵

Despite the controversy on both sides, bilateral negotiations on market access went ahead. President Clinton made his historic nine-day state visit to China in June 1998 amid hopes that the deal could be concluded as a part of the summit. “Jiang and Clinton would have liked to conclude,” Barshefsky remembers. “We negotiated intensively with the Chinese.” Though some progress was made, large problems remained unresolved, especially in the agriculture and service sectors. When no agreement could be reached, President Clinton invited Premier Zhu Rongji to the United States. “Zhu hemmed and hawed,” says Barshefsky, “but ultimately he accepted the invitation.” The Chinese premier would come to the United States the following year.

In the interim, the US administration was weakened by the yearlong scandal over President Clinton’s involvement with former White House intern Monica Lewinsky. Clinton’s impeachment by the House on charges of perjury and obstruction of justice in December 1998, and subsequent acquittal by the Senate in February 1999, caused enormous distraction.

Bilateral Negotiations

At the beginning of 1999, the bilateral talks got a boost when Premier Zhu Rongji indicated a readiness to deal. Zhu told US Federal Reserve Board Chairman Alan Greenspan that despite China’s economic slowdown, Beijing was ready to open up its markets as a prelude to joining the WTO.⁵⁶ As Lael Brainard recalls,

We were starting to get signals that Zhu Rongji in his new position as Premier was seriously interested in [the US-China bilateral talks] because it bolstered his reform agenda. We were hearing this, but certainly our negotiators, I think correctly,

54. Unless otherwise noted, all quotes from Richard Fisher are from a March 2001 interview with Charan Devereaux.

55. Unless otherwise noted, all quotes from Lael Brainard are from a March 2001 interview with Charan Devereaux.

56. See David E. Sanger, “How US and China Failed to Close Trade Deal,” *The New York Times*, April 10, 1999, A2.

were reluctant to put anything on the table or to show any leg until they got more direct evidence—they had gone down this road too many times before. Alan Greenspan was going to China and we knew he had a good relationship with Premier Zhu. We needed somebody that was not directly involved with the administration to probe the degree of seriousness—how to interpret the signals. That conversation came back very positively. *Very* positively. Much more so than anybody had anticipated, I think, even the real boosters. That’s when the activity really started to take off.

Zhu sent his chief negotiator Long Yongtu to Washington to meet with USTR Barshefsky. Barshefsky was reportedly heartened by China’s “seriousness of purpose,”⁵⁷ and sent negotiator Robert Cassidy to China for what became weeks of negotiations.

In February, Deputy Treasury Secretary Lawrence Summers visited Beijing to push forward the talks. “We’re looking at a window of opportunity now to get this done that will close for [a lengthy] period,” he told reporters.⁵⁸ After his trip came a visit by Secretary of State Madeleine Albright. In March 1999, USTR Barshefsky traveled to Beijing to meet with Premier Zhu. She was followed by Commerce Secretary William Daley.

US and Chinese negotiators began working out a number of key substantive issues, including a tariffs package and commitments in particularly sensitive areas such as financial services and telecommunications. “The Chinese conceded more than I thought would be politically possible,” said Nicholas Lardy, an expert on the Chinese economy at the Brookings Institution. “You have to remember that unemployment is at a 30-year high in China, corporate profits are falling off a cliff, and here is Zhu arguing that this is a moment to actually allow the foreigners to offer more domestic competition.”⁵⁹ US officials, led by chief USTR China negotiator Robert Cassidy, were calling from Beijing to report the bold offers from the Chinese.⁶⁰ “February and March were great,” remembers a USTR negotiator. “We were going great guns. We were putting it together.”

At the same time, opposition to the US-China trade agreement was heating up in Congress. On February 25, 1999, the Senate unanimously urged the administration to seek a resolution at the UN Human Rights Commission condemning China’s human rights abuses (Senate Resolution 45 passed 99–0). Adding fuel to opponents’ rhetoric was a top news story of March:

57. Barshefsky, quoted in Ian Johnson, “Talks Between US, China Turn Serious—Sinking Foreign Investment Puts Pressure on Beijing to Join Trade Group,” *The Wall Street Journal*, March 5, 1999, A9.

58. Summers, quoted in Matt Forney, “Washington Urges China to Speed Reform—US Says Concessions Vital for WTO Ticket Before New Rules Take Effect,” *The Asian Wall Street Journal*, February 24, 1999, 1.

59. Lardy, quoted in Sanger, “How US and China Failed to Close Trade Deal,” A2. Lardy is now a senior fellow at the Institute for International Economics.

60. Lee Siew Hua, “The Inside Story of Zhu’s WTO Bid,” *The Straits Times* (Singapore), April 17, 1999, 64.

the alleged espionage of Wen Ho Lee, a former nuclear weapons scientist at Los Alamos National Laboratory.⁶¹ Senate Majority Leader Trent Lott (R-MS) said on *Fox News Sunday* that China's entry to the WTO "should be out of the question."⁶² Concerned about the "exploding US-China trade deficit," Senators Jesse Helms (R-NC) and Ernest Hollings (D-SC) announced that they planned to introduce legislation requiring the administration to win congressional approval before signing any deal allowing China into the WTO. "Continuing problems with Chinese human-rights violations, espionage, and possible technology transfers suggest that this is not the appropriate time for China to enter the WTO," Helms and Hollings added in a March 15 letter to Senate colleagues. "Any trade agreement with China would be premature before these issues are resolved."⁶³

In the House, Minority Leader Gephardt likewise proposed legislation making US support for China's WTO accession contingent on congressional approval.⁶⁵ Other House Democrats made known their worries about the impact of any China trade deal on domestic labor—especially in import-sensitive areas such as textiles and steel. In short, as a former administration official says, "The US relationship with China was an enormously polarized issue in the US Congress." A US negotiator observes, "There seemed to be a confluence of difficulty in Congress at the same time we were actually getting closer in the substance of the negotiations."

The strong emotions in Congress resonated through the White House. Former administration officials note that every step of negotiating the bilateral deal was deeply informed by political realities. What would be the implications for other items on the administration's legislative agenda? For the Democratic Caucus? Many were wary of what was clearly shaping up to be a difficult fight on Capitol Hill.

In March, Premier Zhu Rongji vented his frustration about the WTO accession process, saying that his black hair had turned white since China started negotiations in 1986. "It's time for a conclusion!" he declared at a televised press conference after the closing session of the National People's Congress.⁶⁵ He too was aware of the controversy in Congress. "Originally, the WTO negotiations were proceeding fairly smoothly," Zhu said in an in-

61. For example, see James Risen, "US Fires Scientist Suspected of Giving China Bomb Data," *The New York Times*, March 9, 1999, A1; John F. Harris and Vernon Loeb, "Spy Case Tests US Openness with China; Engagement Policy Failing, Critics Say," *The Washington Post*, March 14, 1999, A1.

62. *Fox News Sunday*, March 7, 1999, transcript no. 030700cb.250; cited in "Senators Move to Oppose China's WTO Accession Without Strong Oversight," *Inside US Trade*, March 12, 1999.

63. See Senators Jesse Helms and Fritz Hollings, "Dear Colleague" letter, March 15, 1999.

64. Gephardt's bill (HR 884), introduced March 1, 1999, required the United States to withdraw from the WTO within six months if China joined the WTO without congressional approval.

65. Zhu, quoted in Irene Ngoo, "Finishing Line in Sight, China's WTO Marathon," *The Straits Times* (Singapore), April 4, 1999, 28.

interview. “But recently—we believe, due to pressure from the US Congress—the US government has shown a change in attitude during this round of negotiations.”⁶⁶

In the lead-up to Zhu’s visit to the United States, some Democrats signaled that any move to close an agreement would be premature. Sandy Levin, the ranking Democrat on the House Ways and Means Trade Subcommittee, was troubled by the failure to include a provision against dumping that would require that China continue to be treated as a non-market economy for an extended period of time. Levin also saw the need for a special product-specific safeguard provision to address import surges from China. As a result, one observer recalls, “Levin and others urged the president to go back to the negotiating table and not seal the deal during Premier Zhu’s visit.” Perhaps a source of congressional resistance greater than the trade concerns of Democrats was the growing security concerns of Republicans. The administration knew that within the next few months, a congressional panel headed by Representative Christopher Cox (R-CA) would release a report accusing China of nuclear espionage. As a former senior White House official remembers, “There was a conjuncture of anti-China sentiment that was largely driven on the Republican side by the Cox Report. The problems that we had on China were not confined to your traditional trade problems. They were much more driven by the Republican majority on security, espionage, and Communist fears.”

Administration officials debated the bilateral China deal. “There was true intense division within the administration,” says one observer. USTR Barshefsky, National Security Adviser Sandy Berger, and Secretary of State Madeleine Albright argued that China’s concessions were sufficient and that Zhu’s visit offered a historic opportunity for coming to an agreement. Signing a deal was also important as a means of supporting Premier Zhu, some argued, a reformer who was betting his political capital on WTO accession. The key goal was to conclude the bilateral negotiations, the strongest supporters said; it was not critical to secure Congressional approval immediately.

Other officials—including White House Chief of Staff John Podesta and National Economic Council Chairman Gene Sperling—remained unconvinced that Zhu’s visit was the best time to finalize an agreement. The agreement on the table lacked key elements, they said, and rushing it forward would make it impossible to achieve congressional approval of PNTR during the president’s term—an element they believed was absolutely critical to success. In particular, sticking points remained, especially in the areas of textiles, brokerage firms, and auto financing. Officials

66. Zhu, quoted in Peter Krann, Karen Elliot House, Ian Johnson, and Matt Forney, “The Wall Street Journal interview with Chinese Premier Zhu Rongji,” *The Asian Wall Street Journal*, April 6, 1999, A23.

said that given the strength of Republican anti-China sentiment in Congress and the size of the US trade deficit with China (in 2000, China would surpass Japan to become the largest deficit trading partner of the United States), the deal had to be airtight. They also worried about political opposition from Democrats and labor unions—especially in the steel industry. Finally, some officials were concerned that there was not enough active support from the business community, support they deemed crucial if the deal was to succeed.

As these discussions continued, the meetings became smaller and smaller in a vain effort to maintain secrecy. Almost daily, news stories appeared detailing the debates within the administration over the China deal. The week before Zhu's arrival, Ambassador Barshefsky again went to Beijing to hammer out the terms of a bilateral agreement. According to reports, she returned to the United States with the makings of one of the strongest trade deals the United States had ever negotiated.⁶⁷

An Opportunity Lost?

Premier Zhu came to Washington on April 7, 1999, and on the following day met with President Clinton for two and a half hours in the private residence of the White House. Clinton concluded that this was not the time to sign an agreement. "We have made significant progress toward bringing China into the World Trade Organization on fair commercial terms, although we are not quite there yet," President Clinton said after the meeting.⁶⁸ A US-China joint statement noted that "certain matters remain to be resolved" in banking, securities, and audiovisual services as well as in rules governing textiles trade. The joint statement also affirmed that China's admission to the WTO was in the interest of the United States, China, and the global trading system.⁶⁹

Observers say that beyond any specifics, the deal was brought down by political concerns and some confusion about the best time to move forward. As Richard Fisher notes,

I think case studies always try to make things neat. But this wasn't a neat process. Some of us were very unsettled by the confusion surrounding the deal. At USTR, you build a logic chain and you figure out the pieces that need to be filled in. But when that process intersects with the politics of reality—I quote Henry James: "Courtship is poetry and marriage is hard prose." In this case, the poetry, as hard

67. Helene Cooper and Bob Davis, "Barshefsky Drove Hard Bargain, But Lost to Politics," *The Wall Street Journal*, April 12, 1999, A24.

68. White House Briefing, Press Conference with President Bill Clinton and Chinese Premier Zhu Rongji Following Their Meetings, Washington, DC, April 8, 1999.

69. Joint US-China Statement on China's WTO Accession, April 8, 1999.

as it was to structure and negotiate, was a deal. The hard prose was making sure the politics all lined up. And at that point, they didn't seem to line up.

With groups of both Democrats and Republicans in opposition, “the critical middle that you need to support a deal like this is shrinking,” said Commerce Secretary William Daley.⁷⁰ In a press conference following the meeting with President Clinton, Zhu noted (through an interpreter) that the differences between the two sides on the agreement “were not very significant. . . . If you want to hear some honest words,” he told reporters, “then I should say that now the problem does not lie with this big difference, or big gap, but lies with the political atmosphere.”⁷¹

Apparently some in the administration hoped that the tenor of the press coverage of Zhu's visit would be positive, focusing on the broad progress that had been made. Instead, the decision not to go ahead with the agreement was widely criticized as a mistake. It was reported that Clinton had rebuffed Zhu and the Chinese delegation was furious. A new word was created in the White House vocabulary to describe someone who had been undercut politically: “Zhu'd.”⁷²

The Chinese premier immediately embarked on a six-city tour of the United States to drum up support for the bilateral agreement. Zhu worked rooms like a seasoned American politician, observers said, encouraging farmers and business representatives to call President Clinton and push for completion of the deal. Thousands of people heard his speeches, which often brought standing ovations. In Chicago, 1,500 businesspeople, including the chief executives of Motorola, United Airlines, and Bank One, gathered at a banquet for Zhu.⁷³ They, as well as many others, were impressed by his relaxed style and sense of humor. While visiting Denver, the premier flattered his hosts, declaring that if the Chinese ever came to play American-style football, he was sure that they could never beat the Denver Broncos.

Zhu's visit was not played up in the Chinese media, however, reportedly taking second billing to more mundane stories. Such treatment demonstrates the care that China's media took to keep the spotlight on President Jiang Zemin. “If Zhu's trip is given much merit, it could take away from the glory” of Mr. Jiang, said a former editor for the *People's Daily*, the

70. Daley, quoted in David E. Sanger, “The World: Clinton Foreign Policy; China: A Hot Issue That Takes the Back Burner,” *The New York Times*, April 18, 1999, sec. 4, 5.

71. White House Briefing, Press Conference with Clinton and Zhu.

72. Helene Cooper, Bob Davis, and Ian Johnson, “To Brink and Back: In Historic Pact, US Opens Way for China to Finally Join WTO—with Deal, Bigger Market Beckons, But Washington Falls Short on Telecom—New Words for Old Songs,” *The Wall Street Journal*, November 16, 1999, A1.

73. Joseph Kahn, “Why the Chinese Are Fretting: Is Clinton Fickle?” *The New York Times*, April 13, 1999, A14.

official paper of the Chinese Communist Party.⁷⁴ The lack of coverage apparently also reflected divisions in the Chinese leadership over Zhu's quest. The premier, who had once lost power in an internal fight, joked that if he were to openly describe the concessions he offered the United States, "I'm afraid I would be kicked out of office again."⁷⁵

Chinese officials did in fact learn the specifics of Zhu's offer, after the Clinton administration released a 17-page summary of China's concessions. The hope was that the summary would generate enthusiasm for the deal among business interests and in Congress. But the summary was also published on the Internet—though some say that the posting was never explicitly authorized—and the Chinese delegation was angry. Back in Beijing, ministry officials read the summary on the Web and immediately claimed that Zhu had made his concessions without sufficient consultation with them and without receiving approval. As a result, observers say, the Chinese premier's political stature suffered. "That was probably the single most bizarre episode in US policymaking," remembers a senior White House official.

Nobody gave approval for [the summary] to go on the Internet. I think the Press Office just put it on the Internet because they put everything on the Internet. In our society, when you have an agreement that's public, you put it on the Internet right away. But how it happened was really quite remarkable because everything about this negotiation had been quadruple checked at the highest levels of government. Cabinet secretaries sat in meetings for hours and hours arguing things backwards and forwards and upside down—everything had been thought through. And then there was this Internet release, to which nobody had given previous consideration.

Some US business interests were furious that an agreement had not been signed. In one meeting, executives applauded USTR Barshefsky for her efforts but chastised Gene Sperling for his opposition to the deal. (Sperling pointed out Trent Lott's opposition after a business representative argued that there was sufficient congressional support.)⁷⁶ The Business Coalition for US-China Trade ran a full-page ad in the *Washington Post* on April 13 calling for the administration to "finalize the trade agreement." Business representatives declared that they would intensely lobby members of Congress to push for a quick conclusion to the deal.

With business now voicing such enthusiasm, some believed that the decision not to close the agreement during Zhu's visit would ultimately help

74. Quoted in Matt Forney, "China's Press Plays Down Zhu's Visit to US Lest It Upstage Jiang at Home," *The Wall Street Journal*, April 14, 1999, A23.

75. Zhu, quoted in Gerald F. Seib, "Kosovo, China May Spur Some Isolated Thoughts," *The Wall Street Journal*, April 14, 1999, A28.

76. "Democrats Offer Conflicting Views on China WTO Accession, MFN," *Inside US Trade*, April 16, 1999.

the cause. President Clinton “wants and still intends to get a trade agreement with China over the next half-year or so,” wrote Jim Mann in the *Los Angeles Times*. “But the president also knows that such a deal will have to be approved by Congress, which must pass new legislation giving China permanent trading rights. . . . By saying ‘no,’ Clinton temporarily angered the business community. Yet he also galvanized corporate America to begin campaigning hard for congressional support for a WTO deal later on.” He quoted Scott Parven, vice president of Aetna: “Before Zhu’s visit, [the White House] wanted the business community to come out publicly, big time, for such a deal. But it’s a chicken-and-egg kind of thing. Business people were saying, ‘Until we see what the deal is, we can’t push for it.’ Now that we have the makings of a good deal, we’re ready to roll.”⁷⁷

On April 13, President Clinton called Premier Zhu, who was then visiting New York’s financial district, and asked if negotiations could reconvene by the end of the month. In addition, after an all-night negotiating session, China and the United States concluded an agriculture cooperation agreement that resolved disputes over Chinese imports of US wheat, meat, and citrus. For example, China had previously banned all US citrus products, arguing that an infestation of Mediterranean fruit flies in Los Angeles County might pose a threat to its own crops. Now, imports of US citrus would be permitted—a key issue for the Florida congressional delegation, Fisher notes.

Negotiators met again at the end of April for more work on the bilateral agreement, but spirits were low. Everyone was tired.

Setback and Regrouping

On May 7, the unimaginable happened. American B-2 bombers flying over Belgrade mistakenly targeted China’s embassy, killing three Chinese journalists. Robert Cassidy, the chief USTR China negotiator, almost drove off the road when he heard the news over his car radio.⁷⁸ Initially, Chinese officials said they believed the embassy was intentionally hit, despite US insistence that its destruction was an accident.⁷⁹ Anti-US protests erupted in China, with thousands attacking the US Embassy in Beijing. Some labeled Zhu a traitor for his WTO concessions. Understandably, the tragedy transformed the dynamic of the US-China bilateral negotiations; China halted the talks.

77. Jim Mann, “National Perspective: China Summit May Yet Pay Off,” *Los Angeles Times*, April 14, 1999, A5.

78. Cooper, Davis, and Johnson, “To Brink and Back,” A1.

79. Charles Hutzler, “Chinese Expresses Optimism, Calls for Pragmatism in WTO Talks with US,” Associated Press Newswires, November 9, 1999.

As if this weren't enough, on May 26, a congressional panel created by House Speaker Newt Gingrich (R-GA) officially released the so-called Cox Report, which accused China of systematically stealing secret American nuclear designs. Top Republicans expressed outrage.

In July, US-China relations warmed a little when the United States signaled that Taiwan should back away from toughening its stance toward the mainland. Taiwan's President Lee Teng-hui had announced that contacts between Taiwan and China should be on a "nation to nation" basis, pulling back from the 50-year-old "one China" policy. Beijing regarded Taiwan as a rebel province. "The US is showing some sincerity over Taiwan. This is positive. It should create a better atmosphere," said one Chinese official.⁸⁰

In August, an exchange of letters commenced between the US and Chinese presidents, with Clinton urging Jiang to restart the talks. In a reversal of roles, Clinton was the one actively seeking a deal. One of Clinton's letters was hand-delivered to the Chinese president by Senator Dianne Feinstein (D-CA). The ice thawed further on September 11 at an economic summit in Auckland, New Zealand. There, Clinton met with President Jiang—the weakened Chinese premier no longer seemed to be taking the lead. Again, Clinton encouraged a new start to the negotiations. One of the challenges faced by the US officials was that President Jiang's position on WTO accession, unlike Premier Zhu's, was something of a mystery.

US-China trade negotiations began again, but talks were tense. The Chinese proposals lacked the breadth of those Zhu had offered months before, and Chinese negotiators often lectured the US team on a variety of economic matters. There were long statements, but little progress. "This was payback," says Barshefsky. "We went through months of payback: September, October, and November."

In October, President Clinton and President Jiang began a series of telephone conversations. On November 6, Jiang hinted that he was ready to conclude a deal. What followed were long conference calls involving the president, Sandy Berger, John Podesta, Gene Sperling, Madeleine Albright, Robert Rubin, and Charlene Barshefsky. The question was, Should Barshefsky go to China? Certainly, there was the possibility that, as the ultimate payback, Barshefsky could be sent home empty-handed—just as had happened to Zhu. Administration officials worried that such a move by the Chinese would rekindle stories in the press about the mishandling of Zhu's visit. Clinton made a decision. As Barshefsky remembers, "The president had the right instinct. He said, 'Perhaps a really vindictive trade minister might say to another minister, "Yes, come," and then not do a deal. But the president of a country would not do that to another president.' Therefore,

80. Quoted in James Kynge, "Beijing Applauds Washington Stance on Taipei," *The Financial Times*, July 23, 1999, 4.

President Clinton's view was that the Chinese would negotiate in good faith and that one could reasonably envision the talks concluding."

USTR Barshefsky insisted that Gene Sperling accompany her to China. The economic adviser had been one of the key officials who counseled the president against concluding a deal during Zhu's April visit. As Barshefsky remembers,

At the time, the question was: What can we do that will tangibly demonstrate to the Chinese that Bill Clinton is ready to do the deal? One answer was, let's send one of the White House people who the Chinese knew was against it before. I was very concerned that if the Chinese thought that President Clinton was in any way ambivalent about concluding, they would not negotiate in good faith towards conclusion. I suggested to John Podesta and our small group that Gene Sperling should come. Some in the group were very against this, but there was no question it was absolutely the right thing to do. When the Chinese learned that Gene was going to accompany me, they understood Bill Clinton would not be advised to delay a second time.

Closing the Deal

On November 8, Barshefsky and Sperling headed to Beijing. Other key participants included lead negotiator Robert Cassidy and USTR General Counsel Bob Novick. Six days and six sleepless nights of negotiations ensued. For the first several days, Barshefsky met in long sessions with Chinese trade negotiator Shi Guangsheng, but the US team felt as if they were treading water. Barshefsky eventually told her Chinese counterpart that she had had just about enough and was sending her baggage to the airport.⁸¹ This declaration prompted Premier Zhu to enter the negotiations directly, and he and Barshefsky proceeded to work out a number of remaining issues. When Shi returned to the table, however, he reopened a new set of concerns.

Frustrated, Barshefsky told her team to pack up—they would all head to the airport in the morning. As she climbed into her taxi the next day, Barshefsky directed the car to stop one last time at the trade ministry. When she arrived, she found that Premier Zhu was awaiting her arrival—a highly unusual event, since premiers rarely visited the ministries.⁸² It was then that the deal started to come together; later that morning Zhu and Barshefsky shook hands. In the moments before the signing ceremony, Shi Guangsheng attempted to reopen the deal, but it was too late—the negotiations were over.

Richard Fisher notes that an awareness of US politics played a role in China's willingness to reach a final agreement. "I'm convinced that the

81. John F. Harris, Michael Laris, " 'Roller-Coaster Ride' to an Off-Again, On-Again Trade Pact," *The Washington Post*, November 16, 1999, A26.

82. Cooper, Davis, and Johnson, "To Brink and Back," A1.

Chinese regime was motivated to close the deal with us because they were concerned that a Republican administration might be a little bit tougher," he says. "I think we were very tough and it's a very good deal. But once they closed with us, China would take their time in terms of completing their accession to the WTO."

Barshefsky and the USTR team returned home triumphant, with the 250-page agreement in hand. Short on diplomatic language, said one journalist, the deal was "less a treaty than a spreadsheet."⁸³ In some respects, this market access deal was viewed as stronger than the agreement that would have been signed during Zhu's April visit. For example, the November deal contained provisions that labor unions and some Democrats had advocated, including a nonmarket economy methodology for antidumping that could be used for 15 years and special safeguards for such US domestic industries as textiles and apparel. However, one important April concession did not make it into the November deal: In the spring Zhu had offered foreign firms 51 percent ownership of telecommunications ventures, but the agreement that was signed allowed only 49 percent ownership.

When presenting the deal to the press, Barshefsky noted that the significance of the US-China bilateral deal went beyond any commercial achievements. "Consider the broader picture," she said.

That is, moving China in the direction of a rule of law . . . basic obligations such as transparency, judicial review, the publication of all regulations, the notion that China will be held accountable to the contracts that it makes. These are extraordinarily important principles, which go well beyond the commercial side and indeed will have, I think, positive spillover effects in other areas of Chinese practice and Chinese law.⁸⁴

The Battle on the Hill

Congress would not vote on China's accession to the WTO. Under existing authority, the president had already made the decision to support China's membership. The issue Congress would decide was whether to grant China permanent normal trade relations upon its entry into the WTO. (In 1998, the term *most favored nation* was replaced with the "less misleading" *normal trade relations*.)⁸⁵ More precisely, Congress had to vote to exempt China from the review process conducted annually under the Jackson-Vanik Amendment to the Trade Act of 1974.

83. Joseph Kahn, "From Minks to Mules, US Issues China Trade Details," *The New York Times*, March 15, 2000, A10.

84. Charlene Barshefsky, interview by Jim Lehrer, *The NewsHour with Jim Lehrer*, PBS, November 18, 1999.

85. The change occurred as part of a measure overhauling the Internal Revenue Service (PL 105-206), signed into law by President Clinton on July 22, 1998.

On January 10, 2000, President Clinton announced that Commerce Secretary Bill Daley would lead the administration's PNTR war room. Daley, who had also run the administration war room on NAFTA, would coordinate the PNTR efforts on Capitol Hill along with White House deputy chief of staff Steve Ricchetti. "There's no one better at politics in the administration than Bill," Barshefsky says. "No one. I mean, this guy's DNA is political." Observers add that the choice of Daley gave confidence to business and Republicans. Other administration officials right away declared their resolve to secure PNTR. "I do not plan on spending five minutes on anything other than an all-out effort to pass this [permanent NTR] through both Houses of Congress," said Gene Sperling in a November 19 press briefing. "We are one hundred percent committed."⁸⁶ Many House Republicans came out early in support of permanent NTR for China. A smaller group of protrade Democrats, led by Representative Robert Matsui (D-CA), would also fight for the legislation.

Business sources confirmed that the PNTR vote would be their priority for the upcoming session of Congress. When lobbying for the legislation, companies and trade associations focused on the boost the agreement would give to US exports to China.⁸⁷ Many CEOs and company chairmen were involved in the lobbying effort, which participants on all sides of the PNTR debate admit was tremendously effective; leaders included Maurice Greenberg (AIG), Joseph Gorman (TRW), and Christopher Galvin (Motorola). "For business, [supporting PNTR] was a very practical decision," says one former administration official. "That is why they were so well organized." Some observers noted that the business lobby was much more effective in using the Internet to organize than it had been in past trade battles.

Business also emphasized that the China agreement was good for labor. It "will expand opportunities for the US chemical industry and the more than 1 million American men and women who work in it," said Fred Webber, president of the Chemical Manufacturers Association.⁸⁸ Hewlett-Packard president and CEO Carly Fiorina summed up the position of business: "In reality, a vote against trade with China is a vote against US business, employees, American citizens and the people of China."⁸⁹

86. Sperling, quoted in "Sperling Says Administration Determined to Fight for Permanent MFN," *Inside US Trade*, November 26, 1999, 9.

87. Among the groups active in the campaign were the Business Roundtable, the US Chamber of Commerce, the Business Coalition for US-China Trade, the Information Technology Industry Council, and the Electronics Industries Alliance. Agribusiness interests included Archer Daniels Midland and the American Farm Bureau.

88. The Business Coalition for US-China Trade, "A Terrific Deal for America: Part Five: Manufacturers," February 15, 2000, www.uschina.org.

89. Carly Fiorina, "Commentary—The Proper Way to Promote Change in China Is from Within; World Trade: Increasing US Presence There Will Encourage Greater Positive Reform Faster and More Effectively," *Los Angeles Times*, May 18, 2000, B11.

Business interests were not as eager to emphasize the investment benefits that would come with China's WTO accession, though they would be significant. In fact, declared Joseph Quinlan, an economist with Morgan Stanley Dean Witter, "The deal is about investment, not exports. US foreign investment is about to overtake US exports as the primary means by which US companies deliver goods to China." But many feared that this argument would be used by labor unions to show that the deal would prompt US companies to move to China—taking American jobs with them. "US exports will increase, over time," said Greg Mastel, director of global economic policy at the New America Foundation. "But not at the rate of investment, and the corporate community has been quiet about that. They've been able to avoid telling that story."⁹⁰ Already, the United States was the third-largest investor in China. US corporations with major interests included Motorola, Kodak, Atlantic Richfield, Coca-Cola, Amoco, Ford Motor, Lucent Technologies, General Electric, and General Motors (Morrison 2001). For example, three days before the November 1999 bilateral agreement was signed, Kodak announced that the first phase of building a new plant in Xiamen was complete, part of its \$1.2 billion investment in manufacturing plants in China.⁹¹

Opposition to PNTR

The American public showed little support for PNTR. A February 2000 poll by the Pew Research Center for the People and the Press found 2-to-1 opposition to granting China PNTR (56 percent to 28 percent), and 62 percent said they had never heard of the November US-China bilateral agreement.⁹² A *Business Week*/Harris poll found that 79 percent of Americans believed China should be given permanent access to the US markets only when it agreed to meet human rights and labor standards.⁹³

90. Quinlan and Mastel, quoted in Helene Cooper and Ian Johnson, "Opening Doors: Congress's Vote Primes US Firms to Boost Investments in China—Debate Focused on Exports, But for Many Companies, Going Local Is the Goal—'Looking for Predictability,'" *The Wall Street Journal*, May 25, 2000, A1.

91. Kodak press release, "Breakthrough Milestones in Chinese Imaging Industry, Kodak Grows with China into New Millennium," Shanghai, November 11, 1999, www.kodak.com.

92. The nationwide poll of 1,330 adults took place between February 9 and 14, 2000, under the supervision of Princeton Survey Research Associates with a 3.5 percent margin of error (Pew Research Center 2000).

93. *Business Week*/Harris Poll, "Globalization: What Americans Are Worried About," *Business Week*, April 24, 2000, 44. The poll, a total of 1,024 interviews, was conducted by Harris Interactive between April 7 and 10, 2000. Interviewees were asked "Which of the following statements comes closest to your views on trade with China"; the answers were "15 percent—The best way to improve human and worker rights in China is not to restrict trade but to engage China and include it in the World Trade Organization and give it permanent access to US markets; 79 percent—Congress should only give China permanent access to the US markets when it agrees to meet human rights and labor standards; Five percent—Don't know; One percent—Refused."

Organized labor led the opposition to PNTR. Two days after the conclusion of the US-China bilateral agreement, the AFL-CIO and 12 industrial unions sent a letter urging all members of the House and Senate to oppose permanent normal trade relations with China. In a speech at the National Press Club on November 19, AFL-CIO president John Sweeney told an applauding audience, "It is disgustingly hypocritical for the White House to posture for workers' rights in the global economy at the same time it prostrates itself for a deal with China that treats human rights as a disposable nuisance." Sweeney vowed to wage a "full and vigorous campaign" against PNTR.⁹⁴ Labor leaders said that unions would fight this issue as hard as they had fought the extension of fast-track trade negotiating authority—a battle they had won.

The China deal put the AFL-CIO president in a difficult position. Some observers believe that Sweeney had carefully picked his path, supporting globalization while insisting on the inclusion of labor standards in trade deals. But the US-China bilateral agreement alienated the industrial unions of the AFL-CIO, including the UAW, Teamsters, and Steelworkers. China's workforce was estimated at 700 million, and these workers were denied the right to join collectively to bargain for wages and benefits; their average manufacturing wage was about \$0.25 an hour (for a summary of labor's position, see Bolle 2000). "The Teamsters Union has fought long and hard for workers' rights in the US," said a union official. "We should not be made to compete with a workforce that has no rights."⁹⁵ Unions claimed that 872,000 American jobs would be lost over 10 years as the result of the China deal (figures disputed by some economists).⁹⁶ In public statements, union leaders also frequently compared PNTR to NAFTA. Working families "know that dirty trade agreements

94. John J. Sweeney, "Making the Global Economy Work for Working Families: Beyond the WTO," National Press Club, Washington, DC, November 19, 1999. Outbursts of applause continued throughout Sweeney's speech and the audience was asked to refrain at least twice by the National Press Club's president, Larry Lipman (National Press Club, "Excessive Applause at NPC Lunches Misleads Radio/TV Audience," *The National Press Club Record* 49, no. 44 [November 25, 1999]).

95. Michael E. Mathis, Teamsters Union director of government affairs, "China Trade Debate," *Online NewsHour Report*, May 2000, www.pbs.org.

96. According to the Economic Policy Institute, "The China-WTO deal under consideration will eliminate at least 872,091 jobs between 1999 and 2010, even with the US [International Trade Commission's] highly optimistic assumptions. If China devalues its currency or fails to live up to the terms of the agreement, job losses will be even larger" (Scott 2000, 2). The Cato Institute criticized these conclusions as based on "flawed economic reasoning," arguing that passage of PNTR with China "will create not more or fewer jobs in the US economy, but better jobs" (Daniel T. Griswold, "Economic Policy Institute Publishes Flawed China Job-Loss Estimates," Cato Institute, May 19, 2000).

like PNTR and NAFTA cost jobs in this country,” declared Teamsters general president James Hoffa.⁹⁷

In addition to labor unions, some human rights groups, family farmers, consumer groups, and environmental organizations opposed PNTR. Many of these interests were further energized by the well-publicized protests at the November 1999 WTO ministerial meeting in Seattle, Washington, that led to mass chaos (on some accounts, the focus on completing the China deal had left the US administration underprepared for the ministerial). When the ministerial meeting collapsed, many protesters claimed victory and turned with enthusiasm to the next fight. “The coalition that opposed China PNTR was very similar to the coalition that was active in Seattle,” said one House Democratic aide. “Seattle gave them a lot of momentum.” Opposition to PNTR also included a number of religious and veterans groups, including the US Conference of Catholic Bishops and the American Legion. Reform Party presidential candidate Pat Buchanan and Green Party candidate Ralph Nader opposed the bill as well.

Large numbers of traditional Democrats came out strongly against PNTR. House Minority Whip David Bonior (D-MI) organized the fight against the legislation. Many Democrats supported labor’s position that the China deal would result in domestic unemployment. Some also pointed to China’s weak record in implementing trade agreements such as the 1992 US-China Market Access MOU. Many Democrats were concerned as well about the human rights implications of eliminating the annual review of China’s trade status. Representative Nancy Pelosi spoke for them: “We have been told over the last decade that human rights in China would improve if we had unconditional trade benefits for China. Not so. More people are imprisoned for their beliefs in China today than at any time since the Cultural Revolution.”⁹⁸ Many cited the US State Department’s 1999 annual human rights report, which noted that “the [Chinese] government’s poor human rights record deteriorated markedly throughout the year.”⁹⁹ Some Democrats also believed that PNTR for China would hurt their party. In an election year, members were not eager to alienate traditional constituencies such as labor and consumer groups.

And though most Republicans supported permanent NTR for China, a sizable minority of the caucus opposed it on grounds of US national security as well as China’s policies restricting religious freedom. Citing the recent controversy over Chinese military use of US satellite technology

97. Hoffa, quoted in “A Free Pass for Tyrants,” *The Teamster Leader*, June 2000.

98. Nancy Pelosi, in “Four Voices from the Debate in the House on the Trade Bill,” *The New York Times*, May 24, 2000, A14.

99. US Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 1999* (February 2000), see www.state.gov.

and allegations of Chinese espionage, some Republicans claimed that the security risk posed by China was vastly underrated.

When to Vote in the House?

When to hold the House vote was a key question for PNTR supporters, made more complicated by the upcoming presidential and general elections. As one analyst put it, “Usually, Congress would sooner cut its own pay than pass controversial legislation during an election year.”¹⁰⁰ Among the relatively few Democrats who came out strongly in support of PNTR, the hope was to distance the vote from the Democratic Party’s national convention. More time between the tough fight and the election campaign would enable protrade Democrats, Vice President Al Gore, and the labor unions to get over their anger and make up.

Republicans may have had a different plan. On February 15, 2000, the House Republican leadership—House Speaker Dennis Hastert (IL), Majority Leader Richard Armey (TX), and House Whip Tom DeLay (TX)—promised support for the White House PNTR effort. But observers say that Republicans hoped to draw out the process, delaying a vote until just before the August convention—a move intended to maximize the damage to Gore.

However, on April 5, Boeing CEO Phil Condit and FMC chairman Robert Burt led a delegation of business interests to Tom DeLay’s office and insisted that the GOP leadership set a date for the vote. Partisanship, they said, would kill PNTR, just as it had killed fast-track trade legislation in 1998 when Republicans scheduled a controversial vote six weeks before election day. “The Republicans had to stop playing games,” said Lisa Berry, a lobbyist for American Online. “We just told DeLay, ‘You can’t do this.’”¹⁰¹ A former White House administration official quipped, “DeLay was told not to delay.” Soon after, Speaker Hastert announced that the House would vote on PNTR during the week of May 22, 2000.

Other factors also came into play in determining the vote’s timing. Some Republicans wanted to wait until the European Union had negotiated its bilateral market access agreement with China. In late February, however, after negotiators failed to resolve a number of outstanding technical issues, EU trade commissioner Pascal Lamy canceled a trip to Beijing that had been intended to close the deal with Chinese trade minister Shi Guangsheng. EU officials said the US-China agreement covered about 80 percent of what the European Union wanted, and the remaining issues

100. Paul Magnusson, “China Trade: Will Clinton Pull It Off?” *Business Week*, May 29, 2000, 74.

101. Quotation and general information on the Republicans and business in Magnusson, “China Trade,” 74.

needed to be covered in the EU-China bilateral.¹⁰² Areas of concern included automotive tariffs and the level of EU participation in the telecommunications and life insurance markets. The European Union also hoped to eliminate tariff differentials for products similar to those made in the United States. For example, EU cognac faced different import duties than US whiskey.

Levin Builds a Bridge

Surprisingly, one person working to bridge concerns about PNTR was Representative Sandy Levin, a Democrat with a 94 percent career record of voting with organized labor.¹⁰³ Like lead PNTR opponent David Bonior, Levin was from Michigan and his suburban Detroit district bordered the United Auto Workers' Union headquarters. Levin had voted against NAFTA and opposed the renewal of fast-track trade authority. Over the years, he had voted both for and against MFN status for China. In other words, Levin was not a classic free trader. He was, however, the ranking Democrat on the House Ways and Means Trade Subcommittee.

As noted above, Levin pressed Clinton not to sign a deal during Premier Zhu's April 1999 visit, pointing to the lack of safeguards needed by US producers. In anticipation of the November 1999 agreement, Levin joined an ad hoc group of Democrats discussing how to address concerns that would be raised by the bilateral deal. One Democratic staffer describes it as

a broad spectrum of the caucus trying to come up with ideas, at both the member and the staff level. What can we do to address the legitimate concern that by granting permanent NTR, we're giving up a mechanism for exerting leverage when it comes to human rights? What can we put in its place? What can we do to enhance our oversight of China's compliance with its WTO obligations once it accedes? What about our own self-interest—the ability of US producers of goods and services to compete with Chinese producers of goods and services?

In January 2000, Levin made a 10-day visit to China, where he spoke with artists, students, and activists about how free trade would change Chinese society. "I came back feeling that changes in China are irreversible, but that the direction is not inevitable," he said. Levin did not believe that social progress would automatically accompany economic changes; "You have to shape globalization," he noted.¹⁰⁴ Levin set to work on drafting a

102. For example, see "EU, China to Meet on WTO Accession; EU Does Not Expect Deal," *Inside US Trade*, January 14, 2000.

103. Eric Schmitt, "Public Lives; An Unlikely Champion of a New Trade Pact with China," *The New York Times*, April 17, 2000, A12.

104. Levin, quoted in Schmitt, "Public Lives," A12.

plan to do just that. One of the most widely discussed aspects of his proposal was the creation of a congressional-executive commission to monitor human rights in China. Modeled on the Helsinki Commission that investigated human rights conditions in Eastern Europe during the Cold War, the China Commission would issue policy recommendations but would not have power of enforcement; it was intended to keep pressure on the PRC after the end of the annual MFN renewal process.

Levin's proposal included language codifying product-specific safeguards to protect American workers from job-threatening surges of Chinese imports. In addition, it established new procedures to ensure that China complied with its trade commitments. "Mr. Levin felt it was important to have regular reviews of China's level of compliance," says a source, "a more detailed level of scrutiny than you might have for other new members of the WTO." Programs would also be established to develop China's commercial and labor laws and monitor China's compliance with existing US statutes barring the use of prison labor.¹⁰⁵ Moreover, Levin's proposal stated a sense of Congress that Taiwan should be allowed to enter the WTO on the same schedule as China.

Initially, some say, Levin's ideas drew little interest. "The administration expressed concerns about different elements of the package," says one observer. "And I think there were some doubts as to whether [Levin's proposal] was needed at all." But former White House insiders say Levin's proposals were taken seriously. "Congressman Sandy Levin was key to obtaining broad House Democratic support," says Lael Brainard, "which is one of the reasons Chief of Staff John Podesta and Steve Richetti asked the National Economic Council to put together a senior group to work with him on his substantive proposals." By April 2000, Levin's ideas were attracting more notice. The vote count in the House was uncertain—the administration, business supporters, and the Republican leadership were not sure they had the votes to pass PNTR. Levin's language might be able to pull some undecided members to the "yes" side.

Representative David Dreier (R-CA), the powerful chairman of the House Rules Committee, appointed Representative Doug Bereuter (R-NE) to work with Levin. In a bipartisan move, Levin and Bereuter cosponsored the proposal, with support from Dreier. "I think getting Mr. Bereuter on board was what helped us get this moving," says a Democratic supporter of the proposal, "to get some momentum developing around it to the point where there was a critical mass." Levin also received support from business

105. As mentioned above, in August 1992 the United States and China signed an MOU to ensure that goods produced by prison labor were not exported to the United States. Disputes over its implementation led to the signing of a Statement of Cooperation (SOC) on March 14, 1994, whose provisions clarified procedures by which US officials could gain access to Chinese production facilities suspected of exporting such products.

interests. Levin “has been very, very helpful,” noted the legislative director from the Business Roundtable, a coalition of chief executives from large corporations.¹⁰⁶ As former USTR Barshefsky remembers,

Sandy Levin was terrific in the sense that, contrary to many of his Democratic colleagues, he recognized the fundamental importance of doing this. He then set about to find a way to try and make it happen. I can’t overstate how helpful this was in terms of his basic attitude and his constancy in this mission to come up with companion legislation that would help ease the way for protrade Democrats to make the right vote.

Not all were supportive, however. China blasted the human rights provisions, calling the proposed commission an interference in its internal affairs. US labor unions also faulted the proposal. “It’s a well-meaning effort,” said the AFL-CIO’s Thea Lee. “But it’s redundant with what’s already done and may even be counterproductive.”¹⁰⁷ Some were even more critical. “Levin-Bereuter is meaningless,” said a spokesman for the UAW. “It’s pure political cover.”¹⁰⁸ Other PNTR opponents used terms such as “fig leaf” or “toothless” in characterizing its language.

As the PNTR bill (HR 4444) came closer to markup in the Ways and Means Committee, one source of debate was which (if any) of the Levin-Bereuter proposals would be included in the bill. The Republican leadership reportedly gave Ways and Means Chairman Bill Archer (R-TX, and one of the original authors of the Jackson-Vanik amendment) the go-ahead to attach the safeguard issue. Negotiations ensued, particularly between Levin and Trade Subcommittee Chairman Phil Crane (R-IL), over the specifics. For example, under ordinary safeguard law, the president had fairly broad discretion in choosing a response after the International Trade Commission (ITC) recommended action. What degree of presidential discretion would the PNTR bill grant?

Once the bill was reported out of committee, the handling of the rest of the Levin-Bereuter proposals remained at issue. Levin wanted to ensure that his provisions were part of the PNTR package, but the Republican leadership considered moving Levin-Bereuter as a separate bill—after the PNTR vote. “That idea caused us a lot of heartburn,” recalls a Levin-Bereuter supporter. “Once PNTR was passed, that commitment would have been meaningless. Even if a vote [on Levin-Bereuter] was allowed in the House, it was not clear that the Senate would have taken it up.”

106. Carolyn Brehm, quoted in Owen Ullmann, “A Labor Liberal’s Efforts Make the Difference,” *USA Today*, May 25, 2000, 5A.

107. Lee, quoted in Joseph Kahn, “Former Critics of Trade Bill Are Swaying Vote in House,” *The New York Times*, May 21, 2000, A16.

108. Quoted in Matt Kelley, “Bereuter in the Thick of China Trade Vote,” *Omaha World-Herald*, May 21, 2000, 17A.

The Lead-Up to the Vote

In the weeks leading up to the vote, Federal Reserve Chairman Alan Greenspan publicly endorsed PNTR, and former presidents Gerald Ford, Jimmy Carter, and George Bush issued a letter supporting the measure. The administration also mobilized 149 economists—10 former Council of Economic Advisers chairs and 13 Nobel laureates among them—to sign an open letter, released in late April, in support of China's entry into the WTO. (Because federal law prohibits the administration from using federal funds to urge others to lobby Congress, PNTR was not explicitly mentioned.) The presumptive Republican presidential nominee, George W. Bush, also backed the bill, as did Taiwan's new president, Chen Shui-bian.

President Clinton made his most comprehensive case for establishing PNTR with China in a speech at Johns Hopkins University on March 8, 2000. He argued that supporting China's participation in the WTO

represents the most significant opportunity that we have had to create positive change in China since the 1970s. . . . I believe the choice between economic rights and human rights, between economic security and national security, is a false one. Membership in the WTO, of course, will not create a free society in China overnight, or guarantee that China will play by global rules. But over time, I believe it will move China faster and further in the right direction—and certainly will do that more than rejection would.

PNTR was also required if the United States was to receive the economic benefits of China's WTO accession, Clinton said.

However, some PNTR opponents put forward the argument that extending permanent MFN treatment to China was unmerited and even unnecessary. They called the idea that without PNTR the United States would lose out on the benefits of China's WTO entry "the Big Lie" (Public Citizen's Global Trade Watch 2000, ii). Citing a memo by Columbia Law School's Mark Barenberg (Barenberg 2000), groups like Public Citizen's Global Trade Watch held that MFN provisions in the 1979 US-China agreement would give the United States all the benefits of China's WTO accession. Public Citizen therefore maintained that members of Congress should not feel pressured to vote for PNTR by the administration, the Chinese, or US corporations.¹⁰⁹ Georgetown University's John Jackson and others countered that the Jackson-Vanik amendment was indeed a legal obstacle to a full WTO relationship between the PRC and the United States. The 1979 bilateral agreement applied mainly to tariffs and would not cover market access or other WTO commitments, Jackson argued (Jackson and Rhodes 1999, 504). "A vote against PNTR, or no vote at all,

109. See testimony of Lori Wallach, Public Citizen's Global Trade Watch, "Permanent NTR for China: Neither Merited nor Necessary," Hearing of the Senate Commerce, Science and Transportation Committee, 106th Congress, 2nd Session, April 11, 2000.

means that . . . the United States would miss out on the most valuable elements of China's concessions: the nontariff liberalization," researchers at the Institute for International Economics claimed (Hufbauer and Rosen 2000, 1). The argument that PNTR was unnecessary did not appear strong enough to persuade lawmakers to oppose the bill.

As debate over PNTR continued, a surprising alliance formed between President Clinton and Republican House Majority Whip Tom DeLay, who was perhaps Clinton's harshest critic on Capitol Hill and had led the charge to impeach the president. However, in the PNTR fight, DeLay found himself in the position of Clinton's point man for rounding up Republican votes. "I have a fundamental disagreement with this president about how he's done his job," said DeLay. "But when he's doing something I think is important, I'm going to support him because he doesn't do it very often." DeLay's support of PNTR was also striking because he was a fierce anti-Communist as well as coauthor of the proposed Taiwan Security Act, a bill strongly opposed by Beijing that would strengthen the relationship between Taiwan and the Pentagon. "Exporting American values undermines the Communist regime in China," DeLay explained.¹¹⁰

The rhetoric of leaders in the House grew more sweeping. Ways and Means Chair Bill Archer "sternly told his colleagues that this was the most important vote they could cast in their entire congressional career."¹¹¹ Business interests also heightened their lobbying efforts in the lead-up to the vote. Ultimately, corporate America mounted its largest-ever trade campaign in favor of PNTR.¹¹² The United States Chamber of Commerce and the Business Roundtable alone spent almost \$10 million on ads, against about \$2 million spent by labor opposing PNTR.¹¹³ Executives walked the halls of the Capitol, targeting representatives whose districts would benefit from the China deal. "This is the most contested trade battle I've ever seen," said the international vice president of the National Association of Manufacturers.¹¹⁴ PNTR opponents attacked the business effort as "the most forceful and aggressive corporate legislative campaign in history" (Public Citizen's Global Trade Watch 2000, 1).

President Clinton met with more than 100 lawmakers to rally support for PNTR. In a last-minute effort to secure votes, Clinton and Speaker Hastert announced a set of tax breaks and public investments aimed at

110. DeLay, quoted in Eric Schmitt, "Unlikely Alliance Is Formed to Pass Bill on China Trade," *The New York Times*, May 9, 2000, A1.

111. "A Much-Needed Victory," *The Economist*, May 27, 2000, 27.

112. Jonathan Peterson, "Trade Debate Shows Force of Social Issues," *The Los Angeles Times*, May 25, 2000, A1.

113. Joseph Kahn and Eric Schmitt, "House, by Wide Margin, Grants Normal Trade Rights to China," *The New York Times*, May 25, 2000, A1; "A Much-Needed Victory," 27.

114. Franklin J. Vargo, quoted in Peterson, "Trade Debate Shows Force of Social Issues," A1.

helping distressed rural and urban areas—the New Markets and Community Renewal initiative. Observers say the move was meant to sway undecided members of the Black Caucus. Representative Martin Frost (D-TX) announced he would vote “yes” after the Navy told the Northrop Grumman defense plant in his district that it would receive enough business to stay open. Among other district matters receiving attention were the construction of a gas pipeline in western Texas and the fate of a National Weather Service monitoring station in Alabama.

In the week before the House vote, on May 19, Trade Commissioner Pascal Lamy completed Europe’s bilateral market access talks with China. The EU-China agreement in certain regards also helped US business interests. For example, the deal included a commitment to end discriminatory policies for pharmaceuticals. Some Republicans would later credit the EU-China bilateral deal with being a key factor in their decision to support PNTR. The European Union knew that “having US congressional approval would be very good for the world trading system,” says Lael Brainard. “So in the end they were helpful and it worked out.”

On May 21, the White House canceled a planned televised address by President Clinton on the importance of granting PNTR to China. White House spokesman Joe Lockhart said the action was taken after discussions with congressional Democrats. “In talking to Democrats on the Hill, we realized that in the context of this debate, that speech might be counterproductive, [and] certainly wasn’t likely to produce the retail-oriented votes that we needed to get,” he said.¹¹⁵ The administration was also concerned about who would provide the response to Clinton’s comments. One possibility was House Minority Leader Dick Gephardt, creating the problematic scenario of a leader of the Democratic Party speaking out against a Democratic president.

The day before the vote, union workers, environmental activists, and human rights activists rallied against PNTR on the steps of the Capitol. Harry Wu, a prominent human rights advocate, drew cheers when he called out to the crowd, “Vote your conscience, not just for profit.”¹¹⁶ In the final hours of lobbying, AFL-CIO president John Sweeney focused his efforts on undecided Republicans. By some accounts, however, labor did not fight the battle against PNTR with the same intensity that it had marshaled against fast track in 1997.

The night before the vote, Levin won support from House leaders to amend the PNTR bill with his proposal. Vote counters reported that Levin-Bereuter helped to recruit about two dozen undecided representatives. One of the most influential legislators who pointed to Levin-

115. Lockhart, quoted in “White House Cancels China Speech for Fear of Backlash,” *Inside US Trade Special Report*, May 23, 2000, 12.

116. Wu, quoted in Eric Schmitt and Joseph Kahn, “The China Trade Wrangle: The Overview; The House Opens a Spirited Debate over China Trade,” *The New York Times*, May 24, 2000, A1.

Bereuter as making the difference in his decision to support PNTR was Representative Charles Rangel (D-NY), the ranking minority member of the Ways and Means Committee.

When the House vote on PNTR was finally taken, the tally was not as close as some had expected; indeed, the bill passed quite comfortably, 237 to 197. Some observers, including Charlene Barshefsky, believe that House members recognized the historic implications of China joining the WTO and deferred to the specialized knowledge of those who were more closely involved. She thinks that “what really became the ace was that members of Congress are reluctant to let their own judgment on the security implications of a given piece of legislation override that of the president of the United States, the secretary of defense, and the secretary of state.”

But it is important to note that only 73 out of 211 Democrats voted for PNTR—a lower percentage than had voted for NAFTA (35 percent of Democrats voted for China PNTR, while 102 out of 258 Democrats, or 40 percent, voted for NAFTA). One hundred and sixty four Republicans out of 221 supported the legislation. Some Democrats think that timing was an important factor in PNTR’s passage. According to one congressional staffer, “If this had dragged out much longer, I think a lot of the Democrats who were sitting on the fence wouldn’t have voted for it. As you got closer to the convention and the election, PNTR would have become more and more viewed as a political liability. It would have been very hard for a lot of Democrats to support it.”

After the vote in the House, President Jiang Zemin took the step—“unusual,” according to White House officials—of telephoning President Clinton to express his thanks. The usual protocol would be a formal exchange of letters, not a 40-minute conversation. One senior official involved in China policy remarked, “I don’t recall Jiang ever [before] initiating a call.”¹¹⁷

The Senate

The next step was to get PNTR through the Senate. Though the bill’s passage was expected, suspense remained. Any amendments would result in HR 4444 being sent back to the House, where supporters feared that further deliberations would doom it. Leading supporters of PNTR in the Senate included most Republicans and many Democrats, Max Baucus (D-MT) among them.

Many PNTR proponents were frustrated with Senate Majority Leader Trent Lott, who delayed in getting the measure to the floor. The bill was

117. Quoted in Marc Kaufman and John F. Harris, “Chinese Leader Telephones Thanks for Trade Bill Vote; White House Officials Describe Call to Clinton as Unusual,” *The Washington Post*, May 29, 2000, A2.

not taken up by the Senate until the week of September 4. Representative Robert Matsui criticized the move as “a major tactical error. A bill like that should never be brought up in the last month of Congress.”¹¹⁸ While the bill awaited debate in the Senate, President Clinton announced on June 2 that he would extend China’s NTR status for the next year. On July 18 the House defeated a resolution to overturn the president’s decision (HJ Res. 103), 147 to 281.

Many Senate proponents of the China trade bill joined in a pact to block any attempts to amend it. PNTR supporters thought a proposed amendment by Senators Fred Thompson (R-TN) and Robert Torricelli (D-NJ) was the biggest threat to passing a “clean” version of PNTR, and business groups lobbied hard for its defeat. Some tried to convince Thompson not to offer his amendment, which would have imposed sanctions on Chinese companies caught exporting nuclear, chemical, or biological weapons, but Thompson held firm.¹¹⁹ In the end, the amendment was killed on September 13 (despite Lott’s support).¹²⁰

Before HR 4444 was brought to a vote, the Senate rejected a total of 18 amendments. One, proposed by Paul Wellstone (D-MN), required the president to certify that China was not exporting goods made with prison labor before granting PNTR; another, from Senator Jesse Helms (R-NC), would have delayed granting PNTR until the president certified that China had made substantial strides toward permitting greater religious freedom. Senator Robert Byrd (D-WV) proposed an amendment requiring the United States to support the transfer of clean energy technology as part of programs aimed at assisting China’s energy sector. Before Byrd’s amendment was defeated, the Senator expressed his anger on the floor saying, “Why have any debate? Why call up amendments? Why go through this charade? I have called up an amendment. We all know it is going to be rejected because some senators are going to vote against any amendments, no matter what the amendment provides. . . . What kind of legislative process is that?”¹²¹

118. Matsui, quoted in Chuck McCutcheon with Lori Nitschke, “China Trade Bill Remains Intact as Senate Rejects Arms Sanctions,” *Congressional Quarterly*, September 16, 2000, 2152.

119. “Senate Poised to Approve China PNTR After Thompson Failure,” *Inside US Trade*, September 15, 2000.

120. Senator Thompson, a former Watergate prosecutor, wanted the Senate to add an amendment to the intelligence authorization bill for fiscal 2001 that would require the president to punish the Chinese government or individual Chinese companies if they were found to be supplying weapons of mass destruction or components of such weapons to other nations. However, the White House, many business interests, Senate Democrats, and some Senate Republicans opposed the effort. Thompson also directed a yearlong probe of alleged Democratic Party fund-raising improprieties centered on Chinese donations (*Congressional Quarterly Weekly*, July 29, 2000, 1901).

121. Comments by Robert C. Byrd (D-WV) on the Senate floor, September 7, 2000.

Observers agreed that the debate on PNTR had a “going-through-the-motions feel.”¹²² The anterooms of the Senate, unlike those of the House, were not filled with business and union lobbyists in the lead-up to the vote. After 10 days of deliberations, the Senate voted on HR 4444 on September 19. PNTR passed, 83 to 15, without additional amendments and was signed by President Clinton on October 10 (for a timeline, see appendix 6A). The law would not enter into force until China’s accession to the WTO.

Conclusion

Analysts viewed the passage of PNTR as a historic bookend to the Clinton presidency, which also began with landmark measures expanding trade—the passage of the North American Free Trade Agreement and the implementation of the Uruguay Round Agreements that created the WTO. Some noted the irony that Clinton began his presidency determined to link China’s trade status to human rights, and ended it with the most important US-China trade deal in history. In the aftermath of the congressional battle over PNTR, many contrasted the success of the China bill with the failed efforts to pass fast track in 1997 and 1998. “The China debate became a debate on the overall course of the China relationship,” said Myron A. Brilliant, a lobbyist for the US Chamber of Commerce. “On trade agreements and on fast track, it centers much more on the role of labor and environmental issues.”¹²³ The loss on fast track also added to the importance of the PNTR victory, “because,” noted *The Economist*, “it shows that trade bills can actually be passed in Congress, something that even the most ardent free-traders were beginning to question.”¹²⁴

China would become the 143rd member of the WTO on December 11, 2001, after a 15-year accession effort. The signing ceremony was postponed by one day so that it would follow the WTO’s endorsement of Taiwan’s membership as a “separate customs territory” under the name “Chinese Taipei.” On December 27, 2001, President George W. Bush issued a proclamation extending PNTR status to China, effective January 1, 2002. Though the journey to WTO entry was over, China and the rest of the world would now embark on a new journey. WTO membership would “inevitably exert widespread and far-reaching impact on China’s economy and on the world economy,” said Chinese trade minister Shi Guangsheng.¹²⁵ The full nature of that impact remains to be seen.

122. Andrew Taylor, “China Trade Bill Nears Its Finale as Senators Spurn Amendments,” *CQ Weekly*, September 23, 2000, 2224.

123. Lori Nitschke, “After the China Bill: Fresh Start for the Trade Expansion Debate,” *CQ Weekly*, September 23, 2000, 2224.

124. “A Much-Needed Victory,” 27.

125. Shi, quoted in Frances Williams, “China and Taiwan Join World Trade Body,” *The Financial Times*, November 12, 2001, 10.

Negotiation Analysis of the Case

When viewed in isolation, the US-China negotiations that paved the way for China's accession to the WTO are unremarkable. Certainly, there were difficult issues that needed to be resolved. Certainly, the parties vigorously engaged in bluff and brinkmanship. But little distinguished this process from myriad other tough bilateral negotiations.

When placed in their larger context, however, the US-China market access talks prove a rich subject for analysis. These bilateral negotiations were just one link in a complex negotiating game over China's WTO accession, which also included other bilateral negotiations over market access (especially between China and Europe) and multilateral negotiations over accession within the WTO, as well as linkages to the Uruguay Round negotiations, human rights issues, national security concerns, and perceptions of performance in implementation of earlier agreements.

The US-China negotiations also have to be situated in the larger context of US trade politics. The bilateral market access agreement was *not* negotiated under the auspices of fast track. In part, the negotiations succeeded because the United States was dealing with a single large partner rather than engaging in a broader multilateral process. In addition, the president already had the authority to approve China's accession to the WTO. Crucially, business mobilized an unprecedented campaign in support of PNTR, taking action much earlier than it had done to aid NAFTA or the fast-track efforts of the 1990s.

Element #1: Organizing to Influence

China's accession to the WTO was propelled forward by a powerful combination of economic and political forces. Economically, the vast expansion of trade between China and the rest of the world *de facto* made the Chinese players in the international trading system. Politically, the end of the Cold War and liberalization in China made WTO membership acceptable to the West.

As is true of all the case studies in this volume, however, outcomes do not result solely from evolving macro forces. China's WTO accession was catalyzed by vigorous organizing efforts on the part of dedicated groups of business players and government officials in the United States, Europe, and China. These groups created momentum in the external negotiations and mediated the significant internal differences within their respective sides.

Chinese trade and foreign policy officials engaged in a long-term effort to gain accession to the GATT/WTO. Beginning as early as 1986, China had requested the restoration of its status as a party to the GATT. When stymied by the desire of US and European officials to first complete the

Uruguay Round, the Chinese persevered by pressing to become founding members of the WTO in 1995. Failing to meet that goal, the Chinese worked to lay the diplomatic groundwork for entry. They also successfully dealt with significant internal conflicts between reformers and conservatives over the pace of liberalization and the timing of accession.

On the US side, USTR was the focal point for pushing forward China's accession process, as well as for advancing US interests in bilateral and multilateral negotiations. Under the leadership of Charlene Barshefsky, USTR took control of the process by creating a road map for Chinese entry. Like their Chinese counterparts, Barshefsky and her colleagues in the administration had to deal with serious internal differences. For example, many in Congress were reluctant to relinquish the opportunity that the annual MFN renewal process offered them for criticizing various Chinese policies. Concerned about issues ranging from China's human rights record to competition in low-wage manufacturing industries to national security, some legislators opposed granting China PNTR. Only through energetic and focused organization, such as creating a PNTR war room under the command of Commerce Secretary Bill Daley, was the administration able to win the battle in Congress.

Finally, critical support for brokering a creative compromise in Congress came from the work of Representative Sandy Levin—a somewhat surprising torchbearer for PNTR, given his prolabor background. By energetically advocating the codification of product-specific safeguards and the creation of a congressional-executive commission on China's human rights record, Levin helped to pave the way for the bill's passage.

Outside Congress, the so-called new China lobby of export-oriented US business interests mobilized very strongly in support of passing PNTR. Mounting their largest-ever campaign, businesses coordinated efforts and created alliances among leading organizations ranging from the Business Roundtable to the American Farm Bureau.

Element #2: Selecting the Forum

In 1997, the US administration decided to focus on bilateral market access negotiations with China rather than the multilateral entry negotiations. Concerned that the European Union might forgo a bilateral agreement altogether, thereby reducing the pressure on China to make hard economic concessions, the administration decided to change its focus to gain more bargaining leverage. In addition, US policymakers knew that agreements reached in the bilateral forum would set the standard for subsequent negotiations over accession. The Europeans were happy to garner the benefits of allowing the United States to play “bad cop.”

The trajectory of the negotiations among European, US, and Chinese forums is also worthy of attention. Much of the early negotiating took place

in the multilateral forum in Geneva. But as the focus shifted to bilateral negotiations, the venue also changed. Proponents of a US-China agreement sought to use a visit to the United States by Premier Zhu Rongji to increase pressure on holdouts in the Clinton administration. When this failed and no agreement was reached, Zhu was humiliated. The Chinese responded to this incident by essentially forcing the US negotiators to come to them if they wanted to renew negotiations. To signal US seriousness, and avoid another division in the administration, Barshefsky brought National Economic Council Chairman Gene Sperling with her to China.

Element #3: Shaping the Agenda

Once the US-China bilateral negotiating forum became the focus of attention, the economic relationship between the two countries largely established the agenda for the talks. China sought permanent MFN treatment, while the United States sought concessions in the areas of trade in services and agriculture. Complementary goals created the potential for joint gains.

More interesting were the efforts to shape the agenda for the congressional debate over granting China PNTR. Opponents attempted to link passage of PNTR to issues ranging from human rights violations (as exemplified by the violent crackdown on protesters in Tiananmen Square) and labor conditions to trade safeguards and national security. Many in Congress were reluctant to give up the stick provided by the annual requirement that the administration waive Jackson-Vanik in order to renew China's MFN status.

In addition, a comparison of the fast-track and China PNTR agendas helps to illustrate why business mobilized much more strongly in the latter case. The fast-track agenda concentrated on the rules that would determine how trade agreements would be negotiated in the future. This complexity rendered the potential benefits ambiguous and uncertain. By contrast, the issues on the agenda of granting PNTR status to China were often direct, bottom-line concerns affecting many companies. As a result, key business sectors mobilized early and very effectively.

Element #4: Building Coalitions

The fight to win passage of PNTR in the US Congress was a classic exercise in legislative coalition building, albeit one with a few twists. Though a Democrat, President Clinton created a successful alliance with protrade Republicans in the House, led by his archenemy Tom DeLay. House Democrats opposed PNTR by a margin of nearly 3 to 1, more than had op-

and George Bush; and 149 economists, including 10 former Council of Economic Advisers chairs and 13 Nobel laureates. Moreover, incorporating the Levin-Bereuter provisions directly into the PNTR bill (rather than presenting them as separate legislation) gave some members of Congress political cover to vote for passage.

Element #5: Leveraging Linkages

Linkages can propel negotiations forward and create opportunities for joint gains. But they can also act as barriers to progress. When linkages act as barriers, negotiators must find ways to neutralize them. The process through which China acceded to the WTO is notable for the broad array of such blocking linkages that had to be overcome.

In the United States, trade with China had long been linked to a range of other issues, notably human rights and labor conditions, but also increasingly to national security. The annual renewal of China's MFN status had enabled critics to focus a spotlight on Chinese conduct each year, as well as to implicitly threaten to hold MFN renewal hostage until there were changes in behavior. The Chinese, of course, resented these linkages, seeing them as unacceptable meddling in their domestic affairs. The Levin-Bereuter proposal was a way of breaking the tie between trade and human rights, while still providing critics with a mechanism for focusing attention on Chinese behavior.

The passage of PNTR was also strongly linked to previous battles between business and labor over NAFTA and fast track as well as to the protests at the Seattle ministerial. After losing the fight on NAFTA, organized labor had hardened its opposition to further expansion of international trade. By failing to mobilize effectively to press for passage of fast track in 1997, business had lost that fight. Both sides were therefore determined to win in the next round of the game.

Other linkages helped to propel the process forward while at the same time providing certain players with strategic advantage. There was an important linkage, for example, between the GATT negotiations over accession and bilateral US-China negotiations over market access. The working party for China, formed in 1987, was the largest such body ever in the history of the GATT. Thus as early as 1987, China knew that it would have to conclude a record number of bilateral agreements before it became a member. And in the accession of any individual country, the final agreement has to incorporate *all* of the concessions made in *each* of the bilateral agreements.

But precedents set in earlier accession negotiations can influence subsequent ones. Japan, which had finished its bilateral first, was willing to settle for less stringent terms than the United States would press for. The

Clinton administration was concerned that the Europeans would give away too much in the accession negotiations, in effect helping to build momentum for a more lenient overall accession agreement. Therefore, the United States decided to take control of the process by initiating bilateral negotiations before the EU and through its agreement shaping subsequent bilateral negotiations between the European Union and China (and ultimately the multilateral accession process). Of course, this approach allowed the European Union to pocket what the United States had already negotiated and focus entirely on winning concessions for its own special interests.

Conversely, bilateral negotiations between the European Union and China likewise helped to create momentum for passage of PNTR. Just prior to the vote in Congress, the European Union completed its bilateral negotiations with China. These negotiations incorporated about 80 percent of the provisions of the US-China bilateral agreement, validating the US decision to press ahead on this front. But they also provided some important additional benefits for US business interests that strengthened Republican support for passage of PNTR.

Element #6: Playing the Frame Game

The case of China's PNTR provides some notable examples of effective framing. USTR sought to frame China's entry to the WTO in terms of economics, not politics. To support their argument that the WTO was not a political club but a contractual agreement, USTR established "commercially meaningful terms" as the standard by which WTO entry should be judged.

The domestic debate in the United States over passage of PNTR likewise evoked creative framing efforts on both sides, as demonstrated by quotations already cited above. Favoring PNTR, Hewlett-Packard CEO Carly Fiorina stated that "a vote against trade with China is a vote against US business, employees, American citizens and the people of China." Framing the opposing point of view, Representative Nancy Pelosi denied the claim "that human rights in China would improve if we had unconditional trade benefits for China," pointing out that "more people are imprisoned for their beliefs in China today than at any time since the Cultural Revolution."

At the same time, business intentionally downplayed some potential arguments in favor of PNTR to avoid strengthening the opposition. They sought, for example, to avoid talking about the significant investment benefits of the WTO agreement, fearing that this argument would be used by organized labor to bolster the argument that passage of the legislation would lead to job loss.

Element #7: Creating Momentum

The case of PNTR for China provides a wealth of examples of how multi-stage processes, sequencing, creative compromises, and action-forcing events can be used to create (and to impede) momentum toward agreement. For example, by creating a road map for China's accession in 1995, Charlene Barshefsky shaped a multistage process that could progressively overcome key barriers and build momentum toward agreement. In another example of momentum building, the Chinese linked their accession negotiations to the WTO ministerial meeting in Seattle. Knowing that the administration was anxious to close the US-China deal before the Seattle ministerial, the Chinese effectively backed the United States up against the deadline.

The scheduling of the vote in the House exemplifies the use of an action-forcing event to create momentum. The Republican leadership sought to delay a vote on PNTR in order to hurt Vice President Gore in the lead-up to the presidential elections. But business interests perceived this postponement as a threat to passage of PNTR and pressed the Republicans to move swiftly toward a vote.

Not all efforts at momentum building worked out so well. The visit to the United States by Chinese premier Zhu Rongji, for example, was an unsuccessful effort by supporters of agreement in the Clinton administration to force the negotiations to closure. By inviting Zhu to the United States and then not just failing to finalize the agreement but also publishing the Chinese concessions, the administration unquestionably set the process back and also undermined a key Chinese reformer. It took many months of hard work to get the process back on track.

Conclusion

The case of China's PNTR offers rich material for exploring how players employ the key elements of strategic negotiation to advance partisan interests, particularly in the area of linkages. The ability to create and neutralize linkages in time (e.g., between NAFTA and PNTR), among issues (e.g., trade and human rights), and between international negotiations and domestic ratification processes is critically important for trade negotiators. Linkages are indispensable tools for improving one's own best alternative to a negotiated agreement and also can function effectively as action-forcing events. The right linkages can spur people to make choices they would rather avoid.

Appendix 6A

Timeline: The 1999 US-China Bilateral Agreement and the Battle for PNTR

Date	Event
1947	China is one of the 23 original GATT contracting parties.
1949	The Chinese Communist Party defeats the Nationalist Party.
1950	Nationalist China pulls out of the GATT.
1951	President Truman suspends China's most favored nation (MFN) trading status.
1971	The United Nations recognizes the Communist government of the People's Republic of China as the sole legal Chinese representative in the United Nations.
1978	Deng Xiaoping launches economic reform in China.
1980	The United States conditionally restores MFN trading status to China to be reviewed annually under the Jackson-Vanik amendment of the Trade Act of 1974.
1982	The GATT grants China's request for nonvoting observer status.
1986	China requests the restoration of its status as a full contracting party to the GATT.
1989	Unarmed protesters are killed at Tiananmen Square.
1993	President Clinton issues an executive order to make China's MFN trade status conditional on improvement in six areas, including human rights.
1994	Clinton renews China's MFN status. Beijing accelerates efforts to join the GATT, hoping to become a founding member of the WTO.

(table continues next page)

Timeline: The 1999 US-China Bilateral Agreement and the Battle for PNTR *(continued)*

Date	Event
1995	The WTO replaces the GATT.
October 1997	President Jiang Zemin and President Clinton hold a summit in Washington, DC.
1999	Chinese Premier Zhu Rongji tells US Federal Reserve Board Chairman Alan Greenspan that he is ready to make a deal.
March 1999	USTR Charlene Barshefsky visits China.
April 1999	Premier Zhu Rongji comes to the United States. In a controversial move, President Clinton chooses not to close the US-China bilateral.
May 7, 1999	The United States mistakenly bombs the Chinese Embassy in Belgrade.
September 11, 1999	President Clinton and President Jiang Zemin discuss restarting trade talks during New Zealand Economic Summit.
November 8, 1999	Clinton sends USTR Charlene Barshefsky and his economic adviser Gene Sperling to China.
November 15, 1999	The US-China bilateral deal is reached.
May 24, 2000	The US House of Representatives votes to grant China permanent normal trade relations (PNTR) status upon its accession to the WTO.
September 19, 2000	The US Senate passes PNTR.
October 10, 2000	President Bill Clinton signs PNTR.
December 11, 2001	China becomes the 143rd member of the WTO.