

October 2004

# U.S.-CHINA TRADE

## Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments



G A O

Accountability \* Integrity \* Reliability



Highlights of [GAO-05-53](#), a report to the Senate Committee on Finance and the House Committee on Ways and Means

## Why GAO Did This Study

China's 2001 accession to the World Trade Organization (WTO) required China to reform its economy and trade practices. As part of ongoing work, GAO reviewed how the U.S. Trade Representative (USTR) and the Departments of Commerce, Agriculture, and State pursued China's WTO compliance in 2003. Specifically, this report (1) discusses the scope and disposition of China's compliance problems, (2) reviews the U.S. government's bilateral and multilateral approaches for resolving these problems, (3) assesses the key agencies' strategies and plans for ensuring compliance, and (4) assesses how the agencies have adapted their staff resources to conduct compliance activities.

## What GAO Recommends

GAO recommends that the four key agencies undertake a range of actions to improve timeliness and participation in the WTO's annual review of China's compliance, performance management assessments and unit-level planning, and staff training. The agencies said they would consider our recommendations, but they expressed various concerns, including that the report did not sufficiently reflect their achievements in 2004, and about whether their performance could be better assessed in a more quantifiable manner. We made changes throughout this report to update information and to clarify our findings as appropriate.

[www.gao.gov/cgi-bin/getrpt?GAO-05-53](http://www.gao.gov/cgi-bin/getrpt?GAO-05-53).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Loren Yager at (202) 512-4128 or [YagerL@gao.gov](mailto:YagerL@gao.gov).

# U.S.-CHINA TRADE

## Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments

### What GAO Found

China has successfully implemented many of its numerous WTO commitments, but USTR reported that over 100 separate compliance problems arose in 2002 and 2003. These problems ranged from specific, relatively simple issues to broader, more systemic concerns. Most problems continued from 2002 to 2003, an indication that China was able to address the more easily resolvable problems, while the more complex issues persisted. Furthermore, new problems emerged, with many arising from phased-in commitments that China was due to implement in 2003. The U.S. government continued to pursue resolution of compliance problems in 2004, and the agencies noted the successful resolution of several major issues of economic importance to U.S. companies. The key U.S. agencies have done much to ensure China's compliance, but GAO found three areas in which these key agencies could take steps to improve their efforts:

First, U.S. efforts to address compliance problems emphasized high-level bilateral engagement with China in 2003, with increased senior-level delegations to China and elevated participation in formal consultative mechanisms. U.S. multilateral engagement with China in 2003 reflected more emphasis on working through regular WTO committee business, because the WTO's annual review of China's implementation, the Transitional Review Mechanism (TRM), has ongoing limitations. Nevertheless, the TRM has benefits and these could be enhanced by increased member participation and earlier U.S. submissions, which would maximize the potential for full and informed responses from China.

Second, although interagency and intra-agency coordination on policy and high level compliance strategies was generally effective, GAO found various performance management limitations that make it difficult to clearly measure and assess the outcome of the key agencies' China-WTO compliance efforts. GAO found that the specific units within the agencies that are most directly involved with these efforts could improve how the agencies measure and report the results of their activities. Furthermore, developing clearer linkages between unit-level results and agency goals that are established in accordance with the Government Performance and Results Act of 1993 could enhance the effectiveness of these units' activities.

Third, turnover and lack of training limited the effectiveness of increased staff resources for China-WTO compliance activities. New staff members were called upon to take up complex monitoring and enforcement activities while relying primarily on on-the-job training, which was complicated by high and often predictable staff turnover. Attention to human capital management is particularly important, given the long-term challenges associated with ensuring China's compliance.

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**Abbreviations**

FAS	Foreign Agricultural Service
FTE	full-time equivalent
GPRA	Government Performance and Results Act of 1993
IPR	Intellectual property rights
JCCT	Joint Commission on Commerce and Trade
OJT	on-the-job training
OMB	Office of Management and Budget
SARS	Severe Acute Respiratory Syndrome
TRM	Transitional Review Mechanism
USDA	U.S. Department of Agriculture
USTR	U.S. Trade Representative
WTO	World Trade Organization

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United States Government Accountability Office  
Washington, D.C. 20548

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October 6, 2004

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

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

China's 2001 accession to the World Trade Organization (WTO) raised expectations with Congress and the private sector about the prospects for China to reform its markets and allow greater access to foreign goods and services. Indeed, U.S. trade with China has increased significantly between 2000 and 2003, including a 75-percent increase in U.S. goods exported to China over that time period. Despite this increase, growth in imports from China have outpaced growth in exports to China; and the U.S. trade deficit with China reached \$124 billion in 2003, according to U.S. trade data. This growing deficit, together with ongoing concern over China's adherence to WTO rules, has sharpened the focus on the U.S. government's efforts to ensure that U.S. firms secure the benefits of China's membership in the global trading system.

As part of your request that we undertake a long-term body of work related to China's membership in the WTO, we reviewed how the U.S. Trade Representative (USTR) and the Departments of Commerce, State, and Agriculture (USDA) were positioned to monitor and enforce China's compliance with its WTO commitments in 2003.<sup>1</sup> Specifically, in this report we (1) examine the scope and disposition of China-WTO compliance problems the U.S. government is working to resolve; (2) review the U.S. government's bilateral and multilateral approaches for resolving compliance problems; (3) assess the agencies' strategies, plans, and measures for ensuring China's compliance; and (4) assess how the U.S.

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<sup>1</sup>See related GAO products, p. 70.

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government has adapted its staff resources to conduct compliance activities.

To examine the scope and disposition of compliance problems, we analyzed the 2002 and 2003 versions of USTR's *Report to Congress on China's WTO Compliance* and verified the information included in the reports against problems raised by the private sector.<sup>2</sup> To assess U.S. bilateral and multilateral monitoring and enforcement efforts, we reviewed agency and WTO documents and interviewed agency officials both in Washington, D.C., and Beijing, as well as WTO Secretariat and other member government officials. To assess agency strategies, plans, resources, and other activities related to China's compliance, we reviewed planning documents, budget and staffing data, and information on training from the four key agencies. We supplemented our review of this information by conducting individual interviews with over 50 staff and unit managers at the four key agencies that had China compliance as a main portion of their work portfolio. (See app. I for details on our scope and methodology.) We performed our work from June 2003 to July 2004 in accordance with generally accepted government auditing standards.

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## Results in Brief

China has successfully implemented many of its numerous WTO commitments, including rewriting hundreds of trade-related laws and regulations and making required tariff reductions. However, USTR's reports to Congress identified over 100 individual compliance problems concerning China's implementation of its WTO commitments, according to our analysis. These problems spanned all commitment areas and ranged from very specific, relatively simple problems, such as late issuance of particular regulations, to broader concerns over transparency in China's rule-making process, which are more difficult to implement and assess. Most compliance problems identified in 2002 persisted into 2003. U.S. officials noted that this continuation was an indicator that China was able to address many of the more easily resolvable problems during 2002, but that the remaining issues had proven to be more difficult to address. Additionally, new problems emerged in 2003, with many of them arising from phased-in commitments that China was due to implement in 2003. The U.S. government has continued to pursue resolution of outstanding

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<sup>2</sup>See USTR, *2002 Report to Congress on China's WTO Compliance* (Washington, D.C.: Dec. 11, 2002) and USTR, *2003 Report to Congress on China's WTO Compliance* (Washington, D.C.: Dec. 11, 2003).

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compliance problems in 2004 and has noted resolution of several problems that are of significant potential economic importance to U.S. exporters, including, for example, some in the area of trading rights within China. USTR is required to report on China's WTO compliance again in December 2004.

U.S. government approaches for resolving compliance problems with China included both bilateral and multilateral engagement. U.S. trade officials placed greater emphasis on high-level bilateral engagement with China in 2003, compared with 2002. For example, U.S. cabinet and subcabinet level trade delegations to China increased from 13 in 2002 to 23 in 2003. We found that formal and informal U.S. government coordination on these efforts was generally effective. The United States continued to engage China multilaterally as well, and this included U.S. participation in the WTO's second annual review of China's compliance, referred to as the Transitional Review Mechanism (TRM). Although there were some benefits from the review, other WTO members' participation in this review declined from 2002 to 2003, U.S. submissions in 2003 gave China less time to prepare answers to implementation questions, and procedural and other limitations continued to hamper the review's effectiveness.

U.S. monitoring and enforcement of China's compliance with its WTO commitments requires a systematic effort based on extensive planning and attention to results. Although high-level policy coordination within and among the agencies and political engagement with China was generally effective, we found that various performance management shortcomings at each of the four key agencies (USTR, Commerce, State, and USDA) responsible for China-WTO compliance efforts make it difficult to assess the extent to which these agencies believe they are achieving their planned results, as called for under the Government Performance and Results Act of 1993 (GPRA). For example, despite having specific quantitative performance indicators (number of trade problems resolved and number pending) for its China-WTO compliance activities, USTR does not attempt to set measurable targets or use them to assess annual performance; instead, USTR states that it is difficult to accurately predict whether China will implement its commitments in any one year and provides narrative descriptions of the status of various problems. Furthermore, the specific units within the four agencies that were tasked with monitoring and enforcing China's compliance could improve how they plan, prioritize, and measure the results of their unit's activities in a way that could be clearly linked to the agencies' higher-level overall goals and enable them to more clearly assess their units' performance.



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In 2003, the four key agencies (USTR, Commerce, State, and USDA) continued to add staff resources to meet the demands of monitoring China's compliance with its WTO commitments; however, turnover and lack of training was problematic. Estimated full-time equivalent (FTE) staff in the main units that were involved in these activities increased from about 25 to 58 from fiscal year 2000 to 2003. Overall, staff resources increased more at the agencies' headquarters than overseas in China. Notwithstanding these increases, we identified a number of factors that may have limited the effectiveness of the U.S. government's China compliance efforts. For example, despite high and often predictable staff turnover in many of the units we examined, the agencies' China units lacked specific training related to carrying out trade compliance duties or did not provide ample opportunity for staff to take relevant training. Instead, most units relied almost exclusively on on-the-job training (OJT) for new staff. Consequently, some staff with relatively short rotations in China compliance-focused offices said they spent a significant portion of their total tenure educating themselves about the complex China trade issues for which they were responsible.

We recommend that the four key agencies undertake a range of actions to enhance the U.S. government's China compliance efforts, including taking steps to ensure more timely and wider participation in the annual review of China's commitments within the WTO, improving performance management activities to enhance planning and assessment of China compliance efforts, and taking steps to mitigate the effects of staff turnover by providing increased staff training opportunities. In responding to our draft report, the agencies said they would consider our recommendations, but they expressed various concerns. These included concerns that the report did not sufficiently reflect their achievements to date in 2004 and about whether their performance could be better assessed in a more quantifiable manner. We agreed to address many of their concerns and made changes throughout this report to update information and to clarify our findings as appropriate.

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## Background

China's December 2001 accession to the WTO resulted in commitments to open and liberalize its economy and offer a more predictable environment for trade and foreign investment in accordance with WTO rules. U.S. investment and trade with China has grown significantly over the past 10 years, and trade between China and the United States exceeded \$180 billion in 2003, based on U.S. trade data. Consequently, China was the United States' third largest trading partner in 2003. U.S. goods exported to

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China increased by 29 percent to \$28.4 billion in 2003 from \$22.1 billion in 2002. U.S. imports from China are also rising and reached a level of \$152.4 billion in 2003. According to 2003 U.S. trade data, the U.S. trade deficit with China (\$124 billion) is larger than that of any other U.S. trading partner.

The U.S. government's efforts to ensure China's compliance with its WTO commitments are part of an overall U.S. structure to monitor and enforce foreign governments' compliance with existing trade agreements.<sup>3</sup> USTR has primary responsibility for monitoring and enforcing trade agreements. Among other things, USTR is required by law to identify any foreign policies and practices that constitute significant barriers to U.S. goods and services, including those that are covered by international agreements to which the United States is a party.<sup>4</sup> At least 16 other agencies are involved in these monitoring and enforcement activities, but USTR and the Departments of Commerce, State, and USDA have the primary responsibilities regarding trade agreement monitoring and enforcement.

Each of these four key agencies we reviewed has within its organizational structure a main unit that focuses on China or the greater Asian region. These main units have primary responsibility for coordinating the agencies' China-WTO compliance activities, although numerous other units within the agencies are also involved. The main units routinely draw on assistance from experts in these other units to obtain information and expertise as needed. Additionally, the key agencies have units in China or at the WTO, and staff in those overseas units are also involved in the agencies' compliance activities. Table 1 lists the main units with China-WTO responsibilities, as well as examples of other offices with which the units coordinate on an intra-agency basis.

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<sup>3</sup>The WTO was established in 1995, and exists to facilitate the implementation, administration, and operation of multiple agreements that govern trade among its member governments. The WTO's dispute settlement system also provides a forum for members to resolve complaints regarding another members' noncompliance with WTO commitments.

<sup>4</sup>See 19 U.S.C. § 2241(a)(1)(A)(i) and (a)(2)(c).

**Table 1: Main China-WTO Compliance Units in the Four Key U.S. Agencies**

Agency	Main headquarters units	Main overseas units	Examples of other units involved
USTR	Office of North Asian Affairs <sup>a</sup>	U.S. Mission to the WTO	General Counsel; Monitoring and Enforcement; Services, Investment, and Intellectual Property; WTO and Multilateral Affairs; and other industry and issue-specific units
Commerce	Market Access and Compliance, Office of China Economic Area  Import Administration, Trade Remedy Compliance Staff	China Trade Facilitation Office	Import Administration (trade remedy investigations), Trade Development, U.S. and Foreign Commercial Service, the Trade Compliance Center, and the Office of General Counsel
State	East Asia and Pacific, Office of Chinese and Mongolian Affairs	Beijing Embassy, Economic Section, WTO Group	Bureau of Economic and Business Affairs, industry and issue-specific units, and China consulates
USDA	Foreign Agricultural Service, Asia and Americas Division	Beijing Embassy, Agricultural Section	Multilateral Trade Negotiations Division, China Agricultural Trade Offices, and other commodity and issue-specific units

Source: GAO.

<sup>a</sup>In April 2004, USTR established a separate and expanded Office of China Affairs to focus solely on overseeing trade policy with China, Taiwan, Hong Kong, Macau, and Mongolia. The Establishment of the Office of China Affairs focuses responsibility for China-specific trade policy under an Assistant U.S. Trade Representative.

## China Successfully Implemented Many Commitments, but Concerns Remain

In its 2002 and 2003 reports to Congress on China's WTO compliance, USTR reported that China had successfully implemented many of its numerous WTO commitments, including rewriting hundreds of trade-related laws and regulations and making required tariff reductions. Nevertheless, USTR's reports identified over 100 individual compliance problems concerning China's implementation of its WTO commitments, according to our analysis. These problems spanned all commitment areas and ranged from very specific, relatively simple problems— such as late issuance of particular regulations—to broader concerns over transparency in China's rule-making process, which are more difficult to implement and assess. Most compliance problems identified in 2002 persisted into 2003. U.S. officials noted this continuation was an indicator that China was able to address the more easily resolvable problems during 2002 but that the remaining issues had proven to be more difficult for China to address. USTR reported that China had mixed success in resolving compliance problems in 2002 and 2003. Additionally, new problems emerged in 2003,

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with many of them arising from phased-in commitments that China was due to implement in 2003. In 2004, USTR and the other key agencies continued to pursue resolution of problems and noted many positive developments in resolving a number of these outstanding compliance issues.

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## China Showed Progress in Implementing WTO Commitments

USTR noted several areas in which China has successfully implemented its commitments since joining the WTO in December 2001. China's WTO commitments, which are described in over 800 pages of legal text, are broad in scope and range from general pledges for how China will reform its trade regime to specific market access commitments for goods and services.<sup>5</sup> In 2002, USTR reported that China reviewed more than 2,500 trade-related laws and regulations for WTO consistency, repealed or amended nearly half of these, and issued many new laws and regulations. China also restructured government ministries with a role in overseeing trade, embarked on an extensive educational campaign on the benefits of WTO membership, and made required tariff reductions. USTR reported that, in 2003, China also took steps to correct systematic problems in its tariff-rate quota regime for bulk agricultural commodities, reduced capitalization requirements in certain financial sectors, and opened up the motor vehicle financing sector (see table 2). During this period of reform in China, U.S. exports to China rose 48 percent between China's WTO accession in 2001 and 2003.<sup>6</sup>

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<sup>5</sup>For additional information on China's commitments see GAO, *World Trade Organization: Analysis of China's Commitments to Other Members*, [GAO-03-4](#) (Washington, D.C.: Oct. 3, 2002).

<sup>6</sup>USTR notes that compliance does not always correspond to market access and that rising exports to China should not necessarily be taken as an indication of progress on WTO implementation.

**Table 2: Examples of China's Successful Implementation of Its WTO Commitments, 2002-2003**

Year	Examples of successful implementation
2002	<ul style="list-style-type: none"> <li>• Reduced tariffs on hundreds of goods</li> <li>• Removed several nontariff trade barriers</li> <li>• Restructured government ministries with roles in overseeing trade in goods and services</li> <li>• Repealed and revised hundreds of trade laws and regulations for WTO consistency</li> </ul>
2003	<ul style="list-style-type: none"> <li>• Took steps to correct systematic problems in the administration of its tariff rate quota system for bulk agricultural commodities</li> <li>• Opened motor vehicle financing sector</li> <li>• Reduced capitalization requirements in the insurance sector</li> <li>• Resolved outstanding concerns related to WTO committee of participants on the Expansion of Trade in Information Technology Products</li> <li>• Lifted certain geographic restrictions in the insurance sector ahead of schedule</li> </ul>

Sources: GAO summary of USTR and WTO information.

### Implementation Problems Range Widely and Many Persist from Year to Year

Although China made progress in realizing many of its WTO commitments, USTR reported over 100 compliance problems in 2002 and 2003, according to our analysis. These problems spanned all areas in which China had made commitments, and many problems identified in 2002 persisted through 2003.

### USTR Reports Are Fair Representation of Compliance Problems

We found USTR's annual reports to Congress to be the most complete official U.S. source of information with which to analyze China's WTO compliance in 2002 and 2003. In conjunction with China's 2001 accession to the WTO, USTR was mandated to identify compliance with commitments and annually report these findings to Congress.<sup>7</sup> These annual reports incorporate a broad range of input from key federal agencies and the business community. We systematically cross-checked the reports with industry testimony, industry association reports, and other U.S. government documents and found the reports to be fair and complete representations of industry concerns. Further, USTR officials stated that these reports represented the most complete public summary of China-WTO compliance problems that the U.S. government is monitoring and the

<sup>7</sup>Mandated by legislation authorizing Permanent Normal Trade Relations for China (Pub. L. 106-286, § 421, 114 Stat. 903).

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actions taken to resolve the issues. As a result, we relied extensively on the narrative descriptions of compliance problems set forth in the USTR reports to analyze the number, type, and disposition of the problems that the U.S. government was working to resolve.

**More Than 100 Compliance Problems across Several Areas of China's Trade Regime**

Our analysis of USTR's 2002 and 2003 reports to Congress identified 106 individual compliance problems. China's compliance problems can be the result of several factors, from political resistance to lack of technical capacity to problems of resources and coordination among Chinese ministries. These compliance problems fell within all nine broad areas of China's trade regime and varied from import regulation to export regulation (see table 3 and app. II for descriptions of these nine areas). China's WTO commitments are broad and complex, and compliance problems also ranged in scope from specific issues to more general concerns. For example, some commitments require a specific action from China, such as reporting information about China's import-licensing requirements to the WTO. Other commitments are less specific in nature, such as those that confirm China's general obligation to adhere to WTO principles of nondiscrimination in the treatment of foreign and domestic enterprises. Accordingly, compliance problems identified as of 2003 also ranged from specific, relatively simple issues, such as the late issuance of regulations, to broader and more crosscutting concerns, such as concerns about judicial independence, which are more difficult to implement and assess.

**Table 3: Examples and Number of Compliance Problems in Each Area of China's Trade Regime, as of December 2003**

Trade regime area	Examples of compliance problem	Number of compliance problems
Import regulation	<ul style="list-style-type: none"> <li>• Chinese customs officials inappropriately added royalty and software fees to dutiable value</li> <li>• Fertilizer tariff rate quota regulations issued late</li> <li>• Certain key provisions omitted in countervailing duty regulations</li> </ul>	24
Services	<ul style="list-style-type: none"> <li>• Banking regulations imposed prudential rules that exceeded international norms</li> <li>• Regulations for foreign insurers imposed trade restricting branching requirements</li> <li>• Regulations for legal services overly restricted scope of business</li> </ul>	22
Internal policies affecting trade	<ul style="list-style-type: none"> <li>• Application of value-added tax rebate for domestic producers of semiconductors violated WTO national treatment principle</li> <li>• Comment periods for technical barriers to trade regulations were unacceptably brief</li> <li>• Inconsistent application and duplication in certification requirements</li> </ul>	16
Agriculture	<ul style="list-style-type: none"> <li>• Tariff rate quotas for bulk agricultural commodities were issued late</li> <li>• Application of standards for raw poultry and meat were not based on scientific evidence</li> <li>• Selective enforcement of inspection-related requirements</li> </ul>	18
Intellectual property rights	<ul style="list-style-type: none"> <li>• Intent to sell was difficult to prove in administrative enforcement</li> <li>• Criminal liability thresholds were high and rarely met</li> <li>• Chinese laws were unclear as to whether a case warrants civil or criminal enforcement</li> </ul>	13
Trading rights and distribution	<ul style="list-style-type: none"> <li>• Foreign-invested enterprises' trading rights were limited by various requirements</li> <li>• Retailing services commitments related to joint ventures that do not manufacture their own goods in China were subject to onerous threshold requirements</li> </ul>	6
Investment	<ul style="list-style-type: none"> <li>• Revised investment laws and regulations failed to eliminate technology transfer</li> <li>• Chinese officials inappropriately considered local content when approving an investment or recommending a loan approval</li> </ul>	3
Legal framework	<ul style="list-style-type: none"> <li>• Concern over the independence of the judicial system</li> <li>• China had a poor record of providing opportunity for public comment before regulations are implemented</li> </ul>	3
Export regulation	<ul style="list-style-type: none"> <li>• Restrictions and fees on exports of some raw materials and intermediate products</li> </ul>	1
<b>Total</b>		<b>106</b>

Source: GAO analysis of USTR's 2002 and 2003 *Report to Congress on China's WTO Compliance*.

It is important to note that not all problems equally affect U.S. exports to China and that some problems are more easily resolved than others. For example, weak intellectual property right enforcement, which may entail industry losses of nearly \$2 billion according to some industry estimates, could impact more trade than the late issuance of regulations. Thus, while USTR's reports identify priority areas, the economic importance of many individual problems cannot be easily quantified and cannot be reported, nor did we attempt to calculate the importance or otherwise prioritize or rank the problems in our analysis. In addition, our analysis of business views on China's implementation shows that the business community

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expected intellectual property rights commitments to be the most difficult to put into practice, whereas they expected tariff reductions to be relatively easier to implement.<sup>8</sup>

### Most Problems Continued from 2002 to 2003, and Many Others Emerged

We found that about two thirds of the USTR-identified compliance problems persisted from 2002 through 2003. U.S. officials noted that this continuation might have been attributed to the fact that China resolved the more easily implemented commitments during the first year, and the remaining “holdover” issues proved to be more difficult to address. Other U.S. officials and industry representatives cited both Severe Acute Respiratory Syndrome (SARS) and major political and bureaucratic transitions in China as contributing to the apparent slowdown in implementation. However, USTR stated that these factors did not excuse the apparent deceleration in China’s implementation in 2003. In addition to the problems that persisted from 2002, about a quarter of all compliance problems were new in 2003, with many of these problems arising from phased-in commitments that China was due to implement in 2003.

China has had mixed success in resolving compliance problems. Based on our assessment of USTR’s 2002 and 2003 reports, we found that China had resolved or made some progress on just under half of the individual problems described by U.S. officials. We also found that China’s progress in resolving compliance problems also varied widely by area. For example, among the key areas that USTR identified as priorities, China resolved or made progress on well over half of the various problems in agriculture and services, while progress on intellectual property rights was limited to less than a quarter of the individual problems reported as of December 2003.<sup>9</sup>

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### United States Continues to Pursue Resolution of Compliance Problems in 2004 and Noted Several Positive Developments

Since USTR’s December 2003 report, the U.S. government has continued to pursue resolution of China’s WTO compliance problems. Notably, the United States and China reached agreements in several key areas through the Joint Commission on Commerce and Trade (JCCT). As discussed in more detail later, the JCCT is a high-level government-to-government

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<sup>8</sup>GAO, *World Trade Organization: Selected U.S. Companies’ Views about China’s Membership*, GAO-02-1056 (Washington, D.C.: Sept. 23, 2002).

<sup>9</sup>USTR also identified transparency, an issue that crosscut several categories, and trading rights and distribution as key areas of concern in 2002 and 2003. Additionally, USTR identified China’s value-added tax policies as a key issue in 2003.



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consultative forum for China and the United States to discuss key trade issues. The April 2004 JCCT meeting resulted in the formation of working groups, several memoranda of understanding and letters of intent, and several more specific agreements to improve China's implementation. For example, China agreed to take steps to strengthen intellectual property rights enforcement and agreed to indefinitely suspend implementation of discriminatory computer standards and services rules, according to USTR officials. China also announced the publication of rules granting foreign companies trading rights in China ahead of schedule. (See table 4.) In July 2004, USTR announced that the United States and China reached an agreement to resolve a dispute over China's discriminatory value-added tax refund policy for semiconductors. This agreement followed the United States' March 2004 filing of the first WTO case by any member against China. USTR's next report on China's compliance is due in December 2004.

**Table 4: Key Areas of Progress from the April 2004 JCCT**

Area	China commitments
Agriculture	<ul style="list-style-type: none"> <li>• Establish a consultative mechanism to facilitate an ongoing dialogue and strengthen technical cooperation and exchange between both countries in the field of food safety and animal and plant health</li> <li>• Issue final safety certificates for U.S. biotech soybeans</li> <li>• Announce biotech approvals for seven U.S. canola and four U.S. corn events and review the remaining two U.S. corn events in May</li> <li>• Make it easier to export select American products subject to tariff rate quotas to China by providing the names of its domestic quota holders to U.S. exporters upon request</li> </ul>
Trading rights and distribution	<ul style="list-style-type: none"> <li>• Implement its WTO trading rights obligations by July 1, 2004—6 months ahead of schedule</li> <li>• Provide distribution rights to U.S. companies in China on schedule by the end of 2004</li> </ul>
Intellectual property rights (IPR)	<ul style="list-style-type: none"> <li>• Significantly reduce IPR infringement levels</li> <li>• Increase penalties for IPR violations by taking various specific actions by the end of 2004</li> <li>• Crack down on violators through nationwide enforcement actions and increased customs enforcement</li> <li>• Improve protection of electronic data by ratifying and implementing international IPR agreements as soon as possible and extend the ban on the use of pirated software to include local governments</li> <li>• Launch national education campaign</li> <li>• Establish an IPR working group under the JCCT</li> </ul>
Standards	<ul style="list-style-type: none"> <li>• Suspend indefinitely its proposed implementation of a mandatory wireless encryption standard and revise its standard, taking into account comments received from Chinese and foreign firms</li> <li>• Participate in international standards bodies on wireless encryption for computer networks</li> <li>• Support technology neutrality with respect to the adoption of the so-called “3G” telecommunications technology</li> <li>• Refrain from negotiating royalty payment terms with “3G” IPR holders</li> <li>• Allow telecommunications service providers in China to make their own choices as to which standard to adopt</li> </ul>
Market access issues	<ul style="list-style-type: none"> <li>• Facilitate an exchange of scientific, technical, and regulatory information to help ensure the quality, safety, and proper labeling of consumer products</li> <li>• Establish a framework that will expand trade show recruitment for U.S. companies to participate in Chinese trade shows and increase their export sales to China</li> <li>• Foster activities that will lead to increased contacts between small and medium-sized businesses in both countries, thereby promoting more interaction and increased U.S. exports</li> <li>• Allow U.S. carriers to open full branches and to operate without restrictions</li> </ul>

Source: USTR.

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## U.S. Government Emphasized Primarily Bilateral Engagement to Resolve Compliance Issues in 2003, While Effectiveness of Annual Multilateral Review Continued To Be Limited

Compared with 2002, U.S. actions in 2003 to resolve compliance problems reflected a strategy that emphasized high-level bilateral engagement with China. For example, the United States sent more cabinet and subcabinet level delegations to China in 2003 and elevated existing and initiated new trade dialogues with China. We found that formal and informal interagency coordination on these bilateral efforts was generally effective. Multilaterally, the U.S. continued to engage China in the WTO at regular council and committee meetings throughout the year. At the same time, the U.S. actively participated in the WTO's second annual review of China's implementation, referred to as the Transitional Review Mechanism (TRM). However, despite U.S. officials' hopes to the contrary, overall WTO member participation in the review declined, and the review's potential was impaired by less timely U.S. submission of questions. Furthermore, procedural and other types of problems that arose during the 2002 review continued to limit the effectiveness of the 2003 TRM. Nevertheless, both WTO and other WTO member trade officials indicated that the TRM process had gone more smoothly in 2003 than in 2002 and that future TRM's would probably not vary in form from that used in 2003. In general, U.S. officials noted that, despite some benefits, the TRM was a less effective tool for resolving compliance issues compared with bilateral engagement.

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## United States Increased Bilateral Engagement with China in 2003 on WTO Issues

U.S. government efforts to resolve WTO compliance issues with China in 2003 reflected an emphasis on high-level bilateral engagement. Several U.S. officials noted that bilateral engagement—particularly at the highest levels of government—had proven to be the most effective means of resolving WTO compliance issues with China. As one U.S. official stated, “change in China starts at the top, so that’s where we focused much of our bilateral compliance activity in 2003.” Accordingly, the United States undertook a range of efforts reflecting this emphasis in 2003, including sending more cabinet and subcabinet level delegations to China, utilizing bilateral consultative mechanisms, and continuing to coordinate policy through the interagency process.

## U.S. Senior-Level Delegations to China Increased in 2003

Compared with 2002, the U.S. government sent more cabinet and subcabinet delegations from the key economic and trade agencies in 2003 to engage their Chinese counterparts on trade issues. For example, senior-level delegations to China from the various agencies increased from 13 in 2002 to 23 in 2003, according to information provided by U.S. embassy officials. U.S. officials also said that an increased number of high-level delegations from China, including a visit from China's Premier, also came to

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the United States in 2003 and that trade issues were routinely a part of those visit agendas.<sup>10</sup> Finally, embassy officials noted that, because the SARS outbreak interrupted travel to China for several months in 2003, most of the delegations' visits were concentrated within an 8-month period.

### U.S. Used Bilateral Trade Mechanisms to Engage China

The U.S. government utilized two formal consultative mechanisms to address trade issues with China, both of which further demonstrated an emphasis on high-level, bilateral engagement. First, the United States agreed to China's request to elevate and transform the JCCT, a forum for dialogue on bilateral trade issues and a mechanism to promote commercial relations, to include three cabinet-level U.S. officials for 2004.<sup>11</sup> Consequently, in 2004, the Secretary of Commerce and the U.S. Trade Representative headed the JCCT meetings for the United States, while a vice premier headed China's delegation. The U.S. Secretary of Agriculture also participated in the newly elevated JCCT. Moreover, U.S. officials noted that the JCCT was transformed from a trade promotion dialogue into a mechanism to resolve trade disputes. Second, the United States initiated the U.S.-China Trade Dialogue as a means for U.S. trade and economic agencies to address trade issues with various Chinese officials at the subcabinet level. The United States created the Trade Dialogue at the end of 2002, with meetings scheduled to take place quarterly. However, due in part to the SARS outbreak, only two such dialogues took place in 2003.

### Interagency Coordination on Policy Issues Was Generally Effective

We found that both formal and informal, day-to-day coordination within and among the key units on policy issues was generally effective. Formal interagency coordination was accomplished through three main structures: (1) the Trade Policy Review Group, (2) the Trade Policy Staff Committee, and (3) the Trade Policy Staff Committee's Subcommittee on China-WTO

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<sup>10</sup>Additionally, President Bush and China's President Hu Jintao discussed U.S.-China trade issues at the Asia-Pacific Economic Cooperation summit in Bangkok in October 2003. U.S.-China trade issues were also part of the dialogue during China Premier Wen Jiabao's visit to the United States in December 2003 and during Vice Premier Wu Yi's visit to Washington in April 2004.

<sup>11</sup>The JCCT includes working groups covering trade and investment issues, business development and industrial cooperation, commercial law, intellectual property rights, structural issues and market economy status, textiles, and statistics, as well as a side dialogue on export controls.

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Compliance.<sup>12</sup> Additionally, several officials noted that the National Security Council played a greater role in coordinating interagency policy on China compliance issues in 2003 than 2002. Officials said that this greater role was to ensure a more unified U.S. position with regard to economic relations with China, beyond the Trade Policy Review Group.<sup>13</sup>

Our interviews with over 50 staff and managers in the main China units of the four agencies indicated that interagency coordination was generally effective at the working level and on specific issues. With respect to informal contact, managers and staff at both headquarters and overseas offices said that day-to-day coordination and information sharing among the agencies on China compliance greatly enhanced their ability to respond to compliance problems. Yet some staff believed that interagency coordination could be improved. For example, they suggested that coordination could be enhanced through better communication from the Washington, D.C., units to the China units about interagency meetings and China-related activities at the WTO. Also, within China, some staff noted that interagency meetings had been suspended in 2003 because of SARS and that they had not been resumed by the end of the year, so their coordination efforts were hindered. Some China-based staff at State and Commerce complained that lack of communication had led to misunderstanding about the respective units' roles and responsibilities and that this had caused some confusion about engaging the Chinese in a few cases. Embassy officials told us that the interagency meetings had been resumed in 2004, but the schedule was driven primarily by the need to coordinate on upcoming events and that the meetings had not yet resumed on a consistent schedule.

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<sup>12</sup>Congress created an interagency structure in the Trade Expansion Act of 1962, codified at 19 U.S.C. § 1872, which has been amended several times. This structure, called the Trade Policy Committee, led by USTR, has two subordinate bodies—the Trade Policy Review Group (a management-level committee) and the Trade Policy Staff Committee (a senior staff-level committee subordinate to the management-level committee). Numerous subcommittees under the Trade Policy Staff Committee have also been established to facilitate interagency coordination on a variety of trade issues.

<sup>13</sup>Officials from the National Security Council declined to meet with us to discuss their role.

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## Multilateral Engagement with China Shifts Away from Annual Transitional Review Mechanism, Which Remains Limited

During China's membership negotiations, the United States successfully pushed for an annual review of China's implementation to take place within the WTO's General Council and 16 subsidiary bodies.<sup>14</sup> This effort was based on concerns about China's ability to implement its WTO commitments and the fact that China was allowed to join before making all of its trade-related laws and regulations WTO-consistent. Compared with the 2002 review, the 2003 TRM was less contentious but reflected less WTO member participation and less timely U.S. submission of questions. Despite the TRM's continued limitations and although procedures for the TRM are unlikely to change for future reviews, U.S. officials cited benefits from using this multilateral forum as part of their overall approach for monitoring and enforcing China's compliance. U.S. officials said they put more emphasis on engaging China outside of the TRM in regular WTO meetings in 2003. Additional multilateral monitoring may occur when China is expected to undergo a separate WTO review of its trade policies, possibly in early 2006.

## 2003 TRM Process Was Similar to 2002, with Less Debate Regarding Procedural Issues

U.S., WTO Secretariat, and other WTO member government officials noted that there was less debate about how to conduct the TRM in 2003 than 2002. As we reported previously, the initial TRM did not result in the thorough and detailed review of China's compliance that U.S. officials had envisioned.<sup>15</sup> Chinese officials told us that while they will abide by their TRM commitments, they view the TRM as a discriminatory mechanism that was imposed on China during their WTO membership negotiations. With this as the prevailing sentiment from China, the 2002 review was marked by contention between China and some of the other WTO members regarding the form, timing, and specific procedures for the TRM. The United States and some other members were disappointed that China refused to provide written answers to members' written questions in advance of TRM meetings. Additionally, some members were disappointed that the review did not result in any conclusions or recommendations regarding China's implementation.

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<sup>14</sup>The General Council is composed of all WTO members and has authority to adopt interpretations of the various WTO agreements. The subsidiary bodies are described as councils or committees and are generally organized according to the various trade subjects covered by the WTO agreements.

<sup>15</sup>For further details on our analysis of the 2002 TRM see GAO, *World Trade Organization: First-Year U.S. Government Efforts to Monitor China's Compliance*, [GAO-03-461](#) (Washington, D.C.: Mar. 9, 2003).

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Following the conclusion of the first TRM, U.S. and European Union officials stated that they would seek improvements for subsequent reviews. However, in 2003 officials concluded that there would have been little use in reopening the previous year's debates about the procedures for the TRM given the lack of specificity in China's WTO commitments regarding procedural aspects of the review. U.S. officials and some other members noted that, because any changes would require consensus from all members, China would most likely have blocked any attempt to clarify the TRM procedures regarding written responses and furthermore would not likely approve a WTO report with recommendations regarding China's implementation. Thus, in 2003 there were no formal proposals from WTO members for changing the TRM, although there were informal discussions among some committee chairpersons regarding overall procedures. Because there was less debate regarding procedures, U.S., WTO, and foreign officials told us that the 2003 TRM went more smoothly, compared with the previous year. However, as in 2002, China did not respond in writing to member questions during the 2003 review, nor did the TRM result in a WTO report with conclusions or recommendations. U.S., WTO, and other foreign officials told us that they expected future TRM reviews to operate similar to the 2003 review, with no substantive changes in procedures or outputs. USTR officials told us they expect fewer issues to be taken up in future TRM reviews, after China revises and issues various laws and regulations as its remaining commitments are phased in.

#### WTO Member Participation in the TRM Decreased in 2003

Although the United States continued to take a leading role in the TRM, participation by other WTO member governments decreased between the 2002 and 2003 reviews despite U.S. officials' hopes for members' increased involvement. For example, the number of WTO members that submitted written questions to China in advance of the TRM meetings declined from 11 in 2002 to 7 in 2003. Similarly, the number of WTO members that asked questions or made statements during the TRM meetings decreased from 23 to 11 over the same time period. WTO Secretariat and member government officials that we interviewed cited several possible reasons for the decreased participation in the 2003 TRM. Some developing country WTO members stated that they viewed the TRM as mainly a political tool for developed country WTO members to put pressure on China and that the TRM was of little use to them, in terms of raising and resolving trade issues with China. Additionally, other WTO member governments were less active in the 2003 TRM because those governments elected to focus on engaging China bilaterally on trade issues.

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## U.S. and China TRM Submissions Were Less Timely in 2003

Compared with 2002, we found that the United States' submission of questions to China was less timely in 2003. USTR officials told us that part of their overall strategy for the 2003 TRM was an internal deadline to submit questions to China 4 to 6 weeks in advance of the TRM meetings to ensure that China had enough time to prepare responses. On average, the U.S. submitted questions to China 34 days in advance of the committee meetings in 2002. However, in 2003, the United States submitted questions only 9 days<sup>16</sup> in advance of the meetings, on average.<sup>17</sup> In a few of the committee meetings in 2003, the Chinese representative stated that he was unable to prepare and provide answers to questions that were received just prior to the meetings.

The timeliness of China's submissions to the various committees also affected TRM proceedings. China's accession agreement describes various types of information that China is required to submit to the WTO subsidiary bodies in advance of the TRM, but the agreement does not set forth specific timelines for the submissions.<sup>18</sup> In 2003, China's submissions predated the TRM meetings by an average of 6 days, compared with an average of 16 days in 2002. During the meetings, some members commented that they were unable to prepare a complete set of questions since they had not had sufficient time to review China's submissions. (See app. III for more details on the 2002 and 2003 TRMs.)

## U.S. Officials Cited Benefits of the TRM Despite the Review's Limitations

U.S. officials acknowledged the continuing limitations of the TRM in 2003, but cited three major benefits of the review: (1) the TRM increased China's transparency on trade issues, (2) the TRM resulted in a useful exchange of information and fostered better coordination among key Chinese ministries, and most importantly, (3) the TRM provided the United States with a formal multilateral forum for raising compliance problems. First, U.S. officials stated that the TRM was an effective way to urge China to disclose information about its implementation in a formal, public

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<sup>16</sup>Our analysis is based on our review of the documents submitted through the WTO Secretariat in advance of the TRM meetings. USTR officials noted that, generally, they circulated questions to the Chinese delegation to the WTO a few days earlier than the actual dates reflected on the WTO documents, but still fell short of their 4 to 6 week objective.

<sup>17</sup>In 2003, the European Union and Japan submitted questions to China about 30 and 36 days, respectively, in advance of the various TRM meetings.

<sup>18</sup>China's accession agreement states that China is to submit the information annually, but provides no other guidance on the timing of China's submissions for the TRM.



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multilateral forum. Officials said it was important to demonstrate to China that the United States and other concerned members would be actively seeking information about China's implementation on an annual basis. Second, several U.S., WTO Secretariat, and other member government officials said that China sent more experts from the relevant ministries to attend the TRM in 2003, and many officials stated that this had resulted in a more effective exchange of information during the reviews. Further, U.S. and foreign officials, including China's ambassador to the WTO, indicated that the TRM process was effective in helping China's main trade ministry, the Ministry of Commerce, gain cooperation and coordination from other Chinese ministries that might not have understood the problems or might have been reluctant to cooperate otherwise. Third, U.S. officials said that the TRM provided the United States with an opportunity to highlight specific areas of concern about China's implementation and obtain an official, public position from China on key issues. U.S. officials further noted that, although the TRM was never intended to supplant the dispute settlement process, the TRM could help lay the groundwork for any potential areas where the United States would initiate a WTO dispute settlement case with China.

### Multilateral Engagement in Regular WTO Meetings Takes on More Importance

U.S. officials also said that part of the U.S. multilateral strategy for resolving compliance problems with China in 2003 was to raise issues with China during other WTO committee meetings outside of the TRM. Regular WTO business takes place in the subsidiary bodies mentioned above, which formally meet anywhere from one to four, or more, times a year, and the United States is a very active participant. Established WTO practice holds that members are to respond in writing to each other's questions that are submitted through the normal (i.e., not TRM) WTO committee structure. Additionally, U.S., WTO, and other foreign officials noted that China is generally cooperative during regular, non-TRM WTO meetings. The degree to which members (including the United States and China) review and question each other's laws, regulations, and trade practices varies by committee. WTO Secretariat officials told us that, compared to what they had observed in some of the TRM meetings, similar or even more technical information was routinely exchanged between members in a few of the committees—like the Committee on Antidumping Practices—whereas such exchanges were relatively rare in other committees, like the Committee on Trade-Related Investment Measures.

### WTO Has an Additional Review Mechanism

U.S. and other officials also pointed out that the WTO's Trade Policy Review Mechanism would provide an additional opportunity for a meaningful review of China's trade policies. The Trade Policy Review

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Mechanism, which is unrelated to the TRM, provides for a broad review of all WTO members' trade policies and practices, trade policy-making institutions, and macroeconomic conditions. Each member undergoes these reviews on a scheduled basis, and the frequency of an individual member's review depends on its share of world trade.<sup>19</sup> Based on its total volume of trade, China is expected to undergo the review every 2 years, although the exact timing of China's initial review has yet to be determined, according to WTO Secretariat officials. While the Trade Policy Review is not a review of members' implementation of WTO commitments, the review does provide an opportunity for members' to submit questions to and receive written responses from the reviewee.<sup>20</sup> The reviews also result in a summary report that describes the findings of the review.

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## Key Agencies' China Units Could Improve Their Performance Management Activities

Although the key agencies' formal plans address trade monitoring and enforcement activities, it is difficult to assess the effectiveness of the agencies' China-WTO compliance efforts based on their performance management reports. Planning and measuring results are important components to ensuring that government resources are used effectively to achieve the agencies' goals. Good planning and management links overall agency goals to individual unit activities and priorities. USTR, Commerce, State, and USDA's plans reflect China-WTO compliance efforts, albeit to varying degrees and in different ways. However, in most cases, we found weaknesses in these key agencies' performance management efforts; and these weaknesses prevented the agencies from providing a clear or accurate assessment of their performance in this regard. Moreover, the specific units within the agencies that are most directly involved with China compliance activities lacked specific strategies for ensuring that they supported their agency's goals, and they did not measure their unit's results.

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<sup>19</sup>Under the Trade Policy Review Mechanism, the four WTO members with the largest shares of world trade are reviewed each 2 years, the next 16 are reviewed each 4 years, and others are reviewed each 6 years. A longer period may be fixed for least-developed country members.

<sup>20</sup>The United States underwent a Trade Policy Review in 2003 and received over 500 questions from other members—all of which the United States was required to respond to in writing.

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## Establishing Goals and Measuring Results are Important

The Government Performance and Results Act of 1993 (GPRA) requires federal agencies to engage in a results-oriented strategic planning process.<sup>21</sup> GPRA requires agencies to set multiyear strategic goals in their strategic plans and corresponding annual goals in their performance plans, measure performance toward the achievement of those goals, and report on their progress in their annual performance reports. These reports are intended to provide important information to agency managers, policymakers, and the public on what each agency accomplished with the resources it was given.

Moreover, GPRA calls for agencies to develop performance goals that are objective, quantifiable, and measurable and directs agencies to establish performance measures that adequately indicate progress toward achieving those goals. Thus, GPRA requires agencies to report on program performance for the previous fiscal year, based on their established goals and measures. Agencies are to compare performance with the established goals, summarize findings of program evaluations, and revise or describe the actions needed to address any unmet goals. Agencies have flexibility in establishing goals and in using performance measures, as long as they reflect the major activities carried out as part of their particular missions. Furthermore, with Office of Management and Budget (OMB) concurrence, agencies can express their performance goals for particular programs in an alternative form when they are not able to define goals in an objective and quantifiable form, as long as it allows for actual performance to be compared to the goal. Our previous work has noted that a lack of clear measurable goals makes it difficult for program managers and staff to link their day-to-day efforts to achieving the agency's intended mission.<sup>22</sup> Lastly, good planning and performance measurement at both the overall agency and unit levels enhances program oversight and is a critical component to effective and informed decision making.

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## Key Agencies' Goals Vary in How They Address China-WTO Compliance Efforts

Consistent with GPRA's requirements, the four key agencies set long-term and annual goals that address China compliance efforts in their most recent strategic and performance plans; however, the degree of specificity can and does vary in these goals. USTR and State (China-mission level) plans

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<sup>21</sup>Pub. L.103-62, 107 Stat. 285.

<sup>22</sup>See GAO, *Results-Oriented Government: GPRA Has Established a Solid Foundation for Achieving Greater Results*, [GAO-04-38](#) (Washington, D.C.: Mar. 10, 2004).

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include China-specific goals related to their WTO compliance efforts, whereas USDA and Commerce include their China-WTO compliance efforts within broader goals of monitoring and enforcing WTO agreements and ensuring market access for U.S. companies.

More specifically, USTR's most recent strategic plan, which spans fiscal years 2000 to 2005, includes a general goal related to monitoring and enforcing trade agreements, while the 2004 performance plan includes a specific annual performance goal for USTR to monitor and review China's implementation of WTO commitments to ensure compliance. State's agencywide strategic planning documents describe broad goals for creating open markets and supporting U.S. businesses, while the 2004 *Mission Performance Plan*<sup>23</sup> for the overseas posts in China is linked to these broad goals and sets forth a related performance goal specific to China. Although the most recent Commerce and USDA planning documents do not include specific goals relating to China's WTO compliance, the plans do include more general strategic and performance goals for ensuring fair trade and enforcing existing trade agreements, which according to agency officials, broadly reflect their China-related activities. Agencies' strategic and performance goals related to China-WTO compliance are summarized in table 5.

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<sup>23</sup>Mission Performance Plans are annual embassy plans describing performance goals, objectives, and resources needed to execute those goals and objectives. The strategies and objectives set forth in the plans are linked to State's overall planning process.

**Table 5: Key Agencies' GPRA Goals Related to China-WTO Compliance**

Agency	Relevant strategic goals	Relevant annual performance goals
USTR	Monitor, enforce and, where necessary, modify trade and investment agreements to ensure that the intended benefits are achieved	Monitor and review China's implementation of WTO commitments to ensure compliance
Commerce	Provide the information and the framework to enable the economy to operate efficiently and equitably	Ensure fair competition in international trade
State	Economic prosperity and security: Strengthen world economic growth, development, and stability, while expanding opportunities for U.S. businesses and ensuring economic security for the nation	Increased trade and investment achieved through market-opening international agreements and further integration of developing countries into the trading system  China Mission relevant performance goal: Further integrate China, the world's largest transitioning economy, into the world economic system
USDA	Enhance economic opportunities for agricultural producers	Expand international marketing opportunities

Source: GAO summary based on USTR, Commerce, State, and USDA strategic and performance planning documents.

### Difficult to Assess the Performance of Agencies' China-WTO Compliance Efforts

We found that it was not possible to clearly determine the outcome of the key agencies' China-WTO compliance efforts based on the agencies' performance reports. Agencies should, at a minimum, have objective measurable (preferably quantifiable under GPRA) measures that allow for accurate and measurable evaluation of key agency programs, which we believe could include those covering China trade compliance. Based on GPRA's provisions, we found problems in USTR, State, and Commerce's assessment of program performance relevant to China-WTO compliance activities. For USDA, we found it was difficult to determine the effectiveness of the agency's efforts with regard to China-WTO compliance because that agency chose goals and measures that were not specific to China or monitoring and enforcement, but agency officials did demonstrate how their China activities contributed to their performance measurement. Table 6 summarizes the key agencies' relevant performance measures and the results they have reported.

**Table 6: Key Agencies' GPRA Performance Measures and Results for Fiscal Year 2003**

Agency	Relevant performance measures	Reported results
USTR	The number of negotiations and trade problems resolved and the number pending (with China), as indicated in the <i>President's Annual Report on the Trade Agreements Program</i> <sup>a</sup>	<p>The 2003 President's report discusses results on China WTO compliance as follows:</p> <p>"...as China continued to pursue the implementation of its WTO commitments in 2003, China's second year of WTO membership, a number of positive developments occurred. China began to take steps to correct systemic problems in its administration of..."</p> <p>"Despite these gains, 2003 also proved to be a year in which China's WTO implementation efforts lost a significant amount of momentum. In a number of different sectors, including some key sectors of economic importance..."</p>
Commerce	<ul style="list-style-type: none"> <li>• Number of market access and compliance cases initiated</li> <li>• Number of market access and compliance cases concluded</li> <li>• Dollar value of trade barriers addressed<sup>b</sup></li> </ul>	Although there are no China-specific measures, Commerce's (International Trade Administration) 2003 performance assessment reports that targets for the first general compliance measure were not met, and that targets were met for the second and third measures for ensuring fair competition in international trade.
State	<p><u>State overall measures:</u></p> <ul style="list-style-type: none"> <li>• Status of negotiations on open markets for services, trade, and investment</li> <li>• Number of market opening transportation agreements in place</li> <li>• Number of countries allowing commercial use of agricultural biotechnology and global acreage of biotech crops under cultivation</li> <li>• Number of new accessions to the WTO</li> <li>• International Telecommunication Union recommendations adopted</li> </ul> <p><u>China Mission Performance Plan indicators:</u></p> <ul style="list-style-type: none"> <li>• Encourage WTO compliance</li> <li>• Support U.S. exports</li> </ul>	<p><u>State overall results:</u></p> <p>Although there are no China or compliance-specific measures, State's fiscal year 2003 performance report indicates that, overall, the agency determined it was "on target" or "significantly above target" for meeting the various goals related to creating open and dynamic world markets.</p> <p><u>China Mission performance results:</u></p> <p>State does not report results at the mission level.</p>
USDA	<ul style="list-style-type: none"> <li>• Estimated (value) annual trade opportunities preserved through WTO trade negotiations and notification process</li> <li>• Estimated gross trade value of markets expanded/retained by market access activities other than WTO notification process</li> <li>• Average tariff rate on agriculture imports worldwide</li> <li>• Increase the number of new or modified export protocols that facilitate access to foreign markets</li> <li>• Increase the number of international animal and plant health standards adopted</li> </ul>	USDA's fiscal year 2003 report indicates that the agency met or exceeded all of the targets established for the goals relating to its monitoring and enforcement efforts, and includes China-related examples.

Source: GAO summary based on USTR, Commerce, State, and USDA planning documents.

<sup>a</sup>USTR prefaces these measures with "It is difficult to predict with accuracy whether or not implementation/negotiation will be completed in any one year."

<sup>b</sup>This measure was discontinued in fiscal year 2004.

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USTR Does Not Establish  
Specific Performance  
Management Targets

USTR reported its 2003 results in the *President's Annual Report on the Trade Agreements Program*, but not in a measurable way that compares the agency's performance against a predetermined annual target or objective. USTR's performance plan identifies a quantifiable, measurable indicator of performance specific to China's compliance, namely, the number of trade problems resolved and the number pending. These measures, if used, would have allowed for numerical evaluation of USTR's China compliance activities if a target outcome was chosen. However, the aforementioned report only provides a narrative description of the status of China's compliance problems and the U.S. responses; and as such, the report does not address USTR's performance measure and thus does not allow for a clear measurable assessment of whether USTR is achieving its intended China compliance goal. We believe sound performance management requires an agency to specifically address its performance measures when it reports results.

Furthermore, USTR's performance measures should have been accompanied by targets that would have allowed the agency to clearly report results. For example, USTR could set a target to resolve some percentage of high priority compliance problems, or more generally, to eliminate some particular outstanding problems. Instead, USTR's *FY 2004 Performance Plan and FY 2002 Annual Performance Report* states, "It is difficult to predict with accuracy whether or not implementation/negotiation will be completed in any one year."<sup>24</sup> Furthermore, despite setting forth quantifiable measures in its performance plan, USTR officials said that they did not believe it was appropriate to quantify their performance results because of the many intangible factors that affect the interpretation of results, especially the various weights of different problems in terms of trade importance. As noted earlier, while quantitative measures are preferred under GPRA, GPRA provides agencies the flexibility, when appropriate, to use alternative (that is, nonquantifiable) measures—such as descriptive statements—as long as they allow for an accurate and independent determination of whether the agency is meeting its intended goal. Nevertheless, since USTR did establish quantitative measures, sound performance management would have dictated that it establish targets and report the results related to those measures.

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<sup>24</sup>USTR's report includes similar statements for annual performance indicators for other goals or as part of their performance verification statements. USTR officials said that this reflected administration policy, with regard to results management for trade negotiations and monitoring and enforcement activities.

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Commerce's Performance  
Measurement May Need  
Improvement

Commerce has established reasonably objective, quantifiable measures for its China-WTO compliance related efforts, but there are potential weaknesses in the reliability of the data used to judge results, as noted by the Commerce Inspector General.<sup>25</sup> Commerce's three related measures are the numbers of market access and compliance cases (1) initiated, (2) concluded, and (3) dollar value of trade addressed. The measures apply generally to all market access and compliance cases, but they also include information specific to China. Commerce uses a centrally maintained database to track market access and compliance cases it is working to resolve. Commerce has taken several important steps to improve the quality of the database, including providing training to staff on how to use the database, creating a users' manual, and overseeing the timeliness and completeness of staff entries. However, some staff we interviewed noted that the quality of information in the Trade Compliance Center database is dependent on how thorough staff members are in entering information. Staff said that certain types of crosscutting issues or company-specific problems are still not always entered into the database. Others noted that information in the database on some issues is often incomplete, which raises new concerns about the reliability of the data. Commerce collects information on China market access and compliance cases, and agency officials provided us data that demonstrated the extent to which China-related cases contribute to the agency's overall performance measures. (See table 7 for the China-specific results.)

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<sup>25</sup>Department of Commerce, Office of Inspections and Program Evaluations, *International Trade Administration: Trade Compliance Efforts Need Improved Coordination*, Final Inspection Report No. IPE-14282 (Washington, D.C.: March 2002).



**Table 7: Summary of Commerce Market Access and Compliance Cases for China Initiated and Concluded, Fiscal Years 2001-2003**

<b>Cases initiated and concluded</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>Total</b>
Compliance cases initiated	7	22	12	<b>41</b>
Market access cases initiated	18	14	2	<b>34</b>
<b>Total cases initiated</b>	<b>25</b>	<b>36</b>	<b>14</b>	<b>75</b>
Compliance cases concluded	4	16	12	<b>32</b>
Market access cases concluded	13	8	9	<b>30</b>
<b>Total cases concluded</b>	<b>17</b>	<b>24</b>	<b>21</b>	<b>62</b>

Source: Commerce.

**State Does Not Measure China-Specific Results**

We reviewed State’s 2004 Mission Performance Plan for China because, unlike the overall agencywide plan, it explicitly addressed China-WTO compliance activities. Although the plan sets forth broad baseline indicators and targets, the mission plan does not indicate progress toward achieving the mission’s goals in this regard. The mission plan includes two relevant strategies to accomplish its performance goal relating to integrating China into the world economic system: one specifically related to monitoring China’s WTO compliance and another related to promoting U.S. economic interests. Furthermore, although the mission plan provides a useful discussion of the tactics proposed to achieve each of these strategies, we found the mission’s two annual performance indicators do not allow for quantifiable, measurable results.

In its agencywide plan, State uses performance indicators for trade-related goals that do not specifically target either China or monitoring and enforcement-related activities. These worldwide indicators focus on concluding various types of negotiations, the acceptance of biotechnology in the agricultural sector, and the adoption of favorable international telecommunication practices. State’s report does not include how these measures apply to specific countries.

**USDA’s Measures Are Not Specific to China and Are Subject to Other Factors**

USDA’s plan includes several relevant quantifiable measures, as well as a useful discussion of the means and strategies that the agency employs to increase international marketing opportunities for U.S. agricultural exporters. Furthermore, in several instances USDA reports its efforts in China are part of its strategy for achieving its goals. Because the agency chose goals and measures that were neither specific to China nor to monitoring and compliance, it is not possible to determine the

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effectiveness of the agency's efforts with China-WTO compliance from its performance reports. However, agency officials were able to demonstrate that their China activities contributed to their performance measurement.

Nevertheless, we found that several of the measures USDA uses to assess performance against the broad goal of expanding international marketing opportunities can be significantly impacted by external factors that affect trade in general. USDA's fiscal year 2004 plan includes a brief list of the factors that may impact the agency's progress toward achieving the goals, but the discussion of those factors does not present the agency's strategies for mitigating those potential effects. As a result, it is difficult to determine the extent to which performance results are attributable to agency efforts or to external factors. USDA officials said that they understood their measures were problematic and said the agency was in the process of developing more effective measures, including country-specific performance measures.

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### More Attention to Performance Management Could Improve Unit-Level Activities

Agency officials told us about the substantial high-level effort they make to establish and follow an aggressive strategy to ensure China's continued implementation of its WTO commitments. Furthermore, officials engage in significant interagency planning and regularly adjust priorities at the most senior levels in order to achieve results.

However, these strategies and priorities are not reflected in agencies' performance management activities that help guide lower level unit activities. Although GPRA requirements do not apply specifically to the planning activities of individual units, unit-level planning and performance reporting is essential to an agency's oversight of its key programs. Such performance management activities help managers focus their efforts and resources on long-term priorities in the face of ongoing short-term exigencies.

Furthermore, we found that the lower level units most directly involved with China-WTO compliance activities do not establish longer term annual unit-level objectives or priorities for their unit's activities. Managers in all four key agencies said they did not set specific measurable performance goals or objectives for their units in support of agency overall performance management goals, nor did they set their own priorities and align resources to those priorities in any unit-level plan. Instead, managers indicated that their units' priorities were adjusted frequently to respond to compliance problems as they arose depending on the level and number of companies

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complaining about a compliance problem, the amount of trade affected by a problem, the scope and magnitude of a problem, and which issues the Administration or Congress were focused on at the time, among other considerations. Units undertook various activities as needed to support these changing priorities. Many managers and staff believed that there was very little their units could do to predict which areas of China's implementation would falter and that the units needed to remain flexible in order to respond to any compliance problems that might arise or to take advantage of any opportunity to solve a compliance problem. They believed this despite the fact that many of the compliance problems that have arisen to date have persisted since China's accession.

This approach was reflected in our interviews with staff. Most staff said prioritization of their unit's activities was informal and ad hoc; no staff reported a formal prioritization scheme for addressing compliance issues. Furthermore, many staff and some managers were unable to articulate longer-term performance plans for their unit's efforts. Of staff familiar with relevant performance goals, managers and staff at the four key agencies also said that they believe that their agencies' existing performance measures do not fully capture their unit's activities. For example, Commerce staff noted that much of the work they do regarding trade capacity building programs with the Chinese government and outreach to the private sector is not included in the database used to measure their performance in monitoring and enforcement, although those efforts can have a positive effect on China's compliance.

Because the units' activities are not clearly tied to agency performance management efforts, China unit managers are not able to assess the results of their unit's activities and use this information to guide future work. Managers could not comment on whether they had achieved predetermined objectives for any one year or specifically how their unit contributed to their agencies' overall performance goals.

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## Key Agencies Added Staff Resources, but Turnover and Lack of Training Limited Overall Effectiveness

In 2003, the key agencies continued to add resources to meet the demands of monitoring China's compliance with its WTO commitments, especially in headquarters units. However, we found that high rates of planned and unplanned staff turnover in the main China units presented challenges to the agencies' compliance efforts. Despite anticipated staff turnover in the units we examined, staff in those units lacked the opportunity to receive specific training related to carrying out their assigned responsibilities. Instead, the units generally relied on on-the-job training (OJT) for new

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staff. Consequently, staff with relatively short rotations in units focused on China's WTO compliance spent a significant portion of their total tenure in the office getting up to speed on complex China trade issues.

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### Agencies Have Increased Staff Levels in Main Units; Proportionally More Increases at Headquarters Units

In response to the increased responsibilities arising from China's WTO membership, USTR, Commerce, State, and USDA increased staff resources at both headquarters offices and in China. The estimated number of FTE staff in the units most directly involved with China-WTO compliance efforts across the four key agencies increased from about 25 to 58 between fiscal years 2000 and 2003. Staff in the main China-related headquarters units in Washington, D.C, increased at a rate of about 3 to 1 over China-based units over the same period, and over 70 percent of the staff resources were located within the agencies' headquarters units by 2003. Commerce added the largest number of staff, as estimated FTE staff increased from about 9 to 35 between fiscal years 2000 and 2003. (See table 8.)

**Table 8: Agency Staffing Estimates for Main Units Involved with China-WTO Compliance Efforts, Fiscal Years 2000-2003**

Agency	2000	2001	2002	2003
<b>Headquarters units</b>				
USTR: Office of North Asian Affairs <sup>a</sup>	3	3	5	5
Commerce: Market Access and Compliance <sup>b</sup>	7	19	22	22
Commerce: Import Administration, Trade Remedy Compliance Staff <sup>c</sup>	1.7	3.3	6.7	9
State: East Asia and Pacific, Office of Chinese and Mongolian Affairs <sup>d</sup>	2.25	2.25	3.25	3.25
USDA: Foreign Agricultural Service, Asia and the Americas Division <sup>e</sup>	2.5	2.5	2.5	2.5
<b>Subtotal for headquarters units</b>	<b>16</b>	<b>30</b>	<b>40</b>	<b>42</b>
<b>Overseas units in China</b>				
Commerce: Trade Facilitation Office <sup>f</sup>	0	0	0	4
State: Beijing Embassy, Economic Section, WTO Group <sup>g</sup>	6	6	5.5	7.25
USDA: Foreign Agricultural Service, Beijing Embassy Agricultural Section <sup>h</sup>	3	3	4	5
<b>Subtotal for overseas units</b>	<b>9</b>	<b>9</b>	<b>10</b>	<b>16</b>
<b>Total all units</b>	<b>25</b>	<b>39</b>	<b>50</b>	<b>58</b>

Sources: USTR, Commerce, State, and USDA estimates.

Note: Figures do not total precisely due to rounding.

<sup>a</sup>Figures include actual FTE staff working on China compliance, and figures for 2003 include two staff temporarily detailed to USTR from State and the International Trade Commission. In April 2004, USTR established a separate and expanded Office of China Affairs to focus solely on overseeing trade policy with China, Taiwan, Hong Kong, Macau, and Mongolia.

<sup>b</sup>Figures include actual FTE staff in the Office of China Economic Area (18 staff), the Trade Compliance Center (2 staff), and members of a Rapid Response trade compliance team (2 staff) who focus on China issues.

<sup>c</sup>Figures based on Import Administration estimates of FTE staff working on China compliance and do not include estimates of staff who conduct antidumping proceedings involving imports from China.

<sup>d</sup>Figures based on State estimates of FTE staff working on China compliance issues. Although other units at State do not focus specifically on China, State's Bureau of Economic and Business Affairs provides sector and other technical advice on China trade issues. The Bureau estimated that the equivalent of 1.4 full-time staff were devoted to working on China trade issues in fiscal year 2003.

<sup>e</sup>Figures are based on USDA estimates of FTE staff working on China compliance issues.

<sup>f</sup>Figures include two actual FTE staff from Market Access and Compliance and two from Import Administration, Trade Remedy Compliance Staff. Staffing for the office was approved during fiscal year 2001, but the officers were not placed until late fiscal year 2002 and early fiscal year 2003. Figures do not include Commerce's U.S. and Foreign Commercial Service staff who are located in five cities throughout China and who also play a role in supporting the U.S. government's compliance efforts.

<sup>g</sup>Figures based on State estimates of FTE staff working on China compliance in the Beijing Embassy's Economic Section. Figures do not include staff from other embassy sections or consular staff who also play a role in supporting the U.S. government's compliance efforts.

<sup>h</sup>Figures include actual FTE staff, including policy attachés, agricultural specialists, and a senior-level Minister-Counselor. The figures do not include staff in USDA's Agricultural Trade Offices located in three cities throughout China who also play a role supporting the U.S. government's compliance efforts—there were six actual full-time staff in these offices in fiscal year 2003.

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The 2004 Appropriations Act for Commerce, Justice, and State<sup>26</sup> intended additional staff increases and funds necessary for the U.S. government's China compliance efforts.<sup>27</sup> Specifically, the Congress called for Commerce to reorganize and dedicate more resources to China compliance efforts by, among other things, establishing an enforcement office within the Market Access and Compliance division to provide legal and investigative assistance to companies seeking to enforce their rights under existing trade agreements and reorganizing the Import Administration to include an office that deals specifically with antidumping cases involving China and other nonmarket economy countries. The Congress also called for USTR to dedicate more resources to China trade issues by adding three positions in the agency's main China trade unit and six other positions in other offices that have a role in monitoring and enforcing China's trade commitments. Notably, these intended changes would continue the trend of increasing staff at the headquarters instead of the agencies' field units.

Although the key agencies (excluding USTR) have many staff located in China, a relatively small proportion of those staff have a direct role in the U.S. government's China-WTO compliance activities. Officials in various overseas units assist the agencies' China-WTO compliance efforts, but this assistance is not a primary component of their responsibilities. For example, Commerce had 23 officers located in China in fiscal year 2003, but only four officers had explicit China-WTO compliance responsibilities; the other officers were Commercial Officers, and their primary duties involved trade promotion. Similarly, only about a quarter of the 26 Foreign Service officers and staff within the Beijing embassy's economic section focused primarily on China-WTO compliance in 2003. About the same proportion of USDA's Foreign Agriculture Service (FAS) officers in China had an explicit role in China-WTO compliance issues, while the other officers were primarily focused on promoting and facilitating U.S. agricultural exports.

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<sup>26</sup>Pub. L. 108-199, 118 Stat. 46, 64.

<sup>27</sup>The accompanying House Report (H.R. Rep. 108-221, at 63-73) provides details on the committee's directions to the agencies regarding changes and increases to agencies' China trade-related offices.

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**Staff Turnover in Main Units Reduced Agencies' Ability to Ensure China's Compliance**

Relatively high rates of planned and unplanned staff turnover in several of the main China units with primary responsibility for monitoring and enforcing China's WTO commitments presented challenges for the agencies' China compliance efforts. Managers and staff in the units we reviewed cited several negative effects of turnover on their units' compliance efforts.

**Planned and Unplanned Rates of Turnover Were High in Some Main Units**

Turnover across all executive branch agencies averaged 5.8 percent in fiscal year 2003, but turnover in several of the agencies' main China units was significantly higher. For example, between fiscal years 2000 and 2003, the average annual turnover rate in the Office of China Economic Area at Commerce was about 25 percent, and the rate was about 32 percent in USTR's 3 to 5 person China office, over the same period. Additionally, according to State data, six of the eight staff (75 percent) in the section that oversees the embassy's China compliance efforts turned over in 2002 alone. Lastly, although turnover has not been an issue in USDA's Asia and the Americas Division, staff noted that because of the small size of the office, staff departures could create a substantial loss of institutional memory.

In some instances, turnover in the units is part of a planned staffing process. For example, a core principle of State's staffing model is to create generalists who can serve in any overseas mission. Consistent with this objective, most entry- and mid-level Foreign Service officers are rotational and change posts every 2 to 4 years. USDA's FAS officers are subject to minimum 3-year rotations. Additionally, in 2003, two of the five staff in USTR's China office were temporary detailees from other agencies, and these staff typically rotate back to their home agency after 1 year. In other cases, staff turnover resulted from unplanned staff separations, such as when staff left to take positions in another agency or in the private sector.<sup>28</sup> Lastly, we previously reported that the core officials that actively participated in China's WTO accession negotiations had changed jobs or left the government by 2002.

**Officials Cited Negative Effects of Turnover**

Managers and several staff in the key headquarters and field units said that turnover had generally negative effects on the units' activities. First, several

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<sup>28</sup>Our previous work describes high turnover rates in the U.S. government's trade agencies, particularly at USTR and Commerce. We noted that staff cited long hours, the intensity of work, and more lucrative offers in the private sector as reasons for turnover. For more information, see GAO, *Human Capital: Major Human Capital Challenges at SEC and Key Trade Agencies*, [GAO-02-662T](#) (Washington, D.C.: Apr. 23, 2002).

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officials said that turnover in the units meant that new staff sometimes did not have sufficient time to develop expertise on complex China trade issues before they rotated to another position or left the agency. Consequently, staff with relatively short rotations (1 to 3 years) in China compliance-focused units spent a significant portion of their tenure learning the issues rather than focusing on actively resolving compliance problems. Second, other officials noted that this problem is compounded because outgoing and incoming staff sometimes only overlap for a brief period, if at all. For example, all officers and staff in two units at State that were involved in China-WTO issues were scheduled to rotate at the same time in 2004, so there would likely be little or no overlap with their successors. Lack of overlap between transitioning staff requires incoming staff to learn their assigned portfolio of issues without the benefit of guidance from their predecessors. Third, one embassy official pointed out that staff turnover makes it difficult for officers to effectively establish and cultivate contacts with their counterparts in the Chinese government.

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### **Staff Lacked Training Opportunities on Relevant Skills; Agencies Relied Heavily on On-the-Job Training**

The main China units at the four key agencies lacked specific training relevant to executing China-WTO compliance responsibilities, or, to the extent that the agencies' offered specific training, staff generally lacked sufficient opportunities to receive it. Additionally, as noted in our previous reports, some agencies' efforts continued to be hampered by shortfalls in Chinese language training. We found that agencies relied almost exclusively on OJT to give new staff the skills necessary to do their jobs.

### **Limited Training Opportunities for Staff in the Agencies' Main China Units**

About half of the staff and managers we interviewed in the main headquarters and field units indicated that formal training opportunities for staff were limited or that additional training would enhance their units' effectiveness. Our model of strategic human capital management emphasizes the importance of structured training as a means to develop and retain staff and describes the important linkages between training and effectively attaining an agency's strategic and performance goals. However, none of the units we reviewed offered or required staff to take part in formal training curricula related to carrying out the mission of the unit. In some cases, the agencies' offered trade-related training courses, but staff in each of those offices said that their opportunities to take those courses were limited by time and workload constraints. For example, State's Foreign Service Institute offers several courses on trade issues, including trade agreement implementation, the WTO dispute settlement process, trade law, and trade and environment issues. While officers in the China embassy's WTO Group and Commerce's Trade Facilitation Office took part



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in the course on trade agreement implementation, the officers we interviewed noted that they had taken few, if any, other courses. Furthermore, USTR officials told us that USTR only hires experienced personnel, who do not need training.

A factor that illustrates the importance of training is that many vacancies in the main China units are filled by junior and mid-level staff who would benefit from more training. For example, in Commerce's Office of China Economic area, 11 of the 17 new staff hired between fiscal years 2001 and 2003 were at the GS-9 level or below. Similarly, mid- and junior-level officers (FS-03 and lower) filled five of the eight positions at the WTO unit at Embassy Beijing in fiscal year 2003. Embassy officials, including the Deputy Chief of Mission, noted the need for greater expertise and experience among officers at the post to deal with complex China trade issues. Even staff that had experience working in China or working on trade issues who were hired or rotated into China-trade units indicated that they would benefit from training on issues other than China-WTO compliance, such as training on writing cables and briefing papers.

## Shortfalls in Language Training Continued

We previously reported on the shortfalls of foreign language skills, including gaps in Mandarin Chinese at State's overseas posts and within Commerce's Foreign Commercial Service.<sup>29</sup> Despite State's recent improvement in addressing this shortfall, many staff we interviewed noted that Chinese language training opportunities were limited, even for State Foreign Service officers.<sup>30</sup> At the same time, managers and staff in the key units said that, while Chinese language is not essential for all positions, it is difficult to effectively engage their Chinese counterparts on complex trade issues without having sufficient language skills. Embassy staff said that due to the heavy visitor schedule and workload, they found it difficult to consistently take advantage of the language instruction available at the

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<sup>29</sup>See GAO, *Foreign Languages: Human Capital Approach Needed to Correct Staffing and Proficiency Shortfalls*, [GAO-02-375](#) (Washington, D.C.: Jan. 31, 2002); GAO, *State Department: Staffing Shortfalls and Ineffective Assignment System Compromise Diplomatic Readiness at Hardship Posts*, [GAO-02-626](#) (Washington, D.C.: June 18, 2002); GAO, *State Department: Targets for Hiring, Filling Vacancies Overseas Being Met, but Gaps Remain in Hard-to-Learn Languages*, [GAO-04-139](#) (Washington, D.C.: Nov. 19, 2003).

<sup>30</sup>Following several of our reports on language shortfalls, State took several steps to address the problems. For example, State incorporated a measurable human capital goal in its 2004 performance plan related to language skills and is also attempting to more accurately measure posts' language needs through improved surveys of language-training graduates and post leadership.

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post. Furthermore, they noted that 1-year rotational officers who have not had adequate language training filled many positions in the embassy's WTO Group.

### Main Units Relied on On-the-Job Training

All of the units we reviewed relied almost exclusively on OJT to acquaint staff with how to carry out their China-WTO compliance responsibilities. Without formal guidance regarding their responsibilities, many staff said they generally relied on colleagues and supervisors for further direction. Although OJT is essential to developing expertise on complex China-WTO trade issues, it cannot ensure that new staff have all the information they need to perform their duties. Our previous work notes that effective utilization of human capital is best achieved through a comprehensive mix of both formal and OJT. Additionally, we identified other problems with the agencies' reliance on OJT. For example, we found that inconsistencies in how the main units track and share information on China compliance can limit the effectiveness of OJT. Not only is tracking information an important aspect of the overall monitoring and enforcement process, but it can also help mitigate the effects of turnover and is an important OJT tool for acquainting new staff with their assigned portfolio of responsibilities. Staff across the four key agencies said that there was little or no internal guidance about the types of information that should be collected and how the information should be compiled and shared. Finally, as one high-level embassy official noted, relying on OJT can significantly add to the workload of more senior staff, who must be diverted from their own portfolios in order to provide informal guidance to new staff.

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## Conclusions

Ensuring China's compliance with its WTO commitments is a continuing priority for the U.S. government. The complexity, breadth, and ongoing nature of many of the problems that have arisen to date demonstrate the need for a cohesive and sustained effort from the key U.S. agencies to monitor and enforce China's implementation of WTO policies. The key agencies have done much to enhance their capacity to carry out these efforts by coordinating on policy issues and increasing staff resources. However, there are three areas in which USTR, Commerce, State, and USDA should take steps to improve these efforts and maximize the effectiveness of the resources allocated to the task of securing the benefits of China's membership in the WTO.

First, while U.S. monitoring and enforcement activities in 2003 reflected increased high-level bilateral engagement by executive branch officials,

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some multilateral efforts did not achieve their full potential. Specifically, the WTO's annual TRM was intended to be a thorough review of China's implementation, but many U.S., WTO, and foreign officials agree that the mechanism has limitations. Nevertheless, the TRM and the benefits it provides could be enhanced by increased member participation and more timely U.S. preparation, which would improve the chances for full and informed responses from Chinese officials and maximize the potential exchange of information. Thus, even with a continued U.S. emphasis on bilateral and other multilateral engagement, the TRM can continue to provide an important avenue to pursue U.S. trade interests.

Second, the U.S. government's China-WTO compliance efforts would benefit from increased emphasis on planning and performance management within each of the key agencies. While we acknowledge that unit managers need to be flexible when reacting to compliance problems, setting clear unit priorities and measurable goals that support overall agency objectives need not reduce their flexibility. To the contrary, GPRA and our substantial body work on planning emphasizes the importance and usefulness of developing unit and program-level plans and measures that are connected to an agency's overall mission. We acknowledge the challenges of developing measurable goals, given the extent to which external factors can influence agencies' trade compliance efforts; however, we believe that it is possible to better measure results annually.

Third, we found that these agencies have opportunities to better manage their human capital involved in the U.S. government's China-compliance activities. Specifically, in an environment of high and regular staff turnover, new staff are called upon to take up monitoring and enforcement activities that involve complex, long-term issues. New staffs' effectiveness and efficiency is reduced when no formal training is available to help them with their day-to-day activities, and when staffing gaps mean they cannot learn from their more experienced predecessors. Increased management attention to providing an adequate mix of OJT and formal training can help ensure that new employees have the necessary tools for doing their jobs well.

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## Recommendations for Executive Action

To improve multilateral engagement with China on WTO compliance issues, we recommend that the U.S. Trade Representative (USTR) take steps to maximize the potential benefits of the Transitional Review Mechanism (TRM). These steps could include establishing and meeting internal deadlines to submit written questions to the Chinese delegation 4

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to 6 weeks or more before each TRM and coordinating with other WTO members to increase participation in the review.

Additionally, we recommend that the USTR and the Secretaries of Commerce, State, and Agriculture (USDA) take steps to improve performance management pertinent to the agencies' China-WTO compliance efforts. Specifically, USTR should set annual measurable predetermined targets related to its China compliance performance measures and assess the results in its annual performance reports. The Secretary of Commerce should take further steps to improve the accuracy of the data used to measure results for the agency's trade compliance-related goals. The Secretary of State should require the China mission to assess results in meeting their goals and report this information as part of the annual mission performance plan. The Secretary of USDA should further examine the external factors that may affect agency's progress toward achieving its trade-related goals and present the agency's strategies for mitigating those potential effects. Furthermore, the head of each agency should direct their main China compliance units to set forth unit plans that are clearly linked to agency performance goals and measures, establish unit priorities for their activities, and annually assess unit results to better manage their resources.

Further, we recommend that USTR and the Secretaries of Commerce, State, and USDA undertake actions to mitigate the effects of both anticipated and unplanned staff turnover within the agencies' main China-WTO compliance units by identifying China compliance-related training needs and taking steps to ensure that staff have adequate opportunity to acquire the necessary training. These actions could include determining which of the agencies' existing courses would be appropriate for staff, determining what types of external training are available, developing training courses on relevant issues, and establishing a plan and timelines for existing and new staff to receive training.

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## Agency Comments and Our Evaluation

We provided draft copies of this report to the Office of the U.S. Trade Representative, and the Departments of Commerce, State, and Agriculture, and we received written comments from all four agencies (the agencies' comments and our specific responses are reproduced in appendixes IV through VII). USTR and Commerce also provided technical comments, which we incorporated as appropriate.

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In general, the agencies noted they would consider our recommendations, but they raised various concerns and provided additional information for our consideration. USTR, Commerce, and State expressed similar concerns about our analysis of the scope and disposition of the compliance problems presented in USTR's 2002 and 2003 reports on China's WTO compliance. The agencies emphasized the importance of developments in resolving compliance problems that occurred in 2004 and believed that our characterization of the disposition of compliance problems was potentially misleading. We generally agreed with these comments and updated the report to provide more equal treatment of 2004 developments and modified the presentation of our analysis of the disposition of China's compliance problems. Our responses to the agencies' specific concerns on these issues are presented in appendixes IV through VI.

USTR, Commerce, and USDA also made specific comments that our report did not adequately reflect extensive high-level strategic coordination efforts among the key agencies, and they provided additional information regarding these efforts. We modified the report to include further discussion of high-level strategic planning efforts and clarified that our assessment and recommendations focus on the agencies' performance management efforts. The agencies expressed related concerns about the challenges associated with quantitatively measuring performance of their monitoring and enforcement efforts. State and USDA indicated that efforts are under way in those agencies to improve aspects of their performance planning and measurement, while USTR responded that their performance measurements were adequate and complied with GPRA and OMB guidance. We maintain that our assessments of the agencies' performance management are accurate, especially in light of OMB guidance (set forth in OMB *Circular No. A-11*), and that moreover our recommendations, if implemented, would aid in better management of the U.S. government's efforts to ensure China's compliance.

USTR commented that our discussion of the TRM overlooked the U.S. government's efforts to engage China outside of the TRM through the regular WTO committee structure, and disagreed with our conclusion that greater lead time for U.S. TRM submissions to China would increase the potential for fuller oral responses from China. We amplified our discussion of U.S. multilateral efforts in the WTO, but we continue to believe that USTR should take steps to maximize the potential of the TRM, which would include providing greater lead time in submitting TRM questions to China.

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Commerce, State, and USDA indicated that training is a priority and that training opportunities exist for staff in the agencies China units. Furthermore, State believed our criticisms concerning training were overstated and did not take into account various structural constraints faced by that department. USTR said that USTR staff did not require training since the agency only hires experienced staff. We acknowledge that training opportunities, including OJT, do exist in the agencies and that many staff have extensive backgrounds on China trade issues. Nevertheless, we continue to believe that a more cohesive approach to training can help alleviate the effects of turnover and maximize staff effectiveness. Lastly, some of the agencies provided additional information regarding various activities and other contextual information associated with ensuring China's compliance. To the extent that this information was within the scope of our review, we have modified the report as appropriate.

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We are sending copies of this report to the U.S. Trade Representative, the Secretaries of Commerce, State, and Agriculture, and interested congressional committees. We will make copies available to other interested parties upon request. In addition this report will be available at our Web site at <http://www.gao.gov>.

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

A handwritten signature in black ink, appearing to read "Loren Yager". The signature is written in a cursive style with a large initial "L".

Loren Yager  
Director, International Affairs and Trade

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# Objectives, Scope, and Methodology

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As part of a long-term body of work that the Chairman and the Ranking Minority Member of the Senate Committee on Finance, as well as the Chairman and the Ranking Minority Member of the House Committee on Ways and Means, requested, we examined how the U.S. Trade Representative (USTR) and the Departments of Commerce, State, and Agriculture (USDA) are positioned to monitor and enforce China's compliance with its World Trade Organization (WTO) commitments. Specifically, in this report, we (1) examined the scope and disposition of China-WTO compliance problems that the U.S. government is working to resolve; (2) reviewed the U.S. government's bilateral and multilateral approaches for resolving compliance problems; (3) assessed the agencies' strategies, plans, and measures for ensuring China's compliance; and (4) assessed how the U.S. government has adapted its staff resources to monitor and resolve China compliance problems.

To examine the scope and disposition of compliance problems, we reviewed the USTR's *Report to Congress on China's WTO Compliance* from 2002 and 2003. These annual reports, mandated in conjunction with China's 2001 accession to the WTO, incorporate a broad range of input from key federal agencies as well as the business community. We systematically cross-checked the reports with testimony and reports submitted to the Trade Policy Staff Committee, Subcommittee on China-WTO Compliance as part of its 2002 and 2003 hearings on China-WTO compliance and other relevant reports. Other reports included those issued by the U.S.-China Business Council and the U.S. Chamber of Commerce, which represent a broad cross-section of U.S. industries and companies doing business in China. We found the USTR reports to be a generally fair and complete representation of U.S. industry concerns. After verifying the content of USTR's reports to the extent possible, we quantified the number of compliance problems in each area of China's WTO commitment based on the report's narrative descriptions of China's compliance problems.

To analyze the disposition of the compliance problems, we again relied extensively on the narrative descriptions provided in the reports to make a determination and assigned three broad categories to describe the disposition of the problems: No progress noted, some progress noted, and resolved. The determination that there was "no progress noted" on a particular problem was based on the fact that the report did not indicate that China took any action to resolve the issue after a range of enforcement strategies carried out by USTR and the other key agencies. If the reports indicated that China had undertaken actions to resolve a compliance problem, we coded this as "some progress noted." The assessment of

“some progress noted” included a range of steps that China took to address U.S. concerns, from delaying the implementation of problematic measures to exempting certain industries from WTO-inconsistent restrictions. We coded problems as “resolved” only if the report language clearly indicated that the compliance problem was resolved and the U.S. government was no longer pursuing a resolution of that particular problem. Although we note in the report that the U.S. government has indicated positive developments in resolving some of the problems in 2004, our analysis focused only on the issues raised in the 2002 and 2003 reports. Several of our staff reviewed these analyses to ensure consistency and consensus. See table 9 for our assessment criteria and examples.

**Table 9: Description of GAO Categories for Disposition of China-WTO Compliance Issues and Examples of Disposition**

Disposition category	Description of disposition category	Example of disposition of problem
No progress noted	USTR reported that China had made no progress in resolving a compliance problem, or did not otherwise note progress on a problem.	The U.S. asserted that China discriminated against foreign companies by using different tax bases to compute consumption taxes for domestic and imported products. The U.S. raised this issue bilaterally and within the Transitional Review Mechanism in both 2002 and 2003. China had not revised these regulations as of the end of 2003.
Some progress noted	USTR reported that China had undertaken some action to resolve a compliance issue, however the problem was not yet fully resolved.	The U.S. asserted that China restricted foreign insurance companies through excessive capitalization requirements. The U.S. raised issues in bilaterally and at the WTO, and established a technical working group. China issued draft rules that demonstrated some progress with regard to capitalization requirements and transparency.
Resolved	USTR reported that China had successfully undertaken steps to resolve a compliance issue and that the issue was no longer a concern for the U.S. or the affected industry.	The problem of subdividing tariff-rate quotas for bulk agricultural commodities persisted between 2002 and 2003. After several bilateral engagements culminating in high-level meetings in Beijing, China changed its regulations to eliminate separate allocations for general trade and processing trade.

Source: GAO analysis of USTR's 2002 and 2003 *Report to Congress on China's WTO Compliance*.

To assess U.S. bilateral and multilateral engagement strategies, we reviewed agency and WTO documents and interviewed agency officials both in Washington, D.C., and Beijing, China, as well as WTO Secretariat and other member governments in Geneva, Switzerland, and Brussels, Belgium. To assess overall U.S. government strategy, we interviewed USTR officials in Geneva and Washington D.C., and reviewed official testimony. Our review of the Transitional Review Mechanism (TRM) is based on analysis of official WTO documents, which include minutes and questions or comments submitted by member countries, as well as interviews with U.S. officials and with member countries officials in Geneva.



To assess USTR, Commerce, State, and USDA strategies and plans, we examined planning documents such as annual performance reports, budget documents, and annual reviews. We reviewed each agency's most recent performance and strategic plans to determine how China WTO monitoring and enforcement is incorporated into the agencies' planning process. Our evaluation of agency planning efforts was informed by our previous studies on the Government Performance and Results Act of 1993 (GPRA). We enhanced our review of this information by interviewing agency officials regarding agency wide and unit-level planning and evaluation efforts. To gather staff and management perspectives on planning and performance measures, we conducted standardized interviews within all four agencies.

To assess agency resources and other activities related to China's compliance, we reviewed the four key agencies' planning documents, budget and staffing data, and information on training. Our evaluation was informed by past GAO studies on human capital management issues. We asked each agency to provide us with the actual number of FTE staff and staff attrition rates in key units involved in China-WTO compliance efforts for fiscal years 2002 and 2003. In some cases, agencies were unable to provide us with actual staffing numbers because some staff did not work on China issues full-time. In those instances, we asked agency officials to estimate FTE staff working solely on China compliance. To ensure that the data were reliable to the extent possible and necessary for our review, we discussed criteria for making estimates with the agencies to ensure that the estimates were consistent between agencies. We compared agency information on staffing with information we received for previous reviews and discussed changes in staffing levels with cognizant agency officials. We determined that the staffing information was sufficiently reliable for our review. We asked each agency to supply us with training documents or manuals and minutes or records from coordinating meetings. We supplemented our review of this information by conducting individual interviews with over 50 staff and unit managers from the four key agencies that had China compliance as a main portion of their work portfolio. These were standardized interviews conducted individually, with the exception of USTR, which required a group interview. We were able to interview over two-thirds of U.S. government staff in the main units at the four key agencies who work primarily on China-WTO compliance.

We conducted our work in Washington, D.C., Beijing, China, Geneva, Switzerland, and Brussels, Belgium. We performed our work from July 2003 to June 2004 in accordance with generally accepted government auditing standards.

# Description of Areas of China's Trade Regime Covered by China's WTO Commitments

USTR's 2002 and 2003 *Report to Congress on China's WTO Compliance* identified compliance problems within nine broad areas related to China's trade regime where China had made commitments to other WTO members. Our previous work used similar categories to analyze China's commitments.<sup>1</sup> Table 10 describes the commitment categories used in USTR's reports.

**Table 10: Description of China's WTO Commitment Areas**

Commitment area	Description of commitment area
Import regulation	Border measures affecting imports, such as customs duties, other taxes, and charges; nontariff measures, such as quotas; regulatory measures, and technical barriers to trade, such as packaging, marketing, or labeling requirements.
Services	Regulations and restrictions affecting trade in services and operations of foreign services suppliers in China, including commitments on nondiscrimination and market access for particular service sectors.
Internal policies affecting trade	Internal policies affecting nondiscrimination (equal treatment of imported and domestic goods), taxation, subsidies, price controls, standards and regulations, state-owned, state-invested and state-trading enterprises and government procurement.
Agriculture	Measures and policies that affect the agricultural sector, such as customs duties, tariff-rate quotas, export subsidies, domestic support and measures restricting imports for health and environmental reasons (sanitary and phytosanitary measures).
Intellectual property rights	Includes laws and regulations, as well as their enforcement, providing for the protection and enforcement of intellectual property rights, such as copyrights, trademarks, and patents.
Trading rights and distribution	China's restrictions on the right to import or export products (trading rights) and its treatment of wholesaling services, commission agents' services and direct retailing services (distribution rights).
Investment	Prohibitions on investment measures that violate nondiscrimination and quantitative restrictions on imports.
Legal framework	Legal reforms in the areas of transparency, uniform application of laws and judicial review.
Export regulation	Border measures affecting exports, including licensing requirements, export duties, and other taxes and charges.

Source: GAO.

<sup>1</sup>GAO, *World Trade Organization: Analysis of China's Commitments to Other Members*, GAO-03-4 (Washington, D.C.: Oct. 3, 2002).

# Summary of WTO Member Participation in China's Transitional Review Mechanism, 2002 and 2003

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China's commitments to the WTO provide for an annual review, referred to as the Transitional Review Mechanism (TRM), of China's implementation to take place within the WTO's General Council and 16 subsidiary bodies.<sup>1</sup> Under the TRM, WTO members can submit written questions to China in advance of the meetings, and address China directly during the meetings. Additionally, China's accession agreement describes various types of information that China is required to submit to the WTO subsidiary bodies in advance of the TRM. Tables 12 and 13 list the dates of the meetings where the TRM took place in 2002 and 2003 and summarize specific information regarding WTO members' participation in the meetings for each year.

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<sup>1</sup>The General Council is composed of all WTO members and has authority to adopt interpretations of the various WTO agreements. The subsidiary bodies are described as councils or committees and are generally organized according to the various trade subjects covered by the WTO agreements.

**Appendix III  
Summary of WTO Member Participation in  
China's Transitional Review Mechanism, 2002  
and 2003**

**Table 11: WTO Member Participation in China's Transitional Review Mechanism, 2002**

<b>WTO committee or council</b>	<b>Date of TRM meeting</b>	<b>Number of days China's submissions preceded TRM</b>	<b>Number of days U.S. questions to China preceded TRM</b>	<b>Other members that submitted questions</b>	<b>Number of members that participated during TRM</b>
Committee on Agriculture	09/26/2002	N/A	29	EU, Japan, Canada, Thailand	7
Committee on Import Licensing	09/24/2002	5	28	EU, Japan, Chinese Taipei	4
Committee on Rules of Origin	11/15/2002	N/A	N/A	Chinese Taipei	7
Committee on Trade-Related Investment Measures	10/14/2002	4	12	EU, Japan, Chinese Taipei	8
Committee on Customs Valuation	11/04/2002	7	N/A	EU, Chinese Taipei	3
Committee on Market Access	09/23/2002	5	26	EU, Japan, Canada, France	13
Committee on Safeguards	10/28/2002	60	45	EU, Japan, Chinese Taipei	5
Committee on Antidumping Practices	10/24/2002	N/A	N/A	EU, Japan, Chinese Taipei, Canada, South Korea	6
Committee on Subsidies and Countervailing Measures	10/31/2002	2	14	EU, Japan, Mexico	5
Committee on Sanitary and Phytosanitary Measures	11/07/2002	N/A	9	EU, Chinese Taipei	7
Committee on Technical Barriers to Trade	10/17/2002	1	13	EU, Japan, Chinese Taipei	7
Committee on Balance of Payment Restrictions	11/18/2002	N/A	68	EU	3
Council on Trade-Related Aspects of Intellectual Property Rights	09/17/2002	61	67	EU, Japan, Canada, Australia, Switzerland	9
Council for Trade in Goods	11/22/2002	4	88	EU, Japan	4
Committee on Financial Services	10/21/2002	N/A	20	Canada, EU, Japan, Chinese Taipei	9
Council for Trade in Services	10/25/2002	3	24	Australia, EU, Japan, Chinese Taipei	9
General Council	12/10/2002	21	N/A		16

Source: GAO analysis of WTO documents.

Notes:

EU = European Union.

N/A = not applicable.

Chinese Taipei = Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

**Appendix III**  
**Summary of WTO Member Participation in**  
**China's Transitional Review Mechanism, 2002**  
**and 2003**

**Table 12: WTO Member Participation in China's Transitional Review Mechanism, 2003**

<b>WTO Committee or Council</b>	<b>Date of TRM meeting</b>	<b>Number of days China's submissions preceded TRM</b>	<b>Number of days U.S. questions to China preceded TRM</b>	<b>Other members that submitted questions</b>	<b>Number of members that participated during TRM</b>
Committee on Agriculture	09/25/2003	N/A	13	Chinese Taipei	3
Committee on Import Licensing	10/02/2003	9	2	EU, Japan, Chinese Taipei	4
Committee on Rules of Origin	10/03/2003	N/A	N/A	none	1
Committee on Trade-Related Investment Measures	10/03/2003	2	10	EU	9
Committee on Customs Valuation	10/06/2003	14	3	Chinese Taipei	3
Committee on Market Access	10/20/2003	5	10	EU, Japan	3
Committee on Safeguards	10/20/2003	3	N/A	Japan	3
Committee on Antidumping Practices	10/23/2003	N/A	1	Japan	2
Committee on Subsidies and Countervailing Measures	10/28/2003	4	1	EU, Mexico	4
Committee on Sanitary and Phytosanitary Measures	10/29/2003	N/A	26	EU, Chinese Taipei	3
Committee on Technical Barriers to Trade	11/7/2003	1	17	EU, Japan	3
Committee on Balance of Payment Restrictions	11/13/2003	N/A	N/A	Chinese Taipei	1
Council on Trade-Related Aspects of Intellectual Property Rights	11/18/2003	1	8	EU, Japan, Chinese Taipei	6
Council for Trade in Goods	11/26/2003	5	9	EU, Japan	4
Committee on Financial Services	12/01/2003	N/A	7	Canada, EU, Japan, Chinese Taipei	7
Council for Trade in Services	12/05/2003	8	11	Australia, EU, Japan, Chinese Taipei	5
General Council	12/15/2003	10	N/A		6

Source: GAO analysis of WTO documents.

Notes:

EU = European Union.

N/A = not applicable.

Chinese Taipei = Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

# Comments from the United States Trade Representative

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

EXECUTIVE OFFICE OF THE PRESIDENT  
DEPUTY UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

SEP 21 2004

Mr. Loren Yager  
Director  
International Affairs and Trade Issues  
U.S. Government Accountability Office  
Washington, D.C. 20548

Dear Mr. Yager:

I am writing to convey the comments of the Office of the United States Trade Representative (USTR) on the draft report of the Government Accountability Office (GAO), *Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments* (Report). Ensuring China's compliance with its World Trade Organization (WTO) commitments is a key priority for the Administration, and we appreciate the GAO's advice which is offered to ensure that we are doing the best possible job at that critical task. The Report contains some useful recommendations that we will consider carefully.

As your Report notes, in 2004 the Administration resolved or made important progress on a number of key trade issues with China. Indeed, just last week, the American Chamber of Commerce in China released its annual report and noted the substantial progress we have made over the past year on China WTO compliance issues. In the last 12 months, U.S. exports to China grew to \$33 billion, more than double the level in 2001, making China one of the fastest growing export markets in US history. Maintaining this momentum will require sustained attention by the U.S. Government.

USTR would like to highlight four issues of concern with the Report. It (1) focuses on events only through December 11, 2003 and is therefore outdated; (2) focuses on U.S. activities in connection with China's Transitional Review Mechanism without a full discussion of the multilateral engagement process at the WTO; (3) claims an inability to measure U.S. Government efforts, while seemingly ignoring the reams of reporting and testimony released annually by the agencies in question; and (4) does not adequately reflect the extensive

interagency process at the most senior levels of the U.S. Government devoted to strategic planning and management of U.S.-China trade relations, particularly as that process influenced events in 2004.

*Time Period.* The draft Report assesses the disposition of compliance issues only through 2003 and treats as unresolved issues on which the United States in fact achieved substantial progress in 2004. Some of the 2004 results – in particular, the progress made during the April meetings of the Joint Commission on Commerce and Trade (JCCT) – are noted in the Report, but they are not reflected in the GAO’s analysis of the disposition of compliance concerns.

Any assessment of the disposition of compliance concerns or U.S. government efforts should not end at the period ten months before the Report’s publication. As noted in the Report, China faced an unprecedented, infectious health crisis in 2003, limiting the ability of U.S. negotiators to interact with Chinese officials and manage trade concerns for a significant portion of that year. Since the end of 2003, USTR has established a new Office of China Affairs, doubled the size of its China-focused staff, and resolved or made progress on a number of the thorniest problems in the U.S.-China trade relationship, including:

- Successfully resolving a WTO dispute regarding China’s tax refund policy for semiconductors, a growing market currently worth \$2 billion to American manufacturers and workers.
- Problem-solving through months of detailed work with Chinese officials in a host of ministries, culminating in an April 2004 JCCT meeting with Chinese Vice Premier Wu Yi, at which the United States and China resolved or made progress on a number of key trade disputes over matters including wireless Internet standards; Third-Generation (3G) mobile phone standards; intellectual property; trading rights; distribution services; express delivery; agricultural biotechnology; tariff-rate quotas for agricultural commodities including wheat and cotton; and financial services, including insurance.
- Exercising its rights to impose safeguards against Chinese imports to protect U.S. textile workers making products such as robes, undergarments, and knit fabric.

Indeed, in its annual report on China WTO compliance issues, the American Chamber of Commerce in China concludes:

“With the exception of intellectual property rights, we believe China is substantially in compliance with its WTO deadlines and specific obligations. While some commitments remain problematic and there continue to be many areas where the market access opportunities anticipated still have not been realized, China has taken noteworthy steps this year to comply with its basic commitments in the areas of trading rights, insurance,

See comment 1.

auto finance, and agriculture, among others. Some of this progress resulted from bilateral dialogue between the United States and Chinese governments, in particular at the April 2004 Joint Commission on Commerce and Trade, for which we commend both governments for their constructive efforts and encourage more of the same in the future.”

Like the Chamber, we have serious concerns regarding intellectual property protection in China, and ensuring China’s effective enforcement of intellectual property rights is one of this Administration’s top priorities. At the April JCCT meeting, China presented a detailed action plan to significantly reduce the piracy and counterfeiting of American products and innovations. We are working to ensure that China follows through on its action plan, and will conduct a special review in early 2005 under the “Special 301” provisions of the Trade Act of 1974 to measure progress.

*Transitional Review Mechanism.* The Report focuses heavily on the Transitional Review Mechanism (TRM) that was established under the terms of China’s accession to the WTO and treats the TRM and bilateral engagement as the two main tools available to the United States to address compliance problems with China. The TRM is an important tool, but it is one of many. The Administration pursues issues with China through, *inter alia*, interventions by the U.S. Embassy in Beijing, letters and phone calls directly to China’s officials, demarches presented to China’s government, visits to China by USTR and other agency officials, regular trade dialogue meetings at the working and senior-level, recourse to U.S. trade laws, and technical assistance programs. We also pursue China compliance issues through meetings of WTO councils and committees (whether identified as TRM meetings or not), side meetings with China and other Members at the WTO, consultations under the WTO framework, dispute settlement at the WTO (including the threat thereof), informal coordination with other WTO Members, and use of other multilateral fora. The context of the TRM is not fully presented in the Report.

The Report identifies two shortcomings in the 2003 TRM. The first problem identified is that the United States provided its questions to China with a shorter lead time prior to WTO committee and council meetings in 2003 than 2002. We see no basis for the conclusion that a greater lead time in TRM questions would change the effectiveness of U.S. government efforts to ensure China’s compliance with WTO commitments. In addition, the GAO should clarify that the need for long lead times that existed in 2002, when we were seeking written answers in advance of meetings, was less pressing in 2003, when it had become clear that China would not provide advance written responses.

The second shortcoming identified in the Report is the decreased number of Members that submitted TRM questions in 2003 as compared to 2002. USTR agrees that participation by more WTO Members would be desirable. Indeed, the United States has urged other Members to participate and has taken a leading role in the TRM every year. However, third-party participation is not within U.S. Government control and the GAO made no finding that the lack

See comment 2.



of participation was due to any action or inaction on the part of the U.S. Government. Therefore, the focus on this issue, in a report intended to assess U.S. agencies' efforts, is misplaced.

See comment 3.

*Alleged Inability to Determine Outcome of Agencies Efforts.* The GAO found that it was difficult to assess the outcome of agencies' China-WTO compliance efforts because of various performance management limitations and urges USTR to establish a quantifiable measure of its compliance activities. The Report's conclusion is surprising, given that USTR reports exhaustively on compliance problems each year and steps taken to address those problems (in 2003, USTR's report to Congress on China WTO compliance totaled more than 60 single-spaced pages). In addition, USTR and other agency officials testify regularly before the Congress to report on our China-WTO compliance efforts.

As for the lack of quantitative measure or assessment, the GAO itself states elsewhere in the report that agencies have flexibility in establishing goals under the Government Performance and Results Act of 2003 (GPRA) and in using performance measures, as long as they reflect the major activities carried out as part of their particular missions. USTR has proposed, adopted upon approval from the Office of Management and Budget (OMB), and reported upon its alternative form of measurement regarding its performance goal with respect to China's compliance with its WTO obligations (as well as with respect to other USTR performance goals). USTR's use of this form of measurement is in full conformance with the GPRA and OMB requirements.

See comment 4.

*Planning and Prioritizing.* In assessing agencies' performance management systems, the GAO should recognize that USTR and other agencies, including at the most senior levels, engage in significant planning activity with respect to China WTO compliance issues and have established priorities for their compliance activities. The Administration sets forth its priorities with respect to China WTO compliance in regular Congressional testimony as well as annually, in USTR's report to Congress on China's WTO compliance. In addition, the President sets forth his overall trade agenda on an annual basis. USTR and other agencies also periodically assess how to prioritize trade issues as part of our structured dialogue with China and in the lead-up to meetings between senior officials. In late 2003 and 2004, for example, the U.S. Government engaged in an extensive interagency planning and prioritization process involving Cabinet and sub-Cabinet officials, as well as other senior officials from all relevant agencies, that resulted in significant advancement of U.S. interests in securing improved compliance by China with its WTO obligations. The GAO should recognize these planning and prioritization activities.

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**Appendix IV**  
**Comments from the United States Trade**  
**Representative**

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We welcome the GAO's suggestions on how we can more effectively address WTO compliance concerns with China and look forward to continuing to work with the GAO on this study.

Sincerely,



Josette Sheeran Shiner

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The following are GAO's comments on USTR's letter dated September 21, 2004.

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## GAO Comments

1. We updated our draft report to include additional information on developments in 2004, including the resolution of the dispute over China's discriminatory value-added tax refund policy for semiconductors. Since our analysis of the 2002 and 2003 USTR reports cannot be updated in the absence of the forthcoming 2004 USTR report in December, we modified our presentation about the disposition of China's compliance problems to provide a more balanced treatment of those issues. However, we still demonstrate the scope of compliance problems, how China's compliance problems can persist for 2 years or more, and the extent to which China's progress in resolving these issues has been mixed.
2. We amplified our discussion of other multilateral engagement through regular WTO committees in order to put the TRM in better context. Nevertheless, after reviewing the minutes of the various TRM meetings, we continue to believe that earlier U.S. submission of questions to China in advance of the TRM meetings could increase the chances for more thorough oral responses from the Chinese delegation. We also continue to believe that U.S. efforts to increase other WTO members' participation in the TRM could improve its effectiveness, despite its ongoing limitations and support the other key agencies' outreach efforts in this regard.
3. While USTR submits long narrative reports to Congress on China's WTO compliance and the steps the U.S. government takes to address problems, these reports are not a substitute for a bottom-line performance management assessment of the degree to which the agency has achieved pre-determined measurable annual objectives. We noted that USTR has described numerical indicators in its performance plan, yet has not set targets or measured the agency's performance against these indicators. Although we agree that USTR has some flexibility under GPRA to establish performance measures that are not strictly quantitative, the agency specifically sets forth numerical measures in its performance plan. Accordingly, USTR should have specifically addressed these measures in its results report. Additionally, while USTR states that its approach was approved by OMB and was in compliance with GPRA, the OMB guidance requires all agencies to report a comparison of actual performance with projected, target levels

of performance; without establishing targets, we believe USTR is not able to make this required comparison. We revised our draft report to clarify and further emphasize our assessment.

4. We added some discussion to better recognize these senior-level policy coordination initiatives and also clarified that our findings about planning and prioritizing was in the context of performance management. Also, we refined our observations about how the China units in the key agencies would benefit from improved performance management that institutionalized high-level priorities and planning to better guide unit-level China compliance activities, which support these initiatives.

# Comments from the Department of Commerce

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Under Secretary for International Trade**  
Washington, D.C. 20230

SEP 21 2004

Mr. Loren Yager  
Director  
International Affairs and Trade Issues  
U. S. General Accounting Office  
441 G Street, NW  
Washington, DC 20548

Dear Loren:

Thank you for sending your draft report, *Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments*, for our review. As you know, I have tremendous respect for the work the General Accounting Office (GAO) has done on Chinese accession to the World Trade Organization (WTO) and related compliance issues in the past. Prior GAO reports proved instrumental in Congress' understanding of the process of accession, the merits of the agreement eventually negotiated, and the requirements that accord imposed on China.

I appreciate the recommendations this new report offers the Department of Commerce and other agencies. I would nonetheless want to provide some important further context for the report. This information touches on the significant progress made by the Administration on China's WTO compliance in the course of 2004 and on the underlying strategy we have pursued to achieve this.

First, it is worth reiterating the basic strategy the Administration has pursued. To ensure China's continued implementation of its WTO obligations, in the late summer of 2003, the Administration at the highest levels developed a comprehensive strategy to ensure progress on China's compliance. That strategy included monthly visits by Cabinet or immediate-sub Cabinet officials to China to engage with China's leaders. Further, it involved development of a roadmap setting specific goals for progress, achieving Chinese government agreement to pursue those goals, and structuring senior-level meetings to establish milestones to push this process forward. In particular, meetings prior to the December, 2003, visit by Premier Wen Jiabao set the stage for agreement to elevate the level of the JCCT and to pursue a set of concrete outcomes for that meeting. Between December and the April JCCT, we held numerous meetings and teleconferences with our Chinese counterparts to push forward our mutually agreed agenda of issues.

These efforts paid off. At the JCCT meeting in April 2004, we resolved several significant issues and laid the foundation for important progress on others. Issues resolved included implementation of China's commitments on trading rights and



See comment 1.

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**Appendix V**  
**Comments from the Department of**  
**Commerce**

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distribution services, potentially worth billions of dollars of increased market access to U.S. companies, and the WAPI encryption issue. We also achieved significant commitments on IPR, and we are now seeing the Chinese government follow through on these. Further, we achieved Chinese concurrence to open a dialogue on the key structural issues (such as subsidies) that can distort U.S.-China trade and create an un-level playing field for U.S. companies. While not technically a WTO implementation issue, I would note our breakthrough agreement at the JCCT on an arrangement for end-use visits on high technology items. In addition, I believe the successful JCCT paved the way for the subsequent resolution of the integrated circuit VAT issue, which was resolved bilaterally without the need for lengthy litigation at the WTO.

See comment 2.

Second, to reinforce the Administration's strategy, the Department of Commerce has undertaken a number of new steps that will continue to pay dividends in the future. These include establishment of the compliance investigations office, increased staffing and recruitment of top language-qualified China experts to manage our China compliance efforts, the creation of a China Office in our Import Administration to focus and deepen our expertise on unfair trade cases from China, and for the first time using technology to enable compliance officers in China and the United States to work collaboratively on compliance cases in the Market Access and Compliance Bureau on a real time basis. In addition, the Department of Commerce has undertaken extensive "capacity building" efforts as part of a carefully thought out, strategic effort to ensure China's compliance with WTO commitments and avoid future obstacles to U.S. exports to China. These efforts, though difficult to quantify, have produced results that help us identify and address key problems in China's WTO implementation.

Consistent with the effort to expand the Commerce Department staff dedicated to compliance, we have also provided a continuous cycle of training opportunities to enhance their skills. We have made strenuous efforts to increase our staffing on the China compliance issue to reflect its growing importance to the United States, and we have added management to this staff to enhance the development of the China office and engage the staff in more training opportunities. In fact, reflected in budget requests for the International Trade Administration from the outset of this Administration, you will see that our personnel and their training has been our top priority.

In closing, I hope that the above affords a fuller treatment of our strategic approach to the issue of China's WTO implementation and the significant progress — much of it in 2004 — that we have achieved as a result. While there are many ways to measure progress on such a complex issue, one key indicator is the attitude of the U.S. business community. In this connection, I would draw your attention to the American Chamber of Commerce in China's annual report issued last week, which notes the progress made in 2004 on China compliance issues thanks, in part, to U.S.-China bilateral dialogue.

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**Appendix V**  
**Comments from the Department of**  
**Commerce**

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The U.S. government is working hard to ensure that China complies with its WTO commitments, and there is much work to be done in the future on this issue. But there should also be a clear recognition of the successes already achieved, thanks in part to hard work by the U.S. government and increased resources for these efforts from Congress. Again, I thank you for your recommendations and for this opportunity to comment on the draft GAO report.

Sincerely,

A handwritten signature in black ink, appearing to read "Grant D. Aldonas", with a long horizontal flourish extending to the right.

Grant D. Aldonas

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The following are GAO's comments on Commerce's letter dated September 21, 2004.

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## GAO Comments

1. We updated our draft report to better reflect high-level policy coordination on China compliance efforts and to clarify our focus on unit-level performance management activities. We also included additional information on developments in 2004, including the resolution of the dispute over China's discriminatory value-added tax refund policy for semiconductors.
2. We did not assess the organizational changes that Commerce has recently implemented to enhance its monitoring and enforcement activities, but noted that these changes were under way. Nevertheless, these changes create an opportunity for the International Trade Administration to improve performance management and human capital management along the lines we recommend in order to maximize the effectiveness of these China compliance-related offices and the staff they have hired or reassigned.



# Comments from the Department of State

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



United States Department of State

*Assistant Secretary and Chief Financial Officer*

*Washington, D.C. 20520*

SEP 2 2004

Ms. Jacqueline Williams-Bridgers  
Managing Director  
International Affairs and Trade  
Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548-0001

Dear Ms. Williams-Bridgers:

We appreciate the opportunity to review your draft report, "U.S. – CHINA TRADE: Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments," GAO Job Code 320194.

The enclosed Department of State comments are provided for incorporation with this letter as an appendix to the final report.

If you have any questions concerning this response, please contact David Bonine, Foreign Affairs Officer, Bureau of East Asia and Pacific Affairs, at (202) 647-6782.

Sincerely,

Christopher B. Burnham

cc: GAO – Adam Cowles  
EAP – James Kelly  
EB – E. Anthony Wayne  
State/OIG – Mark Duda

**Department of State Comments on GAO Draft Report:  
U.S. - CHINA TRADE: Opportunities to Improve U.S. Government  
Efforts to Ensure China's Compliance with World Trade Organization  
Commitments (GAO-04-936, GAO Code 320194)**

The State Department is concerned with the underlying notion of the GAO report that one can meaningfully and accurately quantify United States Government (USG) progress in ensuring China's compliance with World Trade Organization (WTO) commitments. The chart in Figure 1 classifies issues as resolved, made progress, or no progress. This system of organization places equal weight on an issue that affects \$1,000 worth of trade and an issue worth \$1 billion—an inappropriate notion if the USG is to prioritize its efforts. A more accurate measure of USG effectiveness would provide a trade volume/market value on the issues resolved, moved forward, and unresolved. Our key priorities in 2002-2003 were: soybeans, insurance, agricultural Tariff Rate Quotas (TRQs) and postal law. We believe these to be priority issues because of the dollar value and urgency involved. We basically resolved these issues, and U.S. exports of goods and services in these areas grew (or in the case of insurance, will grow) sharply. It is also noteworthy that no export growth figures are presented in the report, which is ultimately the bottom line of trade concerns. Even then, export growth figures may not always correctly convey the importance of a success, for example, a change in law, regulation, or practice that bolsters Intellectual Property Rights (IPR) protection.

There is also a fine line between "made progress" and "no progress." What may appear to be no progress from an individual company's perspective may in fact be progress in moving an issue up the decision-making hierarchy toward eventual resolution. Many of these are not clear-cut issues that lend themselves to a clear, timely, and quantifiable solution (e.g., "concern over the independence of the judicial system"). Additionally, it appears that many complaints raised by U.S. companies are treated as examples of "noncompliance," but these may or may not be legitimate, impartial instances of noncompliance.

See comment 1.

**Report Conclusions**

Bilateral vs. Multilateral Approaches to Achieving Results:

The report concludes the USG found bilateral approaches to be more effective than multilateral ones, citing USG emphasis on progress made at the Joint Commission on Commerce and Trade (JCCT), versus lesser success and emphasis placed on the TRM mechanism at the WTO. While State agrees that the USG continues to rely on regular high-level bilateral contact to make progress on key issues, the multilateral forum remains an important component of overall strategy. USG preparation in the Transitional Review Mechanism (TRM) this year is more thorough and timely than in 2003. Moreover, the USG successfully used the WTO Dispute Settlement mechanism for the first time in the semiconductor VAT case, a case that attracted the formal support of Japan, the EU, Mexico and Chinese Taipei. We continue to work closely with the EU and other partners around the world to coordinate common positions on issues of mutual concern regarding China's compliance with its WTO commitments.

See comment 2.

Other countries have also found enhanced bilateral contact to be an effective tool with China in WTO compliance. Notably, the EU has an annual high-level Trade Dialogue with China in which they discuss contentious issues and attempt to head off more drastic action. In this regard, it is important to note the additional time and effort required to multilaterally coordinate complex and sometimes differing interests into effective action.

The Reactive Nature of USG Strategy to Ensure China's Compliance with WTO Commitments:

State agrees, as the report states, that there are "significant challenges [to] developing measurable goals, given the extent to which external factors can influence agencies' trade compliance efforts." In addition to external factors, there are several other difficulties in developing such goals (see related comments in paragraph 1). Many issues become important, prompt USG policy formulation, and are resolved within a calendar year, complicating attempts to proactively set priorities and goals. Timely and reliable data on which to base such goals are not always available, and mission and bureau planning documents are usually drafted 2 years in advance. Finally, many compliance issues do not easily lend themselves to meaningful quantification.

See comment 3.

Despite these difficulties, State will work towards refining our annual planning process to more rigorously identify and prioritize existing/persistent problems with China's WTO compliance and develop overall strategies to address those deficiencies. Similarly, State will work to develop measurable performance goals for evaluating our work in ensuring China's WTO compliance where it would be meaningful and appropriate to do so.

Turnover and Training:

The Secretary has stressed the importance of in-service training and professional development, and great improvements have been made over the last several years. Nonetheless, State believes that criticism concerning the level of training officers receive before working on China WTO compliance is overstated, and does not take account of pressing structural constraints. The topic is not well suited to classroom study because the complex and detailed issues change frequently: an issue that was a priority concern and demanded significant attention in one year may be resolved or insignificant the next. That said, the Department has long recognized the need to have a cadre of officers with adequate economic and language skills, but this is a long-term goal. Mandarin is a difficult language requiring serious commitment and many years to master, meaning staffing levels cannot be increased quickly. More important, the State Department faces severe shortages of mid-level officers, largely the result of low hiring levels in the nineties, now exacerbated by staffing demands in Iraq and Afghanistan. The problems of turnover and training are tied to this staffing shortage. Attempting to create greater overlap between incoming and outgoing officers or extend the length of service for officers assigned to China WTO compliance are not feasible options.

See comment 4.

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The following are GAO's comments on State's letter dated September 2, 2004.

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## GAO Comments

1. We believe that measurable indicators provide policymakers with meaningful summary information, however the figure in our draft report was outdated and we removed it. As we indicate in our report, priorities can be established according to a number of factors, including trade volume/market value. We agree that such information might provide a more accurate measure of results. Our report points out that, while USTR's annual China compliance reports identify "priority" areas, the economic importance of many individual problems cannot be easily quantified (as noted in State's letter) and was not reported. As a result we did not attempt to calculate the importance or otherwise prioritize or rank the problems in our analysis. With regard to our discussion of the disposition of problems in 2002 and 2003, we explain our methodology for categorizing what USTR has reported to Congress in detail in appendix I.
2. We added information about other multilateral activities to put the TRM in better context. We agree that the TRM remains an important component of China compliance activities and appreciate that continued efforts to coordinate compliance issues multilaterally, as we recommend, are sometimes difficult and are not always effective.
3. We appreciate State's performance management challenges and welcome the intention to refine its annual planning process and to develop measurable performance goals for its China-WTO compliance activities. We reiterate that assessing and reporting annual results at the mission (or bureau) level can help ensure that unit-level activities reflect agency priorities.
4. Previous GAO reports have discussed human capital management challenges at State more thoroughly. In this report, we discuss some particular issues as they relate to China compliance efforts, including planned and unplanned turnover of staff and how the press of daily business makes staff development difficult. We believe that mitigating the effects of turnover through greater attention to training, either in or outside of the classroom, can nevertheless help while solutions to longer-term human capital challenges are being pursued.

# Comments from the Department of Agriculture

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



SEP - 8 2004

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Agriculture

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Ave, SW  
Room 5071-S  
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Washington, DC  
20250-1001

Mr. Loren Yager  
Director, International Affairs and Trade Issues  
U.S. Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Dear Mr. Yager:

Thank you for providing the U.S. Department of Agriculture (USDA) with your draft report entitled "U.S.-CHINA TRADE: Opportunities to Improve U.S. Government Efforts to Ensure China's Compliance with World Trade Organization Commitments." Your report identifies three areas in which U.S. government (USG) agencies could improve their efforts and maximize the effectiveness of resources dedicated to ensuring China's compliance with its WTO commitments. We would like to offer the following comments for your consideration.

**Multilateral efforts have not achieved their full potential.** Your report states that the World Trade Organization (WTO) annual Trade Review Mechanism (TRM), which is intended to be a thorough review of China's implementation, could be improved through increased member participation and "more timely U.S. preparation." As part of its overall monitoring responsibilities, USDA is an integral part of the interagency effort to prepare for WTO committee meetings of the TRM. For the Foreign Agricultural Service (FAS), this effort includes soliciting comments from industry groups, commodity experts, and marketing analysts in the Department, as well as FAS' offices in China. Through the Trade Policy Staff Committee (TPSC), the U.S. Trade Representative (USTR) invites and coordinates input from other USG trade-related agencies. Trade-agency submissions are provided to the WTO Secretariat and China before the TRM discussions. Coordination with other WTO members in advance and during the TRM discussions on issues of shared concern is an important outreach function consistent with multiplying U.S. efforts towards addressing concerns identified in the TRM. The WTO Committee on Agriculture is scheduled to take up the review on September 23, and elements of the submissions may be discussed before the Committee on Import Licensing scheduled for September 30. Active participation by Argentina and Brazil is being invited concerning China's licensing of import inspections.

**Agencies involved in USG's China-WTO compliance efforts need to increase emphasis on planning and performance management.** Your report acknowledges the challenges of developing measurable goals given the extent to which "external factors" can influence agencies' trade compliance efforts, but at the same time, emphasizes the importance and usefulness of developing program-level plans and measures that are connected to agencies' overall missions.

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See comment 1.

FAS concurs that planning and measuring results are important components to ensuring that government resources are used effectively to achieve agencies' goals. FAS' Strategic Plan identifies expanding international market opportunities, which includes expanded foreign market access, as a strategic goal. Among actionable strategies, FAS pursues trade liberalization through multilateral trade negotiation (MTN), monitors and enforces compliance with trade agreements to ensure fair access, encourages the use of sound science, and coordinates trade policy initiatives through partner organizations such as the various USTR Trade Policy committees. Consistent with the Government Performance Results Act, FAS is implementing country-specific performance measures. FAS' China Task Force monitors China's compliance with the Sanitary and Phytosanitary (SPS) Agreement. All USDA agencies participate in this quarterly meeting.

The FAS Budget and Performance Integration Plan for FY 2004-2005 has as its primary objective expanding foreign market access for U.S. agricultural exporters. One of the actionable strategies to achieve this is coordination of trade policy initiatives through partner organizations such as the TPSC, in which FAS continues to play an important role.

***Opportunities to maximize human resource potential.*** Your report recommends that greater emphasis be placed on training and retention of China monitoring staff, due to the potential loss of institutional memory related to staff departures or rotation away from the Asia & Americas Division's (AAD) China Desk in FAS' International Trade Policy (ITP) Program area. As conveyed to GAO officials during the exit interview, a number of other FAS program areas (International Cooperation and Development and Commodity and Marketing Programs) and USDA agencies (the Agricultural Research Service, the Animal and Plant Health Inspection Service (APHIS), the Food Safety and Inspection Service (FSIS), and the Economic Research Service) devote staff resources to dealing with China issues. FAS trade policy analysts in AAD, as well as the Food Safety and Technical Services Division (FSTSD), effectively coordinate across the agency and with their counterparts in APHIS and FSIS on monitoring issues associated with the MTN agricultural agreement. FSTSD devotes considerable resources to monitoring China's SPS notifications, sharing China's notifications with all USG regulatory agencies for comment, and coordinating actions in the WTO SPS Committee.

See comment 2.

Training is an important element for ongoing professional staff development, and staff participates in monitoring-specific training opportunities. An Asia program, which included FAS' Beijing staff, was conducted in December 2003 in Bangkok, Thailand. Also FAS' China staff participates in policy-related training and consultations annually during the Washington-based Global Attaché Conference. Although area-specific knowledge is important and may be part of an analyst's training program, agency-mandated individual development planning tends to focus on broader trade-policy skills.

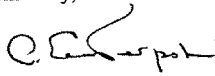
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**Appendix VII**  
**Comments from the Department of**  
**Agriculture**

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In closing, I again want to thank you for allowing us to comment on this draft report.  
Please let us know if you would like to discuss our comments further.

Sincerely,



A. Ellen Terpstra  
Administrator



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The following are GAO's comments on USDA's letter dated September 8, 2004.

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## GAO Comments

1. Our report summarizes the various components of USDA and the other key agencies' strategic and performance plans. We did not review the forthcoming country-specific performance measures to which USDA refers; we concur that the development and implementation of effective measures that allow for more meaningful assessments of results would be a positive step in improving USDA's performance management.
2. Our report acknowledges that many units within USDA play an important role in the U.S. government's China-WTO compliance efforts, and our earlier work on China-WTO compliance issues provides an overview of the various intra-agency structures. We did not review staff turnover in each of the units USDA listed, but we continue to assert that relatively high planned and unplanned turnover in the units we reviewed underscores the need for greater attention to staff training. Lastly, we acknowledge that USDA has existing training programs and makes opportunities available to its staff, but we maintain that the agencies should undertake a more systematic approach to ensure that staff further develop necessary job skills.

# GAO Contacts and Staff Acknowledgments

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## GAO Contacts

Adam Cowles (202) 512-9637  
Matthew E. Helm (202) 512-7959

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## Acknowledgments

In addition to those named above, Jennifer Costello, Jane-yu Li, Jamie McDonald, Valérie Nowak, Richard Seldin, and Kimberly Siegal made key contributions to this report.

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# Related GAO Products

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*World Trade Organization: U.S. Companies' Views on China's Implementation of Its Commitments.* [GAO-04-508](#). Washington, D.C.: March 24, 2004.

*World Trade Organization: Ensuring China's Compliance Requires a Sustained and Multifaceted Approach.* [GAO-04-172T](#). Washington, D.C.: October 30, 2003.

*GAO's Electronic Database of China's World Trade Organization Commitments.* [GAO-03-797R](#). Washington, D.C.: June 13, 2003.

*World Trade Organization: First-Year U.S. Efforts to Monitor China's Compliance.* [GAO-03-461](#). Washington, D.C.: March 31, 2003.

*World Trade Organization: Analysis of China's Commitments to Other Members.* [GAO-03-4](#). Washington, D.C.: October 3, 2002.

*World Trade Organization: Selected U.S. Company Views about China's Membership.* [GAO-02-1056](#). Washington, D.C.: September 23, 2002.

*World Trade Organization: Observations on China's Rule of Law Reforms.* [GAO-02-812T](#). Washington, D.C.: June 6, 2002.

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Gloria Jarmon, Managing Director, [JarmonG@gao.gov](mailto:JarmonG@gao.gov) (202) 512-4400  
U.S. Government Accountability Office, 441 G Street NW, Room 7125  
Washington, D.C. 20548

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