June 10, 1996

MEMORANDUM FOR LEON PANETTA

FROM: TODD STERN

SUBJECT: U.S.-China Trade Agreement and MFN

As the result of a June 7 letter from several Members including Reps. Pelosi and Gilman, it was discovered this weekend that a Presidential Determination which USTR believed to have been done in February 1995 was apparently not done. The PD related to extending the 1980 bilateral trade agreement between the United States and China. Exactly what happened isn't clear -- USTR thinks it sent the PD to NSC, but NSC has no record of it. Nor does Records Management. David Sanger of the NYT called USTR Friday with questions.

The effectiveness of the agreement is related to MFN. To extend MFN, the President first makes a Jackson-Vanik determination or waiver regarding emigration. However, once that is done, § 404 of the Trade Act allows the President to extend MFN only *if* the U.S. has entered into a bilateral commercial agreement meeting certain criteria. Thus, if there is no valid bilateral agreement in effect, the President could not extend MFN treatment to China.

Section 405 provides that bilateral agreements are limited to an initial period of 3 years and may be extended for 3-year periods if a satisfactory balance of concessions has been maintained and the President determines that reductions in tariff and nontariff barriers are adequately reciprocated.

Lawyers at USTR, NSC and OLC have reviewed this matter and conclude that the bilateral agreement between the U.S. and China was automatically renewed February 1, 1995 and is in effect, notwithstanding the apparent absence of a PD. However, USTR, NSC and Justice lawyers agree that a PD should be done now reconfirming that the § 405 criteria were met. A reconfirming PD was executed, incidentally, in 1987 in similar circumstances.

I am enclosing for your information the following documents: (i) a memo from USTR's General Counsel to Amb. Barshefsky, asserting her legal opinion that the bilateral agreement with China is in effect; (ii) a memo from Amb. Barshefsky to the President that the § 405 criteria have been met now and had been met as of February 1, 1995; and (iii) a draft PD reconfirming the fact that the § 405 criteria had been met.

USTR has talked today to Sanger to update him on the situation. I will have the PD executed after the President approves it. I will call you to discuss this.

Congress of the United States
House of Representatives
Washington, DC 20515

June 7, 1996

President William Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

Section 405(b)(1) of the Trade Act of 1974, 19 U.S.C. 2435(b)(1), requires that bilateral commercial agreements providing nondiscriminatory treatment of the exports from non-market economies, once enacted, "may be renewable for additional periods, each not to exceed 3 years; if--

(A) a satisfactory balance of concessions in trade and services has been maintained during the life of such agreement, and

(B) the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party to the bilateral agreement."

The extension of the July 1979 Agreement on Trade Relations Between the United States of America and the People's Republic of China, hence, by law requires a presidential determination that American efforts to reduce barriers to trade are being reciprocated by the PRC. Determinations permitting extensions of this agreement have in the past been published in the Federal Register. (See, e.g., Pres. Determination 92-12 of January 31, 1992, Fed. Reg. 19077; Pres. Memorandum of December 19, 1988, 53 Fed. Reg. 51217; Sec. 5 of Pres. Proclamation 5718 of October 2, 1987, 52 Fed. Reg. 37275, and Pres. Memorandum of December 23, 1982, 47 Fed. Reg. 57653.)

While the last extension of the agreement with the PRC expired on February 1, 1995, no such determination has been published in the Federal Register since that time. Have you made that determination? If so, on what date did you do so? On what basis did you make this determination? Would you provide us with a copy of the determination?

If you have not made such a determination, does nondiscriminatory treatment remain in effect, pursuant to 19 U.S.C. 2434(b), with respect to imports from the PRC?

The PRC has been less than forthcoming in reducing barriers to trade. The U.S. Trade Representative's 1996 National Trade Estimate Report on Foreign Trade Barriers notes that,

"China still maintains a large number of non-tariff administrative controls to implement its trade and industrial policies. In addition to such quotas and licensing requirements, China also restricts the types and numbers of entities within China which have the legal right to engage in international trade. Foreign exchange balancing regulations could also further restrict imports even for firms that possess the right to import. Finally, despite moves to lower tariffs, China's tariffs, in many cases, remain prohibitively high."

Those tariffs are sufficiently high that on the whole they remain higher than U.S. tariffs would be if it revoked the PRC's most-favored-nation status. These and other impediments to the entry of foreign goods into the PRC explain in large part why, as the USTR report indicates, in 1995 the U.S. trade deficit with China was $33.8 billion, $4.3 billion greater than in 1994.

Moreover, the United States has published a retaliation list for implementation of prohibitive tariffs on over $2 billion in PRC exports to the U.S. for not enforcing the agreement it concluded with the United States on intellectual property rights on February 26, 1995. It is important to note that Article VI of the 1979 agreement with the PRC focuses on the mutual recognition of "the importance of effective protection of patents, trademarks and copyrights" enforced in a reciprocal fashion, which the PRC has manifestly failed to live up to.

We are also interested whether you would reaffirm the assessment in Article II, paragraph 3 of the 1979 agreement that, "at its current state of development, China is a developing country." Should the PRC be admitted to the World Trade Organization, is it the position of the Administration that the PRC should be considered a "developing" country and hence be given a relaxed schedule for the gradual removal of barriers to trade upon accession to the WTO? These would be grossly unfair benefits to grant to the eleventh largest trading nation in the world. By comparison, the World Bank will be graduating the PRC from eligibility for International Development Association loans as a "developing" nation in the next 3 to 5 years.

We look forward to receiving a prompt response, given our congressional responsibility to consider your May 31, 1996 request for a waiver under the provisions of the so-called Jackson-Vanik Amendment to extend most-favored-nation trading status for the PRC.

Sincerely,

Chris Cox
Christopher Cox

Sherrod Brown
Sherrod Brown

Benjamin A. Gilman

Nancy Pelosi
Nancy Pelosi

Gerald B. H. Solomon

Remains in effect.
As result of [illegible]
error PD not
made then.
The company PD
made now as
it was in '87.
Thus PD is
justified.

MEMORANDUM OF CALL | Previous editions usable

TO: Todd

☐ YOU WERE CALLED BY– ☒ YOU WERE VISITED BY–

Alan Kreczko

OF (Organization)

☐ PLEASE PHONE ▶ ☐ FTS ☐ AUTOVON

69111

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

RECEIVED BY	DATE	TIME
Carol	6/13	3:00

50363-111 NSN 7540-00-634-4018 OPTIONAL FORM 363 (Rev. 1-94)
*U.S. G.P.O.:1994-300-891/00003 Prescribed by GSA

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*** TX REPORT ***
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TRANSMISSION OK

TX/RX NO	1482
CONNECTION TEL	69280
CONNECTION ID	THE WHITE HOUSE;
ST. TIME	06/13 09:30
USAGE T	01'24
PGS.	3
RESULT	OK

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

OFFICE OF THE LEGAL ADVISER

FAX TRANSMITTAL COVER SHEET

DATE: 6/13/96	
TO: Bob Kyle	FROM:
PHONE NO.: 69281	PHONE NO.: (202) 456-9111
FAX NO.: 69280	FAX NO.: (202) 456-9110

COMMENTS:

Bob

1. Indicated fix would do it

[illegible] re P.D.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

OFFICE OF THE LEGAL ADVISER

FAX TRANSMITTAL COVER SHEET

DATE: 6/13/96	
TO: Bob Kyle	FROM:
PHONE NO.: 69281	PHONE NO.: (202) 456-9111
FAX NO.: 69280	FAX NO.: (202) 456-9110

COMMENTS:

Bob

1. Indicated fix would do it for me re P.D.

2. Anything you can add to beef up last para on p. 1 is good.

NUMBER OF PAGES (including cover page): 3

The related Presidential determination is attached.

Dear Congresswoman Pelosi:

President Clinton has asked that I respond to your letter of June 7, 1996, concerning the extension of the 1979 Bilateral Agreement on Trade Relations Between the United States of America and the People's Republic of China. I am pleased to confirm that this Agreement remains in effect and that imports from China currently receive non-discriminatory treatment pursuant to the provisions of Title IV of the Trade Act of 1974, as amended (1974 Act).

As President Clinton stated in connection with the extension of the waiver of Title IV's requirements on emigration, providing non-discriminatory treatment to imports from China advances critical U.S. interests, including trade, human rights, non-proliferation, Taiwan relations and other interests. Maintaining our overall relationship with China enables the United States to engage China, to enhance areas of cooperation and to pursue American interests in areas where we differ. Actively engaging China to resolve our differences is key to achieving U.S. objectives.

Renewing the 1979 Agreement and continuing to provide MFN treatment under that Agreement best advances significant U.S. economic and trade interests. Nearly 170,000 Americans owe their jobs to U.S. exports to China. China is the world's fastest growing major economy, with annual growth rates of more than 10 percent for each of the past four years. Already possessing the world's largest population, by early in the next century, China may have the world's largest economy. Clearly our trade deficit with China is troubling, but the solution to this is to enhance our ability to sell products and services in the Chinese market, not to withdraw from that market.

The 1979 Agreement is the foundation of the U.S. economic relationship with China and includes basic rules for conducting commercial transactions between our countries. These rules encompass matters ranging from customs rules and procedures, to providing facilities for banking and financial transactions, to business facilitation activities and ensuring that we receive MFN treatment under laws affecting the sale, purchase, distribution and use of imported products in our domestic markets. A key element of the 1979 Agreement is the obligation to exchange information and consult on problems arising in our bilateral trade relationship. The United States has been able to call upon this commitment to initiate consultations to resolve trade disputes with China. Terminating the 1979 Agreement would eliminate these basic rights and obligations. Such action will not open China's market and help create jobs in the United States nor will it aid in addressing our non-economic concerns in China.

We have seen signs of progress on trade issues with China. In 1995 alone, total U.S. exports to China increased by nearly 27 percent. At $12 billion, these exports were more than double the level of exports in 1990. As a result of China's elimination or quotas and licensing requirements on imports of key high-technology products, U.S. exports of electrical machinery--items such as telecommunications equipment, semiconductors, and photocopiers--were more than 40 percent higher in 1995 than just two years previous. Since January 1, 1993, for example, the U.S. companies have exported over $3 billion worth of telecommunications equipment to China. U.S. wheat sales have increased by more than 45 percent since 1993 and we expect to see increased exports of other agricultural products, such as apples and cherries, as we implement agricultural import protocols with China.

While China must make further substantial progress on market access (as well as other issues), renewing the 1979 Agreement and continuing to provide MFN treatment to China is in the best interest of the United States. We will continue to use provisions of U.S. trade law aggressively to achieve continued progress and to ensure that China lives up to its bilateral Agreements. USTR's actions, at the direction of the President, in concluding and enforcing the 1995 Agreement on Intellectual Property Rights are prime examples of using specific authority and targeted actions to advance U.S. objectives.

As you note, China is in the process of negotiating its accession to the World Trade Organization. President Clinton has personally communicated to China's leaders that accession must be on a commercially viable basis. As a major trading nation, China has a responsibility to the international trading system to open its markets and provide reciprocal access.

Regarding the determination required under section 405(b)(1) of the 1974 Act, the statute does not require its publication. In light of your concerns, however, I have enclosed a copy of the President's decision reconfirming the determination to extend the 1979 Agreement.

Sincerely,

Charlene Barshefsky
Acting U.S. Trade Representative

Enclosure

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

June 11, 1996

MEMORANDUM FOR AMBASSADOR CHARLENE BARSHEFSKY

FROM: Jennifer Hillman, General Counsel Jennifer Hillman

SUBJECT: Status of U.S.-China Trade Agreement and Implications for China's MFN Status

ISSUE: Assuming that a Title IV trade agreement renewal decision was not formally issued by the President with respect to the U.S.-China Trade Agreement, what are the legal implications on China's MFN status under U.S. law?

BACKGROUND:

The Title IV System

Extension of MFN treatment to China is governed by Title IV of the Trade Act of 1974, as amended (19 U.S.C. 2431 et seq.), which prohibits the grant of MFN treatment absent compliance with the Jackson-Vanik freedom-of-emigration requirements and the conclusion of a bilateral trade agreement approved by Congress. Compliance with the Jackson-Vanik requirements requires either (1) a presidential determination that China is in full compliance with the freedom-of-emigration requirements in the statute,[1] or (2) a presidential waiver of the requirements based on a finding that such waiver will substantially promote the emigration objectives of the statute, provided that the President has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the emigration objectives of the statute.[2] The President can recommend waiver extensions for successive 12-month periods.[3]

Once compliance with the Jackson-Vanik requirements is established, section 404 of the Trade Act[4] permits the President to extend MFN treatment by proclamation if (1) the United

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[1] Section 402(a) and (b) of the Trade Act of 1974 (19 U.S.C. 2432(a) and (b)).

[2] Section 402(c) of the Trade Act of 1974 (19 U.S.C. 2432(c)).

[3] Section 402(d) of the Trade Act of 1974 (19 U.S.C. 2432(d)). Presidential waivers of Jackson-Vanik requirements are subject to Congressional disapproval resolutions enacted into law. The President can veto disapproval resolutions, which veto can be overridden by a vote of both Houses of Congress within relatively limited time frames.

[4] 19 U.S.C. 2434(a).

States has entered into a bilateral commercial agreement meeting certain statutory criteria[5] and (2) Congress has by joint resolution approved of the commercial agreement and the proclamation.[6] The extension of MFN treatment can continue as long as the obligations of the United States under the commercial agreement remain in effect.[7] The President is free to suspend or withdraw the extension of MFN treatment to any country at any time.[8]

Section 405 of the Trade Act provides, inter alia, that commercial agreements shall be limited to an initial period of no more than three years from the date the agreement enters into force. Agreements are renewable for additional periods of no more than three years if (1) a satisfactory balance of concessions in trade and services has been maintained during the life of such agreement, and (2) the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party. The Senate Report on the 1974 Trade Act elaborates on what should be considered in the Section 405 renewal:

> "Under the provision of subparagraph (1), these agreements could not have an initial term of more than 3 years, but could be renewed by whatever mechanism the parties agree upon for an indefinite number of additional periods (not to exceed 3 years each), if a satisfactory balance of concessions in trade and services has been maintained during the life of the agreement, and if actual or foreseeable U.S. concessions are being satisfactorily reciprocated. The Committee expects, for example, that the benefits of trade concessions extended by the United States in the forthcoming negotiations would be reciprocated, and that no country receiving nondiscriminatory treatment in a bilateral agreement could be given a 'free ride'. The purpose of the 3-year limit is to provide an opportunity for periodic review of the experience of the parties under the commercial agreement. Such review would include an examination of the balance of concessions, on an overall basis covering the life of the agreement (including all extensions), before the agreement is permitted to be re-extended. If that balance is not satisfactory, it is expected that the agreement would not be extended (or further extended). Such limitations are imposed to

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[5] Section 405(b) of the Trade Act of 1974 (19 U.S.C. 2435(b)).

[6] Section 405(c) of the Trade Act of 1974 (19 U.S.C. 2435(c)).

[7] Section 404(b) of the Trade Act of 1974 (19 U.S.C. 2434(b)). The legislative history to this provision provides that the grant of MFN to a country subject to Title IV "could be continued only as long as the period of effectiveness of U.S. obligations to the other country under the commercial agreement." 4 U.S. Code Congressional and Administrative News 7339 (Senate Report No. 93-1298). See also id at page 7213 ("Nondiscriminatory treatment would remain in effect only so long as a trade agreement remained in force between the United States and the country concerned.').

[8] Section 404(c) of the Trade Act of 1974 (19 U.S.C. 2434(c)).

assure that the United States would obtain benefits from such country reasonably comparable, although not necessarily of a similar nature, to those it accords."[9]

Title IV does not require the publication of this determination, nor does it subject this determination to a formal system of Congressional approvals or disapprovals.

The U.S.-China Trade Agreement

The United States and China signed a Trade Agreement on July 7, 1979, which met all the statutory criteria and was approved by a joint resolution of Congress. The Agreement came into force on February 1, 1980, and remained in force for an initial term of three years. The Agreement provides that it will automatically be extended for successive terms of three years if neither Contracting Party notifies the other at least 30 days before the end of a term that it wishes to terminate the agreement at the close of that term. Neither the United States nor China has ever exercised its right to terminate the Agreement. The Agreement has been renewed automatically five times, the last renewal taking place on February 1, 1995.

Application of Title IV to Trade Relations with China

China is currently subject to a presidential waiver of the Jackson-Vanik emigration requirements that will expire on July 3, 1996. The President has formally recommended to Congress that the waiver be extended for an additional 12 months, which the Congress is currently considering. At this time, U.S.-China relations are in compliance with the Jackson-Vanik freedom-of-emigration requirements in Title IV.

Therefore, pursuant to section 404(b) of the Trade Act, the grant of MFN treatment to products from China is appropriate if the United States remains subject to the obligations in the Agreement with China. As noted, the Agreement was automatically renewed for a fifth three year term on February 1, 1995, and remains in effect by its own terms. The United States thus is subject to the obligations in the Agreement under international law. Because section 404(b) only speaks to U.S. obligations under the Agreement, the continued grant of MFN treatment to the products of China is consistent with Title IV. Failure to make the formal Presidential determination under section 405(b)(1) because of administrative error would have no effect on

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[9] 4 U.S. Code Congressional and Administrative News 7340 (Senate Report No. 93-1298). See also id at page 7214 ("an agreement could be renewed for additional periods, each not more than three years, providing that a satisfactory balance of concessions in trade and services had been maintained and that U.S. reductions in trade barriers had been reciprocated by the other party."); and Conference Report No. 93-1644, at 4 U.S.C.A.A.N 7392 ("any bilateral commercial agreement entered into by the President may be renewed if during the life of the agreement a satisfactory balance of concessions in trade and services (balance of trade concessions under the House version) was maintained.").

our ability to extend MFN treatment to Chinese products.

Even assuming that a formal determination under section 405(b)(1) is necessary for the continued grant of MFN tariff treatment to Chinese products, and that the President did not issue such a determination prior to the 1995 renewal of the Agreement,[10] questions as to the status of the Agreement and the grant of MFN would be addressed by the President's determination that a satisfactory balance of concessions in trade and services has been maintained during the life of the Agreement and that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are, and continuously have been, satisfactorily reciprocated by the People's Republic of China.[11] In this way, he would be clarifying that the section 405(b)(1) criteria have been met during the course of his Presidency.

Facts supporting such a presidential determination would include, by implication, the President's recommendation in 1994, 1995 and 1996 that MFN treatment continue to be extended to China through the extension of the related Jackson-Vanik waiver; the negotiation of an agreement on intellectual property rights immediately before and after February 1, 1995, that was ultimately reached through the threat of removal of the MFN treatment that was being extended to China at that time; the discussions in the context of the Asia Pacific Economic Cooperation forum, which were premised on the extension of MFN treatment to China and in which we sought further reductions in China's tariff rates and nontariff barriers; and the ongoing negotiation of China's accession to the World Trade Organization, in which we are also seeking reductions in China's tariff rates and nontariff barriers.

While time does not permit a complete review of the way in which renewal determinations have been carried out with respect to all Title IV agreements, there is at least one example of a confirmation subsequent to the renewal of the Agreement satisfying the section 405(b)(1) requirements. On October 2, 1987, President Reagan "reconfirmed" that the section 405(b)(1) criteria had been met with respect to China and, tacitly, that the February 1, 1986, renewal of the Agreement was appropriate, even though no formal section 405(b)(1) determination was issued at that time.[12]

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[10] While Title IV does not state when the presidential determination must be made, the legislative history would indicate that the determination must be made before the renewal takes place. See 4 U.S. Code Congressional and Administrative News 7340 (Senate Report No. 93-1298).

[11] I do not address here the situation where the President is willing to make a positive determination as to the section 405(b)(1) criteria today, but would not have been willing to make such a determination immediately prior to the date the Agreement was automatically renewed.

[12] See Proclamation 5718 (October 2, 1987), Implementation of an Orderly Marketing Agreement on Ammonium Paratungstate and Tungstic Acid, paragraph 5: "Since February 1,

Conclusion

Based on the above analysis, the continued grant of MFN treatment to the products of China is appropriate, particularly if the President believes that the section 405(b)(1) criteria are being, and have continuously been, met in the case of China, including immediately before the Agreement was automatically renewed on February 1, 1995. The President should reconfirm this determination as soon as possible.

1980, the United States and the PRC have had in effect a bilateral trade agreement under which I have determined, pursuant to section 405 of the Trade Act (19 U.S.C. 2435), a satisfactory balance of concessions has been maintained during the life of such agreement, and for which I reconfirm that actual or foreseeable reductions in U.S. tariffs and nontariff barriers to trade resulting from multilateral negotiations are, and continuously have been, satisfactorily recipricated by the PRC."

Notes 6-10

CB memo to P. is inconsis.
w/ JN memo to CB –

JN ~~x~~ memo says renewal of bilat'l
agmt is ok if P. considered -- prior to
automatic renewal -- that there was a
(i) satisfactory balance of concessions &
(ii) tariff reduc'ns were being reciprocated.
It then pts to indicia from which P's state of
mind to this effect could be inferred.

CB memo tells P. ~~[illegible]~~ these were
objectively the facts & that he should
reconfirm –

AR 6-10

1. USTR agln that agrt is in effect

2. Reconfirming P.D at time it should have been issued P. thought cond'ns ~~met~~ met

AR - just say cond'ns were met not P thought so

3. response to Pelosi letter

6-10

Jennifer Liebman; Tom Robertson; Kathy Fields; Jay Ziegler
Richard Schiffrin Alan Kreczko PDS

~~D.~~ D. Sanger NYT
Friday night JB said P. made determination

Legal

memo Barshefsky to P indicating he intended for China bilateral to remain place reaffirming decision itself be what's required under Jackson Vanik

Chart over here

Sanger waiting

RB – uncomfortable saying today P would have or did

would lead me today to make the determination back then as historically from saying he in effect made it back then

USTR to do

1) legal memo confirming that bilat agmt is valid & ∴ MFN valid

2) Reconfirming PD
3) Draft response to Pelosi et al.
4) Call Singer
5) Barshefsky memo laying predicate for PD -- i.e. that nec'y conditions (reciprocating tariff & non-tariff reductions) obtained in Feb. 1995

THE UNITED STATES TRADE REPRESENTATIVE
OFFICE OF GENERAL COUNSEL
EXECUTIVE OFFICE OF THE PRESIDENT
600 17TH STREET, N.W., WASHINGTON, DC 20506
(202) 395-6800 - (202) 395-3639 (FAX)

96 JUN 10 P2:52

FAX

NAME	ORG.	PHONE/FAX
Todd Stern	WH Staff Secy.	6-2702/6-2215
Alan Kreczko	NSC Legal Adv.	6-9111/6-9110
Richard Shiffrin	DOJ-OLC	514-2046/514-0563

FROM: Tom Robertson

DATE: June 10, 1996

NO. PAGES (including this one): 4

SUBJECT: Draft Memo to POTUS and Determination

MESSAGE:

Gentlemen: Please find attached the draft of a memo from Ambassador Barshefsky to the President recommending that he sign the included Determination. Please provide me with any comments you may have. Thanks.

DRAFT

MEMORANDUM FOR THE PRESIDENT

FROM: Ambassador Charlene Barshefsky

SUBJECT: Status of U.S.-China Trade Agreement

Issue:

Whether you will formally reconfirm that you believe that a satisfactory balance of concessions in trade and services has been maintained with China during the life of our Trade Agreement with China, and that actual or foreseeable reductions in U.S. tariffs and nontariff barriers to trade resulting from multilateral negotiations have been satisfactorily reciprocated by China. Such a reconfirmation would clarify that the renewal of our Trade Agreement with China on February 1, 1995, was appropriate under Title IV of the Trade Act of 1974, as amended.

Discussion:

Section 405 of the Trade Act of 1974 provides that trade agreements entered into with countries subject to Title IV (the so-called "Jackson-Vanik countries") can be renewed on three-year cycles if a satisfactory balance of concessions in trade and services has been maintained during the life of such agreements and if the President determines that such countries have satisfactorily reciprocated reductions in U.S. tariffs and nontariff barriers resulting from multilateral negotiations. 19 U.S.C. 2435(b). Renewal of our 1979 Trade Agreement with China is subject to this requirement.

By its terms, the 1979 Trade Agreement was automatically renewed on February 1, 1995, for an additional three years. Some question has arisen as to whether this renewal was appropriate in the absence of a formal determination by you that the Section 405 criteria had been met. I can confirm that China has over the life of the Trade Agreement made progress to liberalize its trading regime, and has satisfactorily reciprocated the reductions in tariffs and nontariff barriers that the United States has made as a result of multilateral negotiations. I can also confirm that a satisfactory balance of concessions in trade and services has been maintained during the life of the Trade Agreement. This was the case just prior to the automatic renewal of the Trade Agreement on February 1, 1995, and remains the case.

To remove any doubt as to the status of the Trade Agreement, and our continued grant of MFN treatment to products from China, I recommend your formally reconfirming that the Section 405 criteria were met at that time and continue to be met. You can do so by signing the attached determination.

Recommendation:

I recommend that you reconfirm that the Section 405 criteria have been fulfilled throughout the life of the U.S.-China Trade Agreement, including at the time of the automatic renewal of the Agreement, by signing the attached Presidential Determination.

Action on the Recommendation:

Approve _____ Disapprove _____ More Information Required _____

DRAFT

THE PRESIDENT

RECONFIRMATION OF FINDINGS WITH RESPECT TO THE TRADE AGREEMENT WITH THE PEOPLE'S REPUBLIC OF CHINA

Presidential Determination No. 96-__ of June __, 1996

Memorandum for the United States Trade Representative

Since February 1, 1980, the United States of America and the People's Republic of China have had in effect a bilateral Agreement on Trade Relations, in relation to which, pursuant to my authority under subsection 405(b)(1) of the Trade Act of 1974 (19 U.S.C. 2435(b)(1)), I reconfirm that a satisfactory balance of concessions in trade and services has been maintained during the life of the Agreement and that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are, and continuously have been, satisfactorily reciprocated by the People's Republic of China.

You are authorized to publish this memorandum in the Federal Register.

FAX COVER SHEET

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

96 ... P1:17

Executive Office of the President
Washington, D.C. 20506

Date:

Time Sent:

Number of Pages Excluding Cover Sheet:

TO:	FAX NUMBER:
TODD STERN	6-2215
ATTN: Carol	

FROM: Sean Murphy (Ext 5-9432)

PHONE: (202) 395-3204

FAX: (202) 395-3390

SUBJECT: Presidential Determination Re: China

COMMENTS: Per our conversation, attached is archive copy of Kantor's memo to POTUS - unfortunately not dated, but records indicate it was initialled on April 12, 1995

THE UNITED STATES TRADE REPRESENTATIVE
Executive Office of the President
Washington, D.C. 20506

FILE

MEMORANDUM FOR THE PRESIDENT

FROM: Ambassador Michael Kantor

SUBJECT: Renewal of Trade Agreements with China and Bulgaria

Issue:

Our trade agreements with China, Bulgaria, and other Jackson-Vanik countries may be renewed only after a Presidential determination has been made that each country has satisfactorily reciprocated reductions in U.S. tariffs and nontariff barriers resulting from multilateral negotiations. To complete this formality, I recommend that you sign the attached determinations memorializing that this criterion has been fulfilled.

Discussion:

Section 405 of the Trade Act of 1974 provides that trade agreements entered into with the so-called "Jackson-Vanic countries" can be renewed on three-year cycles if, *inter alia*, the President determines that such countries have satisfactorily reciprocated reductions in U.S. tariffs and nontariff barriers resulting from multilateral negotiations. 19 U.S.C. 2435(b). Renewal of the trade agreements between the United States and China and the United States and Bulgaria are each subject to this requirement.

Both China and Bulgaria have made progress over the last three years to liberalize their trading regimes. I believe that each has satisfactorily reciprocated the reductions in tariffs and nontariff barriers that we have made as a result of multilateral negotiations, and that the renewal of each of these trade agreements, which took place over the past few months, is appropriate. Your signing the attached determination would memorialize the appropriateness of the renewal.

Recommendation:

I recommend, with the concurrence of the Commerce and State Departments, that you determine that each country has satisfactorily reciprocated reductions in U.S. tariffs and nontariff barriers resulting from multilateral negotiations by signing the attached Presidential Determinations.

Action on the Recommendation:

Approve ______ Disapprove ______ More Information Required ______

THE PRESIDENT

RENEWAL OF TRADE AGREEMENT WITH THE PEOPLE'S REPUBLIC OF CHINA

Presidential Determination No. 95-__ of March __, 1995

MEMORANDUM FOR THE UNITED STATES TRADE REPRESENTATIVE

Pursuant to my authority under subsection 405(b)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2435(b)(1)(B)), I have determined that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the People's Republic of China.

/s/ William Clinton

Washington, April __, 1995.

THE PRESIDENT

RENEWAL OF TRADE AGREEMENT WITH THE REPUBLIC OF BULGARIA

Presidential Determination No. 95-__ of March __, 1995

MEMORANDUM FOR THE UNITED STATES TRADE REPRESENTATIVE

Pursuant to my authority under subsection 405(b)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2435(b)(1)(B)), I have determined that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the Republic of Bulgaria.

/s/ William Clinton

Washington, April __, 1995.

THE UNITED STATES TRADE REPRESENTATIVE
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FROM: Tom Robertson (202) 395-6800

DATE: June 8, 1996

NO. PAGES (including this one): 5

SUBJECT: Memo to Hillman on China Trade Agreement Status

MESSAGE:

Phil: Attached is the memo I wrote to Jennifer Hillman on the status of the U.S.-China Trade Agreement and its implications for the MFN grant. Please note the statement on the bottom of the third page indicating that it would be helpful to find POTUS statements from late 1994 and early 1995 that the balance of concessions in the trading relationship with China was being maintained and that the Chinese were satisfactorily reciprocating reductions in their tariffs and nontariff barriers.

Please let me know if I can be of any further help on this.

Tom

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

June 8, 1996

MEMORANDUM FOR JENNIFER HILLMAN

FROM: Tom Robertson TR

SUBJECT: Status of U.S.-China Trade Agreement and Implications for China's MFN Status

ISSUE: Assuming that a Title IV trade agreement renewal decision was not formally issued by the President with respect to the U.S.-China Trade Agreement, what implications does this have on China's MFN status under U.S. law, and what steps can be taken to ensure that any questions as to this status are resolved?

BACKGROUND:

The Title IV System

Extension of MFN treatment to China is governed by Title IV of the Trade Act of 1974, as amended (19 U.S.C. 2431 et seq.), which prohibits the grant of MFN treatment absent compliance with the Jackson-Vanik freedom-of-emigration requirements and the conclusion of a bilateral trade agreement approved by Congress. Compliance with the Jackson-Vanik requirements requires either (1) a presidential determination that China is in full compliance with the freedom-of-emigration requirements in the statute,[1] or (2) a presidential waiver of the requirements based on a finding that such waiver will substantially promote the emigration objectives of the statute, provided that the President has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the emigration objectives of the statute.[2] The President can recommend waiver extensions for successive 12-month periods.[3]

Once compliance with the Jackson-Vanik requirements is established, section 404 of the

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[1] Section 402(a) and (b) of the Trade Act of 1974 (19 U.S.C. 2432(a) and (b)).

[2] Section 402(c) of the Trade Act of 1974 (19 U.S.C. 2432(c)).

[3] Section 402(d) of the Trade Act of 1974 (19 U.S.C. 2432(d)). Presidential waivers of Jackson-Vanik requirements are subject to Congressional disapproval resolutions enacted into law. The President can veto disapproval resolutions, which veto can be overridden by a vote of both Houses of Congress within relatively limited time frames.

Trade Act[4] permits the President to extend MFN treatment by proclamation if (1) the United States has entered into a bilateral commercial agreement meeting certain statutory criteria[5] and (2) Congress has by joint resolution approved of the commercial agreement and the proclamation.[6] The extension of MFN treatment can continue as long as the obligations of the United States under the commercial agreement remain in effect.[7] The United States has, accordingly, extended MFN treatment to China since our Trade Agreement came into force. The President is free to suspend or withdraw the extension of MFN treatment to any country at any time.[8]

Section 405 of the Trade Act provides, inter alia, that commercial agreements shall be limited to an initial period of no more than three years from the date the agreement enters into force. Agreements are renewable for additional periods of no more than three years if (1) a satisfactory balance of concessions in trade and services has been maintained during the life of such agreement, and (2) the President determines that actual or foreseeable reductions in United States tariffs and nontariff barriers to trade resulting from multilateral negotiations are satisfactorily reciprocated by the other party. Title IV does not require the publication of this determination, nor does it subject this determination to a formal system of Congressional approvals or disapprovals.

The U.S.-China Trade Agreement

The United States and China signed a Trade Agreement on July 7, 1979, which met all the statutory criteria and was approved by a joint resolution of Congress. The Agreement came into force on February 1, 1980, and remained in force for an initial term of three years. The Agreement provides that it will automatically be extended for successive terms of three years if neither Contracting Party notifies the other at least 30 days before the end of a term that it wishes to terminate the agreement at the close of that term. Neither the United States nor China has ever exercised its right to terminate the Agreement. The Agreement has been renewed automatically five times, the last renewal taking place on February 1, 1995.

Application of Title IV to Trade Relations with China

China is currently subject to a presidential waiver of the Jackson-Vanik emigration

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[4] 19 U.S.C. 2434(a).

[5] Section 405(b) of the Trade Act of 1974 (19 U.S.C. 2435(b)).

[6] Section 405(c) of the Trade Act of 1974 (19 U.S.C. 2435(c)).

[7] Section 404(b) of the Trade Act of 1974 (19 U.S.C. 2434(b)).

[8] Section 404(c) of the Trade Act of 1974 (19 U.S.C. 2434(c)).

requirements that will expire on July 3, 1996. The President has formally recommended to Congress that the waiver be extended for an additional 12 months, which the Congress is currently considering. At this time, U.S.-China relations are in compliance with the Jackson-Vanik freedom-of-emigration requirements in Title IV.

Therefore, pursuant to section 404(b) of the Trade Act, the grant of MFN treatment to products from China is appropriate if the United States remains subject to the obligations in the Agreement with China. As noted, the Agreement was automatically renewed for a fifth three year term on February 1, 1995, and remains in effect by its own terms. The United States would thus appear to be subject to the obligations in the Agreement, and the continued grant of MFN treatment to the products of China would appear to be consistent with Title IV.

If the President did not issue a formal section 405 determination with respect to balance of concessions and reductions in tariffs arising from the Agreement prior to the 1995 renewal of the Agreement,[9] this conclusion may be called into question. However, the conclusion would remain valid if the President did in fact believe that the section 405(b)(1) criteria had been fulfilled before the Agreement was renewed. The President is able to remove any reasonable question as to the status of the Agreement, and the grant of MFN to China at this time, by confirming that, prior to the automatic renewal of the Agreement, he considered there to be a satisfactory balance of concessions in trade and services during the life of the agreement, and that reductions in the United States' tariffs were being satisfactorily reciprocated. In this case, it would seem clear that the section 405(b)(1) renewal criteria had been met at the time of renewal. ?

Indicia of the President's belief that the section 405(b)(1) criteria were met at the time of the renewal would include, by implication, the President's recommendation in 1994, 1995 and 1996 that MFN treatment continue to be extended to China through the extension of the related Jackson-Vanik waiver; the negotiation of an agreement on intellectual property rights immediately before and after February 1, 1995, that was ultimately reached through the threat of removal of the MFN treatment that was being extended to China at that time; the discussions in the context of the Asia Pacific Economic Cooperation forum, which were premised on the extension of MFN treatment to China and in which we sought further reductions in China's tariff rates and nontariff barriers; and the ongoing negotiation of China's accession to the World Trade Organization, in which we are also seeking reductions in China's tariff rates and nontariff barriers. The President's belief that the section 405(b)(1) criteria were met in late 1994 and early 1995 would be best evidenced by statements made in speeches or elsewhere that he believed that the balance of concessions in the U.S.-China trade relationship was being maintained and that China was satisfactorily reciprocating reductions in tariffs and nontariff barriers.

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[9] Title IV does not state when the presidential determination must be made, and could be interpreted to allow the determination to be made at any time, even after the Agreement was actually renewed. However, a more reasonable interpretation of the statute is that the determination must be made before the renewal takes place.

While time does not permit a complete review of the way in which renewal determinations have been carried out with respect to all Title IV agreements, there is at least one example of a confirmation subsequent to the renewal of the Agreement satisfying the section 405(b)(1) requirements. On October 2, 1987, President Reagan "reconfirmed" that the section 405(b)(1) criteria had been met with respect to China and, tacitly, that the February 1, 1986, renewal of the Agreement was appropriate, even though no formal section 405(b)(1) determination was issued at that time.[10]

Conclusion

Based on the above analysis, the continued grant of MFN treatment to the products of China is appropriate if the President believed that the section 405(b)(1) criteria were met in the case of China before the Agreement was automatically renewed on February 1, 1995. The President can reconfirm this determination at any time, and may, but is not required to, publish such reconfirmation in the Federal Register or elsewhere.

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[10] See Proclamation 5718 (October 2, 1987), Implementation of an Orderly Marketing Agreement on Ammonium Paratungstate and Tungstic Acid, paragraph 5: "Since February 1, 1980, the United States and the PRC have had in effect a bilateral trade agreement under which I have determined, pursuant to section 405 of the Trade Act (19 U.S.C. 2435), a satisfactory balance of concessions has been maintained during the life of such agreement, and for which I reconfirm that actual or foreseeable reductions in U.S. tariffs and nontariff barriers to trade resulting from multilateral negotiations are, and continuously have been, satisfactorily reciprocated by the PRC."

One of the youngest specialized agencies, the International Fund for Agricultural Development (IFAD), was established to mobilize financial resources and make them available for agricultural projects specifically designed to improve food production systems in the poorest food-deficient regions of the world. In just 10 years, IFAD has financed more than 200 projects in developing countries that, when fully implemented, will boost food production by more than 22 million tons a year.

Our world—every nation, every people, every individual—can know the blessings of peace and see the light of freedom and justice in the future if we have the courage to build on the hope of the past—the hope upon which the United Nations was built.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Saturday, October 24, 1987, as United Nations Day. I urge all Americans to acquaint themselves with the activities and accomplishments of the United Nations. I have appointed J. Willard Marriott, Jr., to serve as 1987 United States Chairman for United Nations Day, and I welcome the role of the United Nations Association of the United States of America in working with him to celebrate this special day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

RONALD REAGAN

Proclamation 5718 of October 2, 1987

Implementation of an Orderly Marketing Agreement on Ammonium Paratungstate and Tungstic Acid

By the President of the United States of America

A Proclamation

1. On June 5, 1987, the United States International Trade Commission (USITC) reported to the President the results of its investigation under section 406 of the Trade Act of 1974 (19 U.S.C. 2436) (the Trade Act) with respect to imports from the People's Republic of China (the PRC) of ammonium paratungstate (APT) and tungstic acid provided for in items 417.40 and 416.40, respectively, of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202). The USITC determined that market disruption within the meaning of section 406 of the Trade Act exists with respect to imports from the PRC of APT and tungstic acid. To remedy this market disruption, the USITC recommended that, for the next 5 years, the combined volume of imports of APT and tungstic acid from the PRC be limited to the larger of 1.116 million pounds of tungsten content per year or 7.5 percent of U.S. consumption.

2. On August 5, 1987, pursuant to sections 406, 202, and 203 of the Act (19 U.S.C. 2436, 2252, and 2253), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to provide import relief for the domestic industry in the form of a negotiated orderly marketing agreement. To this end, I directed the United States Trade Representative (the USTR) to negotiate and conclude an orderly marketing agreement with the PRC and to report the results of such negotiations to me within 50 days.

3. Section 406(b)(2) of the Trade Act (19 U.S.C. 2436(b)(2)) requires that if import relief consists of, or includes, an orderly marketing agreement, then such agreement shall be entered into within 60 days after a presidential determination to provide relief.

4. Pursuant to the authority vested in the President by the Constitution and the statutes of the United States, including section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)), an agreement for orderly trade was signed on September 28, 1987, between the Government of the United States of America and the Government of the People's Republic of China limiting the export from the PRC, and the import into the United States, of APT and tungstic acid provided for in items 417.40 and 416.40, respectively, of the TSUS.

5. Pursuant to section 203(k)(1) of the Trade Act (19 U.S.C. 2253(k)(1)), I have considered the relation of such action to the international obligations of the United States. Since February 1, 1980, the United States and the PRC have had in effect a bilateral trade agreement under which I have determined, pursuant to section 405 of the Trade Act (19 U.S.C. 2435), a satisfactory balance of concessions has been maintained during the life of such agreement, and for which I reconfirm that actual or foreseeable reductions in U.S. tariffs and nontariff barriers to trade resulting from multilateral negotiations are, and continuously have been, satisfactorily reciprocated by the PRC. The present agreement for orderly trade is within the parameters of the safeguard measures envisioned by the bilateral trade agreement.

6. In accordance with section 203(d)(2) of the Trade Act (19 U.S.C. 2253(d)(2)), I have determined that the level of import relief hereinafter proclaimed permits the importation into the United States of a quantity or value of articles that is not less than the average annual quantity or value of such articles imported into the United States from the PRC in the 1982–1984 period, which I have determined to be the most recent representative period for imports of such articles.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sections 203, 406, and 604 of the Trade Act (19 U.S.C. 2253, 2436, and 2483), section 332 of the Tariff Act of 1930, and section 301 of title 3, United States Code, do proclaim that—

(1) An orderly marketing agreement was entered into on September 28, 1987, between the Government of the United States of America and the Government of the People's Republic of China, with respect to trade in APT and tungstic acid, effective October 1, 1987. The agreement for orderly trade is to be implemented according to its terms and as directed in this Proclamation, including the Annex thereto.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex of this Proclamation.

(3) The President's authority under section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)) to determine that the agreement is no longer effective is hereby delegated to the USTR. In the event of such a determination, the USTR shall prepare such **Federal Register** notice as may be appropriate to implement import relief authorized by section 203(e)(3) of the Trade Act.

(4) The USTR shall take such actions and perform such functions for the United States as may be necessary concerning the administration, implementation, modification, amendment or termination of the agreement described in paragraph (1) of this Proclamation, and any action that may be subsequently required to implement paragraph (3) of this Proclamation. In carrying out his responsibilities under this paragraph, the USTR is authorized to direct and delegate to appropriate officials or agencies of the United States, authority to perform any functions necessary for the administration and implementation of the agreement, or in the event he determines the agreement to be no longer effective, such further action as he deems necessary and appropriate consistent with this Proclamation. The USTR is authorized to make any changes in part 2 of the Appendix to the TSUS that may be necessary to carry out the agreement or such other action as may be required should he determine the agreement to be no longer effective. Any such changes in the agreement shall be effective after their publication in the **Federal Register.**

(5) The U.S. Customs Service shall take such actions as the USTR shall determine are necessary to carry out the agreement described in paragraph (1) of this Proclamation, or to implement any import relief implemented pursuant to paragraphs (3) and (4) of this Proclamation, or any modification thereof, with respect to the entry, or withdrawal from warehouse for consumption, into the United States of products covered by such agreement or by such other import relief.

(6) The U.S. Customs Service shall collect and assemble such data as are necessary to monitor compliance with the agreement. Such data shall include import statistics with respect to tungsten oxide, provided for in item 422.42, part 2C, schedule 4 of the TSUSA, as well as data for APT and tungstic acid.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of October, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

RONALD REAGAN

ANNEX

Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified—

(a) by adding in numerical sequence the following new headnote 11:

"11. *Quantitative limitations on certain tungsten articles.*—The provisions of this headnote apply to items 926.30 through 926.34, inclusive, of this subpart. The limitations imposed are in addition to the duties provided for the restrained articles in schedule 4, part 2B and part 2C, respectively, or in schedule 8, where applicable. The quantitative limitations shall include imports entered, or withdrawn from warehouse for consumption, informal entries, temporary imports under bond, and imports under schedule 8 of the TSUS.

(a) *Definitions.*—For purposes of this subpart—

(i) the term "tungsten articles" means ammonium paratungstate provided for in item 417.40 in schedule 4, part 2C and tungstic acid provided for in item 416.40, schedule 4, part 2B;

(b) *Export certificate.*—Effective January 1, 1988, none of the tungsten articles provided for herein that are exported from the People's Republic of China (the PRC) shall be entered, or withdrawn from warehouse for consumption, unless such tungsten articles are accompanied by a validated export certificate issued by the competent authority of the Government of the People's Republic of China;

(c) *Carryover.*—Whenever the specified limit of imports has not been entered during a period, an amount not to exceed 5 percent (except that the United States Trade Representative may by prior determination permit a carryover of greater than 5 percent) of the limit specified in the period in which the shortfall occurred may be entered in the subsequent period.

(d) *Exceeding restraint levels.*—The USTR may by **Federal Register** notice authorize an increase in the specified limits of imports by not more than 10 percent during any period, except that the USTR may by prior determination permit an increase of greater than 10 percent. If a specified limit of imports is exceeded during a period, there shall be a downward adjustment of the specified limit for the next period in the amount the preceding specified limit was exceeded. To the extent that imports of the tungsten articles provided for herein exceed 1.7 million pounds tungsten content for calendar year 1987, the specified limits for subsequent periods will be reduced according to the following schedule: the 1988 calendar year specified limit shall be reduced by 50 percent of the excess; and the specified limit of 1989 shall each be reduced by 30 percent of the excess; and the specified limit of 1990 shall be reduced by 20 percent of the excess.

(e) *United States International Trade Commission (USITC) surveys.*—The USITC shall conduct annual surveys (pursuant to section 332 of the Tariff Act of 1930) to obtain data on ammonium paratungstate, tungstic acid and tungsten oxide (provided for in item 422.42, part 2C, schedule 4 of the TSUSA) from the producers in the United States by calendar quarter on shipments, profits, capacity and capacity utilization, and annual data on capital expenditures and research and development expenditures; and to obtain data on such products from importers by calendar quarter on prices, orders, and inventories. The initial survey shall cover calendar year 1987 and shall be published by March 31, 1988, and the results of subsequent annual surveys shall be published on March 31 of each year thereafter as long as the agreement is in effect.

(f) *Administration of import limitations.*—Imports accounting for no more than 65 percent of each annual specified limit may be entered in any two consecutive quarters in that year unless authorized by a determination of the USTR."

(b) by inserting in numerical sequence the following new provisions:

"Item	Articles	Specified Limit (in million pounds tungsten content)
	Whenever the respective aggregate quantity of articles, the product of the People's Republic of China, has been entered in any period specified in any item below (whether, for tariff purposes, in schedule 4 or in schedule 8), no article in such items may be entered during the remainder of such period, except as provided in headnote 11:	
	Tungstic acid provided for in item 416.40, part 2B, schedule 4, and ammonium paratungstate provided for in item 417.40, part 2C, schedule 4:	
926.30	If entered during the period from October 1, 1987, through December 31, 1987, inclusive	0.425
926.31	If entered during the period from January 1, 1988, through December 31, 1988, inclusive	1.81
926.32	If entered during the period from January 1, 1989, through December 31, 1989, inclusive	1.94
926.33	If entered during the period from January 1, 1990, through December 31, 1990, inclusive	2.05
926.34	If entered during the period from January 1, 1991, through September 30, 1991, inclusive	1.50"

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