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U.S.—CHINA TEXTILE TRADE: AN INTRODUCTION

*C. Donald Johnson**

In the spring of 1999, the Office of United States Trade Representative (USTR) in the Clinton administration was heavily engaged in completing the negotiations on the terms of China's accession agreement to becoming a member of the World Trade Organization (WTO). The Chinese Premier at the time, Zhu Rongji, was scheduled to visit Washington in April, which created an "action forcing event" to complete the agreement for a signing ceremony with President Bill Clinton. After nearly fifteen years of negotiations the end appeared to be near, but several critical issues remained unresolved—including the highly-charged political issue of textiles.

Textile trade has been managed, if not to say highly protected, in the United States since 1937 when Japan's exports of cotton fabrics into the American market passed over the one hundred million yard mark, and Japan was forced to agree to export quota limits. When the textile trade began to flow out of Asia again after World War II, a multilateral agreement was negotiated under the auspices of the General Agreement on Tariffs and Trade (GATT), called the Long-Term Arrangement for Cotton Textile Trade, in 1962 to manage trade in cotton products. This Arrangement was ultimately replaced in 1973 by the broader GATT Multifiber Agreement (MFA), which involved a complex system of bilateral textile and apparel quotas imposed primarily on developing countries to protect the domestic industries of developed countries. However, in 1994, the WTO was created along with the Agreement on Textiles and Clothing, which ended the MFA and initiated the phase-out of textile and apparel quotas for all WTO members. This phase-out was scheduled to be completed over ten years on December 31, 2004. Thus, after over sixty years

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of high tariffs and a complex system of quota protection, the American textile industry was now vulnerable to the forces of foreign trade. To add China as a WTO member meant that its enormous potential for textile exports to the United States would be uncontrolled after 2004. Consequently, political opposition to China's WTO membership from labor unions and the textile industry states was substantial.

Nevertheless, it was the policy of the Clinton administration to favor bringing China into the WTO. It simply did not make sense to keep one-sixth of the world's population and the fastest growing major economy in the world outside the international trade legal system. Most of the American business community unequivocally supported China's entry. However, in addition to labor unions and the domestic textile industry, other protected industries and groups on the left and right of both political parties opposed bringing China into the WTO, and they all vowed to block the necessary implementing legislation. Under the Jackson-Vanik amendment to the Trade Act of 1974, China's most-favored-nation (MFN) nondiscriminatory trading status—now euphemistically referred to as "Normal Trade Relations" (NTR)—was subject to an annual renewal by Congress. In order to admit China into the WTO, in the implementing legislation for the accession agreement Congress would have to vote to give China permanent MFN or NTR status, thus giving up its annual opportunity to challenge not only its trade policies, but also its human rights violations, armed threats against Taiwan, denial of civil liberties in Tibet, lack of enforcement of intellectual property rights, and export of nuclear weapons technology. Consequently, the passage of this legislation was far from certain.

In order to improve its chances of passage, USTR made some final efforts to make the accession agreement more tempting for Congress. Unfortunately, as the chief textile negotiator at USTR, I was given very little room to negotiate improvements in the textiles sector. The China/WTO textiles issue had to some extent been preemptively addressed in the 1997 U.S.-China Bilateral Textile Agreement. That agreement provided that, if and when China was admitted to the WTO, the accession agreement must include certain textile safeguard provisions to continue in effect until 2008, which allowed the United States to impose a quota for one year against any category of Chinese textile imports causing or threatening "market disruption." In the month prior to Premier Zhu's visit to Washington, I made several trips to Beijing with a proposal to substitute a general extension of the quota phase-out period applicable to China beyond 2004 in exchange for eliminating the safeguard provisions.

The justifications for this proposal were 1) the quotas, as to which we promised a very liberal annual growth rate, would provide a much more stable and predictable market than the vague and unpredictable standards of the safeguard protections, 2) all other WTO member countries had gone through a ten-year phase-out, China would only go through a four-year phase-out if it joined in 2000 and its quotas ended in 2004, and 3) we were not confident Congress would approve the implementing legislation without the longer textile quotas. The Chinese negotiators refused. The negative response from the Chinese to our proposal was not surprising. Negotiations are a long process—in this case nearly fifteen years—and it is very difficult to draw a major concession without some present tangible offer of equal value. Our justifications offered more in the way of intangible and future value. Thus, when Premier Zhu Rongji arrived at the White House, textiles remained an open, unresolved issue.

The Zhu visit was remarkable on several fronts. First, he proved himself to be a highly charismatic and likable personality, which took a lot of the edge off of China as a political target. He was warmly received by the business community and by the public generally. However, the most remarkable aspect of the visit was the final decision by President Clinton not to sign the WTO accession agreement based, to a large degree, on the textile issue and the negative backlash against this decision. For several months following Zhu's departure, leaders of the American business community, especially those hoping to capitalize on the China market, pounced on President Clinton for missing a great opportunity only to preserve an over-protected textile industry. For his part, Zhu went back to China to face criticism from some of the hard liners who had been skeptical of the WTO effort.

Over the months that followed the Zhu visit, the Clinton administration determined that there was more political support for China's entry into the WTO than was first apparent and that the time for an agreement was now appropriate. Once that decision was made, no further effort was expended to improve on the textile provisions included in the 1997 Bilateral Agreement. Therefore, the textile language in the 1997 agreement was incorporated into the accession agreement and the deal was signed in the fall of 1999. Congress passed the implementing legislation for the accession agreement with a small, but comfortable margin the following year.

In the brief period that has transpired since the quota period ended on December 31, 2004, the economic justification for our proposal to substitute an extension of the quotas for the textile safeguards has been substantially vindicated. The United States has granted nine safeguard quotas under claims

of “market disruption” from dramatic increases in various categories of Chinese textile and apparel imports, and several new petitions are pending. Due to the claims of ambiguity and vagueness in the language of the provision—some might argue intentional “diplomatic ambiguity”—litigation has arisen between the domestic industry and importers as to how the safeguard is being applied. The uncertainty in the application of the safeguard has created the unpredictable market forewarned in our proposal. Ironically, as a result of the turmoil caused by the surge in Chinese exports since the quota ban and the uncertainty of the imposition of safeguards, China has begun negotiations with both the United States and the European Union to reach a comprehensive settlement to replace the safeguard measure with a new quota system. They have successfully concluded such an agreement with the European Union and, as of this time, are still in negotiations with the United States.

On the issue of whether the textile safeguard is being correctly applied in accordance with the law of the United States, we are fortunate to have commentary from the lead counsel of each side of the issue: Brenda Jacobs, who represents the United States Association of Importers of Textiles and Apparel, and William A. Gillon, who represented an association of textile industries in preparation of a number of textile safeguard petitions.