Overview of the Terms of China’s Accession to WTO

I Introduction

1. Members of the World Trade Organisation (WTO) and the People’s Republic of China have reached the concluding stage of agreement on the terms for China’s accession to the organisation. This comes after fifteen years of negotiations, which began when China applied to join the General Agreement on Tariffs & Trade (GATT) in 1986. There must now be a Council Decision approving the terms of China’s entry, before the EU can formally support China’s entry.

2. There follows an outline of the implications of China’s membership for the EU, the WTO system, and for China herself, and a summary of the terms themselves.

II Implications of China’s WTO Membership

China’s legally binding commitment to open trade

3. The terms of an accession take two basic forms. First there are the schedules of commitments, which set out the full range of market access obligations which China will be legally bound to grant to every Member when it enters the WTO. The schedules cover tariffs and non-tariff measures applicable to agricultural trade and industrial goods (commitments under the GATT), and services (commitments under the General Agreement on Trade in Services, or GATS).

4. Second there are the Protocol and Working Party Report on the accession of China to the WTO. These documents, which also include legally binding commitments, essentially set out how China promises to fulfil her new WTO obligations. As well as containing detailed descriptions of, and obligations relating to, China’s current and planned trade and investment regimes, they detail a number of special provisions to which China will be subject during the first years of her WTO Membership. These temporary derogations from normal WTO rules are intended to reflect the unique challenge of incorporating China into the world trading system. This is an economy in the midst of transition from state ownership to the market based system; a country that has taken many measures to introduce market economics, but where certain features of a state led economy still prevail. Most notably, the protocol affords other Members special protection for their own industries against damaging surges of exports from China.

A one-way market opening process

5. The entire negotiation revolved around how, and in some cases to what extent, China will adopt the WTO ‘acquis’ of rules and agreements. These govern international trade in goods, agriculture and services, and include provisions on many related areas such as trade related investment measures, technical barriers to trade, sanitary and phytosanitary measures, intellectual property protection, and government procurement. This means that the process consisted in the WTO Membership securing “concessions” or market opening improvements from China, without themselves altering their obligations within the WTO.

6. For the EU, which ensured that the interests of European industries and firms were fully represented, China’s entry will therefore signal an enormous gain in enforceable rights, with no significant change in our own commitments towards China. The long (and arduous) series of bilateral negotiations held between European Commission and Chinese officials resulted in
terms of accession which will substantially benefit those sectors and interests of greatest value to the all Member States of the EU (details provided below).

7. The only obligation for WTO Members is that they must accord China so-called permanent MFN (‘most favoured nation’) status, entitling it to be treated in the same way as every other WTO Member, unless exceptions are specified in the protocol of accession. As the EU has always accorded China this status in any event, there will be virtually no practical impact. The only notable consequence of according China the same treatment as other WTO Members will be the requirements to phase out China-specific quantitative restrictions (quotas) by 2005. This applies to the EU’s remaining textile quotas applied to China, which must be dismantled in line with the Agreement on Textiles and Clothing. It also applies to the three industrial products for which the EU still maintains China-quotas: footwear, ceramic tableware and porcelain tableware. In recognition of these changes, until 2008 a specific safeguard instrument for countering injurious imports of textile products from China will be available. And for up to 12 years after accession, product specific safeguard provisions will allow remedial action to be taken against surges of imports from China which damage, or threaten to damage, competing EU industries.

8. Of course, once a WTO member, China will have a full seat at the negotiating table whenever further steps to multilateral liberalisation are agreed. Arguably, this is the most important change that WTO membership will engender.

**Impact on the WTO system**

9. The entry of China into the WTO will mean that the organisation itself takes a huge step closer to becoming genuinely global. It should be recalled that China was in fact a contracting party to the GATT in 1947, but withdrew from the organisation shortly thereafter. It has long been the unanimously agreed policy of EU Member States to support China’s entry bid.

10. As the world’s most populous country, China will very likely immediately become a key player in the organisation. China has a fundamental interest in both the promotion and the proper regulation of trade at the global level. Increased trade has been a major contributor to the country’s phenomenal growth rates since the open door policy was launched in 1978. And it sees WTO membership as a lever for continuing domestic reforms which are a now an established priority of the leadership.

11. Also important in this respect is the high standard of commitments given by China to open its economy to foreign imports, investors and businesses. China’s trade regime will be significantly more liberal than most existing WTO Members of a comparable level of development. One of the reasons the talks lasted so long was the concern of the EU and others that China’s entry should in no way lower the average standard of openness to trade in WTO. The tariff average will be low, quotas will be phased out quickly, service providers from virtually all sectors will have good market access, protection for intellectual property rights will be guaranteed in law. As explained below, the final results constitute an extremely substantial market opening package.

**III The benefits of bringing China into the multilateral trading system**

**Good for EU business**

12. First of all, the deal will secure vastly improved access for EU firms to China’s market. Import tariffs and other non-tariff restrictions will be sharply and permanently reduced. And investments by foreign companies will take place in a more attractive, and more predictable,
business environment. WTO membership will consolidate and accelerate China’s own efforts to promote transparency, fairness and openness in its trade régime across the board. And the WTO’s independent and legally binding dispute settlement system will enable both sides to resolve trade problems. In short, this agreement greatly enhances the climate for European companies to export to, and do business in, China.

**Good for China’s economy**

13. As with all important liberalisation agreements, China’s WTO commitments will in the first place benefit her own economy and people. But beyond the commercial opportunities it will offer, WTO accession will have a substantial impact on economic reform and development in China. The EU has been concerned throughout the negotiations to come up with a package which fosters gradual but lasting reform and sustainable development in China, at a rate which is intended to run in parallel with the domestic reform programme. Together, we have agreed to step-by-step market opening in many areas, with implementation typically taking place within a three to five year period, rather than overnight exposure of China’s firms and service providers to foreign competition. WTO accession provides an unrivalled anchor for reform. Entering the world trading system will be a catalyst for Chinese firms to become more efficient, to show that they can compete on fair terms with the rest of the world. This agreement will therefore also be good for Chinese companies and workers, as they draw the benefits of increasing foreign investment, and take on the most modern management practices and legal structures.

**Good for the future of EU-China relations**

14. China’s entry into WTO will contribute to steady and sustainable economic development, not only in China, but for her neighbours in Asia, and indeed for the rest of the world. On top of this, the agreement reached, when it is implemented as part of the multilateral system, will boost the rule of law in China. The fundamental principles of transparency, non-discrimination, efficient administration and independent judicial review which the WTO upholds will contribute to the positive evolution of China’s economic, legal and social systems.

15. In reality, China’s accession can only lock in and deepen market reforms, empowering those in the leadership who support further and faster moves towards economic freedom. The opening up of telecommunications, the internet and satellite services will inevitably expose the Chinese people to information, ideas and debate from around the world. The rule of law will be strengthened as China finds herself obliged to play by the global trade rules. The spillover of economic freedom and respect for commercial law into the political and social sphere will be gradual, but the contribution made by WTO entry will be positive. Many human rights activists and members of the foreign policy community agree that bringing China into the world trading system will be a push in the right direction in these spheres also.

**Implementation through partnership – EU assistance**

16. As China enters the WTO, it will of course be vital that all of the changes to her trade regime described below are implemented as promptly and accurately as possible. In order to make this process as smooth as possible, the EU is committed to working in partnership with China, and determined to share its experience in the WTO, assisting as far as possible with the changes which China will have to introduce and sustain in its continuing economic transition. Technical assistance will clearly have a role to play, and the EU has a number of co-operation projects in place, or lined up for the near future, with a budget totalling around EUR 24
million, which are either designed specifically, or may henceforth be used, to help build the
capacity of China’s government and administration to implement its impending commitments
under the WTO.

17. In addition, support for the transition required by WTO accession, and related economic
reforms has been earmarked by the European Commission as a focal area for future funding.
Projects will be proposed in consultation with China, to ensure that help is targeted where it is
most useful. This broad-based assistance programme will accompany the efforts of the
European Commission, Member States and business groups to monitor China's adherence to
her new international commitments. Indeed, the WTO Membership as a whole has recognised
the particular attention which will need to be paid to implementation of the WTO rules by
China. A "transitional review mechanism" will require annual progress reviews to be
conducted in Geneva for eight years after accession, to be followed by a bi-annual review
thereafter.

IV Summary of terms of China’s WTO Accession by Sector

Industrial goods

18. China will reduce its tariffs on all goods to an average of 9%, down from around 17% at
present. All import tariffs will be bound. Notably, tariff “peaks” above 15% - which are the
most restrictive of trade - will be very significantly reduced. As well as tariffs coming down,
China has committed itself to removing all of its import quotas - restricting the volume of
goods which can enter China from abroad - by 2005. The gains this represents for EU
exporters are clear. Coupled with the right to trade and distribute freely within China, which
will also become widespread, the opportunities for EU manufacturers to participate in one of
the world’s largest markets will become real at last.

Industrial tariffs in detail

19. On motor vehicles, the tariff on cars will fall from 80-100% today to 25% by July 1, 2006
(with the greatest reductions in the first years). Additionally, as a result of its negotiations
with the EU, China agreed on a range of improvements which will benefit EU firms which
produce cars, vans and trucks through direct investment in China (see paragraph 50 for
details).

20. Tariffs on Information Technology products, beer, toys and furniture will be eliminated.
These sectors account for almost 10% of total EU exports of industrial products. Sectoral
averages on other ‘double-zero sectors' range between 4.2% for pharmaceuticals and 6.2% for
construction equipment. Chemical tariff ‘harmonisation’ will be implemented, with limited
exceptions, so that the sectoral average will be reduced by 40% to 7.1%.

21. As for EU priorities not covered in China’s bilateral negotiations with any other WTO
members, these were concentrated on 150 specific products varying from gin to building
materials. On these EU priorities, an additional reduction of 40% on top of earlier offers was
obtained (the tariff average here falling from 18.6% to 10.9%). The following is a breakdown
by category.

22. Tariffs on all spirits will be aligned to a level of 10%. There will be no difference in the
treatment of whisk(e)y, Cognac, Gin etc. The presently applied tariff level is still at 65%.
23. Tariffs on key cosmetics products will come down to a level of 10% (currently up to 30%). This implies good prospects for a sector which already exports up to EUR 7 billion world-wide.

24. On leather and leather articles negotiations focused on 13 specific products which account for 60% of total EU exports in this sector. China agreed a reduction on these products from 20-25% to 10%.

25. On textiles China made some further improvements to the rates offered during other bilateral negotiations. China’s textiles tariffs will now be very close to the levels of the EU and far lower than almost all other textile exporting countries.

Tariffs on 5 particular footwear products which account for more than 70% of EU footwear exports will be reduced from 25% to 10%.

26. Marble/building stones are popular articles in China’s enormous construction market. On the 5 most important products tariffs will also be reduced from 25% to 10%.

27. On ceramics China agreed to reduce tariffs on 11 key ceramics products from 24.5-35% to 10-15%. And tariffs on 6 particular glass products will be reduced from 24.5% to 5%.

28. On 52 particular products in the important machinery and appliances sector, which accounts for 26% of total EU exports, tariffs will be cut to 5-10% from levels up to 35%.

**Agriculture**

29. On agricultural goods, China will cut its tariffs on the 60 products most exported by the EU to an average of 10% by 2005. Improvements have been made on the tariff quota for rape oil, as well as on tariffs on products such as: rape oil (down from 85% to 9%), pasta (down from 30% to 10%), butter (down from 30% to 10%), milk powder (down from 25% to 10%), mandarins (down from 40% to 12%), wine (down from 65% to 14%), olives (down from 25% to 10%) and wheat gluten (down from 30% to 18%).

30. On the domestic side, China has committed to eliminating all agricultural export subsidies for her producers. Additionally, using the leverage of the negotiations on WTO accession, the EU and China have drawn up a bilateral accord on sanitary and phytosanitary issues (SPS) to ensure that market access for animal and plant based goods is not hampered on any non-scientific grounds. It now rests on EU Member States to make this agreement operational by negotiating bilateral SPS protocols for the products they export.

**Trading rights and liberalisation of state trading monopolies**

31. Vitally, these improvements in market access for industrial and agricultural goods will be accompanied by the right for foreign firms to import and export freely within three years, and to distribute, retail, transport, repair and service their products within China within 3 years after accession (see under Services below). This represents a major break with the past, and will allow exporters to participate in every aspect of business right through to sales to final consumers in China.

32. The key sectors of crude and processed oil, as well as fertiliser, will be gradually opened to non-state importers, including foreign importers. This means that companies will no longer have to channel all oil or fertiliser going into China through state importers. The growth of the
volumes open for private import is steady, allowing China’s own industry to adjust gradually to liberalisation.

33. The right for foreign, private firms to import silk directly from China, which was previously subject to a state run export monopoly, has also been secured. This means that EU clothing firms will have improved access to raw silk from China which can then be processed and finished in Europe. EU exports of silk products in 1999 amounted to 3,000 million Euros. China produces 70% of the world’s raw silk.

**Services**

34. A large part of the accession negotiations focused on services, of paramount importance to the EU in particular as the world’s leading exporter in this field. China’s commitments cover a wide range of service sectors, with access for foreign providers guaranteed by transparent and automatic licensing procedures which have been set out in detail in the Protocol of Accession.

**Insurance**

35. Access for foreign insurance companies to China’s market will be significantly improved when China enters the WTO. Operating licences will be granted on the basis of transparent prudential criteria. Effective management control has been negotiated for foreign participants in life insurance joint ventures, through choice of partner, and a legal guarantee of freedom from any regulatory interference in privately negotiated contracts on a 50-50 equity basis. Foreign insurers will be able to sell the same products as their Chinese competitors 3 years (life) or one year (non-life) after accession. This scope of business includes health, pension and group insurance in life, and all non-life activities except for statutory 3rd party liability insurance.

36. Geographic expansion of cities open to foreign insurers has also been accelerated. Brokers (insurance intermediaries) will have access to the Chinese market through local establishment for the first time. Subsequent to the EU’s agreement with China, foreign brokers will also be able to conduct large-scale commercial risk, and reinsurance business in China, with majority control of operations 3 years after accession, and complete ownership after 5 years.

37. Outside the terms of the WTO accession Agreement itself, China agreed to grant EU firms seven new licences (five for life and two for non-life business), and two sub-branch licences for firms already present in China, before she enters the WTO - the intention being to ensure that EU firms are on the same footing as their rivals when China enters the WTO.

**Telecommunications**

38. As a result of its WTO accession negotiations, China has agreed to open a significant part of its telecommunications market to foreign firms. It was as a result of her bilateral negotiations with the EU – home of some of the world’s most competitive telecommunications companies – that China committed to some of the most significant opportunities in this sector.

39. A vital area where China will offer improved conditions for foreign telecommunications investors is in the field of mobile telephony, where non-Chinese firms will be allowed to hold a 25% share of operations on accession, rising to 35% one year later, and 49% 3 years after China joins WTO. Negotiated by the EU, this is a significant acceleration of the phasing-in of
business first agreed in the Sino-US bilateral Accord. China currently allows no foreign investment in telecommunications services.

40. Foreign firms will also be allowed to provide private leased circuits to businesses in China which wish to get better value for money in their own communications, both throughout China and internationally. The right to provide telecommunications services in China’s leading cities is now accompanied by the right to provide services between them.

Distribution

41. As mentioned already, the right to distribute imported products, whether goods or services, has been severely restricted in China until now. This includes the right to carry out sales, marketing and advertising, packaging and warehousing, customer support and maintenance. Clearly this is of vital importance to the service industries as well as manufacturers which export to China. China’s market will thus be gradually opened at every level from wholesale to retail, with all products being available for distribution by foreigners, except salt and tobacco. At the retail end, the EU secured improved opportunities – the size restriction of 20,000 m² will be lifted, allowing large European supermarkets or furniture retailers to be set up, for example. And there will no longer be a limit to the number of shops in a chain which can be foreign-owned, as the specific joint venture restriction for large department stores and chain stores is also lifted.

Banking & Securities

42. European banks or other foreign banks will be able to establish and conduct local currency business with Chinese companies within 3 years of accession, and with private individuals all over China within 5 years of accession. The phase-in periods vary for different cities, but the EU succeeded in bringing forward the date for the city bordering the special administrative region of Macao (Zhuhai). In an important deregulatory step, motor vehicle distributors and other non-financial institutions will be able to give credit facilities for the purchase of cars, trucks & buses.

43. Fund management firms will be able to engage in joint ventures (up to 49% share by 3 years after accession) – and underwrite and trade debt and equity in foreign currency denominated securities (B-shares), as well as underwriting domestically denominated securities (A-shares).

44. The banking sector is one in which China has made extremely significant commitments, set to make capital available to China’s entrepreneurs on an unprecedented scale.

Professional Services

45. Foreign law firms, accountancy firms and other professional service providers will be able to hold majority control of businesses in China. Importantly, the EU successfully negotiated the right for foreign owned firms to have entrustment relations with Chinese lawyers, thereby enabling their practices to cover Chinese legal business as well as advising on foreign law.

46. The EU also ensured that recently introduced Chinese laws which placed restrictions on the conduct of market research in China will be relaxed, opening the way for European companies freely to carry out vital pre-investment research before entering the Chinese market.
Tourism

47. Within 3 years of accession, foreign firms will be able to hold the full 100% ownership stake in their hotels in China. EU business will also benefit from improved opportunities for foreign firms in the tourism trade, by reducing the minimum capital and turnover requirements so that small firms – which covers many of the China specialists in Europe – can provide the full range of tourism services.

Protocol commitments

48. As explained above, in the final, multilateral stage of the accession process, WTO Members collectively sought to ensure the basic compatibility of China’s trade laws and institutions with WTO rules and agreements, setting these out in the Protocol of accession and Working Party Report. In advance of this stage, the EU also discussed certain horizontal issues directly with China, to make certain that the interests of EU firms would be properly safeguarded. As a result of these discussions, commitments of particular value to the EU were given by China on the following subjects:

National treatment

49. Any measures and practices which are the cause of legal or practical discrimination between Chinese and imported products will be illegal when China is in the WTO. This is a fundamental principle. But as a result of negotiations with the EU, China has explicitly committed herself to eliminate a number of existing such practices. For example, those who provide after-sales service on Chinese goods will equally be able to cover imported goods, the special pricing rules and profit ceilings imposed on imported pharmaceuticals will be removed, the special registration procedures applicable to imported chemicals will be repealed, the different retail licences required to sell foreign and domestic spirits, and imported and domestic cigarettes will be unified, and differences in standards verification and inspection procedures for boilers & pressure vessels will be reduced so that they do not constitute an illegal barrier to trade. On a broader front, China has agreed to end the potentially discriminatory dual system for pre-market testing and certification of new products, whereby until now one agency dealt with all imported goods, and another with all home-produced items.

Trade related investment measures (TRIMs) and other investment conditions

50. The EU secured additional commitments in receiving Chinese assurances that foreign investors will not be subject to mandatory export performance or technology transfer obligations. China has also agreed to implement the TRIMs Agreement upon accession, and to remove trade and foreign exchange balancing requirements, local content requirements. China will therefore not condition investment approvals, import licenses, or other import approvals on any such requirements. With specific reference to motor vehicle production by foreign invested enterprises, restrictions regarding the category, type and models of vehicle produced will be lifted; the ceiling above which investments have to be approved by both central and provincial authorities will rise from $30 million to $150 million, and for the manufacture of engines, China’s joint-venture requirement will be removed, allowing wholly foreign owned production.
Protection of intellectual property rights

51. From the date of her accession to the WTO, China has committed to abide fully to the rules of the TRIPs Agreement. This will provide a welcome boost to the ability of the holders of copyrights, trademarks, patents and other recognised categories of intellectual property to enforce their rights within China. In a country where abuse and counterfeiting are still prevalent, foreign companies can look forward to improved safeguards for their rights, and have been promised reinforced co-operation from the Chinese authorities, as proper protection becomes an international, legally binding obligation. In recognition of the scale of the current problem in this field, China has agreed to go some way beyond the requirements of the TRIPs Agreement. This includes, for example, undertakings to enact legislation which will protect commercially sensitive information which is disclosed for testing and certification purposes for a minimum of six years, and to decrease the minimum financial thresholds for bringing infringement lawsuits to the criminal courts.

Export subsidies

52. In addition to the above, China also gave commitments regarding export subsidies on industrial goods. On accession, China will eliminate all forms of export subsidies as defined by Articles 1 and 3 of the WTO Subsidies Agreement, including not only direct grants but also, in particular, tax breaks linked to export performance.

Government procurement

53. The EU also broke new ground in securing commitments from China regarding public procurement. China has expressed her wish to join the GPA at a future date and – pending the completion of those GPA negotiations – has undertaken to procure in a transparent and non-discriminatory manner. This undertaking applies not only to central and provincial government agencies, but also to all state-owned enterprises, unless they are engaged in exclusively commercial activities.

Trade defence instruments

54. Finally, in China’s Protocol of Accession there are key provisions specifying how the trade defence instruments (anti-dumping, anti-subsidy, safeguards) may be used to deal with imports specifically from China. In reflection of the fact that China’s economy is still in transition, there will be derogations from the WTO rules, available for a certain period of time, which will permit Members to maintain tighter control over injurious inflows of goods from China (whether due to their high volume or low-price) than would normally be the case.

55. The EU’s present legislation which provides specific procedures for dealing with cases of alleged dumping by Chinese exporters, which may not yet be operating in normal market economy conditions, will remain available for up to fifteen years after China enters the WTO. The China-specific safeguard provision, allowing safeguard action to be taken only with respect to imports from China (in contrast to the normal requirement for *erga omnes* action against all sources of imports) will be available for up to twelve years after China’s accession. And a further sector specific mechanism has been put in place to provide added protection in the textiles field, until 2008.
V RECOMMENDATION

56. In submitting the terms of Accession of the People’s Republic of China to the WTO for approval by the Council, and for the opinion of the European Parliament, the Commission commends these terms as representing a balanced but ambitious package of market opening commitments, which will bring substantial benefits to China and her WTO trading partners alike.