Testimony of Secretary of Commerce Gary Locke
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U.S.-China Economic Relations
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Chairman Baucus, Ranking Member Grassley, Members of the Finance Committee: Thank you for the opportunity to testify today on this important topic. I agree that we need to work together to find a way to adjust the course of our economic relationship with China to make that relationship more balanced and to ensure that it provides more opportunities for American workers and businesses.

As you know, I recently returned from my fourth, and longest, trip to China as Secretary of Commerce – this time leading a trade mission of U.S. clean energy companies and participating in the Strategic and Economic Dialogue (S&ED). The United States values the important strategic and economic relationship we share with China. However, my meetings there last month, with both U.S. companies and Chinese officials, reinforced my view that despite progress in many areas, far more needs to be done before we can be sure that commercial trends affecting U.S. businesses in China are once again heading in the right direction. This perception is increasingly echoed by American businesses and increasingly spoken aloud.

This Committee and this Administration share strong concerns about aspects of Chinese policies that affect U.S. business: market access, indigenous innovation, currency and intellectual property (IP) protection and enforcement – all topics I raised during my bilateral meetings with Chinese officials and that other members of the Administration have raised as top priorities in their meetings with Chinese officials.

I also know this Committee is concerned about China's currency practices. In response to China’s recent announcement on currency, the President noted that “China's decision to increase the flexibility of its exchange rate is a constructive step that can help safeguard the recovery and contribute to a more balanced global economy,” and that he will be discussing these and other issues with China at the G-20 Summit in Toronto. My colleague, Treasury Secretary Geithner, will be closely monitoring how far and how fast the Chinese let their currency appreciate and will continue to raise this issue with Chinese officials.

We all understand that China represents a huge opportunity for American businesses. This was illustrated by the 24 U.S. companies that participated in the China portion of my trade mission. They were well-received by government officials and their private sector interlocutors. I witnessed the signing of a memorandum of understanding on hydrokinetic energy generation; my team arranged over 250 individual and group meetings for the members of the delegation with potential business partners in Hong Kong, Shanghai, and Beijing; and participants were able to develop relationships with officials at every level of government. The trade mission registered immediate successes collectively valued at over $20 million.

The importance of the Chinese market to the global strategy of U.S. exporters and companies operating in China grows daily. The interaction between those U.S. businesses and their Chinese partners, suppliers, and customers has improved dramatically as Chinese businesses have adopted more international business practices and as the commercial legal environment has improved.

China is now the United States' third-largest export market for goods, and our exports to China have grown more than three-fold since its accession to the World Trade Organization (WTO) only eight-and-a-half years ago. Exports to China remained stable overall in 2009 during the recession, while U.S. exports to other markets declined some 20 percent. Now our exports to China are growing faster than overall U.S. exports, thanks to strong Chinese demand growth and the recovery in prices of agricultural products. We should neither underestimate the importance of the China market nor the potential it holds for American exporters who tap into it.

Furthermore, the relationship between our two countries should not be portrayed as a zero sum game. There are so many opportunities for trade to benefit both China and the United States. I have seen those benefits first hand over the last 20 years – as Commerce Secretary, as an attorney in private practice, and as the governor of Washington State, where I helped double exports to China during my tenure.

But we need to ensure that our exports flow into China's market on equal terms with Chinese products and services. The Department of Commerce will do more to support the current exports trend. The President's National Export Initiative (NEI), which aims to help double U.S. exports within five years and support several million American jobs, will focus on China and other emerging high-growth markets. Under the NEI, the Department of Commerce is expanding trade advocacy and working to remove barriers preventing U.S. companies from getting free and fair access to China's market. At the same time, we are working to promote open trade and cross-border investment; urging China to create an open environment for innovation, including through strengthened intellectual property rights protection and enforcement; and encouraging China to enhance transparency and the rule of law.

Another key component of the National Export Initiative is its focus on trade compliance and enforcement. Rigorous enforcement of U.S. and international trade laws helps remove barriers that prevent U.S. companies and workers from getting access to foreign markets and ensures that the competitiveness of U.S. companies is not harmed by unfair trade practices of governments and foreign companies in the domestic market. Commerce rigorously enforces our trade remedy laws at home. USTR leads the Administration's enforcement efforts at the WTO in Geneva, and my staff continues to work closely with USTR to support those efforts.

We have legitimate concerns with China's approach to economic growth. The flip side of the promising story about the success of many individual exporters and U.S. companies in China is the difficult policy and regulatory environment that the U.S. business community still faces. The President, Secretary Geithner, Ambassador Kirk and I have spoken with one voice about those challenges, both publicly and in meetings with our Chinese counterparts. We know that American businesses will succeed when they have a level playing field on which to compete.

The Chinese government maintains policies designed to support export-led growth and foster indigenous innovation. Over the last five years, the Chinese government has identified key sectors that must be "state-dominated" and others that will stay "largely in state hands," slowing a long-term trend of economic liberalization begun decades ago that had reduced incrementally the influence of China's state-owned sector and incorporated limited market forces more fully in economic policy making.

As a result, there are concerns that the state-owned sector is growing and that the sway of government policy in place of market principles has been increasing. While significant problems that successive Administrations have faced still exist – especially IP protection and enforcement – they also are now part of a broader issue: industrial policies that limit foreign market access with the goal of developing an indigenous capacity to innovate and increase the profitability of Chinese companies vis-à-vis their foreign competitors. As currently applied, these policies do things like try to compel foreign companies to transfer technology. This only encourages Chinese companies to rely on this kind of technology transfer as a business model, and then use the tactic to the detriment of U.S. and other foreign companies.

All this points to the need to address the real challenges we face in our bilateral engagement on China's policies. U.S. companies operating in China are not granted the same degree of openness and fair treatment that foreign companies, including private Chinese companies, receive in the U.S. market. The state's large role in China's domestic economy poses an ongoing challenge to our ability to grow some of our most competitive exports. Our goods and services are doing well in China's market, but we know that significant impediments continue to exist.

Americans can only take full advantage of the opportunities created by a more balanced Chinese economy if China is willing to make sure that its markets are open to U.S. goods and services. We still have work to do. American firms operating and exporting into China should, as a basic matter of fairness, have the same opportunities as Chinese companies. We are committed to making sure that China lives up to its existing international obligations, including through rigorous enforcement of our trade laws – and are equally convinced that the global playing field will not be level until China starts to take on a broader range of commitments that would bring it in line with the commitments of the world's other large trading powers. We have encouraged China to make an ambitious offer to join the WTO's government procurement agreement and are looking for other concrete ways China can start to address our broad set of commercial concerns by showing its commitment to international trade rules.

Moving to the issues you have asked me to focus on today, I want to provide you with a summary of current Department of Commerce activities related to these issues.

Market Access

The Department of Commerce's International Trade Administration (ITA) monitors the barriers that U.S. companies face when exporting to China or trying to operate in that market. ITA plays a significant role in enforcement as well, engaging directly with U.S. industry and Chinese officials, and supporting USTR in its role litigating WTO disputes in Geneva. Negotiation has led to specific successes. For example, at the 2009 Joint Commission on Commerce and Trade (JCCT), China gave assurances that it will impose maximum administrative penalties on internet infringers and announced its intent to reopen its market to exports on pork products and live swine. In addition, after discussing the importance and benefits of transparency in rulemaking, China's State Council included a requirement that most draft rules be published on a website maintained by the State Council in order to solicit comments.

Even with these accomplishments, China has increasingly erected barriers at or behind the border in sectors that are supposedly open to foreign products and services. In over a dozen

JCCT working groups, working-level experts are addressing continuing sources of concern with an eye to making significant progress at this fall's JCCT meeting. These working groups are addressing policies that favor indigenous innovation; policies to develop unique technical standards and burdensome and duplicative conformity assessment requirements; inadequate enforcement of intellectual property rights; and government procurement policies that favor domestic products and services.

Indigenous Innovation

The U.S. Government respects China's desire to develop its innovation economy; this is a goal shared by many countries, including the United States. Unfortunately, recent innovation policy developments in China, such as the proposed indigenous innovation product accreditation system, have generated intense concern within the U.S. business community that China is using its innovation strategy to displace foreign products and gain access to foreign technologies.

U.S. companies tell me that addressing these new indigenous innovation policies, which are designed to encourage technology transfer and force U.S. companies to transfer R&D operations to China, is one of their top priorities. I have raised these concerns repeatedly with my Chinese counterparts, and my staff also has raised these concerns in their interaction with the Chinese, in coordination with other members of the Administration. We have made some progress. Most recently, I discussed these issues in my bilateral meetings last month. At the S&ED, I spoke forcefully about the impact these policies may have on U.S. companies and the need for China to revise its policies. Also, last month, the U.S. government submitted comments opposing implementation of the accreditation system as envisioned, and on May 10, the Chinese authorities delayed implementation of the system to review the comments submitted.

China's development of innovation policies is part of a long-term strategy to change the nature of the Chinese economy's role in the global economy – a way to get out of the low margin in the global processing trade's supply chain. But as currently implemented, the policies will not accomplish that goal and are likely to injure U.S. and other foreign companies by disadvantaging them in China's markets, threatening their control of their intellectual property, requiring R&D strategies that do not match how global businesses operate, and creating new barriers to U.S. exports. Reversing this counter-productive approach will require creative solutions.

As a result of our concerted efforts at the S&ED, we were able to make progress on this issue. China has committed to ensure its innovation policies are consistent with important constructive principles, will join both high-level and expert bilateral discussions on what truly spurs innovation, and will take the results into account as it develops and implements its innovation policies. I will be working closely with Ambassador Kirk, White House Office of Science and Technology Policy Director John Holdren, Secretary Geithner, Secretary of State Hillary Clinton, and other Administration colleagues in this important effort. This dialogue is in addition to the important ongoing engagement that Commerce Department bureaus such as the National Institute of Standards and Technology have with different Chinese government and quasi-government entities, bringing together the standards and science and technology elements of the innovation eco-system. The U.S. economy remains the most innovative in the world. Providing the Chinese government with a vehicle to understand how the United States and other innovative economies promote innovation should clarify that China has many paths open to producing strong innovation – but that policies like government-sponsored product lists tied to special benefits and compulsory technology transfers are not pathways to real innovation.

Currency

The Department of Commerce's Import Administration is currently reviewing allegations in two countervailing duty (CVD) cases in which the petitioners claim that China's currency policy constitutes a countervailable subsidy. I am carefully monitoring the review of these allegations to determine whether they meet the legal threshold for investigation. Given the scrutiny that such decisions face in U.S. courts and at the WTO, I want to make sure our decision on whether to investigate is warranted by the facts and the law.

Intellectual Property Protection and Enforcement

Improving the protection of intellectual property rights (IPR) through enforcement mechanisms that exist in Chinese law is a serious priority for the Department of Commerce, as it is throughout the U.S. government. Chinese government officials express willingness to address the problem, but serious challenges stand in the way of their efforts. For example, penalties for IPR infringement generally are not severe enough to deter potential violators from breaking the law and the lack of meaningful injunctive relief continues to hamper enforcement.

The Department of Commerce recognizes the seriousness of the problem in China and has devoted significant resources, in both the United States and China, to help improve the IPR protection and enforcement situation to the benefit of U.S. stakeholders. Commerce and USTR jointly lead the JCCT IPR working group, which is a key mechanism to press China to improve its policies in this area. In addition, in 2004, the Department of Commerce's U.S. Patent and Trademark Office (USPTO) established at the U.S. Embassy in Beijing a permanent IPR Attaché position to work closely with a China team at USPTO headquarters to better address the concerns of U.S. industry. In 2007, another IPR Attaché position was added in Guangzhou, and we will soon deploy a third to the country.

In addition, the Department has been an integral part of an interagency committee charged with the development and implementation of the Administration's strategic plan to combat intellectual property infringement. The "2010 Joint Strategic Plan on Intellectual Property Enforcement," which was publicly released yesterday, contains more than thirty recommendations to improve enforcement efforts here and overseas including, among others, one in which Commerce will be leading an effort to review U.S. Government support of U.S. businesses as they navigate intellectual property enforcement issues in overseas markets, including China.

Conclusion

The Obama Administration is committed to reorienting our economic relationship with China so that Americans can take full advantage of the opportunities provided by a growing China. This means avoiding a return to the past model, where China exported and saved and the United States borrowed and consumed. As the United States starts to save more, invest more and export more – and rely less on consumption financed by excess borrowing – China and other large economies that traditionally have run large trade surpluses will need to shift their growth models. Otherwise, the world won't grow as fast as it can – and future risks will accumulate.

I am confident that our strategy of working to steadily expand the opportunities China's growth creates for the United States can continue to be calibrated to better address our key commercial concerns. When we have concerns with China's approach to economic development, we need to say so. When cooperation and dialogue are not enough, we are committed to utilizing all the tools we have available in order to make the progress we need. President Obama has said of the U.S. partnership with China "one country's success need not come at the expense of another. Our progress can be shared" and that our relationship must be able to recognize that "our two nations may not always agree on every issue."   We also must maintain cooperative programs that have long-term benefits and dialogues that present the opportunity to demonstrate the importance of an open, transparent, and fair trading system to both U.S. and Chinese companies.

Thank you, Chairman Baucus, Ranking Member Grassley, and Members of the Committee, for the opportunity to appear before you today. I look forward to answering your questions.