Testimony of Thea Mei Lee
Deputy Chief of Staff
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

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Evaluating China's Role in the World Trade Organization over the Past Decade

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"*. . . [The trade agreement with China] is a win-win for both countries, it is, when it comes to the process of tariff reduction and market opening, a one-way process. . . . this is simply about China opening its market to us. It does not change our laws or our tariffs by one bit.*"

– Gene Sperling, director of the National Economic Council

"*If you take a blank piece of paper and draw a line and write on one side the things that the U.S. had to do for China, it would be empty, but if you write on the other side everything China had to do to remove barriers to American goods and services you'd cover the paper top to bottom.*"

– Bruce Josten, U.S. Chamber of Commerce

Good morning, Chairman Slane and Chairman Mulloy, members of the Commission. Thank you for inviting me to testify on behalf of the eleven million working women and men of the AFL-CIO on this important topic.

Ten years ago, when China joined the World Trade Organization (WTO), under U.S. law, Congress first had to vote to grant China Permanent Normal Trade Relations (PNTR). This occasioned a vigorous national debate – and many of the issues raised at that time have turned out to foreshadow the rapidly evolving U.S.-China trade relationship in the intervening decade.

The American labor movement, together with a broad coalition of domestic manufacturers, family farmers, human rights activists, people of faith, and environmental groups, vigorously opposed China's accession to the WTO and Congressional approval of PNTR.

Our concern was twofold. First, even in 1999 it was clear that the bilateral U.S.-China trade relationship was deeply lopsided and problematic, with many negative ramifications for American workers and domestic producers.

Second, we had been critical of the WTO since its inception in 1995. In our view, WTO rules were geared toward enhancing the mobility, flexibility, and profits of multinational corporations – and were not well suited to protecting workers' rights and the environment, promoting democracy and development, or supporting U.S. jobs and manufacturing. We argued that the United States would sacrifice significant flexibility and important leverage by granting China PNTR. In our view, WTO accession would reduce the tools available to the United States to address the very serious problems in the U.S.-China trade relationship – not enhance them.

Promoters of PNTR and China's accession claimed that WTO review and dispute settlement mechanisms would effectively ensure China's compliance with WTO rules, that China's WTO membership would benefit the U.S. economy and American workers, and that the rule of law introduced by trade and investment disciplines would translate into greater freedoms for Chinese workers and accelerate China's transition to democracy.

The key economic argument made on behalf of China's WTO accession was straightforward: China would reduce its tariffs and subsidies, and bind itself to WTO rules and disciplines. The United States would not reciprocally enhance China's access to its market. Therefore, it was argued, it was virtually guaranteed – a "no-brainer" – that U.S. exports to China would increase faster than Chinese exports to the United States, and that the United States would benefit through expanded exports and jobs.

The non-economic arguments in favor of PNTR were also touted as virtually airtight: more "engagement" in the global economy would expose the Chinese government to modern and progressive ideals, and it would make China wealthier, which would naturally lead to improved working conditions, workers' rights, environmental compliance, and – inevitably – democratic reforms.

In the ten years since Congress approved PNTR, and in the nine years since China officially became a WTO member, these claims have not been realized. To the contrary, many of the AFL-CIO's concerns about China's WTO accession have proven correct, some much more dramatically than anyone could have predicted. China has not only failed to live up to many of its WTO accession commitments, it has also refused to cooperate with even non-punitive efforts to promote better compliance. In addition, our own government – especially during the eight years of the George W. Bush administration – proved reluctant to use the safeguard tools that had been negotiated during the accession process.

Rapid industrialization and export growth in China far outpaced the development of regulatory institutions, laws, and enforcement capacity. Workers' rights, environmental protections, and consumer safety did not naturally and automatically improve as foreign investment and exports grew. WTO rules were ineffectual at addressing any of these problems.

In addition, other developing countries striving to protect workers' rights and improve living standards have lost market share and investment to China. The Chinese government's currency manipulation has continued unabated, and the U.S. government has failed to use international trade tools effectively to counter this intervention. Finally, China's workers continue to see their most fundamental rights routinely violated, worker insecurity and unrest has mushroomed, and the Chinese government continues to crack down on all forms of dissent.

And China’s entry into the WTO severely undermined the ability of the U.S. government to achieve certain reforms in the rules of that institution – especially with respect to transparency and workers’ rights. The Chinese government remains implacably opposed to allowing the WTO to discuss, explore, or address the impact of trade liberalization on workers’ rights, and has bolstered opposition of other countries to even the most modest of proposals (i.e. for joint ILO-WTO cooperation or policy coherence).

Trade Impact

Our trade deficit with China has almost tripled in nominal terms since WTO accession -- from $84 billion in 2001 to $227 billion in 2009. U.S. foreign direct investment in China has jumped, especially in manufacturing. Robert Scott of the Economic Policy Institute has estimated that the growth in the U.S. trade deficit with China since 2001 has displaced about 2.4 million American jobs (Robert Scott, “Unfair China Trade Costs Local Jobs,” Economic Policy Institute Briefing Paper #260, March 23, 2010).

Perhaps even more disturbing than the aggregate growth in the U.S. trade imbalance with China is the composition of our imports and exports. Our top fifteen exports to China (by 4-digit HTS code) include five categories of waste products (ferrous scrap, paper scrap, copper scrap, aluminum scrap, and offal); two categories of raw materials (soy and polymers), and at least three categories of parts. In contrast, all of China’s top fifteen exports to the United States are manufactured products or parts.

In 2009, we ran a trade deficit with China in advanced technology products of $73 billion – up more than sixfold from less than $12 billion in 2002. With the rest of the world, we ran a surplus in ATP of $17 billion in 2009.

This does not look like the trade profile of a wealthy industrialized nation with an emerging nation whose per capita GDP is one-sixth to one-tenth ours (depending on whether nominal or purchasing power parity is used). And it is certainly not the trade profile that the U.S. government described as the likely outcome of China’s WTO accession. But it *is* the result of concerted strategic interventions by the Chinese government over many years – and inaction by our own.

The main problem with the overly rosy predictions about China’s WTO accession is that they were virtually all based on a false premise, i.e. that two-way trade flows are mainly influenced by tariff levels and other trade barriers. In fact, the key factors influencing trade flows are related to investment, not trade barriers. WTO accession was designed to improve the security of U.S. and other multinational corporate investments in China – not to improve market access for U.S. exports.

The “debate” over granting PNTR to China was, to an important degree, phony. U.S.-based multinational companies did not spend millions of dollars lobbying for PNTR so they could sell more U.S.-made products to Chinese consumers. Their objective was to bind the Chinese government to WTO disciplines with respect to investment rules – thus making their China-based production more secure and profitable. Yet no self-respecting American company would publicly admit to Congress or the American public that it wanted to facilitate the outward shift of more American jobs and production. This would be unlikely to garner many votes in Congress.

In fact, when the *Wall Street Journal* tried to document the increased U.S. exports that would result from PNTR, it was unable to find a single American company that was planning to increase U.S. exports to China after WTO accession. Every company interviewed was instead planning on shifting production to China when and if WTO accession occurred. This story ran the day after the House of Representatives voted 237 to 197 to grant China Permanent Normal Trade Relations.

China Violates a Wide Range of WTO Commitments

China's accession to the WTO contained numerous commitments on trading rights, agriculture, import and export regulations, non-tariff barriers to trade, trade in services, subsidies, intellectual property rights, and extensive rule of law reforms. Promoters of China's accession claimed that WTO rules and enforcement procedures would have more success in opening China's market than bilateral agreements and unilateral sanctions had had for twenty years. Yet WTO membership has done little to improve China's poor record of compliance with trade rules.

While the United States has successfully challenged China at the WTO for use of illegal subsidies and other trade violations, these discrete cases are in no way a match for the breadth and scope of China's violations. WTO action is excruciatingly slow. It took the Chinese government several years just to list the subsidies provided by the government, let alone end them. This lack of transparency continues to be an enormous obstacle to promoting compliance with WTO rules and addressing the growing trade imbalances.

In two important areas – currency manipulation and workers' rights, WTO rules are unclear and there is no precedent in use, so U.S. government officials have been reluctant to apply them. Yet, we would argue, these are two of the most important sources of the growing trade imbalance and loss of American jobs.

Rising trade deficits and increasing shifts in production mean fewer jobs for American workers and downward pressure on U.S. wages. Increased capital mobility to China also increases employers' bargaining power when workers try to organize a union or win concessions at the bargaining table. U.S. labor law does little to effectively protect American workers from an employer's threats to relocate in response to a union organizing drive, and does nothing to prevent a company from moving for this reason. WTO rules actually encourage our companies to leave the U.S. in order to take advantage of workers who are unable to exercise their fundamental rights, by rewarding these companies with legal protections for their investments and guaranteed access to the U.S. market.

China's Accession Drags Developing Countries Down in a Race to the Bottom

Workers in developing countries are also caught up in the race to the bottom encouraged by WTO rules. Democratic countries in Asia that have been struggling to respect workers' rights have lost significant market share and investment dollars to China. The effects of China's accession are also rippling through Latin America and especially Mexico, which, under NAFTA, had come to rely on the U.S. market to consume more than 80 percent of its exports.

The long-term impact on American workers, and other workers around the world, of China's repression of workers' rights is devastating. When workers in the Dominican Republic, Thailand or Turkey try to organize for fair wages and benefits or demand effective prohibitions on child labor, they are faced with the threats of highly mobile employers and the hostility of governments strapped for investment earnings and export dollars.

The Importance of Economic Leverage

Despite the claims of PNTR proponents, the Chinese government did not spend more than 13 years negotiating an agreement that gave the United States everything, yielding no concrete benefit to China. ***In fact, the United States made significant and irreversible concessions in granting PNTR, severely limiting our ability to use our own trade laws effectively and giving the Chinese government a blank check to continue its egregious violations of human and workers' rights.*** We gave up crucial economic leverage on issues of great concern to the American people, in areas where the Chinese record remains tremendously problematic.

By granting PNTR, the United States gave up:

- **Annual Review –** Prior to PNTR, Congress decided each year whether or not to renew China's trade status. After 1989, the debate was heated and vigorous, with hearings and press coverage on national security issues, human rights, religious freedom, the environment, and trade issues. While Congress never did vote to deny China annual normal trade relations, the prospect of losing NTR spurred public debate on these important issues and put pressure on the Chinese government. The Chinese government made no secret of its desire to end the annual review and the threat of losing trade privileges to the U.S. market. The business community also argued for an end to this annual scrutiny of its workers' rights and environmental practices in China.

- **Economic Leverage to Improve Workers' Rights and Human Rights** -- Since the WTO has no explicit minimum standards for compliance with internationally recognized workers' rights or human rights, the United States jeopardized its ability to bring trade action against the Chinese government for violations of these rights, no matter how severe. If, for example, the United States were to challenge the Chinese government's use of forced of child labor, or its repression of independent trade unions, the U.S. could face WTO-mandated sanctions.

In conclusion, while the AFL-CIO opposed China's accession to the WTO, and was clearly justified in doing so, it is important now to look forward and not back. We call on our government to reassess our trade, diplomatic, and security relationship with China, and to take concrete and timely action to put that relationship on a more balanced footing.

This is one of our most important – and valued – relationships, as well as one of our most problematic. While we gave up valuable economic tools in granting PNTR to China a decade ago, we should commit to using WTO mechanisms more effectively – and to exploring the use of Section 301 to address chronic problems with respect to currency manipulation and violations of workers' rights. Millions of American jobs – and the survival of thousands of American businesses -- are at stake.