New York Times (January 13, 2017)

Trump's Pick on Trade Could Put China in a Difficult Spot

By KEITH BRADSHER

A container port in Qingdao, China, in December. China consistently sells $4 worth of goods to the United States for each $1 of imports.

SHANGHAI — As a top trade official, he limited the Japanese cars and steel coming into the United States. He halted talks with China on a deal that would encourage investment between the two countries. And he tried to give American exporters an edge with special tax breaks.

When it comes to problems troubling working-class Americans and manufacturers, Robert Lighthizer, President-elect Donald J. Trump's nominee for trade representative, has historically blamed the United States' trading partners, advocating aggressive retaliation for what he regards as widespread abuses of free-trade rules.

It is a philosophy that he developed in the 1980s as a deputy United States trade representative and fine-tuned in the decades-long career that followed as the main trade lawyer for the American steel industry. Now he appears ready to train that focus sharply on China.

"It seems clear that the U.S. manufacturing crisis is related to our trade with China," Mr. Lighthizer said in testimony to a congressional commission in 2010.

Over the years, Mr. Lighthizer has consistently taken the position that foreign countries are subsidizing their exporters while quietly but systematically blocking imports to protect jobs in their own countries. His answer is to pursue a long list of trade measures limiting America's imports — even if those actions may be barely permissible, if at all, under World Trade Organization rules.

"To attack a problem as large as our trade deficit with China, U.S. officials must be prepared, at a minimum, to consider very aggressive positions at the W.T.O.," he said.

The choice of Mr. Lighthizer — and the trade tensions it underscores — leaves China in a difficult spot. He is part of a group of Trump trade appointees with close links to exactly the kinds of metal-bashing old-economy industries in which China faces the greatest overcapacity, and the toughest choices about how to close factories and lay off workers. Restrictions on exports to the United States will make those choices even harder for China.

Wilbur Ross, the billionaire investor who is Mr. Trump's choice to become commerce secretary, made large chunks of his fortune in steel and auto parts, two huge industries that in China are ramping up exports. Peter Navarro, the head of the new White House office overseeing trade and industrial policy, is a vociferous critic of globalization who has contended that American purchases of imported goods at Walmart are helping China pay for nuclear-tipped missiles aimed at the United States.

The timing is bad for China.

The Chinese economy is slowing despite vast amounts of fiscal and monetary stimulus. Big manufacturers in most industries are struggling with overcapacity, pushing them to sell goods overseas at cut-rate, even money-losing prices, just to cover their operating costs. Mr. Lighthizer has argued for years that the United States should keep out goods made with government subsidies or sold below the full cost of making them.

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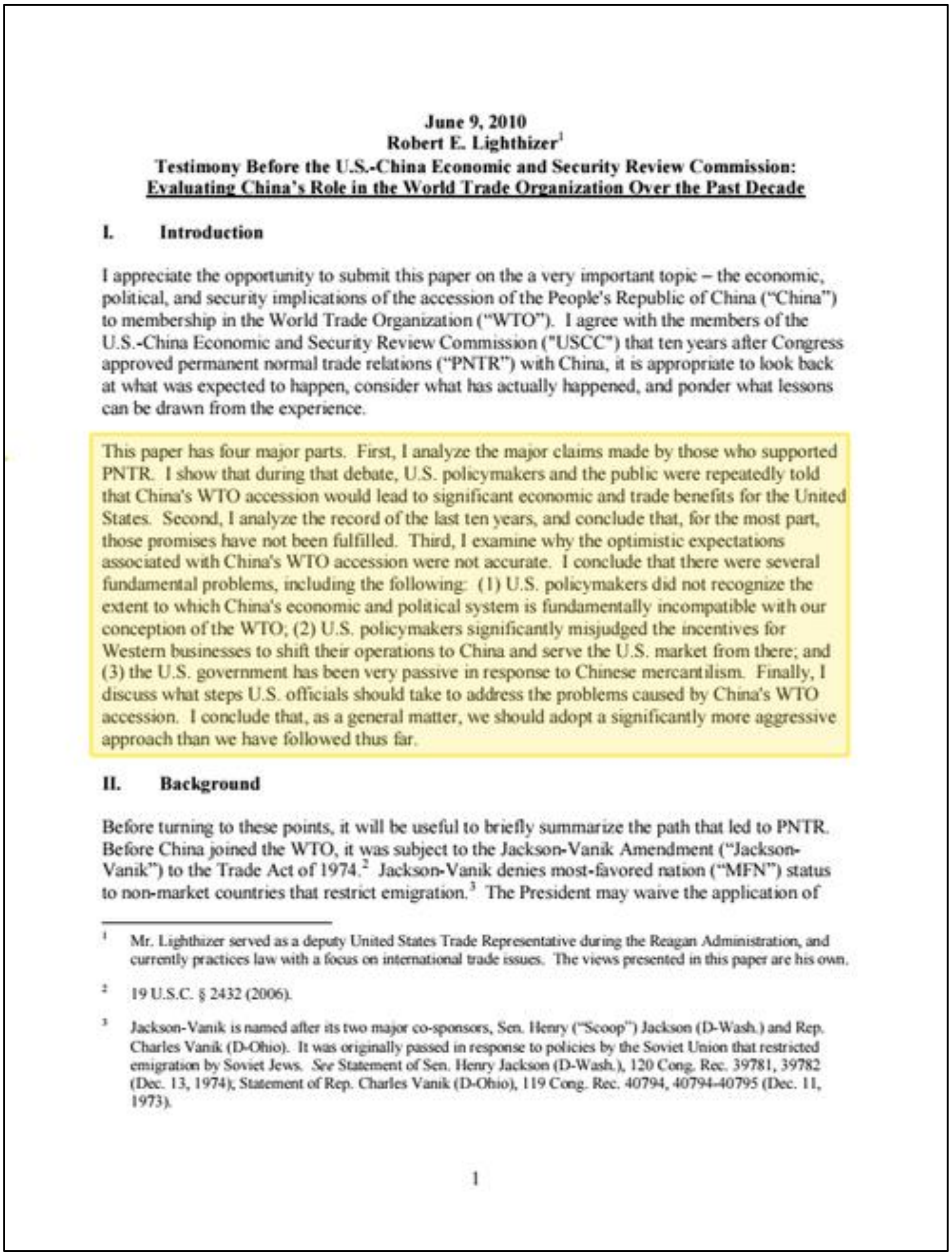
What Trump's Nominee for Trade Representative Has Said About China and the W.T.O.

We annotated testimony that Robert Lighthizer gave to Congress in 2010 about China, the W.T.O. and trade with the United States.



June 9, 2010
Robert E. Lighthizer[1]
Testimony Before the U.S.-China Economic and Security Review Commission:
Evaluating China's Role in the World Trade Organization Over the Past Decade

I. Introduction

I appreciate the opportunity to submit this paper on the a very important topic – the economic, political, and security implications of the accession of the People's Republic of China ("China") to membership in the World Trade Organization ("WTO"). I agree with the members of the U.S.-China Economic and Security Review Commission ("USCC") that ten years after Congress approved permanent normal trade relations ("PNTR") with China, it is appropriate to look back at what was expected to happen, consider what has actually happened, and ponder what lessons can be drawn from the experience.

This paper has four major parts. First, I analyze the major claims made by those who supported PNTR. I show that during that debate, U.S. policymakers and the public were repeatedly told that China's WTO accession would lead to significant economic and trade benefits for the United States. Second, I analyze the record of the last ten years, and conclude that, for the most part, those promises have not been fulfilled. Third, I examine why the optimistic expectations associated with China's WTO accession were not accurate. I conclude that there were several fundamental problems, including the following: (1) U.S. policymakers did not recognize the extent to which China's economic and political system is fundamentally incompatible with our conception of the WTO; (2) U.S. policymakers significantly misjudged the incentives for Western businesses to shift their operations to China and serve the U.S. market from there; and (3) the U.S. government has been very passive in response to Chinese mercantilism. Finally, I discuss what steps U.S. officials should take to address the problems caused by China's WTO accession. I conclude that, as a general matter, we should adopt a significantly more aggressive approach than we have followed thus far.

II. Background

Before turning to these points, it will be useful to briefly summarize the path that led to PNTR. Before China joined the WTO, it was subject to the Jackson-Vanik Amendment ("Jackson-Vanik") to the Trade Act of 1974.[2] Jackson-Vanik denies most-favored nation ("MFN") status to non-market countries that restrict emigration.[3] The President may waive the application of

[1] Mr. Lighthizer served as a deputy United States Trade Representative during the Reagan Administration, and currently practices law with a focus on international trade issues. The views presented in this paper are his own.

[2] 19 U.S.C. § 2432 (2006).

[3] Jackson-Vanik is named after its two major co-sponsors, Sen. Henry ("Scoop") Jackson (D-Wash.) and Rep. Charles Vanik (D-Ohio). It was originally passed in response to policies by the Soviet Union that restricted emigration by Soviet Jews. *See* Statement of Sen. Henry Jackson (D-Wash.), 120 Cong. Rec. 39781, 39782 (Dec. 13, 1974); Statement of Rep. Charles Vanik (D-Ohio), 119 Cong. Rec. 40794, 40794-40795 (Dec. 11, 1973).

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"Trump naming him makes me worry the U.S. will carry out more rigid measures on trade and investment," said Wei Jianguo, a former vice minister of commerce.

Exports are important for China. It consistently sells $4 worth of goods to the United States for each $1 of imports. That mismatch has produced a bilateral trade surplus for China equal to about 3 percent of the country's entire economy, creating tens of millions of jobs.

The benefits to China from that surplus have been increasing rapidly in the past few years. Many exporters have stopped importing components and switched to increasingly capable local suppliers for everything from high-quality steel to advanced computer chips. Multinationals have moved entire supply chains to China, and transferred the technology to run them.

Many Democrats and many economists have also become increasingly disenchanted with the effect on American workers and the American economy. The Obama administration filed a long series of trade cases at the W.T.O. against China, although they involved fairly narrow policies and limited categories of goods. It has been preparing more, filing the latest trade case on Thursday over Chinese subsidies to aluminum producers.

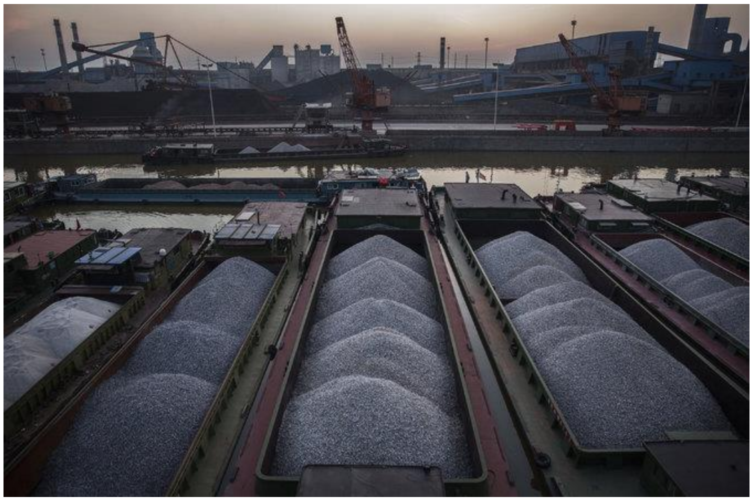
If Mr. Trump goes even further in that direction, Mr. Lighthizer will bring a long background in such actions.

When he was in the Reagan administration, Mr. Lighthizer was the deputy United States trade representative overseeing industrial policy in old-economy industries like cars and steel. Since then, Mr. Lighthizer has mainly been filing anti-subsidy and anti-dumping trade cases against imports on behalf of the American steel industry.

"He's the best negotiator I've ever worked with on policies involving trade or tax policy," said Timothy Regan, Mr. Lighthizer's chief of staff in the Reagan administration and now the senior vice president of global government affairs at Corning.

Mr. Lighthizer led successful efforts in the 1980s to force Japan to accept curbs on exports of cars and steel to the United States. Both were bold moves, particularly given that President Reagan at times espoused free trade. But when the W.T.O. was created the next decade, member nations agreed, with a few exceptions, to renounce imposing such export limits on other countries.

The auto industry could be ripe for action again. China is an enormous exporter of auto parts to the United States. Under President Obama, trade tensions over automotive trade have already risen, and the Obama administration has won two W.T.O. cases. The cases forced China to abandon certain anti-dumping and anti-subsidy taxes on American autos and to dismantle a few, fairly narrow subsidies.



Barges in China with ore to be used in the manufacturing of steel. Robert Lighthizer, the Trump administration's choice for trade representative, had a decades-long career as the main trade lawyer for the American steel industry.

"He was squarely in the trade talks with Japan," said He Weiwen, a former commerce ministry official who is now a senior fellow at the Center for China and Globalization, an influential Beijing research group, "so maybe Donald Trump wants him to do something similar on China."

The intersection of tax and trade is a specialty of Mr. Lighthizer, who was an architect of a Reagan administration initiative to cut corporate taxes for exporters. He was previously chief of staff at the Senate Finance Committee, overseeing tax policy.

In the Reagan administration, he pushed the limits of what is permissible under international trade rules. His plan allowed many American exporters to reduce their taxes by setting up overseas companies to manage their foreign sales. But the W.T.O. eventually torpedoed the effort after a challenge by the European Union in the late 1990s.

Republicans now appear to be taking a similar — albeit more ambitious — tack. They are exploring how to raise corporate taxes for importers and use the extra revenue to reduce taxes for all other companies.

China, as the biggest exporter to the United States, would face a major blow. But it would also affect American retailers, electronics companies and other multinationals that depend on supplies from anywhere overseas.

A big obstacle for Republicans is whether the W.T.O. would declare such a tax to be a trade barrier. China and Europe effectively penalize imports by imposing a type of national sales tax, an approach the W.T.O. has approved. It is a steep 17 percent in China.

But House Republicans, leery of imposing any new national taxes, want to change existing corporate tax laws instead. W.T.O. rules discourage, although they do not necessarily prohibit, modifying corporate taxes in ways that penalize imports.

The W.T.O. review process, though, is lengthy. So Mr. Lighthizer and Congress could well go ahead with the tax plan, lightening the tax burden for American manufacturers as well as inflicting plenty of damage on China and the global supply chain.

And the W.T.O.'s response — if it found the plan invalid — would not have much heft. Mostly, the global trade group could authorize Beijing to impose trade restrictions on the United States' much smaller exports to China.

That prospect does not scare Mr. Lighthizer very much, as he made clear in his 2010 testimony.

"W.T.O. commitments are not religious obligations," Mr. Lighthizer said, and violations "are not subject to coercion by some W.T.O. police force."