



# Trade Delivers

Office of the United States Trade Representative  
Real Results – March 2008

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## WTO Case Challenging China's Treatment of U.S. Financial Information Service Suppliers

### What are financial information services?

- Banks, investment firms, insurance companies and other businesses dealing with financial markets need to keep constantly abreast of national and global developments affecting those markets. Suppliers of financial information services provide specialized services incorporating news, data, analysis, and commentary that these customers require in order to make fast and effective business and investment decisions.

### What WTO commitments did China make regarding financial information services?

- In December 2001, as part of its WTO accession, China committed to provide market access for foreign financial information service providers and also to treat those providers no less favorably than it treats Chinese providers of financial information services.
- China also agreed as part of its WTO accession commitments to ensure that its government regulators in service sectors covered by its WTO commitments, including financial information services, would be independent from service suppliers in the sectors they were regulating. Avoiding conflicts of interest within a regulatory body is an important principle in ensuring fair competition.
- China made an additional general commitment that it would not cut back on the scope of activities that foreign service suppliers had been permitted to conduct in China as of the time China acceded to the WTO. In other words, these activities were "grandfathered," ensuring that foreign companies already operating in China could continue their operations after China's WTO accession.
- Because of events that pre-dated China's WTO accession, all of these commitments were important elements of China's accession to the WTO. In 1996, China had issued regulations that attempted to place severe restrictions on the operations of foreign suppliers of financial information services in China, and high-level engagement by the United States and other countries led to a resolution in which China abandoned those restrictions. WTO Members accordingly worked to obtain commitments from China as part of its subsequent WTO accession to ensure there was no repeat of those events.



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## **What Chinese policies are at issue**

- In September 2006, Xinhua issued new regulations requiring foreign financial information providers to use a single, Xinhua-designated agent, both to solicit contracts with, and to provide financial information to, their domestic and foreign clients in China.
- Xinhua policies also require foreign financial information suppliers to provide sensitive commercial information concerning their customers and services to Xinhua, and China's rules prohibit foreign financial service providers from establishing local operations to provide their services.
- As a result, China appears to be restricting foreign information service suppliers' operations in a manner that is inconsistent with its WTO commitments, and that constrains their activities beyond the conditions that prevailed at the time China joined the WTO.
- Furthermore, it does not appear that China has created an independent regulator for the financial information services sector. Instead, it appears that Xinhua News Agency and its affiliates act as both the regulator of foreign service suppliers and their competitor in this sector. In fact, Xinhua not only has exclusive power to issue regulations governing foreign financial information companies, but also has recently launched a directly competitive financial information service. This kind of situation creates an untenable conflict of interest, and it leads to the kind of inappropriate policies reflected in Xinhua's September 2006 regulations.

## **How do China's regulations harm U.S. financial information service providers?**

- China's regulations have placed foreign financial information suppliers in an untenable position: they have to conduct their operations through an agent designated by, and affiliated with, Xinhua, their regulator and one of their competitors.
- This regime has both hampered the foreign companies' ability to do business and created a great deal of market uncertainty for them going forward in China.

## **Why pursue WTO dispute settlement?**

- The United States is committed to fairness in the international trading system. This includes ensuring that China follows the same rules that are applicable to other WTO members.
- The United States has raised its concerns with China on numerous occasions in an attempt to arrive at a resolution. Unfortunately, those discussions have failed to resolve our concerns. As a result, the United States today took the first step in the WTO dispute settlement process by requesting formal consultations with China on this matter.
- Under WTO dispute settlement procedures, the United States and China would normally consult within 30 days. The United States hopes that these consultations will produce a satisfactory result. If they do not, then any time after 60 days from the request for consultations, the United



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- States will have the right to request that the WTO establish a dispute settlement panel to examine the matter.
- WTO dispute settlement procedures have facilitated the resolution of other trade disputes with China:
    - July 2004 – Four months after the United States filed a WTO dispute against China challenging value-added tax rebates that discriminated against imported semiconductors, the United States and China resolved the matter during the consultation phase, ensuring fair access to a market worth over \$2 billion to U.S. manufacturers and workers in the semiconductor industry.
    - January 2006 – The United States and China resolved a dispute involving China's imposition of antidumping duties on kraft linerboard shortly after the United States informed China that it would soon be filing a request for WTO consultations. China eliminated the antidumping order on kraft linerboard, terminating the unfair barrier to U.S. paper products and benefiting U.S. kraft linerboard mills in 14 states.
    - November 2007 – In March and June 2007, the United States and Mexico held joint WTO dispute settlement consultations with China regarding several export subsidy and import substitution subsidy programs, which are prohibited under WTO rules. These subsidies offered significant benefits across a wide range of manufacturing sectors in China. In November 2007, China signed Memoranda of Understanding with the United States and Mexico in which China agreed to end all the prohibited subsidies at issue by January 1, 2008.
  - Where WTO consultations have not led to a resolution, the United States has requested that a WTO dispute settlement panel be appointed to resolve the dispute:
    - In March 2006, the United States, the European Communities and Canada began panel proceedings challenging Chinese regulations that impose local content requirements in the auto sector through discriminatory charges on imported auto parts. An interim WTO panel decision was issued in February 2008, and a final panel decision is expected this spring or early summer. The United States has confirmed press reports explaining that the interim panel decision in all major respects agreed with the United States that China had acted inconsistently with its WTO commitments.
    - In April 2007, the United States launched a WTO dispute challenging deficiencies in China's legal regime for protecting and enforcing copyrights and trademarks on a wide range of products. At the United States' request, the WTO established a panel in September 2007, and panel proceedings are in progress.
    - In April 2007, the United States also launched a WTO dispute challenging China's restrictions on the importation and distribution of products of copyright-intensive industries such as theatrical films, DVDs, music, books and journals. A panel was established in this dispute in November 2007, and the panel process is underway.