

Impact of Chinese Characteristics on the World Trade Organization: Challenges and Strategies

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Abstract

Following China's accession to the World Trade Organization (WTO), it has been impossible to overlook the influence of its economy on the multilateral trading system. Many published studies have examined why China joined the WTO and the comprehensive impacts of WTO membership on China, but few studies have focused on China's impact on the WTO. This article attempts to fill this gap by examining China's changing role in the multilateral trading system from political and legal perspectives, seeking to shed light on how Chinese characteristics have reshaped the power structure and rule-based system of the WTO. While its accession has made the WTO more relevant in regards to global trade governance, China has been accused of upsetting the WTO's rules-based system because of its unique political and economic regime. The WTO and its members should take the Chinese characteristics into consideration and regulate China's practices through using the dispute settlement mechanism, promoting China's accession to plurilateral agreements and adopting a "soft law" approach.

Key words: China, global trade governance, World Trade Organization

JEL codes: F13, K33, P20

I. Introduction

Following 15 years of tough negotiations, China became a member of the World Trade Organization (WTO) in 2001, which was a landmark event for the multilateral trading system and for China itself. The WTO accession marked a milestone of China's remarkable success in the integration to the multilateral trading system. Notwithstanding, China had to accept numerous WTO-plus commitments which exceeded those of most other developing countries.

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China is the biggest winner from this strategic decision to enter the WTO. Through entering the WTO to open up its domestic market and implement trade liberalization, China has achieved remarkable economic and trade growth. With tremendous progress in economic performance and policy reform, China has been gradually integrated into the multilateral trading system and has become an important player in the agenda-setting and decision-making of the WTO.

China's WTO accession has opened an enormous market, benefiting all WTO members. Since China joined the WTO, global trade has experienced a significant boost, with trade increasing in particular between developing countries. More importantly, China's WTO membership has provided trading partners with the assurance that China will comply with international rules and regulations.

However, China's WTO accession also brought some new challenges. The fundamental challenge is integrating such a transitional economy that bears both market economy and non-market economy (NME) characteristics into the WTO. Wu (2016) argues that the WTO rules are not fully equipped to handle the range of economic problems associated with China's rise. Because the WTO was not designed to regulate trade practices of NMEs, it faces systemic challenges in dealing with the China's political and economic regime. Given China's large economic scale and, therefore, its capacity to have a greater impact on other WTO member economies, the accommodation of China in the WTO is necessarily more complex than for other NMEs, such as Vietnam, and how the WTO addresses the China-specific challenges will shape its future relevance for global trade governance.

Although many published studies have examined the reasons why China joined the WTO and the political, economic and social impacts of WTO membership on China (e.g. Fewsmith, 2001; Liang, 2002; Agarwal and Wu, 2004; Blanchard, 2013a,b; Liao and Yu, 2015), few studies have focused on China's impact on the multilateral trading system centered on the WTO (Blustein, 2011; Mattoo and Subramanian, 2011; Sun, 2011; Blanchard, 2013a).¹ This article attempts to enrich the current literature by examining China's changing role in the multilateral trading system, as well as how "Chinese characteristics" have reshaped the power structure and rule-based system of the WTO. More importantly, how the WTO should respond to the shifting landscape of global trade governance, particularly in the context of a modern rising China, will be discussed.

The present paper is organized as follows. Section II provides an overview of China's performance in the global economy and trade. Section III describes China's role in the power structure of the WTO, shedding light on the challenges brought by China's

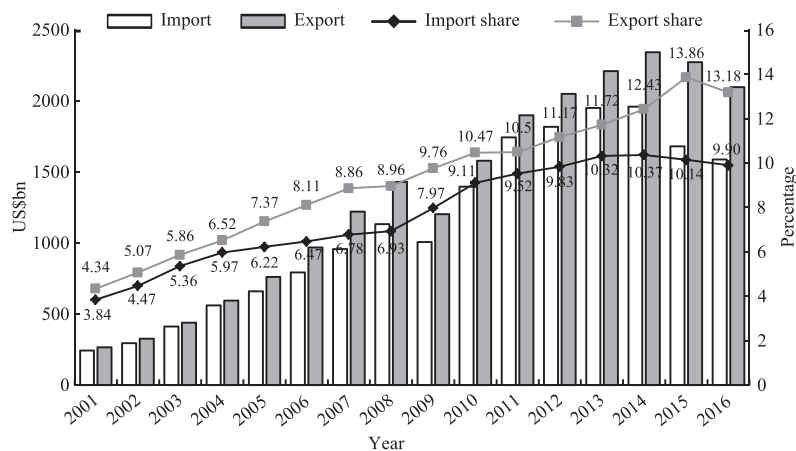
¹Blanchard (2013a) mentions this issue but does not provide a detailed analysis.

accession for the previous developed country-focused system. Section IV analyzes how China has influenced the rule-based system of the WTO, emphasizing China's special status in the WTO and then examining China's performance in implementing WTO obligations. Section V discusses how the WTO should accommodate a rising China. Section VI concludes.

II. China's Emerging Role in the Global Economy and Trade

China's open policy for over the past three decades, particularly since its accession to the WTO, has contributed to its rapid economic growth and trade expansion (Figure 1). From 2001 to 2016, China's exports rose from US\$266.1bn to US\$2097.64bn, while imports climbed from US\$243.55bn to US\$1587.92bn. In 2016, China's share in world exports hit 13.18 percent, up from 4.34 percent in 2001, and China's share in world imports hit 9.9 percent, up from 3.84 percent in 2001. During the same period, China's GDP grew dramatically, from US\$1.339tn to 11.199tn.² This led to the opening of the world's second largest economy's tremendous market to the world.

Figure 1. China's Annual Foreign Trade, 2001–2016

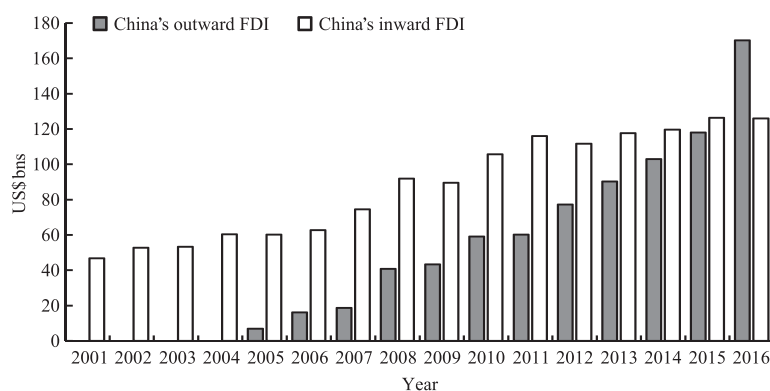


Source: International Trade Center (2017), available from: <http://www.intracen.org/itc/market-info-tools/trade-statistics/>.

²The data on China's annual foreign trade comes from the International Trade Center, available from: <http://www.intracen.org/itc/market-info-tools/trade-statistics/>. The data on China's GDP comes from the World Bank, available from: <https://data.worldbank.org/country/china?view=chart>.

Meanwhile, China has become one of the most attractive destinations for foreign direct investment (FDI). The inflows of FDI to China totaled US\$126bn in 2016, representing an annual increase of 6.83 percent since 2001. Increasing numbers of foreign enterprises have established factories and branches in China, stimulating China's trade with foreign-owned subsidiaries as well. Following the surge of inflows of FDI, China's outward FDI has increased rapidly. In 2016, China's outward FDI reached a peak of US\$170.11bn, with a dramatic annual increase of 33.82 percent since 2005 (Figure 2).³ This makes China an important net capital exporter in the world.

Figure 2. China's Inward and Outward Foreign Direct Investment (FDI), 2001–2016



Source: NBS (2001–2016).

Notes: China's outward FDI data can be traced back to 2005. The data here does not include the FDI of the financial sector.

In return, China's dramatic growth has been a critical driving force for the world economy. Despite the weakened global economy following the 2008 financial crisis and China's ongoing economic transition, the Chinese economy remains the single largest driver of world economic growth, contributing 33.2 percent to the world GDP growth in 2016 (Xinhua, 2017). China's significant rise has changed other countries' perceptions of what is at stake in the global trading system. As China rises as a global power, it is naturally expected that China should play a larger role in global institutions. The past more than 15 years has witnessed China gradually translate its trade ascendancy into significant influences in the WTO (Wolfe, 2015).

³The data on China's inward FDI here represents the actual use of foreign capital.

III. China's Impact on the World Trade Organization Power Structure

1. China's Accession Makes the World Trade Organization a More Universal Organization

China's WTO membership has contributed to making the WTO a relevant international organization. Without China, with its 1.3 billion people and enormous market as a major trading nation, the WTO would be incomplete (Sun, 2011). On the one hand, China's WTO accession set an important precedent for the WTO to include developing countries, especially other transitional economies. Following China's accession, Vietnam and Russia became WTO members in 2007 and 2012, respectively. On the other hand, China's active participation in WTO negotiations and its strong support for the legitimate positions of the least developed countries, African, Caribbean and Pacific Group of States, the African Group and other groupings of developing countries make the WTO more inclusive, representative and legitimate. Since China's accession, the WTO membership has expanded from 143 to 164 members,⁴ with most of the "recently acceded members" being developing countries. The participation of developing countries has led to the WTO leadership being shared more broadly among developed and developing members.

2. China's Accession Has Reshaped the Power Structure of the World Trade Organization

China's rise in the power structure of the WTO is closely tied to its growing economic might in the world economy. Its accession has accelerated the readjustment in power relations between developed and developing members of the WTO. For more than five decades, the WTO and its predecessor, the General Agreement on Tariffs and Trade (GATT), operated as a "developed countries' club," dominated by the USA and other major developed members, while developing members were marginalized and their interests largely ignored. However, with the rise of China and other large emerging economies, a significant transformation has taken place in the WTO since the Doha Round. The quadrilateral (USA, EU, Canada and Japan) (QUAD) countries, which previously played central roles, have gradually declined in their influence and there has been a fundamental power shift towards China and other developing economies. After 2003, the QUAD countries were replaced by a series of core negotiating groups centered on the USA, the EU, Brazil and India. Then at the "mini-ministerial" conference held on 29 July 2008, China was included in the seven-member group (G7) of central players

⁴The WTO had 164 members as of 29 July 2016.

in the WTO.⁵ China's involvement has greatly altered the power balance between developed and developing members in the core decision-making circle, challenging the traditional dominance of the USA and other major developed economies. This transformation of the power structure impelled the originally dominant players, such as the USA and the EU, to shift their attention to regional and bilateral negotiations outside the WTO to realize their interests, because the new landscape of power featuring China and more developing members has weakened their authority and made it harder to conclude the Doha Round. At the same time, China's rising influence has raised the question for the WTO of how to best handle the transition of power, as it is historically unprecedented for a developing country like China to become a significant player in the multilateral trading system. This has generated considerable debate over whether China could substitute the USA to play a leadership role in the WTO to push multilateralism forward. However, it is argued that although a shift in the balance of power toward China has been reflected in structural changes in the WTO, China is not yet exercising the same level of power as the USA did. The power structure that has emerged now in the WTO is multipolar: centered on the USA and China. These two important powers need to cooperate and agree for key issues in the Doha Round. However, the two sides have substantial differences in their political regimes and economic needs, and, thus, have disagreements about the pace and breadth of trade liberalization. Unless the USA and China develop a trans-Pacific relationship comparable to the one established across the Atlantic, namely between the USA and the EU, it will not be possible to conclude the Doha Round (Wolfe, 2015). The role of the USA as the leading sponsor of multilateralism is now in doubt. In the face of such challenges, China is expected to assume a constructive role in the WTO, while steps are also needed to ensure that the USA and other major developed members do not disengage with the multilateral system.

IV. China's Impact on the World Trade Organization Rule-based System

1. China's Special Status in the World Trade Organization

China lacks a clear definition of its international role because of its identity dilemma. First, it is regarded as having both market and non-market economy features, in contrast to many transition economies that carried out large-scale privatization in the early stages of their reforms. The Chinese Government remains committed to the idea of "a socialist market economy," characterized by a market-based pricing system and a mixed

⁵The G7 includes Australia, Brazil, China, the EU, India, Japan and the USA.

ownership structure with a large state-owned sector maintaining a dominant position (He and Sappideen, 2009). Second, it is regarded as having characteristics of both developed and developing countries. Despite growing recognition of its economic clout as the world's largest exporter and second-largest economy, China's average income is still far below that of advanced economies. It is a country with both world-class cities comparable to those in developed countries and rural areas facing similar poverty issues as those in developing countries. Because of this complexity, expectations of what role China should play in the WTO are diverging. Will China act as an ally of developing countries, or will it regard its long-term interests as lying more with developed countries (Gu and Humphrey, 2008)? All these concerns require an examination of the uniqueness of the Chinese economic regime and its special status in the WTO, to better understand China's stance and performance in the WTO's rule-based system.

(1) China-specific Treatment upon Its World Trade Organization Accession

Because the WTO was created with market economy principles, it was not adequately prepared to deal with China and its unique transition towards a “socialist market economy.” To address specifics of the Chinese political and economic regime, there were some tailor-made provisions incorporated into China's WTO accession agreement. Specifically, these provisions included the WTO-plus obligations and the WTO-minus rights (Qin, 2010). In addition, China's accession protocol prevents it from seeking special and different (S&D) treatment as do other developing members when joining the WTO.

The WTO-plus obligations for China include: (i) the obligation to translate all foreign trade laws into one of the WTO official languages, while the general transparency obligation in the WTO agreements only requires members to publish trade laws and regulations in their own national languages; (ii) a special transitional review mechanism operated annually since China's WTO accession, with the final review taking place in 2011 to examine the first 10 years of China's WTO membership; and (iii) the obligation to provide national treatment to both foreign products and persons, while the normal WTO national treatment clauses only cover measures applicable to products.

The WTO-minus rights for China include: (i) a special textile safeguard mechanism (which expired on 11 December 2008) and a transitional product-specific safeguard mechanism (which expired on 11 December 2013); (ii) WTO members are authorized to apply the NME methodology, namely the “surrogate country” calculation⁶ in

⁶By applying the “surrogate country” calculation, WTO members could use prices in a surrogate, third-country market to determine the value of anti-dumping tariffs to apply to Chinese goods.

anti-dumping cases against China for a period of 15 years following China's WTO accession; and (iii) WTO members are authorized to apply the "alternative benchmark" methodology in countervailing duty cases against China.

Because of substantial accession commitments, China has been arguing that it, along with other recently acceded members, should not be required to make the same level of concessions as the WTO founding members and should be granted S&D treatment in the Doha Round. Indeed, had the Doha Development Agenda been concluded according to the original schedule, it is possible that China could have avoided making substantial concessions by being identified as a recently acceded member (Gao, 2011). However, because the Doha Round stalled, fewer members are willing to grant S&D treatment to members such as China that acceded more than 15 years ago. In addition, given its incredible economic growth, China is now regarded as a mature participant in and a major beneficiary of the WTO's multilateral trading system, and is expected to take on commitments that are consistent with its growing economic strength and dynamism.

(2) China's Disputable Non-market Economy Status

So far, several of the China-specific provisions negotiated in the accession protocol have expired, but the NME issue remains disputable even after the expected deadline of 11 December 2016. Although most WTO members have already acknowledged China's market economy status (MES) in their bilateral relations, major WTO members, such as the USA, the EU and Japan, refused to grant China MES and have continued to use the "surrogate country" methodology in anti-dumping cases against China. Such NME designation has made it relatively easier for these WTO members to impose higher anti-dumping duties against Chinese goods, affecting billions of dollars in Chinese trade. Unsurprisingly, China challenged the NME designation by filing two complaints against the USA and the EU for their use of "surrogate country" methodology in anti-dumping cases against Chinese products before the WTO dispute settlement body (DSB).⁷ It remains to be seen how the WTO DSB will re-examine China's accession protocol and the anti-dumping agreement, as well as other members' final decisions on China's MES. However, even if the WTO and other members treat China as a market economy, debate over the uniqueness of the Chinese economy may still feature prominently in WTO disputes and be a source of tension in bilateral trade between China and other economies (Wu, 2016).

More importantly, the tension relating to China's NME status goes well beyond the anti-dumping rules. The USA has granted Russia, Poland and other Eastern European

⁷China filed these two disputes on 12 December 2016. The dispute numbers are DS515 and DS516.

countries MES while refusing to acknowledge China as a market economy. The fundamental reasons lie in China's huge trade surplus with the USA and the accusation that China has not transformed to a complete market economy. Along with the USA, the EU also expresses concerns regarding competition from Chinese exports and seeks to find a solution to balance various interests of members in a way that complies with WTO rules. The interaction between international trade and domestic politics makes the issue of whether China should be granted MES highly sensitive for the USA and the EU. In this regard, China argues that the expiration of Article 15(a)(ii) in its accession protocol should be solely limited to removing the "surrogate country" methodology in anti-dumping investigations against Chinese exports, but not expanded to a broader discussion of China's economic and political regime. Undoubtedly, the failure to negotiate a solution on the NME issue with China is likely to trigger trade and political tensions between China and its trading partners, bringing about more uncertainty for the multilateral trading system.

2. China's Mixed Role in the World Trade Organization Rule-based System

With its special status, China has a mixed role in the WTO, which is very different from most other developing countries (Lim and Wang, 2010) as well as developed countries. Being stuck in the middle of developed and developing members, China's record of implementing its substantial WTO commitments is mixed. China has been accused of upsetting the WTO's rule-based system with its domestic practices relating to, for instance, state-owned enterprises (SOEs), agricultural subsidies and government procurement.

(1) State-owned Enterprises

China's WTO accession protocol relates in large part directly or indirectly to the country's dominant state sector. Several provisions are incorporated into China's WTO protocol, aiming to rule out trade distorting effects of the Chinese state sector. The provisions refer to market access commitments and obligations relating to the liberalization of trading rights and transparency requirements such as the subsidy notification to the WTO (Qin, 2004).

Despite the relatively strong provisions in China's WTO protocol and all the improvements made by the Chinese Government, China is still blamed for its insufficient SOE reform. The USTR (2018) addressed the concern about whether China's strong WTO commitments have sufficiently impeded the trade-distorting policies that advantage Chinese SOEs. Indeed, China's SOE reform is a tremendous challenge, given the paramount importance of SOEs in the Chinese economy. Compared

with other countries, the SOEs have a dominant role in the Chinese economy. According to Kowalski et al. (2013), China has the highest SOE share among its top 10 companies.”⁸ In addition, not only are SOEs dominant in China’s economy, many are becoming quite large in terms of global standards. The Chinese Government has effectively restricted entry and competition from non-state firms in a wide range of services and other industries that it regards as strategically important (World Bank and Development Research Center of the State Council of China, 2012). Chinese SOEs receive explicit and implicit subsidies from the government. Compared to non-state firms, Chinese SOEs are in a better position to benefit from underpricing for some key inputs, such as energy, water, land and capital derived from China’s distorted factor markets (Huang and Wang, 2010). SOEs have greater access to credit from banks due to the implicit backing they have from the government (Zhang and Freestone, 2013). These protections, subsidies and preferential treatments for Chinese SOEs are often regarded as distortionary in China’s domestic and international markets.

In this regard, it is not surprising that several SOE-related disputes have arisen against China. Two critical issues relating to Chinese SOEs in the WTO are worth mentioning. The first issue concerns WTO subsidy disciplines when Chinese SOEs are subsidy recipients. In WTO dispute case DS363, the USA asserted that the granting of trading or distribution rights for a variety of publications and audiovisual entertainment products mainly or exclusively to Chinese SOEs violated a number of WTO provisions.⁹ The WTO upheld the majority of US claims and China confirmed its intention to implement the DSB recommendations and rulings.¹⁰

The second issue is the application of subsidy disciplines to Chinese SOEs as grantors of subsidies, raising questions about whether Chinese SOEs should be treated as public bodies, and whether inputs or other benefits that do not take the general form of financial contributions provided by SOEs can be regarded as subsidies (Kowalski et al., 2013). In WTO dispute case DS379, a key issue was whether certain Chinese state-owned commercial banks and SOEs are “public bodies.” The WTO

⁸Country SOE shares are computed as equally weighted averages of SOE shares of sales assets and market values among each country’s top 10 companies. The 10 countries with the highest country SOE shares are China (95.9), the United Arab Emirates (88.4), Russia (81.1), Indonesia (69.2), Malaysia (68), Saudi Arabia (66.8), India (58.9), Brazil (49.9), Norway (47.7) and Thailand (37.3). The data comes from Kowalski et al. (2013).

⁹WTO: One-page Summary of Key Findings of the Dispute DS363, available from: https://www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds363sum_e.pdf.

¹⁰WTO: Dispute DS363. “China—Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products,” available from: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds363_e.htm.

Panel and subsequent appellate body supported the USA in considering Chinese state-owned commercial banks as “public bodies,” while the Appellate Body reversed the Panel finding that certain Chinese SOEs constitute “public bodies.”¹¹ The final rulings suggested that SOEs cannot be automatically categorized as “public bodies” based on state ownership and need to be analyzed on a case-by-case basis. In addition, there is a question of whether the provision of inputs or other advantages by a “public body” constitutes a financial contribution. Establishing a relevant market-based commercial benchmark for an input provided by an SOE can be more challenging in cases where the boundaries between commercial and public activities of SOEs are blurred (Kowalski et al., 2013), especially under China’s special economic circumstances. Therefore, the China-specific case might confer additional challenges for the rulings of the WTO DSB, raising important issues for the WTO regarding the impact of the state sector on trade flows and the ability of existing rules to cope with challenges posed by large transitional economics such as China (Zeng, 2013).

However, it is less likely for China to adopt a “shock therapy” approach to SOEs. Given the economic significance of SOEs and the intrinsic links among the government, SOEs and the means by which public policies are implemented in China (Thorstensen et al., 2013), a more incremental and cautious approach in reforming measures is required to preserve economic, political and social stability in China.

(2) Domestic Agricultural Subsidies

Since its WTO accession, China has already made huge concessions on agriculture (Ke, 2001). With regard to market access, China agreed to substantially cut the average tariff rate of all agricultural commodities, from 21 to 15.2 percent by 2004, which was even lower than the average of the EU, Canada, Japan and other developed countries at that time. For major agricultural products, including meat, fruit and wine, the cut was even greater: from 30–65 percent to 10–20 percent. China also made changes to its tariff rate quota system, including establishing detailed rules relating to its administration and allocating a share of import quotas to non-state traders. China agreed to eliminate export subsidies upon its WTO accession and, unlike other members, did not make any exceptions. With regard to domestic support, China is permitted to implement the Amber Box measures not beyond a *de minimis* level of 8.5 percent of the farm output value. Moreover, China has given up the right to invoke Article 6.2 of the Agreement on Agriculture to forgo certain domestic support reduction commitments that is offered

¹¹WTO: One-page Summary of Key Findings of the Dispute DS379, available from: https://www.wto.org/english/tratop_e/dispu_e/cases_e/1pagesum_e/ds379sum_e.pdf.

to developing members,¹² and promised to restrict its use of sanitary and phytosanitary measures, special safeguards and other trade distortion measures. China has undertaken extensive commitments that are beyond those of developing members.

However, China has been accused by the USA of significantly increasing domestic subsidies and other support measures for its agricultural sector. The USA remained concerned that the methodology used by China to calculate its domestic support underestimated the true level of support from the Chinese Government. In addition, the USA was dissatisfied with the level of transparency of China's domestic support system when China submitted its notification concerning domestic support measures to the WTO in May 2015, only providing information up to 2010 (USTR, 2017).

The abovementioned dissatisfaction by the USA resulted in two new WTO disputes against China. In WTO dispute case DS511, filed on 13 September 2016, the USA complained about China's excessive government support for the local production of wheat, rice and corn, claiming that China violated Articles 3.2, 6.3 and 7.2(b) of the Agreement on Agriculture.¹³ The USA alleged that between 2012 and 2015 China supported farmers at levels that were "substantially" above its WTO commitment to cap such subsidies at 8.5 percent of the value of production. The subsidies were conducted under China's "market price support" programs that annually set the minimum prices at which the government would purchase Indica rice, Japonica rice, wheat and corn during the harvest season (Baschuk, 2016).¹⁴ Subsequently, the USA launched another WTO dispute case, challenging China's administration of tariff rate quotas for wheat, short-and medium-grain rice, long grain rice and corn. In case DS517, filed on 15 December 2016, the USA claimed that China violated accession protocol and GATT 1994.¹⁵

If China and the USA cannot solve these disputes, the WTO's effort to advance a package of trade deals will be jeopardized. The agricultural subsidies remain a core issue. However, expectations for China to make further concessions should be consistent with its domestic agricultural development and limited policy space. The scope and depth of

¹²Article 6.2 of the Agreement on Agriculture states that developing countries may forgo reduction commitments for domestic support for three special purposes: investment subsidy, input subsidy and diversification away from illicit narcotic crops.

¹³WTO dispute case DS511. China-Domestic Support for Agricultural Producers, available from: https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds511_e.htm.

¹⁴At its meeting on 25 January 2017, the WTO DSB established a panel. Australia, Brazil, Canada, Chinese Taiwan, Colombia, Ecuador, Egypt, El Salvador, the EU, Guatemala, India, Indonesia, Israel, Japan, Kazakhstan, Korea, Norway, Pakistan, Paraguay, the Philippines, the Russian Federation, Saudi Arabia, Singapore, Thailand, Turkey, Ukraine and Viet Nam reserved their third-party rights.

¹⁵As of writing this paper, no dispute panel has been established for this case.

China's commitments on agriculture upon its WTO accession were virtually unprecedented, making it difficult for China to offer further concessions (Lim and Wang, 2010). Therefore, China's obligations have limited its negotiating space in agricultural issues.

(3) Government Procurement

Upon its entry to the WTO, China agreed to work towards becoming part of the WTO Government Procurement Agreement (GPA). To date, the GPA is a plurilateral agreement consisting of 19 parties covering 47 WTO members (with the EU and its 28 member states as one party, and the UK still included) that effectively provides market access for various government procurement projects to signatories to the agreement. China joining the GPA would be an important stepping stone to open up the vast Chinese government procurement market and force China to integrate domestic procurement regulations with international rules, but would also be a challenge in terms of the effectiveness of the agreement in regulating activities of a country with a large state sector (Wang, 2007, 2009).

So far, China has submitted six offers to join the GPA since it began the accession negotiations in December 2007. The latest offer submitted in December 2014 showed progress in a number of areas, including expansion of coverage to new procuring entities in five new provinces (Anhui, Hainan, Heilongjiang, Jiangxi and Shanxi), reduction of thresholds for contract coverage to levels comparable to those of existing GPA parties, as well as expanded coverage of new service sectors and construction services (Grier, 2015). Despite the improvements and the effort China put into preparing the new offer (Table 1), other GPA parties still noted that several significant gaps remain to be filled before China's accession can be approved (WTO, 2015).

In response, China expressed difficulties in further expanding entity coverage but showed a positive attitude in regards to continuing discussion on other issues. It is not possible for China, with its large state sector, to fully meet the high expectations of other developed members overnight. However, as one of the largest developing and transitional economies with the largest public sector, China is notable in its absence in the GPA. Its accession would bring huge market opportunities for international trade and present a benchmark for possible future accession by other similar economies (Cao and Zhou, 2017). Without China's involvement, the GPA can only achieve limited goals at the plurilateral level and it is very difficult to move forward with multilateralization, while it is clear that multilateralizing the GPA will strengthen its reputation and principles of non-discrimination and enhance the political costs of departures from it.

Table 1. China's 2014 Offer for Government Procurement Agreement

	Central government entities	Sub-central entities	Other entities
Entity coverage	China removed a provision that would have limited the coverage of its central government entities to procurement in Beijing.	China added five more provinces (Anhui, Hainan, Heilongjiang, Jiangxi and Shanxi) to its Group B in Annex 2. Under its proposal, Group B provinces would not have any GPA obligations until 3 years after the agreement enters into force for China. China has also qualified its sub-central coverage with a new exclusion that applies to the procurement of construction services "using special fund of the central government."	China added 14 other entities in Annex 3, bringing its total to 22. The newly added entities include the China Post Group, the Agricultural Development Bank of China, the China Central Depository & Clearing Co. Ltd, National Museums and the National Library as well as several universities and hospitals.
Thresholds	130,000 special drawing rights (SDR) for goods and services 5 million SDR for construction services	355,000 SDR for goods and services 15 million SDR for construction services	400,000 SDR for goods and services 15 million SDR for construction services
Services	China offered five new service sectors: legal services, urban planning services (excluding overall planning services), software implementation services, building-cleaning services and refuse disposal services (excluding radioactive waste disposal).		
Construction services	China added seven new subsectors of construction services: construction work for warehouse and industrial buildings, educational buildings and health and other buildings, as well as construction work for civil engineering, and special trade construction work for foundations and water well drilling.		
Transitional measures	China's proposed use of transitional measures includes phased-in thresholds for all of its entities, phased-in coverage of 10 provinces and an open-ended use of offsets.		
Exclusions	Despite the improvements, China retained provisions that will pose obstacles to completion of its accession, in particular its maintenance of offsets, which are prohibited under the GPA, and its proposal to delay its implementation of the GPA for 3 years after it accedes to the GPA.		

Source: Grier (2015).

However, there are still some challenges in moving China's GPA accession forward. China's future GPA accession will be a long and winding process if other members stick to the criteria set by the developed members. However, this may not necessarily be the case, as there is another option where the GPA club accepts China sooner but with a relatively smaller offer that eliminates some of the challenging issues (Cao and Zhou, 2017). The existing members would not suffer losses, as the current rules of the GPA are based on reciprocity, but they could benefit from China's early engagement and may be in a better position to promote the GPA expansion. A pragmatic approach should be followed in relation to China's accession to find a mutually acceptable solution regarding its membership terms.

V. China and the Future of the World Trade Organization

The "Chinese characteristics" affect the multilateral trading system in many ways, particularly through raising important systemic issues for the WTO regarding the ability

of existing rules to regulate the specific features of China. Among the diverse WTO members, China is notable for its unique economic and political regime as a transitional economy and its remarkable economic performance as a major trading nation. Instead of promoting drastic domestic reform of China as at the time when it joined the WTO, there needs to be a change of direction in how the WTO and its members engage with an emerging China. Three options are available for consideration: (i) WTO dispute settlement; (ii) WTO treaty negotiations through plurilateral agreements, and (iii) the soft law approach.

The first option to reconcile the relationship between China and its trading partners should be the use of the DSB, which has become a critical means for handling politically and economically salient issues for WTO members, especially in the context of the stalled multilateral negotiations. To date, more than 520 complaints have been raised with the WTO DSB, ensuring that trade disagreements do not turn into larger conflicts. By the end of 2017, 54 cases, representing 10.29 percent of the WTO's caseload, have involved China as a respondent or a complainant. In this regard, China is determined to establish and maintain an image of a responsible player in the WTO; thus, it is motivated to comply with WTO DSB rulings. China's good performance in the WTO DSB has demonstrated its concern regarding its reputation. In most cases, other WTO members, can count on the DSB to ensure China is compliant with its WTO obligations.

Furthermore, in the past more than 15 years since its WTO accession, China has been witnessing shifting strategies in dealing with the WTO DSB, starting from being a "rule taker," transforming to a "rule shaker" and finally developing towards becoming a "rule maker" (Gao, 2011). More importantly, many of the trade disputes involving China are not just the traditional conflicts between the original dominant members that we have seen in the disputes between the USA and the EU. Instead, they reflect the inherent tension between the China-specific regime and the general principles of the WTO. Therefore, legal concepts that have developed without "Chinese characteristics" in mind need to be reinterpreted to fit the context of a rising China. While the WTO DSB has proven competent in addressing areas where China's practices concern legal concepts that are already incorporated into the WTO law, the WTO judiciary is unlikely to fully resolve issues outside of these areas. Hence, WTO members should deal with China's issues in other ways. The second option is for WTO members to negotiate additional treaties to address emerging issues that have not been fully covered in the existing multilateral agreements. Since the modality of the single undertaking no longer suits the divergent needs of different members, piecemeal solutions like plurilateral agreements should be better designed and adopted to provide a mechanism for WTO

members to recognize and accept diversity in preferences and priorities across the membership (Hoekman and Mavroidis, 2015). This mechanism could work for both narrow and broad issues left unaddressed by existing WTO rules. However, the current situation in this regard is not very promising, given that China is excluded from some plurilateral agreements, despite China's interest in joining these negotiations. The signatories of such plurilateral agreements are question whether China can meet the high requirements of these agreements, while China is arguing that other members should not be "too demanding" in relation to its concessions. It is necessary for the two sides to work together to develop an acceptable agenda for progress.

The third option is the application of "soft law" under informal institutional arrangements. Such "soft law" is non-binding in the sense that members could decide which principles to apply and how to translate these principles into practical measures, taking the specific characteristics of their economies into consideration. This is a more flexible way to address global concerns and "Chinese characteristics," providing a governance structure, within which to forge consensus between China and other economies in areas where the WTO has been constrained to act. Generally speaking, China shows respect to this type of informal institutional arrangement. Although the principles, guidelines and declarations that are grouped under the term "soft law" in the international arena have no legally binding force, China cherishes these global governance achievements. China's cooperative attitude towards the United Nations, the Group of Twenty (G20), the Asia-Pacific Economic Cooperation Forum and other international institutions reflects its desire to protect its reputation as a responsible nation and resolve disputes cooperatively. Meanwhile, China has become an important contributor to the "soft law" governance in the world economy. Its G20 presidency in 2016 demonstrated China's leadership in advancing cooperation among developing and developed countries and its efforts to maintain a robust multilateral trading system (Frieden, 2016). Since the G20 includes most of the key members of the WTO, reaching consensus among China and other participants in the first place could be regarded as an "intermediate step" to shape the WTO agenda and facilitate negotiations under the WTO legal framework. In this regard, the non-binding "soft law" approach could be a viable complementary tool for the binding "hard law" mechanism, which is more adaptive to global trade governance and offers a number of alternatives for dealing with China's issues. Therefore, the promotion of partnerships between the WTO and the G20 members as well as other international institutions is of importance to revitalize the multilateral trading system and enforce countries' obligations through the combination of "hard law" and "soft law" approaches.

VI. Concluding Remarks

When China joined the WTO in 2001, it was the world's seventh largest exporter and eighth largest importer of merchandise. By deeply integrating into the global economy, China has now become the largest exporter of merchandise and the second largest economy in the world. While its WTO membership has served as a stabilizer and accelerator in China's economic take-off, China's accession has also brought opportunities and challenges to the WTO multilateral trading system. On the one hand, China's rise in the WTO is closely tied to its growing economic might in the world economy. Its membership has greatly contributed to the world economic growth, making the WTO more universal, inclusive and representative. On the other hand, China's membership has raised the question for the WTO of how to accommodate the rising China with its unique political and economic regime, as well as how to handle a multipolar trading system with China involved.

In this context, the WTO should better react to the shifting landscape of global trade governance, particularly in the context of a rising China. Much of the dissatisfaction expressed by WTO members may be due to the fact that the multilateral trading system is not apt to deal with NME features that are still present in the Chinese economy. Possible solutions should be explored to address the "Chinese characteristics." First, the WTO DSB is practical for reconciling disputes between China and its trading partners. China has held a relatively good compliance record as a respondent in the DSB, while putting its acquired knowledge into practice to initiate more cases as a complainant. Second, there is little doubt that both China and its trading partners would benefit from an early solution for China's accession to plurilateral agreements, such as the GPA and Trade in Services Agreement. In this regard, a pragmatic approach should be applied to facilitate China's participation, taking the significant size and transitional nature of the Chinese economy into consideration. Third, China has demonstrated that it values its reputation as a responsible player in the international arena and respects international rules. Therefore, the "soft law" approach should be adopted to complement the binding rules to strengthen cooperation between China and other participants, as well as providing opportunities for mutual benefits so as to ensure a strong, sustainable and inclusive world economy.

China's international position is dramatically different from what it was upon its WTO accession; thus, China's strategy in the multilateral trading system really matters for the WTO and its members. Facing the multi-track structure of global trade governance, in which the WTO is trying to pursue plurilateral agreements as the best-available alternative under the multilateral regime, as well as bringing existing regional

disciplines under its supervision, China will inevitably weigh the benefits of adhering to the multilateral regime and of seeking more advantageous bilateral, regional or plurilateral deals by exploiting its growing economic heft (Mattoo and Subramanian, 2011). Instead of forcing China to accept tailor-made discriminatory provisions in exchange for its WTO membership in 2001, now the WTO members need to engage with China in a more positive and constructive way, taking China's rise and "Chinese characteristics" into consideration.

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