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**Research Report**

## China's trade policy: Dominance without the will to lead

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# SWP Research Paper

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and Security Affairs

*Hanns Günther Hilpert*

## China's Trade Policy

Dominance without the Will to Lead

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**China's Trade Policy**  
**Dominance without the Will to Lead**

In less than thirty years China has risen from a marginal player in world trade to become the largest trading nation in absolute numbers. Especially accession to the World Trade Organisation at the beginning of the twenty-first century gave a huge boost to China's integration into the global economy. Even as the existing domestic and external economic growth curves level off, it is foreseeable that China will come to dominate international trade in the way the United States did until into the 1970s. China's rise as a leading trading nation has immediate repercussions on the production and income of its trading partners and indirect consequences for multilateral trade policy. China stands at the centre of numerous trade conflicts and plays an ever more important role in shaping international trade relations and structures, but without as yet possessing the ability or will to lead. This poses the pressing question of the implications for international trade policy, especially given that there is no other area of international politics where China is yet so dominant and influential. Against that backdrop, this study examines the latest developments and trends in Chinese trade politics, the institutions involved, and the internal decision-making mechanisms.

Despite far-reaching market opening and liberalisation, China's implementation of its WTO accession obligations remains incomplete. Deficits persist especially in observance of general WTO principles such as non-discrimination, transparency and rule of law. The period of unilateral Chinese external economic liberalisation definitely belongs to the past. To further the domestic development of income and employment, the external economic priority of the Hu Wen administration (2002–2012) lay in protecting the large state-owned enterprises and establishing globally competitive industries.

Although China's growing presence in world trade and the WTO has led to frictions, fears expressed before its WTO accession that it would undermine the multilateral system have proved to be unfounded. China behaves like an established actor in the WTO world trade system. It sometimes breaks rules and grants its own trade interests greater importance than the existence and stability of the system as a whole,

but in general it respects the status quo and pragmatically pursues its own economic interests. For example, China participates actively in both sides of the WTO dispute settlement mechanism. Since China correctly implements adverse rulings, the WTO mechanism offers good chances of depoliticising trade conflicts and bringing about legally objective resolutions.

China would have little to gain from a successful conclusion of the Doha Development Round but is, as a trading nation, exceptionally dependent on the world market and has a lot to lose from its failure. China plays an ambivalent role in the current multilateral negotiating process. While it remains reserved and passive in talks, the successful global market campaigns of Chinese industry reduce the willingness of emerging economies to compromise on the issue of market access for industrial products, as market opening would cause them further losses of sales and profits.

At the bilateral level China has signed free trade and economic partnership agreements with thirteen partners to date. Bilateralism permits China to play up its status as a major power and indirectly strengthens China's position as the centre of gravity of Asian trade. At the same time, Beijing is on the back foot in the global trade bilateralism game because the Transatlantic and Trans-Pacific free trade initiatives of the industrialised countries would discriminate against China.

A survey of the actors, institutions, interests and debates reveals that the simplistic idea of a monolithic Chinese trade policy cannot be upheld. Any sweeping characterisation of China's trade politics as liberal or mercantilist, as compatible or incompatible with WTO rules, can easily be proven wrong in the complexities of Chinese reality. The different actors' interests and manifold possibilities of action and influence instead demonstrate how contradictory and erratic China's trade policy really is. Generally, China's trade policy structures can be characterised as pluralistic, intransparent, reactive and unpredictable. Although China's overall political priorities are decisive for the substantive thrust and institutional framework of its trade politics, actual policies are driven more by hard calculation or crude economic interest than by paradigms or grand strategies. Thus China's trade policy is open to external influence, sometimes also to nationalistic instrumentalisation. Both government actors and regional and sectoral interest groups play a role in shaping the negotiating and implementation processes. Its consequently sometimes less than per-

fect implementation of binding trade agreements devalues China as a serious negotiating partner.

China's trade policy is in permanent flux. Whereas the influence of the central institutions of government waned under Hu Jintao and Wen Jiabao, the interest groups became ever stronger. The liberal episode under Prime Minister Zhu Rongji with a powerful Ministry of Commerce and efficient negotiating mechanisms is already history. It remains an open question whether the trend towards state capitalism and protectionism will continue under Xi Jinping and Li Keqiang, or a free-market comeback is possible.

Despite numerous external economic controversies and conflicts, the European Union and Germany should not lose sight of the strategic objective of integrating China in the rule-based world trade system. In view of the growing number of free trade agreements, the West should take seriously the risk of a rift in the global trading economy. It would be both sensible and advisable to integrate China into the ongoing development of international trade rules, ideally by reviving the current Doha Round. Multilateral talks under the auspices of the WTO not only offer the best chances of market opening and enhanced enforcement of non-discrimination, transparency and rule of law; China itself also relies on an open global economy and a functioning WTO for maintaining domestic growth, modernisation and internal stability.

# China's Rise – Consequences for Trade Politics

## A Whirlwind in World Trade

China's epochal economic rise is manifested most of all in international trade. In 1980, at the beginning of the reform process, China was but a marginal figure in world trade, with an external trade volume of \$37.6 billion. Twenty years later, China's external trade already represented 3.7 percent of world trade, at \$474 billion. By 2012 exports and imports totalled \$3,869 billion, corresponding to 10.6 percent of world trade. China has thus drawn almost level with the United States in 2012, and in fact took the lead in the table of trading nations in 2013 (see figure, p. 8).<sup>1</sup> China's rise in foreign trade is even more dynamic than in domestic production. Whereas GDP rose at an annual average rate of 10.0 percent from 1980 to 2012, exports and imports grew by 15.6 percent per annum over the same period.<sup>2</sup> There is certainly a connection between the development of domestic production and international trade. Economically, China's integration into the global economy has turned out to be a growth engine for the domestic economy. Politically, the liberalisation of foreign trade was always at the heart of the reform process.

China's rise in international trade is not over yet. Even if the growth trends flatten out, IMF forecasts for coming years suggest that China's exports and imports will still grow faster than world trade overall, causing its relative share of world trade to continue to grow. According to the IMF, China's share of world trade is expected to reach 11.5 percent in 2014, 12.6 percent in 2016 and 13.7 percent in 2018.<sup>3</sup> Barring

unexpected reversals, China will come to dominate world trade in the way the United States did until into the 1970s.<sup>4</sup>

Globally China has more than doubled its share of trade in industrial goods since the turn of the century, from 7.9 to 17.7 percent (2000 to 2012); its trade and current account surpluses initially grew rapidly, moderating slightly since 2008. The speed with which China's industrial goods conquered world markets after it joined the WTO in 2001 is remarkable. Even in emerging economies that impose high import tariffs (Brazil, India) or employ discriminatory trade agreements to give Chinese products a price disadvantage compared to other imports (Mexico, Turkey), China's share of industrial imports has more than quadrupled (see Table 1, p. 9). Chinese exports are especially strong in textiles, leather goods, clothing, and clocks and watches: sectors which are protected by high tariffs and therefore especially sensitive areas of trade policy.<sup>5</sup>

However, the aggregated foreign trade figures obscure the dominance of foreign invested enterprises in China's external trade. According to official statistics for 2011, these entities accounted for 52.4 percent of exports, 49.6 percent of imports, 86 percent of high-tech exports (2010) and 21.6 percent of China's value added.<sup>6</sup> China's exporters are overwhelmingly subsidiaries of foreign companies and China's external trade consists largely of business-to-business transactions between final assembly processes located in China and foreign manufacturers of high-value components. Chinese-owned manufacturing multinationals with a global brand, proven technological expertise

1 Absolute values and relative shares on the basis of statistical data from the International Monetary Fund, *Direction of Trade Statistics*, June 2013, <http://elibrary-data.imf.org> (accessed 11 June 2013).

2 Calculations on the basis of statistical data from the International Monetary Fund, *World Economic Outlook Database*, April 2013, <http://www.imf.org/external/pubs/ft/weo/2013/01/weodata/index.aspx> (accessed 11 June 2013); International Monetary Fund, *Direction of Trade Statistics*, June 2013 (see note 1).

3 Calculations on the basis of IMF forecasts of growth rates for Chinese external trade and world trade, see International Monetary Fund, *World Economic Outlook Database*, 2013 (see note 2).

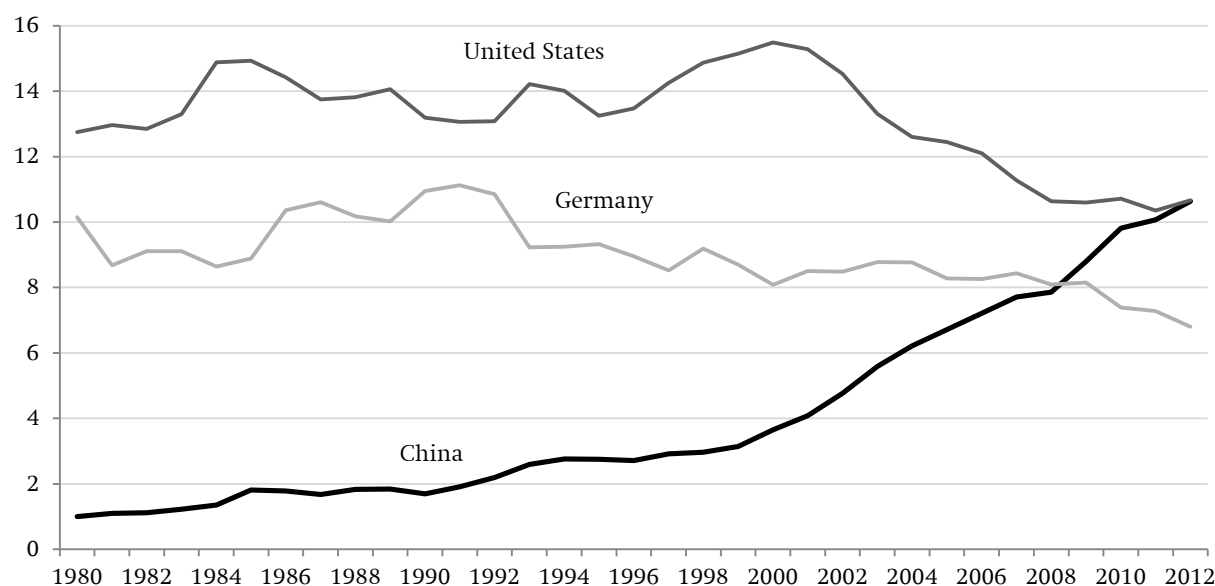
4 For longer-term forecasts see Arvind Subramanian, *Eclipse: Living in the Shadow of China's Economic Dominance* (Washington, D.C.: Peterson Institute for International Economics, 2011), 99–104.

5 Aaditya Mattoo, Francis Ng and Arvind Subramanian, *The Elephant in the "Green Room": China and the Doha Round*, Policy Brief 11-3 (Washington, D.C.: Peterson Institute for International Economics, May 2011), 2f, tables, 7–11, <http://www.iie.com/publications/interstitial.cfm?ResearchID=1830> (accessed 30 November 2012).

6 National Bureau of Statistics of China, *China Statistical Yearbook 2012* (Beijing: China Statistics Press, 2012).



**Figure**  
**China's rise to leading trade power: share of world trade (percent)**



and a strong position in the international markets still remain the exception.

The dynamism of external investment is conspicuous. After joining the WTO, China quickly became the most important global investment destination after the United States. Since about 2005, Chinese state funds and state-owned and private-sector businesses have become increasingly active international investors, too, especially in the energy and resources sectors. Even if trade and investment processes occur in parallel and are complementary, the investment sector still has its own specific actors, institutions and lines of conflict. This study therefore concentrates solely on the aspect of trade.

China's export and import dynamism has brought the world considerable welfare gains. Consumers across the world profit from falling prices, while businesses expand manufacturing capacity, create employment and increase sales and profits on the basis of the new marketing and supply possibilities in China; furthermore low-cost Chinese solutions enable national economies to modernise their physical infrastructure more cheaply and quickly. But despite the overwhelmingly positive economic effects of China's integration into the international division of labour, its trading partners find themselves under considerable adjustment pressure. Favoured by low capital costs, low wages, a modern world-class infrastructure and utilising scale advantages of mass production, China's industry exposes competing manufacturing locations

to sharp and potentially ruinous competition. As a consequence industrial capacity is scrapped, employment lost and industrialisation processes impeded.

Industrialised countries, emerging economies and developing countries alike are all affected by competition from China. All countries, with the notable exceptions of Japan, South Korea and Taiwan, show large deficits in their industrial trade with China. So given the pressure of adjustment created by the Chinese export offensive, it comes as no surprise to find China entering the arena of trade conflict.

### **A Growing Weight in International Trade Politics**

Ever since the conclusion of the General Agreement on Tariffs and Trade (GATT) in 1947, the multilateral trade system has been regarded as the superior regulatory framework for trade between states. The GATT principles – reciprocity of market access, non-discrimination (of third states), binding and enforceable international obligations, and transparency – proved to be durably effective instruments to prevent trade wars and liberalise world trade. The success of GATT earned the liberal paradigm of welfare-generating and peace-promoting free trade a universal validity. However, the inability of the WTO as GATT successor, or the WTO member-states, to bring the current Doha Round to a successful conclusion has plunged the multilat-

**Table 1**  
**China's share of the industrial imports<sup>a</sup> of its**  
**most important trading partners in 2000 and**  
**2012 (share<sup>b</sup> and growth rate in percent)**

	2000	2012	Growth rate
<i>Asia-Pacific</i>			
ASEAN-10	5.5	20.5	272.8
Australia	8.8	24.5	178.6
Hong Kong	46.3	51.7	11.6
India	4.8	26.7	459.2
Japan	21.0	41.1	95.5
South Korea	9.2	27.4	197.3
Taiwan	4.6	21.7	368.7
<i>Europe</i>			
EU-27	3.8	10.8	186.6
Germany	4.7	12.6	169.3
France	3.9	6.9	74.8
United Kingdom	5.0	13.2	163.9
Italy	3.6	10.6	193.8
Poland	3.3	12.5	282.9
Extra EU-27 <sup>c</sup>	11.0	30.3	176.9
Turkey	3.2	15.6	382.6
<i>Rest of world</i>			
Brazil	2.7	20.2	651.0
Canada	3.6	14.4	297.2
Mexico	1.7	18.5	973.9
Russia	5.6	18.3	224.6
Saudi Arabia	5.0	16.8	234.9
South Africa	5.1	22.0	334.7
United States	10.8	26.8	147.8
World	7.9	17.7	123.5
World without EU-27 internal trade <sup>c</sup>	10.4	22.3	113.5

**a** Trade in industrial goods in SITC groups 5, 6, 7, 8, excluding 667 (pearls and precious stones) and 68 (non-ferrous metals).

**b** The calculated shares relate to gross value, not value added.

**c** Shares excluding EU internal trade.

Source: United Nations Conference on Trade and Development, *Merchandise Trade Matrix Product Groups, Imports in Thousands of Dollars, Annual, 1995–2012* (New York and Geneva: UNCTADstat), <http://unctadstat.unctad.org/ReportFolders/reportFolders.aspx>.

eral trading system into serious crisis. Despite diverse political efforts, multiple relaunches and a significant lowering of expectations, the sought-after multilateral trade liberalisation and the associated development of trade rules have not been achieved. The loss of the growth stimulus and prosperity gains that a successful conclusion would enable are the smaller problem.

Graver is the lasting damage to the multilateral trading system.

Three indicators suggest that the international trade order is already subject to a creeping process of erosion. Firstly, the process of trade liberalisation has shifted to the bilateral level. Because of its discriminatory effects, the political asymmetry usually involved and the comparatively modest results, bilateral liberalisation processes are unsatisfactory and, moreover, contain the seeds of destruction of the multilateral order. Secondly, protectionism is increasing worldwide, even if not yet to an alarming extent.<sup>7</sup> Thirdly, there is a danger of the binding uniform legal framework for international trade in goods and services successively dissolving, with international trade law no longer being developed multilaterally, but only bilaterally, for example in trade agreements outside the WTO.

Currently it is uncertain whether a conclusion of the Doha Round will ever be achieved. In view of the meagre liberalisation gains, high political costs of a compromise and irreconcilable positions of the decisive actors, general willingness to conclude the Doha Round remains small, even if it were only a matter of shoring up the multilateral trade system. It is also problematic that many crucial trade issues, such as security of supply, currency dumping, trade-related environmental and climate issues, export restrictions, direct investment and competition, are not on the agenda at all in the Doha Round. Not least for many WTO member-states, China's behaviour as seller and supplier on the world markets is itself a trade question of exceptional relevance.

The failure to date of the Doha Round can at least partly be explained by the failure of the WTO negotiating framework to take adequate consideration of China's new position in world trade. On the one hand, China's trade conflicts have intensified since it joined the WTO.<sup>8</sup> On the other, its rise has both fundamentally reconfigured the Doha negotiating calculations

<sup>7</sup> See the regular WTO reports, most recently in June 2013: Organisation for Economic Cooperation and Development, World Trade Organisation and United Nations Conference on Trade and Development, *Reports on G20 Trade and Investment Measures (Mid-October 2012 to Mid-May 2013)* (Paris, Geneva and Vienna, 17 June 2013), <http://www.oecd.org/daf/inv/investment-policy/9thG20report.pdf> (accessed 1 July 2013).

<sup>8</sup> For a description of China's trade and economic conflicts see Hanns Günther Hilpert, *Chinas globale wirtschaftliche Herausforderung: Für eine kohärente Außenwirtschaftspolitik Europas*, SWP-Studie 29/2010 (Berlin: Stiftung Wissenschaft und Politik, December 2010), 15–27.

of many WTO members and shifted the power structures of international trade politics. In the face of powerful Chinese import competition, the emerging economies are practically no longer willing to compromise on the topic of non-agricultural market access (NAMA), for example when they were called upon to open their markets beyond the existing reductions in unbound tariffs. In the event that the demanded NAMA liberalisations are implemented, many emerging economies fear for the competitiveness or even the very existence of their domestic industries. As Table 1 (p. 9) shows, in the first decade of the twenty-first century global industrial import markets were exposed to successful Chinese export campaigns. Suffering additional pressure from the global financial crisis, many WTO member-states believed they could not withstand any further market opening – nor did they expect improved export possibilities to China in return. Firstly, there is little confidence in credible implementation of liberalisation measures because discrimination by local Chinese authorities is rife. Secondly, it is feared that China could compensate possible losses of domestic competitiveness by devaluing the renminbi. Under these conditions the functioning of the established principle of reciprocity in trade policy is restricted. Thus fears of Chinese competition prevent necessary progress in the negotiating process.<sup>9</sup>

The rise of China and other major emerging economies has broken up the former GATT negotiating monopoly of the “Quad” group (Canada, European Union, Japan, United States). Now Brazil, China and India together form an effective opposition and blocking power that can prevent any conclusion it regards as unfavourable – but is itself not yet capable of shaping trade policy. Furthermore, erosion of the Western capacity to lead also appears to have robbed the United States of the will to take the initiative in multilateral trade policy. The United States burdened the Doha talks with ambitious liberalisation demands and since 2008 has shifted the focus of its trade politics increasingly to the bilateral level. Following the conclusion of free trade agreements with Peru (2007), Panama (2011), Colombia (2011) and South Korea (2011), the United States is currently negotiating Pacific and Atlantic free trade agreements (Trans-Pacific Partnership, TPP; Transatlantic Trade and Investment Partnership, TTIP). The turn to bilateralism reveals a foreign policy strategy of responding to a rising China

by means of trade policy.<sup>10</sup> Europe's trade policy has also taken a bilateral turn, at the latest with the launch of negotiations over free trade agreements with Japan (Japan-EU Free Trade Agreement, JAPEU) and the United States (TTIP).

China has already permanently shifted the coordinates of international trade politics. But, in contrast to trade ruptures of the past decades (EU integration, oil price shocks, rise of Japan and the emerging economies), the international community has yet to find a considered and politically convincing response to this challenge. Instead we find ourselves in a transitional phase characterised by frictions and insecurities, where the substantive debate with China follows stereotyped patterns. That is the point of this study: to provide a systematic stocktaking and sober assessment of China's trade politics from the European perspective, and thus present a counterpoint to well-worn perspectives.

<sup>9</sup> Mattoo, Ng and Subramanian, *The Elephant in the “Green Room”* (see note 5), 1–4.

<sup>10</sup> On US trade policy see Claude Barfield, “The Trans-Pacific Partnership: A Model for Twenty-First-Century Trade Arrangements?” *International Economic Outlook*, no. 2 (June 2011): 1–8.

# China's Trade Policy in the Twenty-first Century: Developments and Experience

Speaking on 11 December 2011 at the Great Hall of the People in Beijing, President Hu Jintao and WTO Secretary-General Pascal Lamy rightly lauded China's accession to the WTO ten years earlier as a historic milestone. It was decisive for China's rapid and successful integration into world trade and the global economy and symbolises, like the fall of the Berlin Wall, the coming together of a shared global world. WTO membership obliged China to concede extensive market opening measures and permitted in return guaranteed access to the markets, investment capital and technological expertise of the industrialised nations. China's world-market-driven economic dynamism experienced a decisive boost. Reform, opening and integration in the global economy received internal and external institutional and legal backing. Externally, WTO membership depoliticised China's trade and trade conflicts. From that point on trade with China came under the most favoured nation rule. Bilateral trade disputes had to be resolved by rules, in a form consistent with the WTO and without reference to Beijing's foreign or human rights policies. Internally the legally binding promises represented a powerful instrument to tame the opponents of reform. The architect of the economic reform process, then Prime Minister Zhu Rongji, was able to push through sweeping privatisation and liberalisation measures on the basis of the political and economic necessity of accession. But actual fulfilment of the WTO accession obligations lay in the hands of a new state and party leadership. Under the Hu Jintao/Wen Jiabao administration which took office in 2002, China's trade policy was to experience further development and reorientation at the unilateral, bilateral and multilateral levels.

## Multilateral Level

### Incomplete Implementation of WTO Accession Obligations

Although China joined the WTO as a developing country, it had to make far-reaching commitments on market opening and liberalisation that were without

parallel in the history of GATT and the WTO. Beijing granted considerable tariff reductions (to an average tariff of 9.5 percent on industrial goods and 13.2 percent on agricultural commodities), the almost total abolition of import quotas and import licences, and decisive market opening moves in the service sector (such as the complete opening of domestic distribution for foreign operators). In order to enforce the principle of equal legal treatment, the United States and European Union insisted on explicit rule of law obligations in the WTO accession protocol, such as legislative and administrative transparency and the possibility of judicial review. China also agreed to strictly regulate subsidies, generally abolish export subsidies and restrict agricultural subsidies to 8.5 percent of production value. China granted its trading partners special safeguard clauses. A series of other related agreements also came into force with WTO accession, concerning Trade Related Investment Measures (TRIMS), Trade Related Intellectual Property Rights (TRIPS), the Technical Barriers Treaty (TBT) and Sanitary and Phytosanitary Measures (SPS).<sup>11</sup>

It is conspicuous how differently China and its most important trading partners (European Union, United States, Japan) perceived the WTO accession ex ante (2001) and ex post (2011). In advance, the Chinese feared structural dislocations in agriculture, industry and banking, while Europe and America doubted that tariff reductions and market opening would actually be realised. In hindsight, there is a widespread feeling in China that the price of admission to the WTO was unreasonably high and that the global-market-driven dynamism of recent years has unnecessarily sharpened economic disparities within the country. Abroad, there are persistent complaints of discrimination vis-à-vis Chinese competitors through state import protection, subsidisation of state-owned businesses, arbitrary regulation and inadequate protection of intellectual property. The question of implementation of the WTO accession conditions is also interpreted very different-

<sup>11</sup> The accession documents can be found on the WTO website, under "China and the WTO: Accession to the WTO", [http://www.wto.org/english/thewto\\_e/countries\\_e/china\\_e.htm](http://www.wto.org/english/thewto_e/countries_e/china_e.htm) (accessed 24 February 2012).

ly in China and elsewhere: the Chinese believe they have met their obligations,<sup>12</sup> while foreign companies point to major deficits.<sup>13</sup>

From the perspective of the WTO and the US Department of Trade, the overall picture is mixed.<sup>14</sup> It is certainly positive that China treats its imports and direct investments considerably less restrictively than most developing countries and emerging economies, even though it started as a centralised command economy. In a feat of effort China adapted its legislation and jurisdiction to the liberal rule-of-law standards of the WTO, making China's transformation into a free-market economy irreversible. The most important steps occurred in the years immediately before and after accession. From 2004 China's enthusiasm for reform and liberalisation ebbed away and its state sector experienced a powerful comeback. Certain measures in politically sensitive areas were not implemented after all, such as accession to the WTO Agreement on Government Procurement (GPA). New barriers to market entry were created, especially in the service sector. The rule of law transformation did not take place as hoped. The market opening process became bogged down at the level of provinces and municipalities, where it would have devoured resources urgently needed for other purposes, because lobby groups succeeded in blocking reforms, or because rapid industrialisation was granted priority over liberalisation. It was also observed that specific

promises made in connection with WTO membership were implemented much better than the general WTO obligations (non-discrimination, transparency, legal security). Altogether, despite undeniable market opening and liberalisation moves, implementation of the WTO accession obligations remains incomplete. In particular it remains unrealistic to expect that China would completely abandon industrial policy favouring its domestic industry and possibly also discrimination against foreign manufacturers.

### Discrimination in the WTO

In comparison to the 124 founding members, China assumed additional obligations on accession, but received fewer rights. Pointedly formulated, it is a second-class member.<sup>15</sup> Its additional obligations include extensive transparency and rule of law commitments (Art. 2c, 2d, Protocol of Accession), a detailed list of transformation steps,<sup>16</sup> and specific requirements relating to the principle of non-discrimination of foreign individuals and enterprises operating in domestic markets (Art. 3). In terms of rights, China renounced the developing country privileges to which it would have been entitled on the basis of its per capita income,<sup>17</sup> which was still very low in 2001. China was also specifically disadvantaged by special safeguards permitting its trading partners to impose import protections (Art. 15, 16).<sup>18</sup>

<sup>12</sup> For example President Hu Jintao in December 2011, see "President Hu Jintao Reviews China's Experience in WTO", *CNTV.com* (Special Report: China's Ten Years in WTO), 11 December 2011, <http://english.cntv.cn/program/china24/20111211/117811.shtml> (accessed 7 February 2012).

<sup>13</sup> For example, US-China Business Council, *China's Implementation of Its World Trade Organization Commitments: An Assessment by the US-China Business Council, Testimony of John Frisbie*, Trade Policy Staff Committee Hearing, Washington, D.C., 6 October 2010, 18, [https://www.uschina.org/public/documents/2010/10/wto\\_commitments\\_testimony.pdf](https://www.uschina.org/public/documents/2010/10/wto_commitments_testimony.pdf) (accessed 7 February 2012).

<sup>14</sup> See the WTO's biennial trade policy reviews and the US Trade Representative's annual reports to Congress: WTO, *Trade Policy Review: China, Report by the Secretariat* (Geneva, 2006, 2008, 2010 and 2012); United States Trade Representative, *Report to Congress on China's WTO Compliance* (Washington, D.C., 2006, 2007, 2008, 2009, 2010, 2011 and 2012). The EU Commission keeps its analyses and evaluations confidential. Only the annual position papers of the European Chamber of Commerce in China are publicly accessible, commenting in general on the market and business situation in China. See the latest report: European Chamber of Commerce in China, *European Business in China: Position Paper 2013/2014* (Beijing, 2013).

<sup>15</sup> For this interpretation see Xiaohui Wu, "No Longer Outside, Not Yet Equal: Rethinking China's Membership in the World Trade Organization", *Chinese Journal of International Law* 10, no. 2 (2011): 227–70.

<sup>16</sup> China agreed to market pricing (except in a small number of listed product categories and service branches), market operation of state enterprises, and abolition of its foreign trade monopoly and territorial monopolies in domestic commerce (Protocol of Accession Art. 5 and 9; Working Party Report paragraphs 46, 80), see WTO "China and the WTO: Accession to the WTO" (see note 11).

<sup>17</sup> The Enabling Clause permits developing countries to export goods to industrialised countries tariff-free or at low tariffs and to agree bilateral trade concessions with other developing countries.

<sup>18</sup> For the full wording see the accession documents on the WTO website, "China and the WTO: Accession to the WTO" (see note 11); for examples of China's specific additional obligations and reduced rights see Olivier Cattaneo and Carlos A. P. Braga, *Everything You Always Wanted to Know about WTO Accession (But Were Afraid to Ask)*, Policy Research Working Paper 5116 (Washington, D.C.: World Bank, 2009), 19–21; Julia Ya Qin, "WTO-Plus' Obligations and Their Implications for the

Of course it is sensible and necessary to make a transformation country agree to free-market principles on joining the WTO. Ultimately, the WTO ideal of non-discriminatory multilateral world trade demands autonomous, decentralised market decisions at the level of the member countries. To that extent the free-market accession commitments ensure that the structures of the transformation country (China) converge as required with those of the existing free-market WTO members. Compatibility with the free-market world trade order is created, closing a gap in WTO law.<sup>19</sup> One can also take a positive view of the special obligations on rule of law, transparency, implementation and far-reaching national treatment, because the associated market opening and liberalisation measures benefit economic growth and generate welfare within China.<sup>20</sup> However, from the development perspective the comprehensive prohibitions on discrimination against foreign investors can also be seen critically because they strongly restrict the room for industrial policy and result in avoidance actions.<sup>21</sup>

Whereas such “WTO-plus obligations” can certainly be justified on the grounds of China’s status as a non-market economy and their ensuing positive legal and economic effects, this is not possible in the case of the “WTO-minus rights”.<sup>22</sup> A number of economically disadvantageous rules discriminate against Chinese exports. Firstly, a special China safeguard clause (Art. 16, Working Party Report paragraphs 247, 248) permits China’s trading partners to impose safeguard measures in the event of market disruption or significant diversion of trade (rather than only after serious market disruption). Secondly, dumping by Chinese export-

ers is easier to prove, namely, by comparison with the production costs of comparable market economy producers (as China is still treated as a non-market economy in the WTO, except where market economy status is explicitly recognised in a bilateral agreement). Thirdly, countervailing measures can be imposed on the basis of an expanded definition of subsidies (Art. 10). Fourthly, specific safeguards applied until 2008 in the area of textiles and clothing products (Working Party Report paragraph 242).<sup>23</sup> Each of these restrictions led to market foreclosure measures directed against China.

The ongoing discrimination against China is plainly a systematic breach of the WTO rules. It is, however, unavoidable because in a WTO based on the principle of reciprocity there can be no “free” admission, certainly not for such a large trading nation as China. The existing members inevitably had to demand concessions in return for granting China admission to most-favoured treatment.<sup>24</sup> This also meant that conflicts remained inevitable at least for the transition period until 2013 or 2016: China’s export sector remains exposed to discrimination and protectionism and the supposedly universal WTO principle of most-favoured treatment is partially violated.<sup>25</sup> But because China also draws great benefits from integration into the world economy, anger and criticism concentrate not on the WTO and the multilateral trading system, but on protectionism directed against China. Interest-driven Chinese trade policy seeks to respond to this pragmatically within and outside the WTO.

### Increasingly Active Participation in the WTO Dispute Settlement Mechanism

China is subject to absolutely no restrictions of its rights and duties with respect to the WTO dispute settlement mechanism, where it is fully equal to the other WTO member-states. Notably, the WTO dispute

World Trade Organization Legal System: An Appraisal of the China Accession Protocol”, *Journal of World Trade* 37, no. 3 (2003): 483–522 (491–509).

<sup>19</sup> Qin, “‘WTO-Plus’ Obligations and Their Implications for the World Trade Organization Legal System” (see note 18), 512.

<sup>20</sup> For this interpretation see Cattaneo and Braga, *Everything You Always Wanted to Know about WTO Accession* (see note 18), 21; Qin, “‘WTO-Plus’ Obligations and Their Implications for the World Trade Organization Legal System” (see note 18), 511f.

<sup>21</sup> Dani Rodrik, *Making Room for China in the World Economy*, paper prepared for the AEA Session on “Growth in a Partially De-Globalized World”, chaired and discussed by Philippe Aghion, Cambridge, MA, 2009.

<sup>22</sup> For the term “WTO-minus rights” and this interpretation see Chad P. Bown and Meredith A. Crowley, *China’s Export Growth and the China Safeguard: Threats to the World Trading System? Policy Research Working Paper 5291* (Washington, D.C.: World Bank, 2010), 1f.; Cattaneo and Braga, *Everything You Always Wanted to Know about WTO Accession* (see note 18), 22.

<sup>23</sup> For the full wording see the accession documents on the WTO website, “China and the WTO: Accession to the WTO” (see note 11).

<sup>24</sup> Cattaneo and Braga, *Everything You Always Wanted to Know about WTO Accession* (see note 18), 1–7. Before China joined, fears were expressed that “China is not joining the WTO. The WTO is joining China.” In order to protect their rights, the existing WTO members had to place strict obligations on China.

<sup>25</sup> Qin, “‘WTO-Plus’ Obligations and Their Implications for the World Trade Organization Legal System” (see note 18), 511f.

settlement mechanism is the only obligatory and binding international dispute settlement mechanism that China – which is always extremely protective of its sovereignty – has accepted.<sup>26</sup> Nonetheless, China and its trading partners initially used this instrument only very cautiously during the first five years after accession. In view of China's importance in world trade, more lively participation in WTO dispute settlement processes, whether active or passive, would in fact have been quite appropriate. Plainly in this initial phase China still enjoyed a kind of grace period. And China itself shied from allowing trade conflicts to escalate openly as WTO cases, by relenting in response to threats.<sup>27</sup>

China did, on the other hand, participate as a third state in a record 89 consultations during its first ten years of membership. During this period China applied more often than any other WTO member to participate in the consultation process. This approach had (and still has) a series of advantages for the Chinese. Firstly, they can introduce additional arguments into the dispute settlement mechanism and increase the pressure on the accused country without necessarily entering into open confrontation. Secondly, China exercises its right to contribute its own ideas on the development of international trade law. Thirdly, it can use its participation in the consultations to procure information in the difficult and complex field of international trade law and build up its own competence in dispute settlement. And fourthly, through its lively participation China accumulates influence and stature within the WTO.<sup>28</sup>

The complaint concerning unjustified import tariffs on car parts brought by the European Union,

<sup>26</sup> When it joined the Vienna Convention on the Law of Treaties in 1997 China expressed fundamental reservations relating to judicial settlement, arbitration and conciliation before International Court of Justice (Art. 66 of the Vienna Convention on the Law of Treaties).

<sup>27</sup> Henry Gao, "China in the WTO Dispute Settlement System: From Passive Rule-Taker to Active Rule-Maker?" in *A Decade in the WTO: Implications for China and Global Trade Governance*, ed. Ricardo Meléndez-Ortiz, Christophe Bellmann and Shuaihua Cheng (Geneva: International Centre for Trade and Sustainable Development, 2011), 17.

<sup>28</sup> For these arguments see Chad P. Bown, "China's WTO Entry: Antidumping, Safeguards, and Dispute Settlements", in *China's Growing Role in World Trade*, ed. Robert C. Feenstra and Shang-Jin Wei (Chicago: University of Chicago Press, 2010), 329f.; Gao, "China in the WTO Dispute Settlement System" (see note 27), 18f.; Marcia D. Harpaz, "Sense and Sensibilities of China and WTO Dispute Settlement", *Journal of World Trade* 44, no. 6 (2010): 1166.

the United States and Canada in March 2006 is regarded as a turning point towards active and direct Chinese participation in the WTO dispute settlement mechanism. Although China's position was legally untenable, it insisted on all stages of the process and fully exploited its deadlines, but then also implemented the disadvantageous ruling. In later important cases, such as those concerning the application of international copyrights, market access for media products, and export restrictions on raw materials, China defended its position with the same assertive tactics.<sup>29</sup> The car parts case also marked the end of the grace period for China, at least on the part of the industrialised countries (European Union, Canada, Mexico, United States). By the end of June 2013 China had been accused 31 times in 19 different cases of having violated either WTO rules or its accession obligations. Complaints were lodged most frequently by the United States (15), followed by the European Union (7) and Mexico (4). In all eleven concluded cases China lost the legal argument more or less clearly and had to adapt its trading regime. China is most frequently accused of illegally restricting access to its domestic market through anti-dumping duties or promoting its domestic industry through illegal subsidies. But despite their growing number, China faces many fewer complaints than the other large trading powers, which during the same period (January 2002 to June 2013) had to answer before the dispute settlement body in 41 cases (European Union) and as many as 273 cases (United States).

The end of Chinese reservation is also reflected in the country's growing willingness to initiate dispute settlement cases, especially when the United States or European Union – in Chinese eyes – protect their markets through illegal import restrictions. The first complaint actively initiated by China related to US anti-dumping duties on coated paper.<sup>30</sup> China's first complaint against the European Union also concerned anti-dumping measures. Although China is confronted with anti-dumping duties and countervailing duties (imposed on illegal subsidies) more often than any other country, it tends to avoid taking action against

<sup>29</sup> Gao, "China in the WTO Dispute Settlement System" (see note 27), 18f.; Harpaz, "Sense and Sensibilities of China and WTO Dispute Settlement System" (see note 28).

<sup>30</sup> Strictly speaking, China submitted its first complaint in March 2002, against US measures relating to imports of steel products. But this complaint had been initiated by the EU, which also fought the case to its successful end. China and six other steel-exporting countries joined the complaint.

these (often arbitrary and discriminatory) measures.<sup>31</sup> The figures show that that China still calls on the WTO dispute settlement mechanism comparatively seldom, with eleven cases to date. From January 2002 to June 2013 not only the United States (36), the European Union (32) and Canada (16) appeared more often as complainant, but also emerging economies like Argentina (15) and Mexico (13). One reason for China's continuing relative reservation could be its weak legal position on anti-dumping matters as a non-market economy,<sup>32</sup> another qualms about lodging complaints against developing countries.<sup>33</sup> In view of existing trends China can be expected to successively shake off its hesitancy to pursue complaints, and generally to participate more actively in developing trade law.<sup>34</sup> In any case China's more intense participation in the WTO dispute settlement mechanism, whether as defendant or complainant, must be seen as positive. China's trade conflicts are thus depoliticised and resolved by legal means.

### Passivity in the Doha Development Round

The WTO's Ministerial Conference in Doha in November 2001 passed two groundbreaking resolutions: China's acceptance in the WTO and the launch of multilateral negotiations on trade liberalisation. The "Development Round" called into being by the second resolution – whose conclusion was originally planned for early 2005 – has not (yet) led to the planned new multilateral trade agreement. If the political will to reach agreement remains absent, the negotiations threaten to break for good.

It must be feared that a failure of the Doha Round would gravely harm the system of multilateral world trade and the WTO as institution. In retrospect several reasons for the foreseeable failure of the negotiations can be identified. Firstly, from the outset several important actors were very hesitant about entering into

serious negotiations at all, and their tenacious resistance against opening their domestic agricultural, industrial and services markets turned out to be insurmountable; secondly, the attribute of "development round" gave the talks a normative charge, although consensus about the meaning of "development" was lacking; thirdly, international scepticism about globalisation and liberalisation had increased; fourthly, the enhanced negotiating power of the major emerging economies had altered the negotiating architecture; fifthly, in this constellation the United States was no longer willing or able to adopt its traditional leading role on trade policy; and sixthly, the self-imposed compulsion of the *single undertaking* means that any agreement on one issue is subject to consensus also being reached on all the other topics.<sup>35</sup> In this constellation the remaining bargaining chips plainly no longer suffice for an overall agreement. In the political calculations of the decisive actors the export gains on offer appear too small to justify the demanded import concessions. Thus any reduction in agricultural subsidies is unlikely to pass the US Congress as long as the United States does not receive better access to markets in the major emerging economies for its agricultural products, industrial goods and services.<sup>36</sup> Nor can India be expected to agree to a substantial liberalisation of its agricultural imports.

The decisions concerning the launch and architecture of the Doha Round were made without Chinese participation. In view of its considerable WTO accession obligations China regarded the Doha Round with scepticism and reservation. The director-general responsible for WTO matters in the Chinese Ministry of Commerce summarised China's WTO position as "4L": "less (request), lower (obligations), longer (transition periods), later (liberalisation)".<sup>37</sup> Meanwhile,

<sup>35</sup> See for example Stormy-Annika Mildner, *Die Doha-Runde der WTO: Stolpersteine auf dem Weg zu einem erfolgreichen Verhandlungsabschluss*, SWP-Studie 1/2009 (Berlin: Stiftung Wissenschaft und Politik, January 2009), 7–23; Jeffrey J. Schott, *The Future of the Multilateral Trading System in a Multi-polar World*, Discussion Paper 8/2008 (Bonn: Deutsches Institut für Entwicklungspolitik, 2008), 2–4.

<sup>36</sup> See for example, C. Fred Bergsten, "US Trade Policy and the Doha Round: An Alternative View", *VoxEu.org*, 18 May 2011, <http://www.iie.com/publications/opeds/oped.cfm?ResearchID=1832> (accessed 11 March 2012).

<sup>37</sup> Xiangchen Zhang, "China's Interests and Responsibilities in Economic Globalisation", *Foreign Affairs Review* 1 (2008), cited in Xinquan Tu, "China's Position and Role in the Doha Round", mimeo. 2012, 13.

<sup>31</sup> Bown, "China's WTO Entry: Antidumping, Safeguards, and Dispute Settlements" (see note 28), 326–28.

<sup>32</sup> *Ibid.*, 328.

<sup>33</sup> As well as political calculation, a fundamental stance that market opening measures enforced through the WTO settlement mechanism are not compatible with development probably also played a role; see Glenda Mallon and John Whalley, "China's Post-Accession WTO Stance", in *China's Integration into the World Economy*, ed. John Whalley (Singapore et al.: World Scientific, 2011), 166f.

<sup>34</sup> Gao, "China in the WTO Dispute Settlement System" (see note 27), 20f.



having made considerable concessions in the course of joining the WTO, China claimed the status of a "Recently Acceded Member" (RAM). From the outset China defined clear negotiating positions: offensive interests on industrial goods and wage-intensive agricultural products, defensive interests on services and domestic agriculture, and liberalisation and clarification of anti-dumping provisions. During the negotiating process China placed great political importance on avoiding conflict with the developing countries, where it demonstrated an astonishing ambivalence.<sup>38</sup> For example, China is convinced that the principle of special and differential treatment of developing countries does not promote development but argued that any decision about application of the principle should be left to the developing country concerned. China nonetheless supported the – partially contradictory – positions of the developing countries on agriculture and refrained from making its own proposals and demands. In the area of industry China supported the tariff-cutting "Swiss Formula" out of economic self-interest but insisted on clearly distinct coefficients for industrialised and developing countries. China rejected the sectoral agreements for services, demanded above all by the United States, out of solidarity with the developing countries. On the "Singapore Issues" of investment, competition, and government procurement, by contrast, China adopted a negative stance if only out of defensive self-interest. It was certainly in China's interest that these topics were excluded from the Doha agenda after the failed Cancún Ministerial Conference. It also suited China that services never really moved to the centre of the talks.

China, which must have been interested in a successful outcome, participated constructively in the negotiating process, but remained reserved and passive at decisive moments. It made no marked demands, avoided polarising provocation and rhetoric, but made no major liberalisation proposals of its own either and left the negotiating leadership to the G20 lead-nations Brazil and India.<sup>39</sup> While China gathered trade policy competence and experience through its participation, its low profile avoided attracting attention and having accusations or demands directed towards it. Public pronouncements, citing the country's already liberal foreign trade regime and its com-

prehensive accession obligations, emphasised the considerable progress it had already made on market opening. Further trade concessions going beyond the tariff reductions already agreed by the emerging economies were rejected.<sup>40</sup>

In view of the initially reserved and constructive Chinese approach, their U-turn at the Geneva Ministerial Conference in July 2008 – where China and India insisted on retaining existing protections for their own agriculture and flatly refused US demands to reduce tariffs for cotton – had to come as a surprise. An agreement that was thought to be tangibly close was scuppered by disagreement between the United States and China/India. With this defensive positioning China abandoned its constructive stance in the Doha negotiations. But it would not be fair to blame China (and India) for the failure of the talks.<sup>41</sup>

More important than China's position as an actor participating directly in the negotiating process may have been its indirect role as a rising dominant export power. Since the start of the Doha Round, China's exports have increased almost eight-fold and its shares of the industrial goods imports of all major importing countries have increased to figures between 10 and 40 percent (see Table 1, p. 9). Especially critical for the Doha talks are China's even larger market shares for sensitive industrial imports with high peak tariffs.<sup>42</sup> Worldwide fears of ruinous competition initiated by China have therefore grown. Inevitably, willingness to make concessions in the WTO negotiations in return for better market access in the industrial sector (NAMA) had to decline. This applies in particular to the major emerging economies, which fear for their prospects of industrialisation.<sup>43</sup> For the European Union and the United States, whose offensive interests

<sup>38</sup> On the following see Tu, *China's Position and Role in the Doha Round* (see note 37), 15–18.

<sup>39</sup> G20 in the sense of the coalition of developing nations in the WTO.

<sup>40</sup> Paul Blustein, "China's Impact on the Doha Round", in *A Decade in the WTO*, ed. Meléndez-Ortiz, Bellmann, and Cheng (see note 27), 7; Razeen Sally, *Chinese Trade Policy After (Almost) Ten Years in the WTO: A Post-Crisis Stocktake*, Occasional Paper 2/2011 (Brussels: European Centre for International Political Economy, 2011), 9.

<sup>41</sup> On the negotiations in Geneva see Blustein, "China's Impact on the Doha Round" (see note 40), 7–9.

<sup>42</sup> See Mattoo, Ng, and Subramanian, *The Elephant in the "Green Room"* (see note 5), 2f.

<sup>43</sup> Blustein quotes statements made by Brazil's Foreign Minister Celso Amorim at the G4 ministerial meeting in Potsdam in 2007: "We cannot even think of doing the numbers by the US and EU", because that would risk 'deindustrializing Brazil,' and: "Brazil, [Amorim] argued, needed to keep 'policy space for dealing with China'." Blustein, "China's Impact on the Doha Round" (see note 40), 9.

lie in market access for industrial products and services, it could be said that the commercial basis for the Doha Round disappeared.

It is this trade constellation that feeds the fundamental criticism of China's behaviour in the Doha Development Round.<sup>44</sup> China is advised that fulfilling its WTO accession conditions does not exempt it from the duty to make concessions and does not justify free-riding in the ongoing Doha talks. Despite robust economic growth and large export surpluses, critics say, China has failed to disseminate attractive proposals on liberalisation and market opening suitable to achieving a breakthrough. Although China possesses considerable mediating potential through its dual role as developing country and leading trading nation, they say, it fails to shoulder responsibility for a multilateral trading system to which it owes its prosperity and development gains of the past decade. China, they say, underestimates the costs of failure of the Doha Round, despite depending more than other trading nations on open markets and secure international trade law. In short, China does not live up to its responsibility as a leading trading nation for the system of multilateral trade.

This criticism has its justification. China's passivity stands in contradiction to its fundamental interest in a predictable and functioning world trade order.<sup>45</sup> The reasons for China's behaviour become a little clearer if one considers the modest trade gains it could have expected in the event of a successful conclusion of the Doha Round. Implementing the WTO accession obligations permitted China to achieve considerable welfare gains and its import regime is already comparatively liberal. Although China's exporters would benefit from a global liberalisation of industrial import markets, the planned reduction of agricultural subsidies and the opening of the food import markets would have led to unpopular structural adjustments. On the other hand, China's agricultural market liberalisation measures (and the resulting welfare gains)

<sup>44</sup> See for example Blustein, "China's Impact on the Doha Round" (see note 40), 9f.; Andrew L. Stoler, "China's Role in the World Trade Organization and the Doha Round of Multilateral Trade Negotiations", paper presented at the Second World Forum on China Studies, Shanghai, 21–22 September 2006, 9–11; Yongnian Zheng and Qingjiang Kong, *China in the WTO: From Accession to the Doha Failure*, EAI Working Paper 147 (Singapore: National University of Singapore, 2009), 12–16.

<sup>45</sup> Other major trading nations can also be accused of lacking willingness to compromise, but China is more dependent than they on open world markets and a functioning world trade system.

would remain small, because China's agricultural tariffs are already relatively low and the obligations for developing countries to cut agricultural tariff cuts are not very strict anyway. Moreover, China would have been negatively affected by the deterioration of its terms of trade resulting from Doha, because the liberalisation measures would have brought with them rising agricultural prices and falling prices for manufactured goods.<sup>46</sup> Simulations on the basis of the World Bank's "Linkage" general equilibrium model already produced disappointing results in the middle of the last decade. In the hypothetical case of a complete liberalisation of international agricultural and industrial trade China could have expected an annual rise in prosperity of \$16.6 billion (then about 0.2 percent of GDP). In the more realistic case of partial liberalisation this modest growth would have shrunk to zero.<sup>47</sup> Assuming a strict orientation on direct income gains, China thus could and can have no great interest in a conclusion of the Doha Round. Like the United States and India, China lacks any immediate economic incentive for making groundbreaking new proposals for rescuing the Doha Round.

## Unilateral Level

In the years before and after WTO accession China drastically reduced its import tariffs, opened its markets and implemented standards of regulation compatible with a market economy and rule of law. As a result of that strategy it has been able to record enormous growth gains. But towards the middle of the last decade the process of unilateral non-discriminatory liberalisation ended. Market opening measures going beyond the accession obligations no longer occur, apart from certain cautious liberalisation steps in the capital markets. On the contrary, the opening process appears to be going into reverse. Foreign investors and importers are confronted with new barriers to market entry, while privileged domestic investors are backed and protected with taxes, subsidies and public con-

<sup>46</sup> Kym Anderson, Will Martin and Dominique van der Mensbrugghe, "China, the WTO and the Doha Agenda", in *China and the World Economy*, ed. David Greenaway, Chris Milner and Shujie Yao (Basingstoke: Palgrave Macmillan, 2010), 1–18.

<sup>47</sup> Kym Anderson, Will Martin and Dominique van der Mensbrugghe, "Doha Merchandise Trade Reform: What Is at Stake for Developing Countries?" *World Bank Economic Review* 20, no. 2 (2006): 178, 185.

tracts. It is especially such measures “behind the border” that discriminate against foreign businesses. These include mandatory approval for direct investments, restrictions on company acquisitions, restrictive licensing in the service sector, discrimination against foreign investors through special provisions on establishing a corporation, test procedures, environmental regulations, minimum local content requirements (for value added in China) and public procurement, and complex conformity and certification requirements, which are generally also a source of technology leakage.<sup>48</sup>

To discourage unwanted imports China itself increasingly employs anti-dumping instruments, albeit comparatively modestly in relation to its import volume and rapid import growth. Rather than concentrating on particular businesses or trading partners, China's anti-dumping activities are directed overwhelmingly against imports of chemicals, possibly in response to the tariff reductions promised in connection with WTO accession.<sup>49</sup>

National industrial policy actively promotes and shapes economic development and industrialisation. The decisive parameters are not direct (and possibly WTO-contravening) subsidies but public procurement contracts, sectoral regulation and above all a supportive macro-economic framework of subsidised factor costs.<sup>50</sup> China's industrial policy inevitably has external economic consequences and gives rise to trade conflicts. Here China finds itself confronted with accu-

sations that tend to lie outside the traditional regulatory scope of GATT and WTO. Thus China subsidises capital-intensive industrial production through low capital costs and favourable prices for land, energy and raw materials, as well as creating price competitiveness advantages for Chinese businesses abroad through a systematic undervaluation of the currency. It also discriminates against foreign competitors by imposing export restrictions. With the exception of the last point it is difficult to prove any violation of WTO law or accession obligations.<sup>51</sup>

The widespread accusation that the undervaluation of the renminbi subsidises Chinese exports and makes imports more expensive, rather like a general tariff, has not yet officially been raised in the scope of the WTO (or the IMF). The lack of regulatory action contrasts with the great political relevance that this question has for China and its trading partners. For China industrial policy represents the non-negotiable heart of its national development and growth strategy. But the global market offensives of Chinese industrial manufacturers create tangible losses of production, revenue and employment elsewhere. If balance and compromise are not possible in this central trade-related conflict, protectionistic responses directed against China are bound to become more likely.

## Bilateral Level

### Bilateral and Regional Free Trade Agreements

After joining the WTO it was not possible for China to achieve its remaining trade goals, such as recognition of market economy status and securing and improving access to markets, resources and technologies, by multilateral routes. Chinese trade policy therefore increasingly focused on bilateral and regional free trade agreements.<sup>52</sup>

In fact, unlike at the multilateral Doha talks, China plays an active role at the bilateral level. Immediately after accession to the WTO it initiated talks with ASEAN to form the world's largest free-trade zone (in terms of population). This also led the other major Pacific trading nations and the European Union to seek agreements with ASEAN. To date China has signed thirteen

<sup>48</sup> Generally, see Hilpert, *Chinas globale wirtschaftliche Herausforderung* (see note 8), 19f.; in relation to individual sectors see the white papers of the foreign chambers of commerce: American Chamber of Commerce in the People's Republic of China, *2009 American Business in China: White Paper* (Beijing, 2009), 146–256; American Chamber of Commerce in the People's Republic of China, *2011 American Business in China: White Paper* (Beijing, 2011), 2–12, 40–71, 84–93; European Union Chamber of Commerce in China, *European Business in China: Position Paper 2009/2010* (Beijing, 2009), 9–11; European Union Chamber of Commerce in China, *European Business in China: Position Paper 2010/2011* (Beijing, 2010), 6–12; European Union Chamber of Commerce in China, *European Business in China: Position Paper 2011/2012* (Beijing, 2011), 7f..

<sup>49</sup> Empirically see Bown, “China's WTO Entry: Antidumping, Safeguards, and Dispute Settlements” (see note 28), 315–325; Marcia Don Harpaz, “China's WTO Compliance-Plus Anti-Dumping Policy”, *Journal of World Trade* 45, no. 4 (2011): 748–52.

<sup>50</sup> Low costs for capital, labour, land, energy, environment, see Yiping Huang, “China's Great Ascendancy and Structural Risks: Consequences of Asymmetric Market Liberalisation”, *Asian-Pacific Economic Literature* 24, no. 1 (2010): 65–85.

<sup>51</sup> The United States, the European Union and Mexico lodged a successful complaint against export restrictions on raw materials.

<sup>52</sup> Mallon and Whalley, “China's Post-Accession WTO Stance” (see note 33), 172f.

bilateral agreements, stands in negotiations with seven further partners, and is considering the start of talks in five more cases (see Table 2, p. 20).

Whereas China's comprehensive economic partnership agreements (CEPAs) with Hong Kong, Macao and Taiwan extend beyond pure trade in goods and also include services and investment, the free trade agreements (FTAs) essentially cover only bilateral trade in goods, indeed often only in particular sectors. The dismantling of non-tariff trade barriers is not discussed, still less any treatment of the Singapore Issues. The agreements are tailored to the respective partner and therefore differ widely. China's trade diplomacy is willing and able to pragmatically and eclectically adapt the scope, range and content of the agreements to the profiles and wishes of its trading partners.<sup>53</sup>

In general a trade policy prioritising bilateral or regional arrangements is not regarded as an alternative to the multilateral trading system, but as a complement as long as liberalisation measures cannot be realised within the WTO framework. China's agreements are designed to facilitate smooth and economically efficient trade in goods and services within Asian production networks, and in the medium term to position the Chinese economy as the central hub supplying the Asian markets. By developing regional trade, China hopes at the same time to insure itself against protectionism on the part of the Western industrialised countries. Internationally the agreements are intended to keep access to foreign markets permanently open, to procure access to energy, raw materials and other resources, and to ensure the recognition of market economy status. Politically bilateral agreements are to establish China as a leading trade power and regional engine of economic cooperation. In diplomatic terms the agreements concluded with Asian partners serve neighbourhood confidence-building and establishing a pan-Asian identity; indirectly they constitute reciprocal dependencies. In rivalry to Japan and the United States, China wants to act as the benevolent big neighbour of Southeast Asia. Through generous concessions it hopes to counteract fears of an all-devouring Chinese trade giant. The Chinese are proud of not fully exploiting the full advantage of

<sup>53</sup> Agata Antkiewicz and John Whalley, "China's New Regional Trade Agreements", in *China's Integration into the World Economy*, ed. John Whalley (Singapore et al.: World Scientific, 2011), 100, 118; Ganeshan Wignaraja, *Economic Reforms, Regionalism, and Exports: Comparing China and India*, Policy Studies 60 (Honolulu: East-West Center, 2011), 53–56.

their power asymmetry.<sup>54</sup> At the same time both in the Asia-Pacific region and in China there is acute awareness that China's rise to become the centre of gravity of trade also strengthens its role as a major power.

### Rival Free Trade Strategies for the Asia-Pacific Region

Despite its fundamental downsides and risks,<sup>55</sup> the trade strategy of bilateralism and regionalism must appear attractive for a China that is in the process of becoming the economic centre of gravity of Asia, if not indeed of the global economy. It is precisely the biggest trading powers that profit most from a shift to bilateralism, because the pull of their import markets lends them asymmetrical negotiating power and puts them in a position to wring concessions from smaller countries. Indirectly, discriminatory bilateral trade policies promote the emergence of centre/periphery structures that favour the businesses and production facilities of the centre.<sup>56</sup> Thus China's free trade agreements not only produce competitive advantages for the domestic economy. In the medium term they also reinforce the spatial economic centrality of China, which above and beyond business-to-business trade relations is also becoming ever more important as an importer. A regional free trade zone (East Asian Free Trade Area, EAFTA), comprising the ten ASEAN states plus South Korea, Japan and China, would be even

<sup>54</sup> For discussion of the motives of Chinese bilateral trade policy see Hanns Günther Hilpert, "Multilaterale und bilaterale Freihandelsprojekte in Asien", in *Ostasien in der Globalisierung*, ed. Hanns W. Maull and Martin Wagener (Baden-Baden: Nomos, 2009), 47; Yang Jiang, "China's Pursuit of Free Trade Agreements: Is China Exceptional?" *Review of International Political Economy* 17, no. 2 (2010): 238–61 (250–56); Ming Wan, "The Domestic Political Economy of China's Preferential Trade Agreements", in *Trade Policy in the Asia-Pacific: The Role of Ideas, Interests, and Domestic Institutions*, ed. Vinod K. Aggarwal and Seungjoo Lee (New York et al.: Springer, 2010), 44–46; Ka Zeng, "Multilateral versus Bilateral and Regional Trade Liberalization: Explaining China's Pursuit of Free Trade Agreements (FTA's)", *Journal of Contemporary China* 19, no. 66 (2010): 635–52 (639–45).

<sup>55</sup> For a fundamental critique of bilateral free trade agreements see Jagdish Bhagwati, *Free Trade Today* (Princeton and Oxford, 2002), 112–19.

<sup>56</sup> Richard E. Baldwin, "The Spoke Trap: Hub-and-Spoke Bilateralism in East Asia", in *China, Asia, and the New World Economy*, ed. Barry Eichengreen, Charles Wyplosz and Yung Chul Park (Oxford, 2008), 53–61.

**Table 2**  
**China's comprehensive economic partnership agreements (CEPA) and free trade agreements (FTA)**

<i>In force</i>	<i>since</i>
Thailand (FTA)	2003
Hong Kong (CEPA)	2004
Macao (CEPA)	2004
ASEAN (FTA)	2005
Chile (FTA)	2006
Pakistan (FTA)	2007
New Zealand (FTA)	2008
Singapore (FTA)	2009
Peru (FTA)	2010
Taiwan (CEPA)	2010
Costa Rica (FTA)	2011
<i>Due to come into force</i>	
Switzerland (FTA)	2014
Iceland (FTA)	2014
<i>FTAs under negotiation</i>	
South Africa (SACU)	2004
Australia	2005
Gulf Cooperation Council (GCC)	2005
Norway	2009
China/Japan/South Korea	2012
South Korea	2012
CEPEA/RCEP (ASEAN+6)	2013
<i>FTAs proposed</i>	
Shanghai Cooperation Organisation (SCO)	2003
India	2003
EAFTA (ASEAN+3)	2004
Mongolia	2010
Colombia	2012

Source: Asian Development Bank, Asia Regional Integration Center, <http://aric.adb.org> (accessed 9 July 2013).

more advantageous for China than bilateral agreements with its neighbours.<sup>57</sup>

In the regional context China also possesses a special political advantage, as it can play out its major

<sup>57</sup> For an empirical comparison see the calculations of the resulting welfare effects with consideration of dynamic investment effects in Gemma Estrada, Donghyun Park, Innwon Park and Soonchan Park, *The PRC's Free Trade Agreements with ASEAN, Japan and the Republic of Korea: A Comparative Analysis*, ADB Working Paper Series on Regional Economic Integration 92 (Manila: Asian Development Bank, January 2012), 14–17.

power status better than in the multilateral context. But precisely these are also the reasons why many trading partners regard the Chinese free trade proposals with great scepticism. They fear ruinous industrial competition and a general reinforcement of Chinese dominance. The EAFTA propagated by China was therefore not able to convince all those invited. Although there is fundamental agreement in the region about the objective of free trade, a trading bloc centred on and dominated by China is rejected. The Japanese counterproposal of a Comprehensive Economic Partnership for East Asia (CEPEA), to also include the countries of Australia, New Zealand and India and the issues of liberalisation of services and investment, therefore has greater diplomatic support. At its Bali summit in November 2011 ASEAN officially proposed a multilateral free trade agreement of the ASEAN+6 country group (Regional Comprehensive Economic Partnership, RCEP). Two years later the East Asia Summit (EAS) agreed to initiate negotiations on a RCEP agreement.

In trade policy, China's biggest challenge is not Japan, but the United States. At the Asia-Pacific Economic Cooperation (APEC) summit in November 2011 the United States and eight other Pacific states (Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore and Vietnam) agreed to begin negotiations on a multilateral free trade agreement. If successful, they would join the Trans-Pacific Strategic Economic Partnership, agreed in 2005 by Brunei, Chile, New Zealand and Singapore, nowadays referred to as Trans-Pacific Partnership (TPP). After initial hesitation Canada, Mexico (October 2012) and Japan (July 2013) also joined the talks. The TPP is designed to go beyond simple tariff preferences and rules of origin, to bindingly regulate the spheres of services, investment protection, right of establishment, competition, public contracts, intellectual property rights, and environmental and labour protection standards.<sup>58</sup> If China were to seek to join the talks or later join the TPP, it would have to observe the complex, newly-drafted trade rules and accept stringent standards in the fields of social affairs, environmental standards, intellectual property

<sup>58</sup> For detail on the TPP from an American perspective see Ian F. Fergusson, William H. Cooper, Remy Jurenas and Brock R. Williams, *The Trans-Pacific Partnership Negotiations and Issues for Congress*, CRS Report for Congress, 7-5700 (Washington, D.C.: Congressional Research Service, 19 March 2013); Jeffrey J. Schott, Barbara Kotschwar and Julia Muir, *Understanding the Trans-Pacific Partnership* (Washington, D.C.: Peterson Institute for International Economics, 2013).

rights and state-owned industries. And it would have to reckon with being confronted with more or less arbitrary demands from the United States and other TPP members. From China's perspective the TPP is a discriminatory trade agreement that would form part of a US containment strategy.<sup>59</sup> But even US allies see problems in a trans-Pacific trade agreement with the stringent standards favoured by the United States that would lastingly exclude China and other developing countries and expose them to negative trade-diverting effects.<sup>60</sup> To that extent the actual shape of the TPP must be awaited. It cannot be excluded that the TPP talks will ultimately fail.

In order to remain in the game China will either seek to join the TPP after all, forcing it, as in the case of WTO accession, to accept market opening and domestic liberalisation measures, or it will attempt, via free trade agreements with its Asian neighbours or the BRICS countries, to establish a trading counterweight. That could only succeed via the rival RCEP project. But whereas in Southeast Asia ASEAN is already liberalising intra-regional trade and has concluded external agreements with Australia, China, Japan, South Korea and New Zealand, corresponding agreements among the states of Northeast Asia are completely lacking. Only in May 2012 did China start negotiations for a bilateral free trade agreement with South Korea and a trilateral one with Japan and South Korea. After China successfully concluded trade agreements with Iceland and Switzerland in spring 2013, negotiations with its two eastern neighbours now have top priority. Although China's trade with Japan and South Korea has grown substantially in recent years, both countries' shares of China's exports and imports are shrinking. A liberalisation of Northeast Asian trade would not only unlock considerable potential in trilateral trade but would also be the key to the comprehensive East Asian free trade agreement (RCEP). However, the negotiations are likely to be tricky for several reasons, especially with Japan. Firstly, no other industrialised country resists external economic liberalisation as stubbornly as Japan, secondly Japan sees joining the TPP and possibly a free trade agreement with the European Union as higher priorities, and

thirdly diplomatic relations between Japan and China are extremely tense because of historical burdens and territorial conflicts. In this environment China would have to make concessions in one direction or another. The new reform-oriented state and party leadership under Xi Jinping and Li Keqiang will have to decide: are China's foreign policy and trade priorities in Asia or the trans-Pacific relationship? Are they willing to make the required concessions to Japan or to the United States?<sup>61</sup>

<sup>59</sup> The Transatlantic Trade and Investment Partnership (TTIP) proposed by the European Union and the United States is perceived similarly.

<sup>60</sup> Critical on the Trans-Pacific Partnership Agreement Shiro Armstrong, *Australia and the Future of the Trans-Pacific Partnership Agreement*, EABER Working Paper 71 (East Asian Bureau of Economic Research, 2011).

<sup>61</sup> On China's trade policy options in response to a TPP see Jianmin Jin, "China's Concerns Regarding TPP No More than Empty Worries?" Fujitsu Research Institute, 11 January 2012, <http://jp.fujitsu.com/group/fri/en/column/message/2012/2012-01-11.html> (accessed 11 July 2013); Guoyou Song and Wen Jin Yuan, "China's Free Trade Agreement Strategies", *Washington Quarterly* 35, no. 4 (2012): 107–19.

# Inside China's Trade Policy

China's trade policy remains contradictory.<sup>62</sup> Although internal and external economic liberalisation have brought the country a historically unique level of growth and prosperity gains, its trade policy has pursued an increasingly mercantilist course since the middle of the last decade and its economic policy buttresses the major state-owned corporations. Open foreign markets are crucial for sustainable domestic economic growth, yet China's industrial and trade policy provokes protectionistic responses from its trading partners. Whereas China has profited like no other country in recent years from a reliable and functioning world trade system, this is not matched by its level of engagement in the ongoing WTO world trade talks.

Two factors may explain this contradiction. Firstly, China's trade policy, like the country's economy and politics as a whole, is still in the transformation phase. China's commercial and foreign trade policy treats the country not as a rule-setter at the international level but still as a merely passive rule-taker in a global economy dominated by Western industrialised countries and businesses. Nor does the country yet possess the human and institutional resources to actively exert robust international influence. Secondly, explanations and analyses that examine China's trade policy exclusively in terms of its economic rationality necessarily fall short. For alongside the goal of promoting growth and generating prosperity, this also concerns the distribution of individual and collective income and, moreover, stands firmly in the context of domestic and foreign policy. Besides, the economic, political rationality is always also decisive. In order to better understand Chinese trade policy, a closer examination of its internal conditions is therefore required: the institutional structures, internal power relations and political developments.

<sup>62</sup> This chapter is based largely on discussions conducted by the author in Beijing in June 2012 and June 2013.

## Institutional Level: Institutions and Actors

Analyses of Chinese trade policy usually tacitly assume that the country behaves as a single unified strategic actor. That might have been the case when Prime Minister Zhu Rongji pushed through WTO membership against considerable resistance and the Chinese negotiating team, centralised in the then Ministry of Foreign Trade and Economic Cooperation (MOFTEC), operated with the close coordination and express backing of the State Council. After accession, however, the Ministry of Foreign Trade lost its exceptional position of power.<sup>63</sup> Since then, trade policy has no longer been a central interest of the state and party leadership and its decisive organs. The Politburo of the Chinese Communist Party (CCP), the Politburo Standing Committee (PSC), the National People's Congress and the State Council (SC) address trade policy only exceptionally, and then generally in declaratory form. Whereas WTO membership was a decisive political milestone in China's transformation process, trade policy since then has been regarded more as a technocratic task.

In general, the style of government in present-day China can be characterised as "fragmented authoritarianism", a political system in which an ever more strongly fragmented and segmented executive makes decisions only after a thorough search for internal consensus.<sup>64</sup> Nor is China's trade policy the product of vertically monolithic party rule. It is better understood as a complex multi-level game. Alongside the central ministries and government agencies in Beijing, provincial governments, state-owned enterprises (SOEs), industry associations, think-tanks and media exert direct and indirect influence on China's trade policy and external economic relations. Trade policy decision-making, negotiation and implementation are multi-layered processes where functionaries and civil servants – acting rationally in personal and institutional self-interest – come together as administrators

<sup>63</sup> Tu, *China's Position and Role in the Doha Round* (see note 37), 23.

<sup>64</sup> On this question in general see Andrew Mertha, "Fragmented Authoritarianism 2.0: Political Pluralization in the Chinese Policy Process", *China Quarterly*, no. 200 (December 2009): 995–1012.

of economic and political interests. The resulting strong position of the provincial governors and directors of SOEs makes it clear that the governance of the Chinese executive is not only “top-down” but also “bottom-up”.

Naturally, manifold bureaucratic coordination and negotiation processes precede and accompany the concrete trade policy negotiations. But depending on the political importance of the topic, the internal mechanisms and processes operate very differently. In the WTO membership negotiations then Prime Minister Zhu Rongji participated personally in both the talks with the United States and the administrative coordination processes between ministries and government agencies. The WTO Work Leading Group, responsible for coordination and located at the level of the State Council, reported directly to the prime minister. Zhu Rongji succeeded in enforcing the negotiated outcome internally and credibly representing China’s positions externally.<sup>65</sup> A similarly favourable constellation still prevailed in 2002 for China’s negotiations with ASEAN over a bilateral free trade agreement (China-ASEAN Free Trade Agreement, CAFTA), where the foreign policy objective of establishing good neighbourly relations with the ASEAN states and winning the acceptance of the Southeast Asian elites for China’s rise enjoyed high priority. Accordingly, the state and party leadership pushed for a rapid conclusion of the talks but showed itself willing to make major concessions and to implement the outcome internally.<sup>66</sup> By contrast, the bi- and multilateral negotiations that followed accession and CAFTA possessed no great political priority for China’s leadership. Prime Minister Wen Jiabao did not intervene directly in the Doha Round and left the coordination processes to the responsible Ministry of Commerce (MOFCOM). Unlike for the WTO accession talks, no inter-ministerial committee was established for the Doha process, but the indirectly affected ministries and agencies were included in China’s WTO delegation in Geneva, thus ensuring at least a minimum of inter-ministerial co-

ordination.<sup>67</sup> Even less favourable was the institutional structure for China’s negotiations over accession to the WTO Agreement on Government Procurement, where the Ministry of Finance (MOF), possessing little experience or ambition in trade policy, took the lead.<sup>68</sup>

The Ministry of Commerce’s loss of influence is characteristic for the changed circumstances since the advent of the fourth leadership generation under President Hu Jintao and Prime Minister Wen Jiabao. The priorities of the Hu Wen administration were no longer reform and liberalisation, but social peace, regional balance and institutional consolidation of the political power of the CCP. It pursued a state capitalist ideology according to which market opening and liberalisation must not be allowed to endanger the economic prospects of SOEs. A loss of reputation made matters worse for the Ministry of Commerce, which found itself accused of failing to represent national interests energetically enough in the WTO accession talks (on the basis of the numerous anti-dumping cases against China) and generally being too conciliatory towards foreign interests.

Without backing or support from the top state and party leadership, the voice of the Ministry of Commerce has little weight. Firstly, it lacks authority over the domestically important SOEs, industry and service sectors, provinces and autonomous regions. Secondly, its function of coordinating trade policy is neither politically still less legally binding. Lacking support from above it cannot – unlike during the WTO accession negotiations – simply ignore the resistance of domestic interest groups. The line ministries and SOEs are the de facto decisive actors for China’s trade policy. They formulate offensive and defensive interests, they define the room for manoeuvre. Only on trade rules does the Ministry of Commerce retain sole authority. Formally it can only present the official Chinese negotiating position to the State Council for approval after the affected ministries and committees

65 Wei Liang, “Bureaucratic Politics, Interministerial Coordination and China’s GATT/WTO Accession Negotiations”, in *China’s Foreign Trade Policy: The New Constituencies*, ed. Ka Zeng (London: Routledge, 2007), 30–36; Tu, *China’s Position and Role in the Doha Round* (see note 37), 23.

66 Hanns Günther Hilpert and Gerhard Will, *China und Südostasien: Auf dem Weg zu regionaler Partnerschaft*, SWP-Studie 21/2005 (Berlin: Stiftung Wissenschaft und Politik, August 2005), 26–28.

67 Ming Wan, “The Domestic Political Economy of China’s Preferential Trade Agreements”, in *Trade Policy in the Asia-Pacific*, ed. Aggarwal and Lee (see note 54), 35–40; Song and Yuan, “China’s Free Trade Agreement Strategies” (see note 61), 114–16; Tu, *China’s Position and Role in the Doha Round* (see note 37), 23; Zeng, “Multilateral versus Bilateral and Regional Trade Liberalization” (see note 54), 646.

68 Tu Xinquan, *Organizational Aspects of China’s GPA Accession Negotiation and Their Implications*, Working Paper 6/2011 (Bloomington: Indiana University Research Center for Chinese Politics and Business, October 2011), 17–20.



have agreed the proposals. In view of the fragmentation of decision-making powers on trade policy across several line ministries the leading Ministry of Commerce has its hands partly tied. It possesses neither the mandate nor the acceptance to resolve central distribution conflicts relating to trade policy. Sometimes it appears to occupy more the role of government spokesperson than empowered leader of negotiations. Possibly the Ministry of Commerce may be left with no other choice than to adopt hard negotiating positions in order not to be regarded as an unreliable representative of China's interests in an increasingly nationalistic foreign policy climate.<sup>69</sup>

### Processual Level: Negotiations, Legislation, Implementation

China's trade policy is open to outside influence. Line ministries, provinces, regions, sectoral associations, SOEs, media and think-tanks influence the shape of the Chinese trade regime directly and indirectly, whereby participation is very diverse and often occurs in competition.<sup>70</sup> The most important but by no means only conflict of interests runs between proponents of liberal positions, who expect market opening to lead to more competition and prosperity, and protectionists, who advocate the protection of domestic industries. Here China is not fundamentally different from other trading nations: competitive companies and industries that generate export revenues and depend on sourcing affordable supplies abroad support liberalisation and market opening, while their competitively weak counterparts seek to prevent the same, or demand new barriers to market entry.

In view of the strength of the Chinese export sector one would expect that numerous companies, associations and ministries would propagate the opening of foreign markets, the institutional strengthening of the world trade system and the liberalisation of the domestic import regime. But in fact lobbying for China's export interests is weak. There are three

<sup>69</sup> Yuka Kobayashi, "The Impact of the World Trade Organization on China's Trade Policy: A Case Study of the Telecommunications Sector", in *China's Foreign Trade Policy: The New Constituencies*, ed. Ka Zeng (London: Routledge, 2007), 143–66 (155); Tu, *China's Position and Role in the Doha Round* (see note 37), 23; Zeng, "Multilateral versus Bilateral and Regional Trade Liberalization" (see note 54), 651.

<sup>70</sup> Ka Zeng and Andrew Mertha, "Introduction", in *China's Foreign Trade Policy*, ed. Zeng (see note 69), 10.

reasons for this: Firstly, since the reform-related dissolution of the industry ministries in the 1990s the export industries lack natural representatives of their interests in the Chinese executive. Although internationally successful labour-intensive branches are represented by three institutions – the National Development and Reform Commission (NDRC), the Ministry of Industry and Information Technology (MIIT) and the State-owned Assets Supervision and Administration Commission (SASAC) – these are all concerned principally with industrial and service companies that are threatened by import competition, and therefore adopt liberalisation-sceptical stances.<sup>71</sup> Secondly, more than half of Chinese export revenues are generated by foreign invested enterprises that exert little influence on trade policy. And thirdly, the big private-sector exporters like Huawei, TCL, Haier and Lenovo are not yet really well networked. They only began serious professional lobbying in 2012, for example for a stronger opening of foreign markets for Chinese goods imports.

On the other hand companies that are actually or potentially threatened by imports are well anchored in China's government.<sup>72</sup> Agriculture, fisheries, mining and most services each possess their own line ministry, while the capital- and energy-intensive branches enjoy the express support of the NDRC and the MIIT. From the perspective of the latter two institutions, the threat of job losses, loss of tax revenues (which are boosted by the monopoly profits of many service providers), loss of industrial steering capacity, the danger of monetary and financial dislocation (in the event of an opening of the banking and insurance markets), and general risks to internal stability (in the case of opening of the media and telecommunications markets) all mitigate against any opening of the service markets. The directors and governors of affected SOEs and provinces also resist privatisation and market opening with similar arguments. For example, telecommunications<sup>73</sup> and petrochemicals<sup>74</sup> success-

<sup>71</sup> Jiang, "China's Pursuit of Free Trade Agreements" (see note 54), 248f.

<sup>72</sup> On the following see Jiang, "China's Pursuit of Free Trade Agreements" (see note 54), 242–46; Zeng, "Multilateral versus Bilateral and Regional Trade Liberalization" (see note 54), 647–50.

<sup>73</sup> In the negotiations for implementation of the WTO sectoral agreements, see Kobayashi, "The Impact of the World Trade Organization on China's Trade Policy" (see note 69), 149–61.

<sup>74</sup> In the negotiations for a bilateral free trade agreement with the Gulf Cooperation Council, see Song and Yuan, "China's Free Trade Agreement Strategies" (see note 61), 115.

fully prevented market opening in their respective sectors. China's agriculture is represented by the Ministry of Agriculture (MOA) and by the provinces and regions, but not by independent farmers' associations. While the agricultural import liberalisations around the turn of the century had to be accepted by those affected for superordinate foreign policy reasons, since 2002 institutional friction has increased considerably. Thus the MOA points to the disadvantages incurred by agriculture through WTO membership and CAFTA liberalisations. Falling prices and growing imports have diminished the incomes of many peasants. In view of growing social conflicts in the rural areas the Ministry believes any further worsening of the economic situation of the peasants would endanger China's domestic political stability. This argumentation was partly responsible for China's rejection in summer 2008 of the US demand for tariff reductions for grain and helped prevent a compromise to conclude the Doha Round. China's talks over a bilateral free trade agreement with Australia also failed for the same reason.<sup>75</sup>

While the interventions of Chinese lobby groups in negotiating processes mirror the international norm, interest groups within the country exert unusually strong influence on the implementation of agreements after they have been made. China's incomplete implementation of its promised WTO accession obligations is explained at least partly by their dependency on the cooperation of the affected levels and actors. Although the central ministries and agencies are in principle responsible for formulating national laws and decrees, the consensus-based legislative negotiating process also integrates the involved line ministries, SOEs and provinces alongside MOFCOM. As a result the legislative outcome already contains vague formulations that represent political declarations of intent more than concrete administrative regulations.

Even weaker than in the legislative is the position of the central Beijing-based ministries and agencies in the sphere of the executive. Only in anti-dumping and in activities occurring directly at the border (collection of duties, customs clearance, import regulations, export restrictions) does full administrative authority lie with the central foreign trade authorities. Any measures "behind the border", for example in the scope of sectoral oversight and regulation, fall under the remit of regional and local authorities or the line

ministries. The approval of investments, the awarding of business licences, the monitoring of environmental and labour protection laws, the conduct of certification and testing procedures, the prosecution of economic crimes, the policing of infractions, the enforcement of intellectual property rights and above all the setting and collection of taxes all fall under the power of local decision-makers, who always also pursue their own goals or business interests. In view of China's loose and relatively intransparent legal norms and administrative regulations and the widespread absence of legal options, affected companies have few possibilities to defend themselves against arbitrary state injustice.<sup>76</sup> Even the centre in Beijing lacks the means and instruments to effectively control the work of local authorities. Whether discrimination against foreign companies takes place or is prevented is decided locally, on the ground. Thus trade policy implementation in some respects becomes the result of a local negotiating process in which the centre may participate, but where directors of SOEs, private-sector entrepreneurs and local party cadres largely agree amongst themselves how the considerable profits are to be shared.<sup>77</sup> This deficient implementation of binding international trade agreements devalues China as a serious negotiating partner. And because of China's great prominence in international trade, it burdens the multilateral negotiating processes.

## Connection to Foreign Policy

The relationships between China's trade policy and foreign policy are not clear-cut, but situation-dependent. Thus WTO membership and the CAFTA free trade agreement were also important foreign policy objectives, and in both cases, as already mentioned, it was possible to overcome domestic political resistance against market opening and liberalisation by pointing to the foreign policy imperative. But since the priority of external economic liberalisation has fallen, there

<sup>76</sup> Kobayashi, "The Impact of the World Trade Organization on China's Trade Policy" (see note 69), 154–61; Andrew Mertha, "Putting Your Mouth Where Your Money Is: How US Companies' Fear of Chinese Retaliation Influences US Trade Policy", in *China's Foreign Trade Policy*, ed. Zeng (see note 69), 65–68.

<sup>77</sup> On the institutional circumstances at the local level see Philip Andrews-Speed, *The Institutions of Energy Governance in China*, Note de l'Ifri (Paris: Institut français des relations internationales, January 2010), 14–30.

<sup>75</sup> Zeng, "Multilateral versus Bilateral and Regional Trade Liberalization" (see note 54), 647–50.

is no longer such a close connection between foreign policy and trade policy. In all later negotiating processes the foreign policy aspect may still have been important but was certainly not decisive. When a free trade agreement comes up, the Ministry of Foreign Affairs (MFA) prepares a fundamental assessment of the political importance of the partner country and the foreign policy context, but exerts no decisive influence beyond that.<sup>78</sup>

The impact of virulent foreign policy ideas, identities and goals circulating in China is likely more important than the institutional weight of the MFA. Although MOFCOM is characterised by a notably unideological and pragmatic approach, all trade policy actors must fulfil the expectations of party, politics and society. While the positive view of globalisation and multilateralism is not really challenged in China,<sup>79</sup> there are very different ideas about which objectives and ideals international trade policy should pursue. Roughly speaking, three "schools of thought" can be identified that shape the opinion-forming process and via universities and think-tanks indirectly influence the actual trade policy of the government institutions.<sup>80</sup>

The first school of thought perceives China primarily as a developing country, whose per-capita income and social and economic structure are still far removed from the level of the developed industrial nations. This classification has two consequences. Firstly, China cannot and must not assume global multilateral responsibilities corresponding to its economic size. Secondly, at the multilateral level it must primarily assert the interests of the developing countries, and where possible avoid trade confrontation with them. Bilaterally, they say, China even went a step further in its free trade agreements with the ASEAN countries and Pakistan and selflessly granted special favours, thus exhibiting the "big country morality".<sup>81</sup>

**78** For the connection between China's trade and foreign policy see Jiang, "China's Pursuit of Free Trade Agreements" (see note 54), 249f.

**79** Wan, "The Domestic Political Economy of China's Preferential Trade Agreements" (see note 67), 45.

**80** For an overview of China's foreign policy debate see David Shambaugh, "Coping with a Conflicted China", *Washington Quarterly* 34, no. 1 (2011): 7-27.

**81** On the "big country morality" see Jiang, "China's Pursuit of Free Trade Agreements" (see note 54), 253f.; on the "Global South School" in Chinese foreign policy see Shambaugh, "Coping with a Conflicted China" (see note 80), 16f.

A second "realistic" school of thought connects China's trade policy normatively with its foreign policy, objecting to continuing discrimination by Western industrialised countries and vehemently criticising China's compliant stance in the WTO accession talks. This group demands an assertive and if necessary confrontative Chinese stance, both multilaterally in the WTO and bilaterally towards the United States, the European Union and Japan. China's realists are generally sceptical towards international institutions and orientate their actions strictly on the national self-interest. Therefore Chinese market opening is only an option in return for corresponding reciprocity from foreign partners.<sup>82</sup>

The globalists and multilateralists, as the third school of thought, fundamentally acknowledge China's responsibility for the international trade order and the WTO and point to the urgency of further free-market reforms and external economic liberalisations. They demand that China, as a leading trading nation, should contribute to the international system and also be willing to make greater concessions in the Doha Round.<sup>83</sup> In the recent Hu Wen epoch the globalist ideal was very obviously on the defensive and no longer sets the political tone even in the liberal Ministry of Commerce. The dogmas of the "Global South" and realism schools increasingly colour Chinese trade policy. However there are signs of a new paradigm change under Xi Jinping and Li Keqiang.

The more indirect academic influence of think-tanks stands contrasts with the direct impact of print and online media through which nationalist moods sometimes become inserted into trade policy. It is certainly not unrealistic to assume that the views that appear in China's media are at least permitted by the state censor, and probably in fact initiated and controlled. It would appear that nationalism is instrumentalised internally and externally. Domestically the regime profits as the legitimate and reliable defender of national interests. Externally the incendiary excitement of the Chinese people creates additional pressure that effectively strengthens the Chinese negotiating position.<sup>84</sup> This occurs in three ways: Firstly,

**82** On the realistic school in Chinese foreign policy see Shambaugh, "Coping with a Conflicted China" (see note 80), 12f.

**83** For example Tu, *China's Position and Role in the Doha Round* (see note 37), 25. On the globalist school in Chinese foreign policy see Shambaugh, "Coping with a Conflicted China" (see note 80), 20f.

**84** Yun Sun, *Chinese Public Opinion: Shaping China's Foreign Policy, or Shaped by It?* Brookings Northeast Asia Commentary 50

nationalism heightens sensitivities created by the West's protectionism and the unfair treatment experienced during WTO accession. Secondly, it supports China's protectionist project to promote the domestic economy and build internationally competitive "global players". Thirdly, it promotes Chinese interests in a questionable manner, fomenting interstate conflicts or claiming a special right to development without granting the same rights to other developing countries. For example, Chinese media agitated against export restrictions imposed by India (on raw cotton) and Indonesia (on mineral ores), while China itself widely applies similar restrictions. Boycotts against Japanese goods (2005, 2012) and French supermarkets (2008) had the effect of heightening conflict, as did the undeclared embargo on rare earths directed against Japan (2010).

The nationalist narrative is not only problematic in foreign policy terms, but also for trade policy, for it poses trade and economy as a zero-sum game and ignores the profits obtained through productive co-operation in international trade.

(Washington, D.C.: Brookings, December 2011), <http://www.brookings.edu/research/opinions/2011/12/13-china-public-opinion-sun> (accessed 16 April 2013).

# Trade Policy Perspectives for China and Europe

In the big picture China's trade policy shows mixed results. On the one hand the country has poured enormous effort into far-reaching adaptations of legislation and jurisdiction to comply with WTO norms and opened its markets considerably wider than other major emerging economies. On the other, China has not fully satisfied its WTO accession obligations and adheres only inadequately to general rules such as non-discrimination, transparency and legal security. On the one hand its active participation in the WTO dispute settlement mechanism and faithful implementation of disadvantageous rulings demonstrate that China is willing to integrate into the WTO and the multilateral trading system. On the other, its passive stance in the Doha Round, verging on the obstructive, is disappointing.

China clearly operates as an established actor in the WTO system, sometimes breaking the rules and placing its own trade policy interests before the existence and stability of the system as a whole, but fundamentally respecting the status quo. China is neither especially cooperative nor especially confrontative, but operates in a spectrum of pragmatism and opportunism to further its own commercial interests.

The contradiction in China's trade policy is explained in terms of its internal relations. Analysis of the institutions, interests, decision-making processes and debates shows that it is unrealistic to understand Chinese external economic policy as a homogenous entity. It would therefore be wrong to label China's trade policy in general as liberal or mercantilist, as WTO-conforming or WTO-violating. Such attributions would always be easy to prove wrong in the complexities of Chinese reality. Instead, the range of actors' interests and manifold possibilities for action and influence reflect the contradictory and unpredictable nature of China's trade policy. At the same time certain basic patterns can be identified.

Firstly, general political priorities are decisive for the substantive alignment and institutional framework of trade policy. The liberal episode of the Zhu Rongji era, with a politically powerful Ministry of Commerce and efficient negotiating mechanisms, is irrevocably over. It is not yet foreseeable whether the reform process pursued by the new Xi Li administra-

tion can put an end to the mercantilist and statist slant of Chinese trade policy.

Secondly, China's trade policy is open to external influence. Both government actors and regional and economic interest groups determine the progress of negotiating and implementation processes.

Thirdly, China's trade policy is in permanent flux. Under Hu Jintao and Wen Jiabao the influence of central government institutions waned, while interest groups became ever more powerful. As far as international trade policy is concerned, neither the will nor the ability to lead are yet recognisable.

Fourthly, China's trade policy structures can in general be characterised as pluralistic, intransparent, reactive and unpredictable. As a result of the activities of interest groups and a sometimes nationalistic agenda, economic rationality and actual trade policy sometimes part ways. In general politics follows rather pragmatic, opportunist considerations more than paradigms or strategies. Implementation promises are not very reliable. China's trading partners cannot and must not depend on the implementation of contractually promised agreements.

## No Reliable Predictions for China's Trade Policy

China's trade policy is heading for a course-setting decision for at least three reasons. Firstly, a new party leadership took charge in autumn 2012 and a new government in spring 2013. Where once the Hu Wen administration initiated a political shift to state capitalism and mercantilism, the new reform-oriented Xi Li administration can be expected to supply sustainable impetus for domestic and external economic liberalisation. According to the communiqué of the third plenum in November 2013, the market economy is to play the leading role in allocating resources. The recent conclusion of free trade agreements with Switzerland and Iceland, China's new interest in a WTO Trade in Services Agreement (TISA) and the opening of movement of capital and financial markets in the new special economic zone in Shanghai can thus be interpreted as the first indications of a more liberal

alignment of trade policy. Secondly, in trade policy China is directly challenged by the bilateralism of the other major trading powers, the European Union, Japan and the United States. Successful conclusion of the ongoing talks for Pacific, Atlantic and Japanese-European free trade agreements (TPP, TTIP, JAPEU) would cause China losses of profits and sales through trade diversion and exclude it from the ongoing development of international trade rules. Thirdly, China has gained enormously in power and influence in international trade policy. In terms of trade volume and import growth, it is now the world's most important trading power and could well expand its lead in the coming years. While China could initially be "primus inter pares" in a multipolar trade system, in the medium to long term hegemonic stability is even conceivable, where it would assume leadership and supply resources to support and stabilise the multilateral trading system.<sup>85</sup>

In any case, in future China will be in a position to decisively shape international trade policy through its own liberalisation proposals and by placing demands on its trading partners. It is unclear, however, how China's trade policy will respond to the internal and external pressures for realignment. In view of the diverse influencing factors and imponderable domestic and foreign policy dynamics, a serious prognosis is almost impossible. It therefore makes more sense to draw up scenarios, which can also be understood as action options for China. The conceivable developments range from internal and external economic

liberalisation to backsliding into protectionism or opportunist bilateralism.

### Scenario 1: Liberalisation

Here it is assumed that the Xi Li administration (2012–2022) succeeds in pushing through both domestic reforms and external market opening. The liberalisation measures are supported not only by the import and export sectors (which profit from them), but also by a policy of internationalisation of the renminbi, which would presuppose dismantling capital controls, ending financial repression and permitting a realistic exchange rate for the Chinese currency. It is further assumed that the liberalisation moves are accomplished both via unilateral measures and through bi- and multilateral negotiations, which China pushes by making assertive demands and offering attractive concessions on entry. As a result China reduces its agricultural and industrial tariffs, enforces the WTO principles (transparency, non-discrimination, rule of law) and opens services and public procurement to international competition. In return China's trading partners concede tariff reductions, better market access and legal security in anti-dumping conflicts. They respond to China's trade policy advances in the hope of lucrative export profits, but also because China's trade threat evaporates with rising wage costs and an appreciating renminbi. From China's perspective, its own interest in open markets and a stable multilateral world trade system speak for liberalisation. Indeed, with external trade accounting for 50.5 percent of GDP (2012), China is considerably more strongly integrated in the global economy than the other major economies (European Union, United States, Brazil, India, Japan, Russia) and also more dependent on an open multilateral world trade system with stable rules. Without open access to foreign markets, international supply networks, advanced technologies and remote primary resources, China will hardly be able to continue its economic growth, its internal modernisation, the growth of income and prosperity, or its international political rise. Moreover, an open growth-promoting world trade system enhances the chances that Chinese companies will generate good returns from their foreign investments and that loans granted by China will be paid back. Because China – soon to become the world's dominant trading power – profits more from global economic liberalisation than other major trading powers and is

<sup>85</sup> On the term hegemonic stability see Robert O. Keohane, "The Theory of Hegemonic Stability and Changes in International Economic Regimes 1967–1977", in *Change in the International System*, ed. Ole R. Holsti, Randolph M. Siverson and Alexander L. George (Boulder, 1980), 131–62; Charles P. Kindleberger, "Dominance and Leadership in the International Economy: Exploitation, Public Goods, and Free Rides", *International Studies Quarterly* 25, no. 2 (1981): 242–54. For detail on the scenario of Chinese economic dominance see Subramanian, *Eclipse* (see note 4), 69–115. Currently there is more doubt as to whether China possesses the will and capacity for international leadership and whether the existing leading international powers (United States, European Union) would accept such a move at all; see for example David Daokui Li, "Is China Ready for Global Economic Leadership?" China Changing Lecture, Lowy Institute for International Policy, Sydney, 19 April 2012; Arvind Panagariya, "Challenges to the Multilateral Trading System and Possible Responses", *Economics* 7, no. 10 (2013): 21. In the medium term it is realistic to assume that power options will also be exercised.

potentially worse affected by protectionism, it could out of rational calculation start itself initiating and promoting global liberalisation and become a pillar of the WTO. In this scenario, China would advance to become the benevolent hegemon of the multilateral trading system.

### Scenario 2: Protectionism

Scenario 2 assumes that China's top-down reform process becomes bogged down in a domestically difficult overall situation of resistance from SOEs and provincial governors. As growth rates, employment possibilities and welfare distribution leeway recede, dissatisfaction in the population increases and social and environmental problems and arbitrary public authorities spark increasing conflicts with the state. On top of this, the global economy supplies only moderate growth stimuli, cost aspects dull the attraction of transferring industrial manufacturing to China and weak foreign economic growth keeps export demand low. The government's priorities lie in preserving internal stability and securing political and economic consolidation, and consequently China refuses foreign demands for market opening. On the contrary: On all levels China's regional and local authorities issue new regulations to protect weak domestic enterprises and promote growth industries. Existing liberalisation and market opening measures are rescinded and China falls ever further behind its WTO obligations. Retribution measures worsen and escalate China's foreign trade conflicts, principally with the United States, the European Union and Japan, into veritable trade wars. In the WTO China consistently blocks progress in negotiations. Because it refuses to assume leadership and responsibility, multilateral liberalisation initiatives in the multipolar trading system are condemned to failure. China regards the bilateral-leaning trade policies of the United States, Japan and the European Union as an attempt to harm it economically and contain it geopolitically. Increasingly trade policy is discussed in nationalist terms and understood as a component of foreign and security policy.

### Scenario 3: Bilateralism

Here it is assumed that a sceptical stance on globalisation wins the day, despite China's not inconsiderable growth and prosperity gains. The political assessment

of the international trading system by the government and party leadership, regardless of the success of the reform process, may be the decisive parameter for the future alignment of trade policy. China's power elite objects to discrimination against Chinese exports, businesses and foreign investments, to the West's unceasing pressure to open markets, to the currency risks for exports and foreign investments, and to the worsening of China's terms of trade since WTO accession. Social conflicts and environmental problems come to be regarded as costs of growth and blamed on globalisation. In trade policy China finds itself on the defensive, confronted with demands for market opening and liberalisation from its most important trading partners and aware that the dismantling of tariffs and trade barriers through the TPP and TTIP free trade initiatives would lead to discrimination against Chinese exports. As long as no progress is apparent in the Doha Round, bilateral negotiations remain the only Chinese option for trade liberalisation. A China prioritising bilateralism would be more strongly affected than others by the erosion of the multilateral world trade system, but as the biggest trading nation would also reap special benefits. In a situation of asymmetrically distributed negotiating power, China could make much more of its economic weight and political clout. In a trading world organised along bilateral lines China would be in a better position than the United States or the European Union to demand exclusive trade privileges, such as tariff preferences and preferential market access on the basis of bilateral trade agreements, exclusive supply contracts for energy, raw materials and agricultural commodities, or guaranteed access rights and investment protection through investment agreements. China is already in a position to withstand external trade pressure in conflicts and to respond forcefully with threats and sanctions to protectionism directed against it. Also at the unilateral level it is capable of playing out the advantages of the economically weighty and politically powerful country when it appears opportune. As the economy with the largest and fastest-growing domestic market China possesses economies of scale and exploits these in strategic industrial policy (supported by subsidies and regulation), in the international establishment of its own norms and standards, and in negotiating special conditions in international purchasing (for example through national cartels). As the biggest player in global supply and demand China can employ import and export restrictions to influence global market prices and shift the terms of trade in its favour, as

already seen in the resources sector. It is also conceivable that China could develop an exceptionalist stance mirroring the United States' and simply ignore international rules.

## Conclusions for Europe's Trade Policy

China's diplomatic stance in relation to trade, climate and financial policy in general shows that in case of doubt domestic interests enjoy priority over the country's international obligations. External political pressure and admonishments accomplish little and tend to be counterproductive. Trade sanctions can provoke Chinese retribution and rapidly escalate into trade war. However, numerous examples demonstrate that the Chinese leadership will change policies where it is convinced of the necessity and benefit. Thus renminbi was permitted to rise – as emphatically demanded for several years by foreign partners – after the leadership realised the costs and risks of undervaluation and large reserve holdings. Technology protection was implemented once it was recognised as a meaningful instrument of innovation policy. Import competition is permitted – in deviation from the goals of endogenous national technology development – when domestic companies need foreign components.

It remains plausible to assume that a China that is so dependent on external trade will retain a great interest in the stability and development of the multilateral trading system. In order to maintain domestic growth, modernisation and internal stability, China depends on an open global economy and a functioning WTO. The WTO itself is a recognised institution in China and continues to be seen positively by the party and state leadership. Trade agreements on a reciprocal basis should therefore, regardless of value differences and political disagreements, remain possible. This is no time for China panic.

There are practical and strategic reasons to place multilateralism and the WTO at the centre of EU trade policy towards China. Firstly, multilateral talks offer the best chances of market opening and improved enforcement of the WTO principles. To date, all efforts to achieve this on the bilateral level have proven less than effective. Although the European Commission and the EU member-states have in various single cases achieved benefits for companies or opened up market opportunities, they have not succeeded in persuading China to institute fundamental liberalisation mea-

asures.<sup>86</sup> In general, in comparison to the bilateral approach, multilateral pressure on China to make concessions is stronger, more diffuse and objective. And the incentive for China to grant reciprocal concessions is greatest in the multilateral framework.

Secondly, multilateralism is the best long-term strategy to prevent China – as the rising hegemonic power in world trade – from opportunistically exploiting smaller trading partners. Because of its uniform set of rules, its legally binding norms and its transparent procedures with legal equality for all member-states, the WTO offers the best insurance against a potentially uncooperative China.<sup>87</sup>

Thirdly, the WTO dispute settlement mechanism has proven its worth for dealing with conflicts. Although the dispute settlement mechanism is time-consuming and the rulings often come too late to rectify the economic harm, it has proven a much more astute means than bilateral talks or political pressure for penalising Chinese trade transgressions and bringing about legislative change in China.

The ongoing regional free trade initiatives (TPP, TTIP, JAPEU) are likely to enhance the chances of substantive multilateral negotiations (and agreements) with Beijing, as in the event of their successful conclusion China (like also other third countries) would have to accept trade diversions and resulting prosperity losses.<sup>88</sup> But it could achieve trade gains if it reciprocally liberalised its external trade with the members of the free trade initiatives. China thus stands under considerable pressure to join the TPP and to liberalise its trade with its Asian neighbours and the European Union on a reciprocal basis. In any event, external economic liberalisation could provide an economic boost to an economy suffering under declining growth rates.

In this constellation the West too should show willingness to compromise towards China (and other third countries). Ultimately, preferential agreements stand in contradiction to the declared principles and objectives of the multilateral trade order and can only

<sup>86</sup> On the deficits in European and German external economic policy towards China see Hilpert, *Chinas globale wirtschaftliche Herausforderung* (see note 8), esp. 28–34.

<sup>87</sup> Thus also Subramanian, *Eclipse* (see note 4), 169–75.

<sup>88</sup> For a quantitative estimate of the impact of the Transatlantic Trade and Investment Partnership on Asia see Thieß Petersen, *Ökonomische Konsequenzen eines transatlantischen Freihandelsabkommens für Asien*, Asia Policy Brief 5/2013 (Güterloh: Bertelsmann Stiftung, October 2013), [http://www.bertelsmann-stiftung.de/cps/rde/xbcr/SID-6983EAA3-3BCA14E7/bst/xcms\\_bst\\_dms\\_39003\\_2.pdf](http://www.bertelsmann-stiftung.de/cps/rde/xbcr/SID-6983EAA3-3BCA14E7/bst/xcms_bst_dms_39003_2.pdf) (accessed 28 October 2013).



be justified as an unavoidable intermediate step on the road to global free trade. Given the strategic advantages of multilateralism it would be fatal if the Western industrialised countries and Japan were to pursue the permanent isolation of China via discriminatory free trade agreements. China would interpret that as trade encirclement and could for example seek to establish a BRICS block as counterweight. This would not only do lasting harm to global trade climate, but also threaten the disintegration of the universal uniform trade order. It would be much wiser to test China's willingness to cooperate.

New multilateral agreements on global trade rules are needed. Since the conclusion of the Uruguay Round in 1994 a considerable regulatory backlog has accumulated on the practical and legal level. The Transatlantic Trade and Investment Partnership raises the prospect of much-needed progress on international trade law, but will initially bind only the treaty partners (European Union and United States). It can hardly be expected that China (and other third states) will simply adopt the new TTIP rules. Preserving the uniformity and coherence of the international trade order and especially the long-term reciprocal compatibility of Western and Chinese trade rules and standards will require multilateral agreements with China. The European Union and the United States should agree to seek a multilateralisation of the new TTIP trade rules and launch a corresponding initiative at the WTO. Chinese offers to start talks on a bilateral free trade agreement should, on the other hand, be rejected with reference to the WTO. Only the WTO supplies the required neutral platform and can ensure the desired multilateral validity of agreements. The ongoing Doha Round offers the best framework for such talks.

## Abbreviations

ADB	Asian Development Bank
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATC	Agreement on Textiles and Clothing
BRICS	Brazil, Russia, India, China, South Africa
CAFTA	China-ASEAN Free Trade Agreement
CCP	Chinese Communist Party
CEPA	Comprehensive Economic Partnership Agreement
CEPEA	Comprehensive Economic Partnership for East Asia
EAFTA	East Asian Free Trade Area
EAS	East Asia Summit
FTA	Free Trade Agreement
GATT	General Agreement on Tariffs and Trade
GCC	Gulf Cooperation Council
GDP	Gross domestic product
GPA	Agreement on Government Procurement
IMF	International Monetary Fund
JAPEU	Japan-EU Free Trade Agreement
MFA	Ministry of Foreign Affairs
MIIT	Ministry of Industry and Information Technology
MOA	Ministry of Agriculture
MOF	Ministry of Finance
MOFCOM	Ministry of Commerce
MOFTEC	Ministry of Foreign Trade and Economic Cooperation
MOT	Ministry of Transport
NAMA	Non-Agricultural Market Access
NDRC	National Development and Reform Commission
OECD	Organisation for Economic Cooperation and Development
PSC	Politburo Standing Committee
RAM	Recently Acceded Member
RCEP	Regional Comprehensive Economic Partnership
SACU	South African Customs Union
SASAC	State-owned Assets Supervision and Administration Commission
SC	State Council
SCM	Subsidies and Countervailing Measures
SCO	Shanghai Cooperation Organisation
SITC	Standard International Trade Classification
SOEs	State-owned enterprises
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers Treaty
TISA	Trade in Services Agreement
TPP	Trans-Pacific Partnership
TRIMS	Trade Related Investment Measures
TRIPS	Trade Related Aspects of Intellectual Property Rights
TTIP	Transatlantic Trade and Investment Partnership
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organisation